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*Burns v. Burns* and the Potential Benefits of Civil Union Status

Katie Eyer†


In the first six months after Vermont enacted its civil union law, well over half of the couples who participated in civil union ceremonies were not residents of the state.¹ Various commentators have observed that this statistic raises significant questions regarding what form of recognition, if any, non-Vermont courts and legislatures will accord civil union status when couples return to their home states.² The Georgia Court of Appeals is currently considering the first case that has explicitly raised this question, *Burns v. Burns.*³

Scholars and activists have expressed mixed views on whether civil unions are likely to receive any form of recognition in states other than Vermont.⁴ However, most agree that it is extraordinarily unlikely that they will be recognized as marriages given that civil union status is more limited than marriage per se even in the state of Vermont.⁵ Many commentators have viewed this as a serious disadvantage of the civil union status and consequently have been reluctant to embrace the passage of the civil union statute as a victory for same-sex partners.⁶

However, it may be that this precise disability (i.e., non-marriage status) could allow for greater flexibility in non-granting states' ability to recognize

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† Yale Law School, J.D. expected 2004.
2. Id. at 633-34. See also Lewis A. Silverman, *Vermont Civil Unions, Full Faith and Credit, and Marital Status*, 89 KY. L.J. 1075, 1076-78 (2000) (noting that civil unions' quasi-marital status makes it unclear what type of recognition they may receive in other states).
5. Civil union status is not identical to married status in Vermont. Although Vermont couples who have entered into civil unions are identically situated to married persons for the purposes of benefits and responsibilities conferred by Vermont state law, unlike married Vermonters, they are unable to take advantage of federal marital benefits. While same-sex partners might have been blocked from doing so by existing federal statutes even if Vermont had simply admitted same-sex partners to the institution of marriage, they would have had far stronger grounds for stating a claim of entitlement to federal benefits. See notes 10-11 infra and accompanying text.
6. See e.g., Strasser, supra note 4.
some form of cross-state legal status. While non-Vermont courts are unlikely to recognize civil unions as marriages, it is also unlikely that all, or even most, non-granting states' courts will recognize same-sex marriages subsequent to their legalization in any one state. Both the federal government and thirty-five states have enacted anti-same-sex marriage bills (the federal Defense of Marriage Act (DOMA)\(^7\) and state “mini-DOMAs”\(^8\) respectively) designed to substantially limit this type of cross-state recognition.\(^9\) Commentators have widely criticized DOMA as unconstitutional, on grounds that the federal courts may well ultimately accept.\(^10\) However, irrespective of the ultimate constitutionality (or unconstitutionality) of DOMA, the mini-DOMAs erect independent bars on the recognition of same-sex marriages.\(^11\)

Although the constitutionality of the mini-DOMAs has also been questioned,\(^12\) the arguments that can be made for their invalidity seem unlikely to prevail in the current legal milieu. The federal courts have traditionally granted states a substantial degree of discretion in defining their own public policy exceptions\(^13\) to their constitutional duty to recognize marriages performed out of state.\(^14\) \textit{Romer v. Evans} notwithstanding,\(^15\) the Supreme Court has not found that discouraging “the lesbian and gay lifestyle” constitutes an unacceptable public policy basis.\(^16\) Absent a decision stipulating the unconstitutionality of sexual orientation discrimination, it is likely that the courts will find the mini-

\(^8\) \textit{E.g.,} ALASKA CONST. art. 1, § 25 (2001); CAL. FAM. CODE § 308.5 (West 2000); GA. CODE ANN. § 1933.1 (2000).
\(^9\) Focus on the Family, \textit{Defense of Marriage Action Page}, at http://www.family.org/cforum/research/papers/a0011635.html (2001). In addition, recent history suggests that legalization may be likely to generate an even greater proliferation of mini-DOMA statutes. Both the federal and the state DOMAs were passed as an affirmative attempt to limit the impact of rulings in Hawaii, and subsequently Vermont, that appeared likely to result in state recognition of same-sex marriages.


\(^11\) The constitutional status of DOMA will have significant implications in other areas, most notably for the ability of same-sex married couples to obtain federal benefits. \textit{See} 110 Stat. 2419.

\(^12\) \textit{See, e.g.,} Mark Strasser, \textit{The Privileges of National Citizenship: On Saenz, Same-sex Couples, and the Right to Travel}, 52 RUTGERS L. REV. 553 (2000) (arguing that both DOMA and the mini-DOMAs violate national citizenship rights).

\(^13\) This is particularly so in cases where residents have left the state for the explicit purpose of avoiding local restrictions on marriage.


\(^15\) 517 U.S. 620 (1996) (holding that Colorado constitutional amendment violated the Equal Protection Clause because it did not classify lesbians and gays to further a legitimate state interest).

\(^16\) \textit{See, e.g.,} Boy Scouts of America v. Dale, 530 U.S. 640 (2000) (holding that the Boy Scouts had a freedom of association interest which superseded the state’s interest in prohibiting discrimination on the basis of sexual orientation); Bowers v. Hardwick, 478 U.S.1039 (1986) (holding that the Due Process Clause does not confer a “fundamental right to homosexuals to engage in acts of consensual sodomy”).
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DOMA statutes to be an acceptable exercise of a state’s discretion to define its own public policy exemptions to the recognition of out of state marriages.¹⁷

If the mini-DOMAs are indeed upheld, even sympathetic courts in mini-DOMA states will have difficulties finding a legal basis for recognizing same-sex marriages. Courts in many of the mini-DOMA states have been fairly receptive to other claims that have been made for recognition of lesbian and gay familial relationships, and it is plausible that they might also be receptive to claims for recognition of same-sex marriages performed in different jurisdictions.¹⁸ However, they would be facially barred by the text of the mini-DOMA statutes from finding out-of-state same-sex marriages to be cognizable.

Civil unions, on the other hand, do not facially fall within the terms of most of the mini-DOMAs which were written in contemplation of the legalization of same-sex marriage.¹⁹ This distinction may provide limited spaces for the recognition of civil unions where any recognition of marriage itself would be barred. Civil unions could be recognized as a new form of familial status, or, alternatively, could be utilized as a legal tool in a variety of proceedings that are contingent on legally constituted familial relationships,²⁰ such as inheritance,²¹ wrongful death,²² and custody and visitation.²³ This case note will discuss the

¹⁷ Even if a lower federal court were to find that the mini-DOMAs are not supported by acceptable public policy grounds, it is quite possible that the Supreme Court as currently constituted would reverse. See, e.g., Bowers, 478 U.S. 1039, where the Court found that the state’s public policy interest in criminalizing immoral conduct justified Georgia’s sodomy statute. While the Court has significantly toned down its rhetoric since that time, Bowers has not been overruled, and last year’s decision in Dale suggests that the Court continues to have a fairly narrow view of what constitutes unacceptable discrimination against lesbians and gay men. See Dale, 530 U.S. 640.

¹⁸ For example, courts in California and Delaware have issued some remarkably progressive decisions providing legal recognition and protections to same-sex families. See, e.g., In re A.P.M. (Del. Fam. Ct. June 27, 2001) (granting second parent adoption), available at http://www.lambdalegal.org/cgi-bin/pages/documents/record?record=903; Order Overruling Defendants’ Demurer and Denying Defendants’ Motion to Strike, Smith v. Knoller, No. 319532 (Cal. Super. Ct. Aug. 9, 2001) (on file with the author) (holding that for the purposes of California’s wrongful death statute, the word “spouse” should be interpreted to include same-sex partners). Both of these states also have mini-DOMAs.

¹⁹ See, e.g., ALASKA CONST. art. 1, § 25 (2001) (“To be valid or recognized in this State, a marriage may exist only between one man and one woman.”); CAL. FAM. CODE § 308.5 (West 2000) (“Only marriage between a man and a woman is valid or recognized in California.”); GA. CODE ANN. § 1933.1 (2000).

²⁰ It should be noted that domestic partnerships have typically not been accorded recognition beyond the localities where they were granted. However, substantive differences between domestic partnerships and civil unions, such as the bar on entering into marriages while still “civil unioned” and the extensive responsibilities that adhere to civil union status, will likely require non-granting states to grant the latter more substantial legal consideration. See generally Silverman, supra note 2 (noting that the courts of other states may be required to consider civil union status in certain deliberations).


²³ See generally Rehra C. Hedges, The Forgotten Children: Same-Sex Partners, Their Children, and Unequal Treatment, 41 B.C. L. REV. 883 (2000) (discussing the need to reconceptualize traditional family categories and legal distinctions in order to provide legal protection for the children of same-sex partners).
argument for interstate recognition of civil union status that is made in *Burns v. Burns* and its potential as a means of obtaining recognition for lesbian and gay families as legally constituted entities within the courts.

**THE BURNS V. BURNS ARGUMENT FOR SAMENESS: ARE CIVIL UNIONS WITHIN GEORGIA LAW?**

Susan Freer (previously Susan Burns) divorced Darian Burns in 1995. By court order, neither party was permitted to have visitation with their children if he or she was, at that time, cohabiting with an adult to whom he or she was not either married or related within the second degree. Susan entered into a Vermont civil union with her partner, Debra Jean Freer, in July 2000, and the two subsequently began sharing a home. Her ex-husband filed a motion for contempt, stating that she had violated the terms of their visitation agreement.

Freer argued in the lower court that her civil union should be recognized as a marriage, and that she had, therefore, not violated the terms of the order. The lower court ruled in favor of Mr. Burns, finding that the state of Georgia was under no obligation to recognize a Vermont civil union. Ms. Freer appealed the decision on the grounds that the state court erred in finding that she and her partner should not be recognized as married by the state of Georgia. The ACLU has filed an amicus brief in the case raising additional arguments on Ms. Freer’s behalf; most notably, they argue that while the Freers' civil union may not be accorded marriage status, it should at a minimum establish a familial relationship of sufficient proximity to be considered “within the second degree.” The case is currently pending in the Georgia Court of Appeals.

Freer’s marriage claims are likely to be rejected for the reasons noted above. Even in the unlikely event that the Court of Appeals chooses to ignore the fact Vermont does not recognize a civil union as a marriage per se, Georgia has an explicit prohibition on same-sex marriages which specifies that “[a]ny marriage entered into by persons of the same sex pursuant to a marriage license issued by another state... shall be void in this state.” A finding that Freer’s civil union status creates a familial relationship that is “within the second de-

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27. Id.
31. Id.; Lambda, supra note 25.
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gree,” however, is not facially blocked by Georgia law, and presumably would be within the discretion of the court.

The question presented is, for obvious reasons, a novel one under Georgia law. The Georgia courts have, however, addressed a number of comparable cases in which individuals have made claims for broadly interpreted statutorily defined relationships. Litigants have typically made these claims for incorporation on the basis of their relationship’s sameness (i.e., equivalence in all relevant respects) to the statutorily defined relationship as evidenced by the existence of specific significant points of commonality. The argument that is made in Burns v. Burns is essentially this type of sameness argument: that civil union status is a legally cognizable relationship of sufficient similarity to existing relationships specified at Georgia law to be akin to existing designated categories (affinity, consanguinity, degrees of relatedness, etc.).

An evaluation of this type suggests that the Burns proximity argument is unlikely to prevail. The Georgia courts have repeatedly declined to extend the meaning of existing familial or relationship definitions beyond that which the legislature presumably contemplated, refusing, for example, to recognize step-children as “children” within the context of Georgia’s adult ward guardian appointment statute, to allow equitably adopted children to sue for wrongful death, or to define same-sex relationships as “meretricious” for the purposes of Georgia’s alimony statutes.

In addition, the Georgia courts have traditionally not been expansive in their willingness to accept arguments of sameness in other areas affecting lesbian, gay, bisexual, and transgender (LGBT) rights. While the Georgia courts have issued decisions that are increasingly favorable to same-sex partners in

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33. Wilson v. James, 392 S.E.2d 5 (Ga. 1990) (finding that step-children of a potential ward need not be notified of a petition for appointment of a guardian since they do not constitute “children” or “next of kin” for the purposes of the guardianship statute).
35. Van Dyck v. Van Dyck, 425 S.E.2d 853 (Ga. 1993) (finding that former wife’s cohabitation with same-sex partner could not be the basis for reduction of alimony since same-sex relationships could not constitute “meretricious relationships” within the meaning of the statute). It appears that the Georgia courts, while perhaps unimaginative, are fairly evenhanded in their refusal to recognize extended definitions of relationships.
36. But c.f. Crooke v. Gilden, 414 S.E.2d 645 (Ga. 1992) (holding that a relationship contract between lesbian partners was enforceable and supported by valid consideration); Handley v. Limbaugh, 162 S.E.2d 400 (Ga. 1968) (upholding inheritance rights of non-biologically related “son” on the basis of intestate parents’ parol obligation to adopt and son’s de facto “virtual adoption”). These cases suggest that the Georgia courts may be more willing to recognize untraditional familial arrangements when they are framed as contractual relationships, rather than coextensive with existing recognized familial relationships. While a contractual interpretation of civil union status may have flaws as it relates to long-term goals for obtaining recognition for same sex families in the courts, such an interpretation (i.e., as a contractual agreement as between the parties for the assumption of certain rights and responsibilities vis-à-vis each other) could potentially provide limited protections for civil unioned partners upon break up of the relationship or death of one of the partners.
recent years, they have also recently affirmed the right of the state to refuse employment solely on the basis of sexual orientation, and have enjoined a city’s affirmative attempt to grant domestic partnership benefits on the grounds that they exceeded the city’s lawmaking authority. This general resistance to broadly recognizing equal rights for lesbians and gay men, coupled with the Georgia courts’ traditional reluctance to define expansively these existing familial categories, suggests that, while possible, it is not likely that the Georgia Court of Appeals will find Freer’s civil union to create a legally constituted relationship that is “within the second degree.”

THE BURNS V. BURNS ARGUMENT IN OTHER STATES: POTENTIAL FOR SUCCESS?

The relatively small probability of success of the Burns v. Burns proximity argument in the instant case does not, however, diminish its potential utility in other contexts. While the Georgia courts have traditionally been fairly conservative in their willingness to define expansively these existing familial relationships, the courts of many other states have been more receptive to these types of sameness arguments; indeed, in several states these arguments have been extremely important in gaining legal recognition for the familial relationships of same-sex partners and their children. It may well be that those states that have traditionally had more gay-friendly policies, and that have been willing to define expansively these familial relationships, may be more willing to recognize civil union status in some form. Those states could interpret the Burns v. Burns proximity argument in one of two ways: as a specific new familial relationship; or alternatively, as a source of “evidence” or support for claims of sameness with respect to existing familial relationships that are recognized by the state.

The first conception is one of the more radical claims that can be made for judicial recognition of civil union status. The implications of the creation of a

37. See, e.g., Powell v. State, 510 S.E.2d 18 (Ga. 1998) (finding Georgia’s sodomy statute to be unconstitutional under the Georgia Constitution inasmuch as it applied to consensual activity occurring in a private home); Crooke, 414 S.E.2d 645.

38. Shahar v. Bowers, 114 F.3d 1097 (11th Cir. 1997) (affirming decision of Georgia attorney general to withdraw offer of employment on the basis of prospective employee’s religious lesbian wedding ceremony).


40. See, e.g., In re T.L., No. 953-2340 (Mo. Cir. Ct. May 7, 1996) (on file with the author) (holding that non-biological mother was an “equitable parent” and granting liberal visitation and parental rights on that basis); V.C. v. M.J.B., 748 A.2d 539 (N.J. 2000) (finding that non-biological mother was a “psychological parent” and had standing to sue for visitation); Braschi v. Stahl, 543 N.E.2d 49 (N.Y. 1989) (finding that life partner constituted a “family member” for the purposes of rent control and eviction statutes); Order Overruling Defendants’ Demurer and Denying Defendants’ Motion to Strike, Smith v. Knoller, No. 319532 (Cal. Super. Ct. Aug. 9, 2001) (on file with the author) (holding that California wrongful death statute should be interpreted to include same-sex partners within the meaning of the word “spouse”). But see, e.g., In re Alison D., 572 N.E.2d 27 (N.Y. 1991) (finding that for the purposes of custody and visitation non-biological parent could not constitute a parent under theories of equitable or de facto parentage).
new legal status are clearly substantial: it would be extremely difficult to limit its application to the specific parties involved in the motivating dispute or even to a limited category of disputes. Once a higher state court has established that civil union status constitutes a new specific recognizable familial status, this status would presumably carry over to the many other circumstances in which the courts are called on to evaluate the legal proximity of family members (e.g., inheritance, power of medical decision making, etc.).

There are a few states that may accept this type of broad argument. In particular, both Hawaii and California, which already have a statewide legally recognized status that provides fairly extensive benefits to same-sex partners, might be receptive to broader claims for recognition of civil union status. Not only would recognition of per se civil union status in these states not constitute as radical a departure from existing state law, it would be supported by reasonably strong full faith and credit arguments, given that the policy considerations that support recognition of civil union status do not differ substantially from those that support the existing recognized statuses. Overall, however, broad recognition of civil union status seems likely to be limited to a fairly circumscribed number of states. Therefore, while it may ostensibly be the most favorable interpretation of civil union status, other possible arguments with greater potential for viability in a wide variety of states should be explored.

The second, narrower, conception of the Burns proximity argument is one such argument. This interpretation of civil union status suggests its utility as a sort of "evidence" in judicial evaluation of the sameness of lesbian and gay relationships in certain categories of disputes. Notably, a state court's acceptance of these types of arguments in any one category of disputes would not logically require the extension to all familial categories for which claims of sameness are available. While this is clearly not a favorable implication from the perspective of radically extending legal recognition for lesbian and gay families, the limited nature of the claim may make it substantially more likely to gain diverse acceptance than claims for wholesale recognition.

Despite its more limited nature, an evidentiary interpretation could still provide a significant asset in struggles to obtain recognition and protection for

42. See generally Silverman, supra note 2 (arguing that the Full Faith and Credit Clause may require recognition of some components of civil union status).
43. While marriage recognition will necessarily entail recognition of rights and responsibilities that cross a wide variety of familial relationships, acceptance of sameness arguments with regard to, for example, inheritance or parenting rights, need not have the same broad effect. This is demonstrated by the fact that while arguments have been accepted in some states that lesbian and gay relationships empirically bear sufficient similarities to specific relationships that are protected at law to warrant incorporation, no state except Vermont (where marriage was the relationship at issue) has subsequently felt compelled to extend those protections to all of the other related areas that would be supported by precisely the same arguments. See generally Kathryn Dean Kendell, Principles and Prejudice: Lesbian and Gay Civil Marriage and the Realization of Equality, 22 J. CONTEMP. L. 81, 95 (1996) (noting that recognition of same-sex marriage would have far reaching effects on other areas of the law).
LGBT families in the courts. As noted above, state courts have, in a variety of circumstances, been remarkably receptive to sameness arguments for more expansively defined specific familial relationships. While civil union status would clearly not create a prima facie basis for holding that a relationship should be designated sufficiently similar for legal protections to attach (unless it is accepted as a defined familial relationship within the state’s existing designated categories), it could be significant in two ways.

First, the presence of specific familial duties and relations might form the basis for an argument of sufficient similarity to warrant an expansive reading of the common law or statutory meaning of an existing legally constituted relationship. Second, the mutual rights and responsibilities that adhere to civil union status evidence the intent on the part of the partners to form a marital-like relationship, with all its concomitant rights and responsibilities. This intent may itself provide critical support for the perceived legitimacy of sameness arguments.

Civil union status is by its very nature “quasi-marital.” In addition to the state-provided benefits that adhere to civil union status in Vermont, parties to a civil union agree to undertake certain quasi-marital rights and responsibilities as against each other, including but not limited to mutual financial responsibility, intestate inheritance, and certain custody and adoption rights vis-à-vis their partners’ biological children. These specific rights and responsibilities provide a strong basis for arguments of similarity in that they provide an objective basis for demonstrating points of commonality to an existing legally recognized relationship. Instead of having available only the empirical details of the parties’ relationships for the purposes of constructing sameness arguments, these specifically stipulated rights and responsibilities allow for a broader, perhaps more apparently neutral argument for a finding of sameness to a given familial relationship.

When these “evidentiary” components are coupled with the legitimacy that is added by the presence of a clear intent on the part of the parties to be bound in those specifics, they can form the basis for a powerful legal argument. While intent is of course not the vital determinant of family law that it is of contracts, it can provide a veneer of fairness to arguments of sameness. It suggests that the litigants have not erected sameness arguments merely for the purpose of achieving their desired result but, rather, that these arguments have some pre-existing foundation. Conversely, evidence of prior intent can demonstrate the illegitimacy and ex post facto nature of many of the arguments that are forwarded against “sameness” by opposing parties (often former partners). The

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44. See note 40 supra and accompanying text.
46. See Id.
importance of such factors to court determinations can clearly be seen in a number of instances; for example, to the degree to which courts have been willing to expansively define “parents” to incorporate non-biological lesbian and gay parents, this willingness has been contingent upon a showing that the biological parent understood and encouraged the development of a parent-like relationship between the non-biological parent and child.  

The presence of civil union status, then, may be significant, not only on its own terms, but as a factor that can be offered as support for many of the distinct claims that are made for the recognition of lesbian and gay relationships. The claims that same-sex partners have made for the protection of their relationships in the courts—constructive trust, equitable adoption, second parent adoption, meretricious relationship status, and, indeed, marriage itself—all depend to a large extent on the courts’ willingness to extend traditional understandings of protected categories to the arena of same-sex partners. To the extent that civil unions illustrate and lend legitimacy to the sameness of gay and lesbian family relationships they may be of significant assistance in encouraging courts to recognize same-sex relationships as sufficiently similar for legal protections to adhere.

**CONCLUSION**

Civil union status per se may or may not be recognized by any state outside of Vermont. While strong claims can be made for its incorporation within the system of existing relationships that are recognized at law, civil union status is clearly not within the current legal understanding of family in states other than Vermont. With the exception of those states that already provide reasonably extensive legal recognition to lesbian and gay couples, a decision to incorporate civil union status as a distinct relationship would therefore constitute a quite radical holding, and may be unlikely to occur, at least in the short term.

On the other hand, more limited claims for sameness can be made on the basis of civil union status, and seem likely to have fairly broad success in a va-

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47. See, e.g., In re T.L., No. 953-2340 (Mo. Cir. Ct. May 7, 1996); V.C. v. M.J.B., 748 A.2d 539 (N.J. 2000); In re H.S.H.-K., 533 N.W.2d 419, 421 (Wis. 1995) (holding that a non-biological mother had the right to seek visitation, but that she must establish that the child’s biological parent “consented to, and fostered, the petitioner’s formation and establishment of a parent-like relationship with the child”).


49. See, e.g., In re T.L., No. 953-2340 (Mo. Cir. Ct. May 7, 1996); V.C., 748 A.2d 539; In re H.S.H.-K., 533 N.W.2d 419.

50. See, e.g., Adoption of Tammy, 619 N.E.2d 315 (Mass. 1993); In re B.L.V.B., 628 A.2d 1271 (Vt. 1993).

51. Vasquez v. Hawthorne, No. 69655-1, 2001 Wash. LEXIS 684 (Wash. Nov. 1, 2001) (overruling Appellate Court finding that a relationship between same-sex partners could not constitute a “meretricious relationship” for the purposes of intestate inheritance and remanding for further consideration of partner’s claim).
riety of states. The areas in which these types of claims might be made are as
diverse as the many family relationships that derive from spousal and parental
status. While clearly civil union status will not provide an equally strong basis
for an argument of sameness in each, in most, it is worth considering as a
strong addition to the array of legal arguments available to same-sex partners
for claims of sameness in the courts. While the implications of these more
limited claims may not seem substantial when compared with the social and le-
gal significance of the recognition of civil union status on its own terms (or ob-
viously, the recognition of marriage itself), their significance in constructing a
system of legally recognized lesbian and gay family relationships in the courts
should not be undervalued. Until civil union status (or marriage) is recognized
by statute in a given state, civil unions can provide a basis for individual fami-
lies to seek protection from the courts by making claims for the extension of
traditional understandings of protected familial relationships. These extensions,
over the long term, can do nothing but help to weaken current restrictive under-
standings of what families, parents, and marriage are. In that way, civil unions
may provide not only the tools for current legal battles, but the foundation for
the future of marriage litigation, and for the ultimate full recognition of lesbian
and gay families as equal and protected under the law.

52. One of the most promising areas where civil union “sameness” arguments might be applied is
in intestacy law. Civil union status, much like marriage, is intended in part to provide for shared prop-
erty and intestate inheritance, and specifically treats these topics in its statutory design. While these
statutory terms are evidently not controlling in a state that does not recognize civil unions, one could
argue based on their existence that for the purposes of intestacy law, “spouse” should be expansively
defined to include civil unioned partners. In its relevant components, civil union status is substantively
indistinguishable from marriage. Functionally, it could serve precisely the same purpose in the context
of intestacy law that is currently served by marriage, i.e., the demonstration of the intimacy of the rela-
tionship and the intent to share property in the event of death. In seems likely that some of the many
states that have been more willing than Georgia to define expansively familial relationships may be re-
ceptive to arguments for an expansive reading of the word “spouse” for the purposes of intestacy law.
See VT. STAT. ANN. tit. 15 § 1204, 5812 (2001) (discussing inheritance and joint property among civil
union partners); Gray, supra note 20, at 2-3.