SUPREME COURT

STATE OF CONNECTICUT

S.C. 17716

ELIZABETH KERRIGAN ET AL.

V.

COMMISSIONER OF PUBLIC HEALTH ET AL.

BRIEF AND APPENDIX OF THE AMICI CURIAE

IAN AYRES, JON BAUER, ANNE DAILEY, MARTHA F. DAVIS, SUSAN ESTRICH, HERMA HILL KAY, MARTHA MINOW, AND SUSAN R. SCHMEISER

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STATEMENT OF THE ISSUE

Does the exclusion of same-sex couples from the legal institution of marriage violate the equal protection guarantees of Article First, § 20 of Connecticut's constitution?

STATEMENT OF INTEREST OF THE AMICI CURIAE

Ian Ayres is the William K. Townsend Professor at Yale Law School. Professor Ayres has written on issues of civil rights for over 15 years. He is the author of a number of empirical studies testing for sex and race discrimination (see, e.g., Pervasive Prejudice?: Non-Traditional Evidence of Race and Gender Discrimination, Chicago University Press, 2001). He has also analyzed the interaction between sex discrimination and sexual orientation discrimination (see, e.g., Straightforward: How to Mobilize Heterosexual Support for Gay Rights (Princeton University Press, 2005) (with Jennifer Gerarda Brown).

Jon Bauer is Clinical Professor of Law at the University of Connecticut School of Law. Professor Bauer regularly teaches Employment Discrimination Law, among other courses, and has been teaching and supervising law students in the law school's clinical programs, including its Civil Rights Clinic, since 1988. He also served as the law school's Director of Civil Clinical Programs from 1993 to 2004. Professor Bauer has testified before the Connecticut General Assembly on several occasions on matters affecting the administration of anti-discrimination statutes and, through his clinical programs, has provided representation to Connecticut residents in a wide range of anti-discrimination cases before federal and state courts and the Connecticut Commission on Human Rights and Opportunities. His scholarship includes a major study of discrimination against persons with disabilities in the bar admissions process.

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Susan Estrich is the Robert Kingsley Professor of Law and Political Science at the University of Southern California Law School. She is the author of numerous articles and six books, including Sex and Power (Riverhead Books, 2000). She teaches several courses, including constitutional law and gender discrimination. Professor Estrich is the former President of the Civil Liberties Union of Massachusetts.

Herma Hill Kay is the Barbara Nachtrieb Armstrong Professor of Law and former Dean at the University of California, Berkeley, School of Law (Boalt Hall). Professor Kay was named in 1998 by the *National Law Journal* as one of the 50 most influential female lawyers in the country. She has served as President of the Association of American Law Schools and Secretary of the American Bar Association Section on Legal Education and Admissions to the Bar. She has been the recipient of many major awards including the Society of American Law Teachers Teaching Award, the 1990 American Bar Foundation Research Award, and the 1992 Margaret Brent Award to Women Lawyers of Distinction from the ABA Commission on Women in the Profession. In 2000 she was elected to membership in the American Philosophical Society. Professor Kay is a past or present member of 12 different governing or advisory boards, including the Russell Sage Foundation, Equal Rights Advocates, Inc., Order of the Coif, and the American Academy of Arts and Sciences.

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Susan R. Schmeiser is an Associate Professor of Law at the University of Connecticut School of Law where she teaches courses in Sexuality, Gender and the Law, Criminal Law, Mental Health Law and Health Law. Professor Schmeiser has published articles and made numerous presentations on sexuality and the law, among other topics.

The applicants are experts in the fields of sex discrimination, civil rights, and constitutional law. Each of them has research, academic, or advocacy interests in equality and the elimination of all forms of discrimination, including discrimination against same-sex couples who wish to marry. The applicants offer this Court a reasoned approach to the interpretation of the antidiscrimination provision of Connecticut's constitution in light of its language, history, and place in the historical development of equality of rights.

THE MARRIAGE EXCLUSION VIOLATES ARTICLE FIRST, § 20 OF CONNECTICUT'S CONSTITUTION BY CREATING A SEX-BASED CLASSIFICATION.

Article First, § 20 of Connecticut's constitution provides that "No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her political or civil rights because of religion, race, color, ancestry, national origin, sex, or physical or mental disability." Despite the plain and powerful language of this constitutional promise, Connecticut's civil union statute purposefully subjects same-sex couples to segregation and discrimination on the basis of sex. This Court now has the opportunity, and the duty, to enforce the letter and the spirit of the constitution's equal protection guarantee.

A. Excluding Same-Sex Couples from the Institution of Marriage Impermissibly Segregates Such Couples on the Basis of their Sex.

A sex-based classification is one that treats men and women differently solely on the basis of their sex. As the plaintiffs in this case have argued, the Connecticut civil union statute[1] creates an impermissible sex-based classification because it deprives women of a right that is granted to all men (the right to marry a woman), and it deprives men of a right that is granted to all women (the right to marry a man). See Plaintiffs' Brief at 24. It is because of her sex, and for no other reason, that plaintiff Elizabeth Kerrigan cannot marry her life partner, plaintiff Joanne Mock; it is because of his sex, and for no other reason, that plaintiff Jeffrey Busch cannot marry his life partner, plaintiff Stephen Davis.

The civil union statute, like the co-parent adoption statute that preceded it by five years,[2] represents the growing political and social recognition that same-sex couples form

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[1] See General Statutes § 46b-38bb et seq.; see also § 46b-38nn (text in Appendix).
[2] See General Statutes §§ 45a-724 and 45a-727a (text in Appendix).

families with the same love and commitment, and the same needs for legal protection, as heterosexual couples. But by stopping short of conferring the full rights of marriage – including the right to claim the status of "married" as opposed to "CU'd" – the legislature failed to implement the full equality of rights promised by Connecticut's constitution.

B. The Plain Language of Article First, § 20 Prohibits Segregation or Discrimination Based on Sex.

As quoted above, Article First, § 20 expressly provides that no person shall be "subjected to segregation or discrimination in the . . . enjoyment of his or her civil or political rights because of . . . sex . . . .". The trial court erroneously concluded that because the civil union statute has afforded same-sex couples the state-law rights and responsibilities of marriage, the plaintiffs have nothing to complain about; in the court's view, such same-sex couples have not been "subjected to segregation or discrimination." The court assumed that "segregation" requires a physical separation and that "discrimination" cannot result from a difference in nomenclature. See Kerrigan v. Connecticut, 49 Conn. Supp. 644, 664 (2006). The court's ruling, however, is at odds with the plain meaning of the constitution and with the expressed purpose of the civil union statute.

As this Court has previously recognized, Connecticut's equal protection guarantee is different from that of the federal constitution and of most other states in that it specifically prohibits "segregation." "The express inclusion of the term 'segregation' in article first, § 20, has independent constitutional significance." Sheff v. O'Neill, 238 Conn. 1, 27 (1996). In accordance with long-established principles of constitutional interpretation, "[e]ffect must be given to every part of and each word in our constitution." Cahill v. Leopold, 141 Conn. 1, 21 (1954); Stolberg v. Caldwell, 175 Conn. 586, 597-98 (1978), appeal dismissed sub nom. Stolberg v. Davidson, 454 U.S. 958 (1981).

Dictionaries compiled around the time of the 1965 constitutional convention provide guidance to the meaning intended by the Framers. A 1964 dictionary indicates that to "segregate" is "to set apart from others or from the main mass or group; to isolate," and "segregation" is "segregating or being segregated." Webster's New Twentieth Century Dictionary of the English Language, Unabridged (1964 2d ed.). To "discriminate" includes the meaning "to make distinctions in treatment; show partiality (*in favor of*) or prejudice (*against*)." Id. (italics in original). To "subject" someone is "to place under or below; . . . to cause to undergo or experience some action or treatment (with *to*); as, they *subjected* him to indignities." Id. (italics in original). A 1966 dictionary defines "segregation" as the "act or practice of segregating," and defines "segregate" as "to separate or set apart from others or from the main body or group; isolate: *to segregate exceptional children; to segregate hardened criminals.*" Random House Dictionary of the English Language, Unabridged Edition (1966) (italics in original). Its definition of "discrimination" includes the following: "treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit: *racial and religious intolerance and discrimination.*" Id. (italics in original).[3]

[3] More recent dictionaries provide similar definitions. A 1989 dictionary, for instance, includes among the definitions of "segregation": "a: the separation or isolation of a race, class, or ethnic group by . . . by barriers to social intercourse . . . or by other discriminatory means." Webster's Ninth New Collegiate Dictionary (1989 ed.). To "discriminate" is "to make a difference in treatment or favor on a basis other than individual merit"; "discrimination" is "the act, practice, or an instance of discriminating categorically rather than individually." Id. To "subject" someone to something is "to cause or force to undergo or endure (something unpleasant, inconvenient, or trying)". Id. The full text of these definitions are provided in the Appendix.

Based on the ordinary meaning of the words chosen by the Framers and ratified by the people, the language of Article First, § 20 does not limit its prohibition on segregation and discrimination to physical, tangible separation. Rather, a person is "subjected to segregation or discrimination . . . because of . . . sex" when he or she is set apart from others not on individual merit but on a categorical distinction based on his or her sex.

There can be no doubt that the civil union statute treats same-sex couples differently from opposite-sex couples. That was the entire purpose of adopting a separate statutory scheme for same-sex couples. If the legislature had intended only to afford same-sex couples the same legal rights and responsibilities that opposite-sex couples obtain in marriage, there was a simple and direct way to do so: it could simply have extended the definition of marriage to include the union of two men or two women. It did not choose that course; it chose instead to create a separate statutory scheme, one that lacks the universal recognition and respect of marriage.

If the civil union statute had established different classes of permanent committed relationships based on race, no court now would hesitate to declare such classifications to be impermissible segregation or discrimination. That is, if it had declared that whites could marry whites and blacks could marry blacks, but blacks and whites could join only in a separate institution described as a civil union, the intention to discriminate on the basis of an impermissible classification would be obvious. The constitutional principle does not change merely because the classification here is based on the sex of the parties to the union rather than on their race. The civil union statute purposefully denies to same-sex couples the right to enter the institution of marriage and creates instead a separate and therefore inherently inferior status.

C. The Framers Intended Article First, § 20 to Allow an Expansion of Rights Over Time.

The history of Article First, § 20 confirms that the Framers intended it to be construed expansively to allow the recognition of new rights over time. During the Constitutional Convention of 1965, when the delegates were debating the addition of the word "segregation" to Article First, § 20, several representatives urged its adoption for the purpose of embodying a spirit of growth and change. Representative Kennelly, for instance, described the proposed amendment as "the very strongest human rights principle that this convention can put forth to the people of Connecticut."[4] 2 Proceedings of the Third Constitutional Convention 692 (1965). Representative Woodhouse similarly argued that "we all realize that rights of individuals in this country have developed and changed from time to time, and we certainly would not want to have in our [c]onstitution any language that would in the future perhaps limit new rights." Id. at 691. Representative Baldwin boasted, with good reason, that "there is no state in the entire union that has more comprehensive and more liberal legislation with reference to the exercise of political and civil rights, than does the little sovereign State of Connecticut." Id. at 695-96.

Nine years after the adoption of the 1965 constitution, Connecticut again amended its fundamental document to expand the rights of its citizens. In 1974, it approved the amendment to Article First, § 20 that prohibits segregation or discrimination based on sex. While the impetus for this amendment was the desire to protect the rights of women and to bring women into full civil equality with men, legislators who debated the amendment in

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[4] Somewhat less elegantly, but equally passionately, Representative Kennelly argued that the proposed amendment "is further a broad statement of principle that is all inclusive and would provide a complete umbrella for the total protection against discrimination and the word subjugation [sic] against segregation, which is sound symbolic language." 2 Proceedings of the Third Constitutional Convention 692 (1965).

1972 recognized that its effects would be more far-reaching. Arthur Green, of the Connecticut Commission on Human Rights and Opportunities, supported the resolution because "the question of sex discrimination is exactly like racial discrimination." Conn. Joint Standing Committee Hearings, Government Administration and Policy, (1972 Sess.), at 49. In the House debates, Representative Neiditz argued that "our law must not discriminate against persons on the basis of irrelevances such as skin color, religious belief, political allegiance or national origin. In this modern age the sex of an individual is no longer a relevant factor insofar as legal rights are concerned. What is, and will remain relevant is the individual. His or her skills, capabilities and actions." 15 H.R. Proc., Pt. 2 (1972 Sess.), at 872. He acknowledged that the equal rights amendment would inevitably affect the domestic relationship statutes, and that "the state domestic relations laws will have to face individual circumstances and needs, not on sexual stereotypes." Id. at 874.

This Court has frequently stated that Connecticut's constitution provides greater protection of individual rights than does the federal constitution. See, e.g., State v. Marsala, 216 Conn. 150, 159-60 (1990). This is particularly so where, as here, the language of our state constitution differs significantly from the federal constitution. Article First, § 20 differs from the federal constitution when it guarantees that no person will be subjected to segregation or discrimination based on sex. In Evening Sentinel v. National Organization for Women, 168 Conn. 26, 34 (1975), the Court recognized the substantial expansion of rights embodied in the Equal Rights Amendment, holding that "[t]he people of this state and their legislators have unambiguously indicated an intent to abolish sex discrimination."

In the area of civil liberties, which includes all protections of the declaration of rights contained in article first of the Connecticut constitution, this Court sits as the court of last resort, subject only to the qualification that this Court may not restrict rights afforded by the federal constitution. State v. Marsala, 215 Conn. at 160 (citing, Horton v. Meskill, 172 Conn. 615, 641-42 (1977)). It is therefore fitting and proper for this Court to construe Article First, § 20 as prohibiting the state from preventing one person from marrying the person of his or her choice simply because of the person's sex.

D. The Prohibition Against Segregation or Discrimination Because of Sex in Article First, § 20 Was Intended To Culminate Centuries of Change in Attitudes and Beliefs Concerning Sex-Based Rights and Duties in Marriage.

An expansive construction of Article First, § 20 is appropriate because that section, as amended by the equal rights amendment, sought to eliminate the vestiges of sex-based classifications with respect to the rights and duties on Connecticut's citizenry, including the rights and duties related to marriage.[5] It reflected centuries of legal developments that have, one by one, eliminated consideration of a person's sex as a factor in the enjoyment of civil rights. The progression of such developments can be seen in the changes over time in the legal relations of men and women and in the domestic relations law.

In its earliest years, Connecticut inherited many vestiges of English common law, including the law of coverture.[6] Under the law of coverture, "[a]ll personal estate belonging

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[5] This Court has observed that "[t]he prevalent conception of the true nature of this relation [marriage] may be affected by and may affect the changing conditions of society, and may be affected by and may affect legislation defining legal status." Mathewson v. Mathewson, 79 Conn. 23, 25 (1906).

[6] See Griswold v. Penniman, 2 Conn. 564 (1818) (analyzing effect of coverture on widow's ability to sue). See also Fitch v. Ayer, 2 Conn. 143 (1817); "As the law contemplates that husband and wife as being but one person, it allows them to have but

to the wife, and in her possession, at the time of marriage, is instantly, and absolutely vested in the husband, and becomes his property. He may use, and dispose of it without her consent, and may give it away by will. In case he never disposes of it in his life time, it shall at his death go to his heirs, and not to his wife, tho she survive him." M. Moers Wenig, *The Marital Property Law of Connecticut: Past, Present and Future*, 1990 Wis. L. Rev. 807, 837 (1990) (quoting, Z. Swift, 1 A System of the Laws of the State of Connecticut 194 (1795)).

Through most of the eighteenth and nineteenth centuries, the laws defining the rights and obligations of civil marriage were replete with defined roles based on sex, including a husband's obligation to provide for his wife and children, as well as the wife's obligation to care for the home.[7] Such sex-based distinctions were incrementally changed throughout this period of time, beginning as early as 1723. At that time, a wife in Connecticut was given the right to veto her husband's conveyance of her lands. M. Salmon, Women and the Law of Property in Early America 201 n.31 (1986). In 1809, she was given the power to dispose of her property by will. E. Warbasse, The Changing Legal

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one will, which is placed in the husband, as the fittest and ablest to provide for and govern the family; for this reason it gives him an absolute power over her personal property." Z. Swift, 1 A System of the Laws of the State of Connecticut 194 (1795).

[7] See Yale Univ. Sch. of Med. v. Collier, 206 Conn. 31, 33-34 (1998) (finding that, "[a]t common law, the primary duty of spousal support was on the husband....In return, the husband was entitled to his wife's cohabitation, services, society, and affection."); Brown v. Brown, 88 Conn. 42, 43 (1914) (under common law, the husband had the right to restrain his wife); Shields v. O'Reilly, 68 Conn. 256, 262 (1896) ("[d]uring the existence of the marriage relation it was clearly the duty of the [father] to support [his] child. The duty of the mother in this respect was, during the coverture, practically suspended or postponed"); Shelton v. Pendleton, 18 Conn. 417, 421-23 (1847) (holding that a husband is responsible to provide his wife with necessaries during the marriage, which include only necessary food, drink, clothing, washing, physic, instruction, and a competent place of residence).

Rights of Married Women, 1800-1861 29-48 (1960) (unpublished thesis, Harvard University Archives). And between 1845 and 1866, eleven acts were enacted to protect a wife's property rights, including the right to protect property received during coverture by bequest or distribution, the right to money or property acquired by her personal services, and the rights to all property real and personal when abandoned by her husband, and property received by gift. See Jackson v. Hubbard, 36 Conn. 10 (1869).

In 1877, the General Assembly effected a radical change in public policy through its enactment of the Married Women's Property Acts. These acts have been described as "the codification of equity by the legislature," enacted "to eliminate the common law disabilities of married women, to defeudalize the law of married women's property, and, importantly, to insulate 'a married woman's separate property from claims of her husband's creditors.'" M. Moers Wenig, *The Marital Property Law of Connecticut: Past, Present and Future*, 1990 Wis. L. Rev. 807, 817 (1990). This shift from the law of coverture was premised on "equality in personal identity and in the ownership of property . . . [and] replace[d] the unity of all rights in the husband." Mathewson v. Mathewson, 79 Conn. 23, 34 (1906).[8]

Inequalities in marriage based on sex remained even after the enactment of the Married Women's Property Acts. A husband, for example, was still expected to support his wife and children, and a wife could not be ordered to pay alimony. Although such inequalities diminished through time in Connecticut, they did not disappear altogether.[9]

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[8] "This legislation is remedial, not as ameliorating an existing evil but as eradicating that evil. It is in the nature of fundamental legislation, involving all the results necessarily flowing from the principle established. The equal capacity to own property and the equal legal identity, necessarily involves an equal power of making contracts and a power of contracting with each other." Mathewson v. Mathewson, 79 Conn. 23, 32 (1906).

[9] For instance, the support obligation once vested in the husband became the mutual obligation of both spouses. See, e.g., General Statutes § 46b-37(b) (providing that

The 1974 amendment to Article First, § 20 was expected and intended to eliminate the remaining outmoded principles and practices that prevented full equality between men and women, including full equality in the context of marriage. Its implementation in law and practice has continued into the present century.

E. Construing Article First, § 20 to Encompass the Right to Marriage for Same-Sex Couples is Consistent with the Evolution of Equal Legal Rights for Both Sexes in Connecticut.

The civil union statute reflected Connecticut's acceptance of the reality that same-sex couples form permanent unions deserving of the same protections as marriage, but the legislature stopped short of affording the full equality required by the plain language of Article First, § 20. By defining marriage as the union between one man and one woman, the statute excludes same-sex couples from the civil institution of marriage solely on the basis of the sex of the parties to the union. The civil union act thus impermissibly thwarts the intention of Article First, § 20 to abolish discrimination or segregation on the basis of sex. This Court can and should now give full effect to the plain meaning of Article First, Section 20 by holding that same-sex couples must have equal access to civil marriage.

"it shall be the joint duty of each spouse to support his or her family"; § 46b-84 (setting out criteria by which court should evaluate ability of each parent to contribute to support of minor children).

The effects of the Married Women's Property Acts remain today with a few changes created subsequent to the 1974 amendment to Article First, § 20 of the Connecticut Constitution. In 1977, for instance, General Statutes § 46b-37 was rephrased to refer to "spouse" where the statute previously referred to either "husband" or "wife" and to delete the provisions that a husband's property be first used to support the family and that a wife was entitled to indemnity from her husband's property if her property was taken to satisfy claims. See Moers Wenig, supra, at 850-51 and n. 199.

December 12, 2006

RESPECTFULLY SUBMITTED,

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CERTIFICATION OF COMPLIANCE WITH PRACTICE BOOK § 67-2

This is to certify that the foregoing brief complies with all the requirements of Practice Book § 67-2.

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CONNECTICUT GENERAL STATUTES

EXCERPTS FROM THE ADOPTION STATUTES

§ 45a-724. Who may give child in adoption

(a) The following persons may give a child in adoption:

(1) A statutory parent appointed under the provisions of section 17a-112, section 45a-717 or section 45a-718 may, by written agreement, subject to the approval of the Court of Probate as provided in section 45a-727, give in adoption to any adult person any minor child of whom he or she is the statutory parent; provided, if the child has attained the age of twelve, the child shall consent to the agreement.

(2) Subject to the approval of the Court of Probate as provided in section 45a-727, any parent of a minor child may agree in writing with his or her spouse that the spouse shall adopt or join in the adoption of the child; if that parent is (A) the surviving parent if the other parent has died; (B) the mother of a child born out of wedlock, provided that if there is a putative father who has been notified under the provisions of section 45a-716, the rights of the putative father have been terminated; (C) a former single person who adopted a child and thereafter married; or (D) the sole guardian of the person of the child, if the parental rights, if any, of any person other than the parties to such agreement have been terminated.

(3) Subject to the approval of the Court of Probate as provided in section 45a-727, any parent of a minor child may agree in writing with one other person who shares parental responsibility for the child with such parent that the other person shall adopt or join in the adoption of the child, if the parental rights, if any, of any other person other than the parties to such agreement have been terminated.

(4) Subject to the approval of the Court of Probate as provided in section 45a-727, the guardian or guardians of the person of any minor child who is free for adoption in accordance with section 45a-725 may agree in writing with a relative that the relative shall adopt the child. For the purposes of this subsection "relative" shall include, but not be limited to, a person who has been adjudged by a court of competent jurisdiction to be the father of a child born out of wedlock, or who has acknowledged his paternity under the provisions of section 46b-172a, with further relationship to the child determined through the father.

(b) If all parties consent to the adoption under subdivision (2), (3) or (4) of subsection (a) of this section, then the application to be filed under section 45a-727 shall be combined with the consent termination of parental rights to be filed under section 45a-717. An application made under subdivision (2), (3) or (4) of subsection

(a) of this section shall not be granted in the case of any child who has attained the age of twelve without the child's consent.

§ 45a-727a. State policy re best interests of child; public policy re marriage

The General Assembly finds that:

(1) The best interests of a child are promoted by having persons in the child's life who manifest a deep concern for the child's growth and development;

(2) The best interests of a child are promoted when a child has as many persons loving and caring for the child as possible;

(3) The best interests of a child are promoted when the child is part of a loving, supportive and stable family, whether that family is a nuclear, extended, split, blended, single parent, adoptive or foster family; and

(4) It is further found that the current public policy of the state of Connecticut is now limited to a marriage between a man and a woman.

EXCERPTS FROM THE CIVIL UNION STATUTES

§ 46b-38bb. Eligibility

A person is eligible to enter into a civil union if such person is:

(1) Not a party to another civil union or a marriage;

(2) Of the same sex as the other party to the civil union;

(3) At least eighteen years of age; and

(4) Not prohibited from entering into a civil union pursuant to section 46b-38cc.

§ 46b-38nn. Equality of benefits, protections and responsibilities

Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether derived from the general statutes, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage, which is defined as the union of one man and one woman.

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ˈer, *n.* 1. one who discourses; a
writer of a treatise or dissertation.
ˈive, *a.* 1. reasoning. [Obs.]
ataining dialogue or conversation; in-
tory. [Obs.]
lkative; as, a *discoursive* woman. [Obs.]
ˈive-ness, *n.* the state of being dis-
e. [Obs.]
ˈtē-ous, *a.* not courteous; impolite;
rude; lacking in good manners.
ˈtē-ous-ly, *adv.* in a discourteous man-

ˈtē-ous-ness, *n.* discourtesy.
ˈtē-sy, *n.* 1. lack of courtesy; rude-
ad manners.
l. **dis-çoûrˈtē-sies**, a rude or impolite
remark.
rtˈship, *n.* discourtesy. [Obs.]
a, *a.* discoid.
ˈe-nănt, *v.t.* to dissolve covenant with

ˈer, *v.t.*; discovered, *pt., pp.*; discover-
ing. [ME. *discoveren*; OFr. *descovrir*; LL.
operire, to discover, reveal; L. *dis-* priv.,
cooperire, to cover.]
o be the first to find out, see, or know
o find out; learn of the existence of;
.
.a) to reveal; disclose; expose; (b) to
ver. [Archaic.]
.—invent, manifest, declare, disclose,
d, divulge, uncover.
ˈer, *v.i.* to uncover. [Obs.]
ˈer-a-bil'i-ty, *n.* the state or quality of
discoverable.
ˈer-a-ble, *a.* capable of being discov-

ˈer-er, *n.* 1. one who discovers; one
first sees or finds out something.
a scout; an explorer. [Obs.]
ˈer-ment, *n.* discovery. [Obs.]
ˈert, *a.* [ME. *discovert*; OFr. *descovert*,
not covered, hence not protected, from
discooopertus, pp. of *discooperire*, to un-
r; L. *dis-* priv., and *cooperire*, to cover.]
w, having no husband: said of a spinster,
ow, or divorcée.
ˈert-ure, *n.* in law, the state or condi-
of being discovert.
ˈer-y, *n.*; *pl.* **dis-çoˈver-ies**, 1. a dis-
ering.
that which is discovered.
the unraveling of a plot in a poem, play,

exploration. [Obs.]
Discovery Day, same as *Columbus Day*.
rā'dle, *v.i.* to come forth from or as if from
radle; to emerge. [Obs.]
red'it, *v.t.*; discredited, *pt., pp.*; discredit-
ing, ppr. [LL. *discredere*, to disbelieve; L. *dis-*
, and *credere*, to believe.]
. to disbelieve; to give no credit to; not to
dit or believe; as, the report is *discredited*.
. to show reason for disbelieving or dis-
ting; to cast doubt on.
. to damage the credit or reputation of;
grace.
red'it, *n.* 1. lack of belief, trust, or confi-
nce; disbelief; as, later accounts have
ought the story into discredit.
. damage to one's reputation; loss of re-
ect or status; disgrace; dishonor.
. something that causes disgrace or loss of
atus.
Syn.—disgrace, dishonor, disrepute, igno-
iny, reproach, scandal.
cred'it-a-ble, *a.* that discredits; injurious
reputation or status; disgraceful; disrep-
able.
cred'it-a-bly, *adv.* in a discreditable man-
r; also, to a discreditable extent.
cred'it-or, *n.* one who discredits. [Obs.]
creet', *a.* [ME. *discret*; OFr. *discret*, pru-
nt, discreet, from L. *discretus*, pp. of *dis-
nere*, to distinguish, discern; *dis-*, apart,
om, and *cernere*, to separate, to see.]
t, prudent; cautious; wary; careful about
hat one says or does.
l. polite; courteous; civil. [Scot.]
creet'ly, *adv.* in a discreet manner.
creet'ness, *n.* the quality of being discreet;
scretion.
crep'ance, *n.* discrepancy. [Rare.]
crep'an-cy, *n.*; *pl.* **dis-crepˈan-cies**, [OFr.
screpance; L. *discrepantia*, discordance, dis-
crepancy, from *discrepare*, to sound differ-
ently.]
1. difference; disagreement; contrariety.
2. an instance of this.

dis-crep'ant, *a.* different; disagreeing; contrary; characterized by discrepancy.
dis-crep'ant, *n.* a dissenter. [Obs.]
dis-crēte', *a.* [L. *discretus*, pp. of *discernere*, to distinguish, separate.]
1. separate; distinct; disjunct.
The parts are not *discrete* or dissentany.
—Milton.
2. made up of distinct parts.
3. in logic, disjunctive.
discrete proportion; proportion where the ratio of two or more pairs of numbers or quantities is the same, but there is not the same proportion between all the numbers; as, 3:6::8:16, 3 bearing the same proportion to 6 as 8 does to 16. But 3 is not to 6 as 6 is to 8. Opposed to a *continued* or *continual proportion*; as, 3:6::12:24.
dis-crēte', *v.t.* to separate; to divide. [Obs.]
dis-crēte'ly, *adv.* in a discrete manner.
dis-cre'tion, *n.* [ME. *discrecion*; OFr. *discrecion*; L. *discretio* (*-onis*), a separation, distinction, from *discretus*, pp. of *discernere*, to discern.]
1. the quality of being discrete; distinction; disjunction; separation.
2. the quality of being discreet; prudence; a being careful about what one does or says.
Discretion is the victor of the war,
Valour the pupil. —Massinger.
3. liberty or power of deciding or acting without other control than one's own judgment; as, the management of affairs was left to the *discretion* of the president.
4. the action or power of discerning; judgment. [Rare.]
at one's discretion; in accordance with one's judgment.
Syn.—circumspection, wariness, prudence, caution.
dis-cre'tion-ăl, *a.* discretionary.
dis-cre'tion-ăl-ly, *adv.* discretionarily.
dis-cre'tion-ā-ri-ly, *adv.* at discretion; according to discretion.
dis-cre'tion-ā-ry, *a.* left to discretion; regulated by one's own discretion or judgment; as, *discretionary* powers of an appointing officer.
dis-crē'tive, *a.* [LL. *discretivus*, serving to distinguish, from L. *discretus*, pp. of *discernere*, to distinguish, discern.] disjunctive; noting separation or opposition.
discretive proposition; in logic, a proposition which expresses some distinction, opposition, or variety, by means of *but, though, yet*, etc.; as, travelers change their climate, *but* not their temper.
dis-crē'tive-ly, *adv.* in a discretive manner.
dis-crim'i-nă-ble, *a.* that can be discriminated.
dis-crim'i-năl, *a.* making division; separating; specifically, in palmistry, denoting the dividing line between the hand and the arm.
dis-crim'i-nănt, *n.* in mathematics, the eliminant of the *n* first derived functions of a homogeneous function of *n* variables.
dis-crim'i-nāte, *v.t.*; discriminated, *pt., pp.*; discriminating, *ppr.* [L. *discriminatus*, pp. of *discriminare*, to divide, distinguish, from *discrimen*, a division, distinction, interval, from *dis-*, apart, and *crimen*, verdict, judgment.]
1. to distinguish; to observe the difference between; to select from others.
When a prisoner first leaves his cell he is unable to *discriminate* colors or recognize faces. —Macaulay.
2. to constitute a difference between; to differentiate.
In outward fashion . . . *discriminated* from all the nations of the earth.—Hammond.
dis-crim'i-nāte, *v.i.* 1. to see the difference (*between* things); distinguish.
2. to make distinctions in treatment; show partiality (*in favor of*) or prejudice (*against*).
dis-crim'i-nāte, *a.* 1. distinguished; distinct.
2. involving discrimination; distinguishing carefully.
dis-crim'i-nāte-ly, *adv.* distinctly; with careful distinction.
dis-crim'i-nāte-ness, *n.* distinctness; marked difference.
dis-crim'i-nā-ting, *a.* 1. that discriminates; differentiating.
2. able to make or see fine distinctions; discerning.
3. treating differently; differential, as a tariff.
dis-crim'i-nā-ting-ly, *adv.* in a discriminating manner.
dis-crim-i-nā'tion, *n.* 1. the act of distinguishing; the act of making or observing a difference; distinction; as, the *discrimination* between right and wrong.
2. the ability to make or perceive distinctions; penetration; judgment; perception; discernment.
Their own desire of glory would . . . baffle their *discrimination*. —Milman.
3. the state of being discriminated, distinguished, or set apart; a showing of difference or favoritism in treatment.
There is a reverence to be showed them on the account of their *discrimination* from other places. —Stillingfleet.
4. that which discriminates; mark of distinction.
Take heed of abetting any factions, or applying any public *discriminations* in matters of religion. —Gauden.
Syn.—discernment, penetration, clearness, acuteness, acumen, judgment, distinction.
dis-crim'i-nā-tive, *a.* marked by or observing discrimination; discriminating; as, a *discriminative* decision, *discriminative* tariffs.
dis-crim'i-nā-tive-ly, *adv.* with discrimination or distinction.
dis-crim'i-nā-tŏr, *n.* one who discriminates.
dis-crim'i-nā-tō-ry, *a.* discriminative; characterized by discrimination.
dis-crim'i-nous, *a.* hazardous. [Obs.]
dis-crīve', *v.t.* to describe. [Obs.]
dis-crown', *v.t.*; discrowned, *pt., pp.*; discrowning, *ppr.* to deprive of a crown; dethrone; depose.
dis-cru'ci-āte (-shi-āt), *v.t.* to torment; to torture. [Obs.]
dis-cū'bi-tō-ry, *a.* leaning; inclining. [Obs.]
dis-cul'pāte, *v.t.* [L. *dis-* priv., and *culpare*, to blame, from *culpa*, a fault.] to free from blame or fault; to exculpate; to excuse.
dis-cul-pā'tion, *n.* exculpation.
dis-cul'pa-tō-ry, *a.* tending to exculpate.
dis-cum'ben-cy, *n.* [L. *discumbens* (*-entis*), ppr. of *discumbere*, to lie down; *dis-*, intens., and *cubare*, to lie down, recline.] the act of leaning or reclining at meals. [Obs.]
dis-cum'bēr, *v.t.* to unburden; to disencumber.
dis-cūre', *v.t.* to discover; to reveal. [Obs.]
dis-cur'rent, *a.* not current. [Obs.]
dis-cūr'sion, *n.* [LL. *discursio*, a running different ways, from L. *discursus*, pp. of *discurrere*, to run different ways.]
1. a running or rambling about.
2. the act of discoursing or reasoning.
dis-cūr'sive, *a.* 1. moving or roving about from one topic to another; skimming over many apparently unconnected subjects; digressive; desultory.
2. in philosophy, going from premises to conclusions in a series of logical steps: distinguished from *intuitive*.
dis-cūr'sive-ly, *adv.* in a discursive manner; argumentatively.
dis-cūr'sive-ness, *n.* the state or quality of being discursive.
dis-cūr'sō-ry, *a.* argumental; rational; discursive. [Rare.]
dis-cūr'sus, *n.* [L.] ratiocination; discursive reasoning.
dis'cus, *n.*; *pl.* **dis'cus-es**, **dis'ci**, [L. *discus*; Gr. *diskos*, a discus, quoit.]
1. a disk of metal or stone, thrown for distance as a test of strength and skill.


DISCUS THROWER

2. the throwing of the discus as a contest of strength and skill: often *discus throw*.
3. a disk: used especially in biology.
dis-cuss', *v.t.*; discussed, *pt., pp.*; discussing, *ppr.* [ME. *discussen*, to examine, scatter, from L. *discussus*, pp. of *discutere*, to strike asunder, shake apart, scatter; *dis-*, apart, and *quatere*, to shake.]
1. to shake or strike asunder; to dissolve; to repel. [Obs.]
2. to shake off; to put away. [Obs.]
3. to talk or write about; take up in conversation or in a discourse; consider and argue the pros and cons of.
We might *discuss* the Northern sin,
Which made a selfish war begin.
—Tennyson.