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Gay couples challenge Conn. marriage law

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NEW HAVEN, Conn. -- A lawyer for eight gay couples argued in court Tuesday that Connecticut's marriage laws illegally create a separate class of people based on sexual orientation.

The couples, with the help of the Gay and Lesbian Advocates and Defenders, sued in 2004 in an attempt to overturn the state's ban on gay marriage.

Last year, Connecticut approved civil unions for gay couples, which gives them nearly identical legal rights to heterosexual married couples, but also defined marriage as existing only between a man and a woman.

That law "is nothing less than the government's announcement that these are second-class citizens," Ben Klein, a senior attorney for Gay and Lesbian Advocates and Defenders, told Superior Court Judge Patty Jenkins Pittman.

The legal group used a similar argument in Massachusetts, where gay marriage became legal after a 2003 state Supreme Judicial Court ruling, and similar lawsuits are pending in other states. In January, a Baltimore judge ruled that a law against gay marriage violates the Maryland Constitution's guarantee of equal rights.

Connecticut Assistant Attorney General Jane Rosenberg defended the

laws Tuesday, arguing that there is no fundamental right to marry.

She said it was reasonable for the state to create civil unions to give gay couples the legal rights of marriage while also dealing with administrative issues, such as federal Medicaid and Medicare programs, which do not recognize gay marriage.

Pittman asked Rosenberg if Connecticut's law preventing same-sex couples from marrying is any different from a Virginia law that prevented interracial couples from marrying until it was declared unconstitutional.

Rosenberg responded that race is not an essential part of marriage but that gender is.

The judge did not immediately rule.

Jeffrey Busch of Wilton attended Tuesday's hearing with partner Stephen Davis and son Elijah.

"I'm pretty hopeful and optimistic," he said. "Connecticut has done so much to allow us to be a family. I believe the courts will correct this injustice of not allowing us to marry."

The Family Institute of Connecticut, which opposes gay marriage, has asked to intervene in the case, claiming the state attorney general's office is not vigorously defending Connecticut's marriage laws. The state Supreme Court has not ruled on whether that group may become part of the case.