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Gay Couples Say Civil Unions Aren't Enough

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Christopher Capozziello for The New York Times

Katy, left, and Tracy Weber Tierney, with their son, Jake, in Connecticut, have experienced frustration in trying to explain their civil union status.

By ALISON LEIGH COWAN
Published: March 17, 2008

Eager to celebrate their partnership, Tracy and Katy Weber Tierney were among the first in line when [Connecticut](#) created civil unions three years ago as a way to formalize same-sex relationships without using the word “marriage.”

Multimedia

Same-Sex Unions in Connecticut
unions were popular when they first became available in October 2005, but their use has since declined.
Ratio of same-sex unions to marriages

But when Tracy was giving birth to their son, Jake, five months ago, a hospital employee inquired whether she was “married, single, divorced or widowed.”

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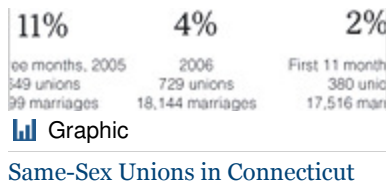
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Christopher Capozziello for The New York Times

Brad Eaton, left, and Michael Limone. In deciding to tell an employer he was in a civil union, Mr. Limone said, "I'm sitting across from this person and now I've got to come out to this person."

"I'm in a civil union," she replied. When the employee checked "single," Tracy protested. "I'm actually more married than single," she said, leaving the employee flustered about how to proceed.

That conundrum is at the core of a case on which the Connecticut Supreme Court is expected to rule soon. It presents a new constitutional challenge to the political compromise that several states have made in recent years to grant rights to gay and lesbian couples while preserving the traditional definition of marriage as between a man and woman. At the same time, the state legislature's joint Judiciary Committee has scheduled a public hearing in Hartford on Monday to consider amending the civil union law in light of complaints from same-sex couples that the measure had not delivered the equal rights it had promised. The committee passed a bill that would have legalized same-sex marriage, 27-15, last year, but it was never put to a full vote of the legislature.

Massachusetts is the only state that allows same-sex couples to marry, and Vermont, New Hampshire and New

Jersey have civil unions, while California and Oregon have domestic partnerships that provide similar benefits to civil unions.

Though such arrangements were created, often under court mandate, with a promise of treating same-sex couples the same as opposite-sex couples, many gays and lesbians say they have not delivered and can never do so because separate institutions are inherently unequal. Many also resent being denied use of the word marriage, which they say carries intangible benefits, prestige and status.

The California Supreme Court must rule by early June on a lawsuit it heard this month that echoes the Connecticut case, with the plaintiffs rejecting domestic partnerships and pushing for marriage. And a New Jersey commission issued a report in February highlighting examples of same-sex couples who said they were denied equal treatment under the state's year-old civil union law.

Gov. [Arnold Schwarzenegger](#) of California, a Republican, vetoed a same-sex marriage bill in 2005. In New Jersey, Gov. [Jon S. Corzine](#), a Democrat, has let it be known that he is willing to sign one — but not until after the fall elections.

Connecticut created civil unions in 2005, promising same-sex couples all the "rights, protections and responsibilities" the state bestows upon married couples, rather than the patchwork some municipalities had stitched together. The law also included a clause,

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inserted at the insistence of Gov. [M. Jodi Rell](#), a Republican, that defined marriage as the union of a man and a woman, joining at least 40 states with similar language in their laws.

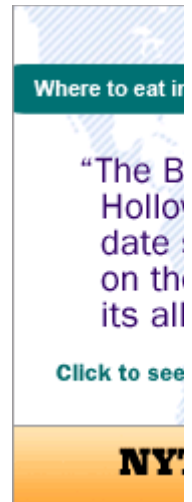
But eight same-sex couples pressed ahead with a constitutional challenge, arguing that they were entitled to marry the person of their choice and that nothing less would do.

The case turns on whether same-sex couples should be treated as a “suspect class” — groups like minorities and women that have experienced discrimination — which could lead to heightened legal scrutiny of the decision to offer separate institutions. In oral arguments before a Supreme Court panel, the assistant attorney general said the number of “prominent politicians who are openly gay and lesbian” proves that homosexuals are not “politically powerless,” one of the requirements of a suspect class; that caused one justice to quip, “If it were true political power,” they would have already won the right to marry.

The state also argues that the plaintiffs have no case because they are free to marry, just not to someone of the same sex, and that there is no gender discrimination because men and women are equally constrained. In July 2006, the lower court judge, Patty Jenkins Pittman of New Haven Superior Court, backed the state, ruling that Connecticut’s Constitution “requires there be equal protection and due process of law, not that there be equivalent nomenclature.”

About 1,800 couples have obtained civil unions in Connecticut since 2005, more than a third of them in the first three months they were offered. Some gay-rights advocates say the demand has slowed since, amid complaints that the unions leave people feeling not quite married and not quite single, facing forms that mischaracterize their status and questions at airports challenging their ties to their own children

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