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MARRIAGE, REGISTRATION AND DISSOLUTION BY SAME- SEX COUPLES IN THE U.S.

By Gary J. Gates, M.V. Lee Badgett, and Deborah Ho

JULY 2008

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Introduction and Summary

In the last two decades, the United States has seen a dramatic shift in the legal recognition of same-sex couples. Since 1997, ten states and the District of Columbia have granted some form of state-wide recognition to same-sex couples. As of the publication of this report, Massachusetts and California allow same-sex couples full access to marriage. Today, nearly a quarter of the U.S. population lives in a state with some form of legal recognition for same-sex couples.

However, the rights, benefits, and obligations that come with these legal statuses vary considerably across the states. As a result of these differences, a careful analysis of the numbers of same-sex couples entering into and dissolving these statuses in different states has the potential to answer several important questions in the ongoing public discussion about legal recognition for same-sex couples.

- Do significant numbers of same-sex couples take advantage of the opportunity for legal recognition? Some observers have argued that the numbers of same-sex couples marrying, in particular, are surprisingly low in the United States and other countries.¹
- Are the legal relationships of same-sex couples more or less stable than those of heterosexual married couples?
- Are same-sex couples who marry or enter other legal statuses demographically different from different-sex couples who marry? The answer to this question may shed light on the needs and motivations of same-sex couples who want to marry.
- Do same-sex couples prefer marriages to other forms of legal recognition? Civil unions and domestic partnership registries crafted specifically for same-sex couples are often seen as a compromise position that provides necessary recognition for same-sex couples without providing access to marriage. However, ongoing litigation and advocacy efforts suggest that at least some same-sex couples reject that argument and prefer marriage. The actual decisions of couples to register or marry in various states that have offered such recognition might shed light on the perceptions and preferences of a much broader group of same-sex couples than is possible with surveys or anecdotal evidence.

This report presents and analyzes the most recent data available to address these questions. The data strongly suggest that same-sex couples want and use these new legal statuses. Furthermore, they react more enthusiastically the closer the legal status comes to marriage. The data show that same-sex couples prefer marriage over civil unions or domestic partnerships.

Key findings in this report include:

- Today, nearly a quarter of the U.S. population lives in a state with some form of legal recognition for same-sex couples.
- More than 85,000 same-sex couples in the United States have entered a legal relationship since 1997.
- In the states that provide legal recognition, more than 40% of same-sex couples have married, entered a civil union, or registered their relationships.
- Female same-sex couples are more likely than male couples to seek legal recognition. Approximately two-thirds of legally recognized same-sex couples are female.
- Same-sex couples who have sought legal recognition are generally younger than different-sex married couples. However, a comparison of same-sex couples who married in Massachusetts to different-sex couples who married at the same time shows that the same-sex couples are older, likely because they were not allowed to marry earlier in their relationships.
- Data from three states suggest that more than one in five individuals in same-sex couples who marry or register have previously been married to a different-sex partner. This is very similar to the rate at which individuals in different-sex married couples have been previously married.
- Same-sex couples prefer marriage over civil unions or domestic partnerships:
 - While 37% of same-sex couples in Massachusetts married during the first year that marriage was offered, only 12% of same-sex couples have entered civil unions and 10% have entered domestic partnerships during the first year in which states have offered these forms of recognition.
 - Same-sex couples are more likely to seek formal recognition when such recognition confers more of the legal rights and benefits of marriage. In states that have offered all or most of such rights, 21% of couples have sought legal recognition in the first year it was offered, compared to only 10% in states that provide a more limited set of rights.
 - Prior to Massachusetts establishing marriage, a large number of same-sex couples traveled to Vermont for civil unions (the only state at the time to have a status close to marriage). After Massachusetts opened marriage to same-sex couples, out-of-state civil unions dropped dramatically in Vermont, suggesting that couples may now be waiting for more states to offer marriage.
 - The lack of enthusiasm for non-marital forms of recognition is also true among different-sex couples. In states that allow different-sex couples to enter non-marital forms of recognition, the registration rate has been less than 6% of eligible couples.
- The percent of same-sex couples that dissolve their relationships each year closely tracks the figure for different-sex couples (about 2%).

We also make projections about the future of same-sex couples seeking legal recognition of their relationships:

- While a higher percentage of different-sex couples have married relative to the percentage of same-sex couples who seek legal recognition, our projections suggest that these percentages will be the same in less than 20 years if current trends continue.
- If all states offered marriage to same-sex couples today, we would expect to see approximately 370,000 couples marrying in the next three years, with 236,000 of these couples marrying in the first year.
 - California (50,292), Florida (25,624), New York (23,893), and Texas (23,828) would be the states with the most same-sex marriages. One third of all same-sex marriages in the United States would be in these four states.
 - The District of Columbia would have the highest proportion of same-sex couples among married couples, 29 per 1,000 married couples, followed by Vermont at 9.3 per 1,000 couples and New Mexico at 9.2.

Same-Sex Couple Recognition in the U.S., 1997-2008

Since Hawaii became the first state to recognize same-sex couples in the form of reciprocal beneficiary relationships in 1997, nine other states and the District of Columbia have followed suit by establishing same-sex legal relationships in the form of marriage, civil unions and domestic partnerships.² Today, nearly a quarter of the U.S. population lives in a state with some form of legal recognition for same-sex couples. However, these legal statuses come with rights, benefits, and obligations that vary considerably across the states.

The current forms for legal recognition can be grouped into three broad categories. The simplest of these is marriage. In Massachusetts and California, same-sex couples can marry and, at the state level at least, these marriages are treated no differently than the marriages of different-sex couples. A second category includes civil unions and some domestic partnerships that explicitly equate the rights and responsibilities associated with these statuses to those associated with marriage. A third category of domestic partnership and reciprocal beneficiaries delineates a specific set of rights and responsibilities for couples, which is not as comprehensive as marriage or civil unions. These forms of recognition and the states that offer them are shown in Table 1. (See also Appendices 3 and 4 for details on the legal rights and responsibilities associated with those forms.)

The recognition of these legal relationships and the rights associated with them outside of the state in which the relationship is established can be unclear. For the most part, the recognition of same-sex legal status is limited to the state in which the legal relationship is established. In terms of marriages, 41 states have either statutes or constitutional amendments that would prohibit the recognition of these out-of-state marriages.³ For other legal statuses, such as domestic partnerships and civil unions, 19 states have either statutes or constitutional amendments that would preclude the recognition of these relations as well.⁴

Table 1. Recognition of same-sex relationships in the United States.

Partnership recognition type		State	Enacted
Marriage	Available to both same-sex and different-sex couples	Massachusetts	2004
		California ^a	2008
Civil Union/ Domestic Partnership	All state-level rights and responsibilities associated with marriage. Available to same-sex couples only.	Vermont ^b	2000
		California	2005
		Connecticut	2005
		New Jersey ^c	2007
		New Hampshire	2008
		Oregon	2008
Domestic partnership/ Reciprocal beneficiary	A limited set of rights and responsibilities that vary by state. Available to same-sex couples and some different-sex couples.	Hawaii	1997
		Vermont	2000
		California	2000
		District of Columbia ^d	2002
		Maine	2004
		New Jersey	2004
		Washington	2008

^a California first passed a domestic partnership statute in 2000. This statute included a limited set of rights and responsibilities available to same-sex couples and some different-sex couples. As of January 2005, domestic partnership was expanded to include virtually all rights and responsibilities associated with marriage. In May 2008, the California Supreme Court invalidated a state law banning marriage for same-sex couples. As of June 2008, same-sex couples could marry in California.

^b The bill that legalized same-sex civil unions in Vermont also allows persons to establish reciprocal beneficiary relationships. This status confers fewer benefits and protections than those garnered through civil unions.

^c New Jersey enacted a domestic partnership registry for all same-sex couples and for different-sex couples aged 62 or older in 2004. Civil unions were established for same-sex couples in 2007, and now only couples 62 and older (both same-sex and different-sex) are allowed to register as domestic partners.

^d D.C. passed legislation establishing a domestic partnership registry in 1992, but the U.S. Congress prohibited enactment of the law until 2002. The rights and responsibilities associated with domestic partnership have been gradually expanded since 2002.

On the other hand, five states with civil unions and domestic partnership registries will recognize civil unions and partnerships of other states and countries (California, Connecticut, New Hampshire, New Jersey, and Washington).⁵ Two states, New Hampshire and New Jersey, will also recognize legal same-sex marriages as civil unions or domestic partnerships.⁶ In addition, a few states without such statutes may recognize the marriages of same-sex couples from California, Massachusetts, and other states and countries.⁷ As a result of the federal Defense of Marriage Act (DOMA),⁸ there is no federal recognition of same-sex couples. Regardless of their state-level legal status, all same-sex couples are treated as unmarried by federal law.

By looking at marriage and registration rates in the states that currently offer these options to same-sex couples, we can consider variation in those rates according to the type of status offered and the rights, benefits, and obligations associated with each. As several states have increased the benefits associated with the legal status or changed the name of the status it offers, we can also see if such changes have had any significant effect on registration rates over time.

In the rest of this study, we analyze data on marriage, civil union, and domestic partnership registration by same-sex couples from the nine states and the District of Columbia

where data were available to consider the following questions:

- How many same-sex couples take advantage of legal recognition?
- Do the characteristics of same-sex couples who marry or register differ from different-sex couples who marry?
- Does the form of recognition—marriage, civil union, domestic partnership—matter to couples and, if so, how?
- How frequently do same-sex relationships dissolve?

The Basic Counts: How Many Same-Sex Couples have Married or Registered?

As of Spring 2008, more than 85,500 same-sex couples had formalized their relationships in some legal fashion in the United States. The number of couples in legally recognized relationships ranges from 48,157 in California to 422 in New Hampshire (see Table 2). In Massachusetts, the only state where same-sex couples were allowed to marry, more than 10,000 same-sex couples have wed. Appendix 1 describes the sources of data and necessary adjustments to account for states’ different data collecting and reporting practices.

Table 2. Number of Marriages/Registrations by same-sex couples.

Partnership recognition type	State/District	Total	Total (%) Residents	Avg. over 12 month period
Reciprocal Beneficiary/ Domestic Partnership (limited)	Hawaii (1997)	1,488	1,199 (81)	105
	District of Columbia (2002)	802		134
	Maine (2004)	982		258
	New Jersey (2004)	4,961		1,415
	Washington (2007)	4,003		-
Civil Union/Domestic Partnership (comparable to marriage)	Vermont (2000)	8,685	1,485 (17)	196
	Connecticut (2005)	1,855		795
	California (2000)	48,157	45,749 (95)	5,820
	New Jersey (2007)	2,499		-
	Oregon (2008)	1,891		-
	New Hampshire (2008)	422		844
Marriage	Massachusetts (2004)	10,385		2,832
	California (2008)			-

This wide variation in the number of same-sex couples across states captures two separate effects. Bigger states have more couples registering and some states have been allowing same-sex couples to register over a longer period of time. To account for the varying lengths of time that states have offered a legal status for same-sex couples, we also show the average number of registrations or marriages over a typical 12 month period (in states where recognition has been available for more than a year) in the last column of Table 2. California has averaged the most domestic partnership registrations per year, more than 5,800, while Massachusetts has averaged more than 2,800 marriages per year.

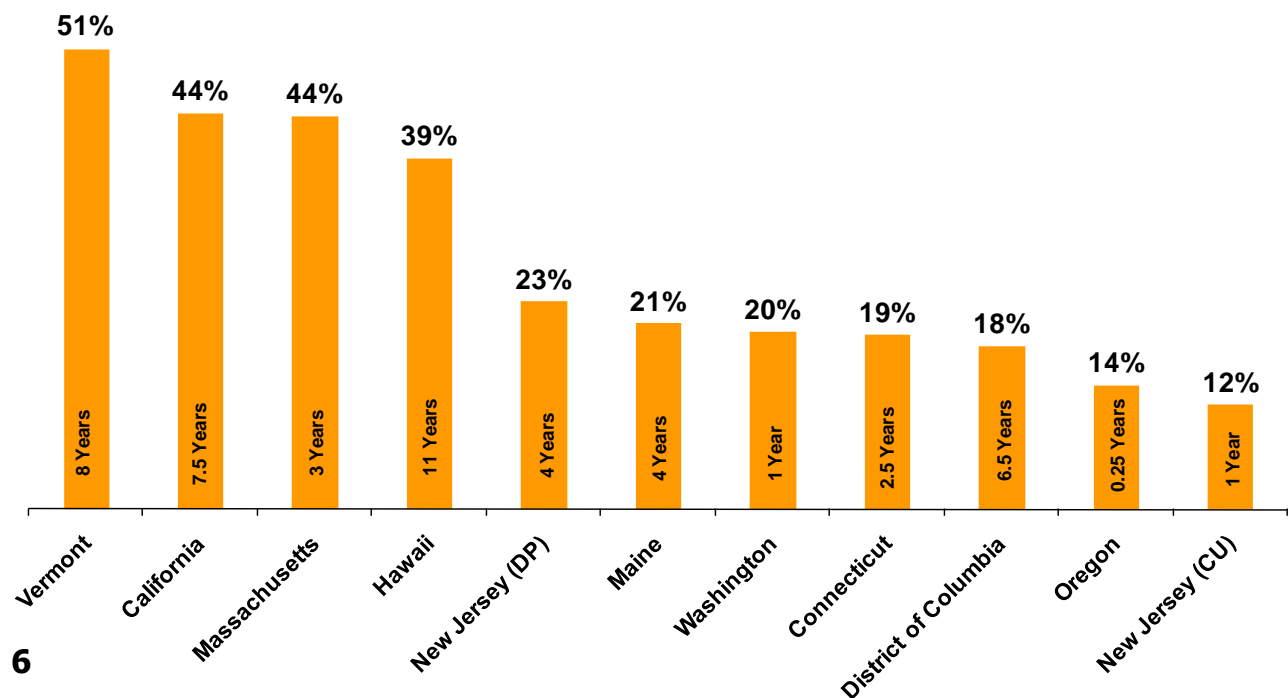
All states that provide for same-sex couple recognition, with the exception of Maine, allow non-residents to register. Where possible, we provide information on total residential unions.⁹ Vermont appears to be the only state with a substantial number of non-residential unions. More than 8 in 10 civil unions performed in Vermont have been for same-sex couples who do not reside in the state.

Percentage of same-sex couples who seek legal recognition

Another way to consider the extent of legal recognition of same-sex couples is to estimate the fraction of same-sex couples in a state who have married or registered. Since 2000, the U.S. Census Bureau has collected annual state-level estimates of the number of cohabiting same-sex “unmarried partners” living in the state. Using these data, Figure 1 shows the percentage of same-sex couples counted in the American Community Survey who have entered into legally recognized relationships in all jurisdictions where recognition is available (see Appendix 2 for details).

Two factors affect these figures: the length of time recognition has been available and the type of recognition. Vermont and Hawaii have had the longest period of recognition (8 and 11 years, respectively) but Vermont’s civil unions come with many more rights than Hawaii’s reciprocal beneficiary status.¹⁰ Notably, more than half (51%) of same-sex couples in Vermont have sought a civil union compared to only 39% of Hawaii couples who have registered as reciprocal beneficiaries.

Figure 1. Percent of same-sex couples who have sought legal recognition and years of available data.



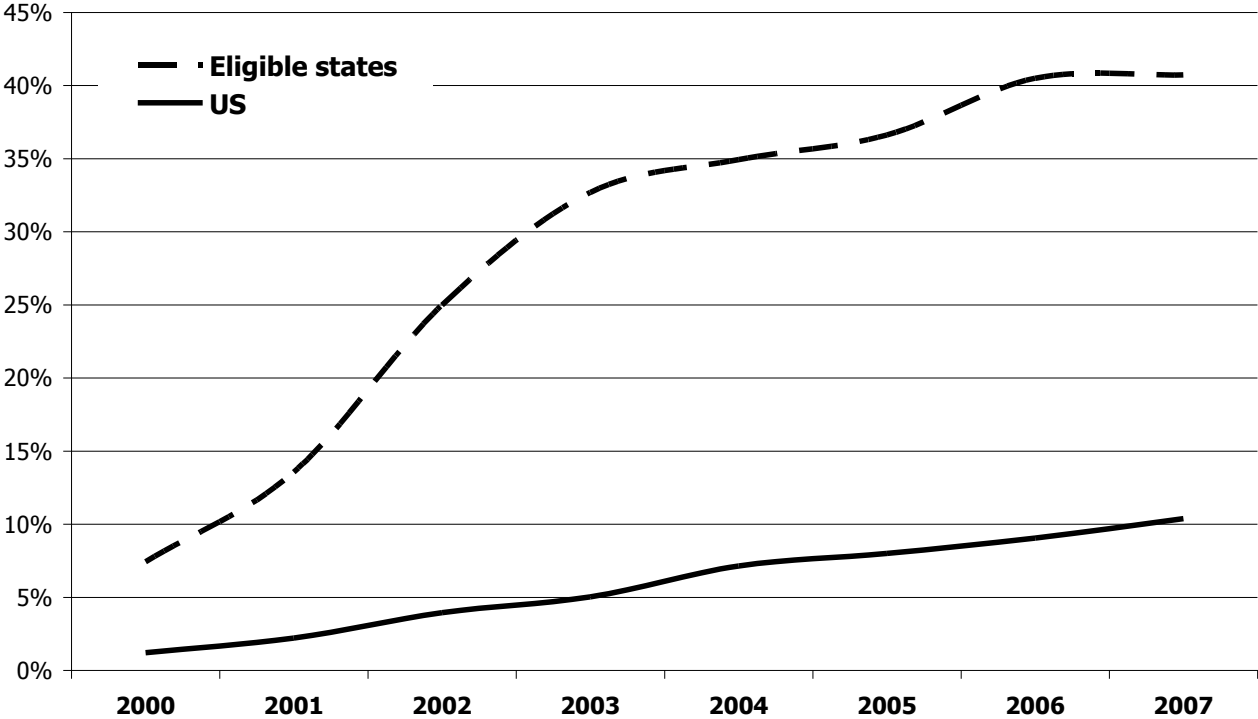
In the seven and a half years of domestic partnership in California, 44% of same-sex couples have registered. It took only three years of marriage in Massachusetts to reach the same percentage.

Among all same-sex couples in the United States, more than one in ten have entered a

legally recognized union (see Figure 2), a remarkable number considering how few states offer legal recognition to same-sex couples.

Combining same-sex couples in all states with legal recognition, more than 40% of same-sex couples have sought such recognition.

Figure 2. Percent of same-sex couples ever seeking a legally recognized relationship in states with recognition and in the United States.



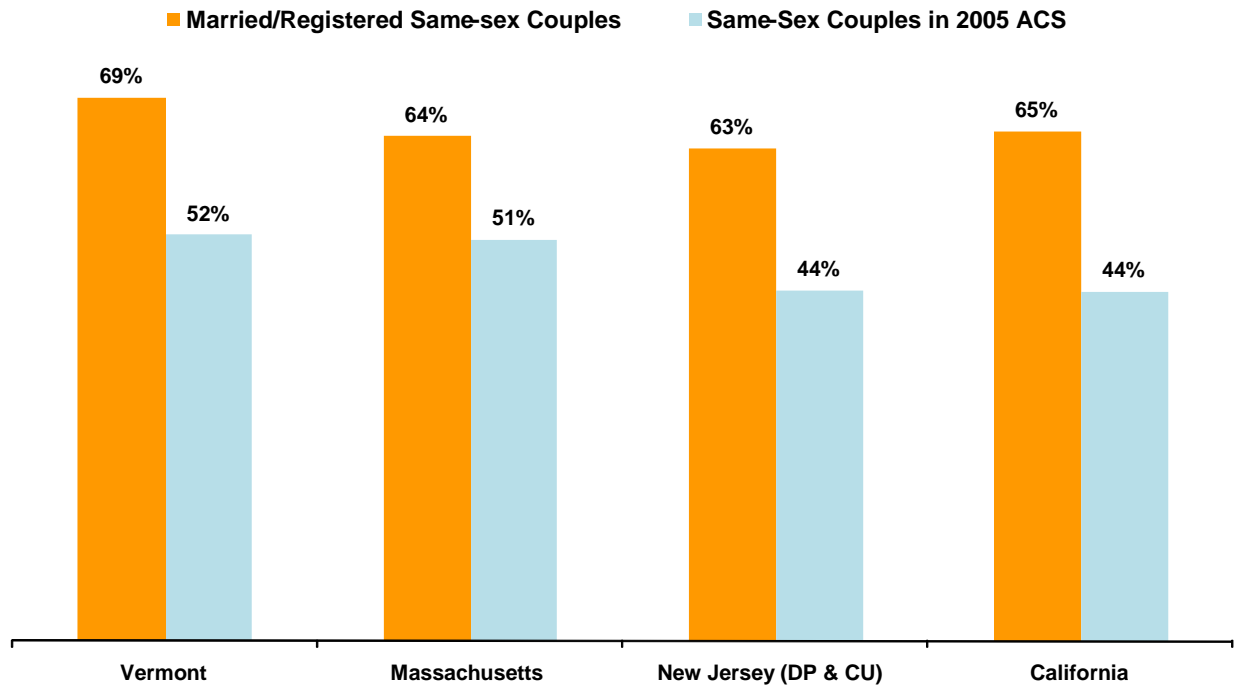
Demographic characteristics of same-sex couples who choose legal recognition

Sex

In the four states for which we have data about the sex of same-sex couples (Vermont, Massachusetts, New Jersey, and California), far more female couples than male couples have married or registered.¹¹ Approximately two-thirds of legally recognized same-sex couples are female.

Figure 3 compares the proportion of same-sex couples marrying or registering that are female to the proportion of same-sex couples living in the state that are female. In Massachusetts and Vermont, female couples outnumber male couples slightly in the Census counts, while female couples constitute a minority among same-sex couples in New Jersey and California. Among couples marrying or registering, however, female couples greatly outnumber male couples in all four states.

Figure 3. Percent female among registered same-sex couples and all same-sex couples.



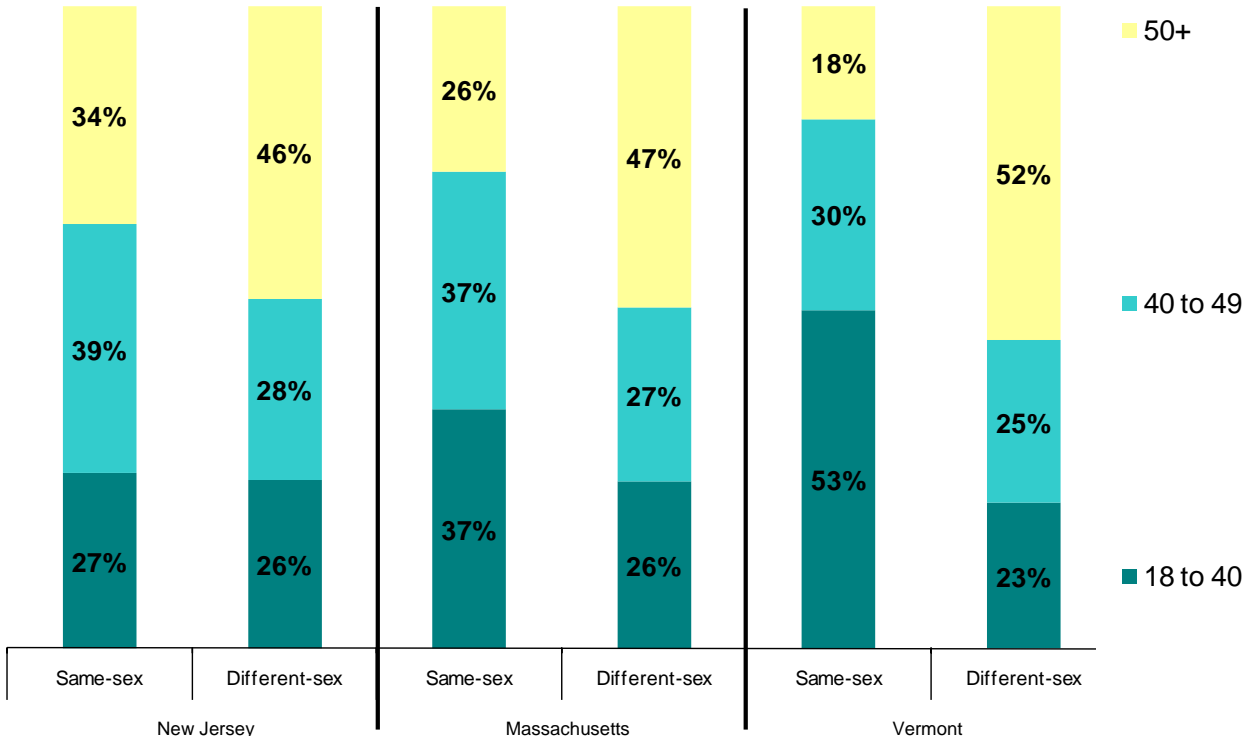
Age

Same-sex couples who have sought legal recognition are generally younger than the existing group of different-sex married couples in the three states shown in Figure 4.¹² In all cases, nearly half of those in different-sex married couples are age 50 or older, compared to only a third of those in domestic partnerships in New Jersey, only a quarter of those in same-sex marriages in Massachusetts, and less than a fifth of those in Vermont civil unions.

Among the individuals in same-sex couples who married in Massachusetts, sought a civil union in Vermont, or registered as domestic partners in New Jersey, those in Vermont were the youngest (see Figure 4). More than half of the men and women in civil unions are less than age 40. Those who registered for domestic partnership in New Jersey are the oldest among those in same-sex couples in these three states. More than a third of men and women in same-sex registered partnerships there are age 50 or older.

Another possible comparison group for same-sex couples who marry in Massachusetts is with different-sex couples who marry at the same time. In contrast to the age distributions in Figure 4, that comparison shows that same-sex couples are *older* than different-sex couples. One quarter of people in same-sex couples were over 50, compared with only 9% of people in different-sex couples. And while 77% of those in different-sex couples were under 40, only 37% of those in same-sex couples were under 40. This different angle reflects the fact that in general, different-sex couples who get married at a point in time tend to be younger than the different-sex couples who have been married for a while, not surprisingly. Same-sex couples who marry tend to be older than the different-sex newlyweds because they were not allowed to marry earlier in their relationships.

Figure 4. Age distribution of same-sex couples who seek legal recognition and different-sex married couples.



Prior marital history

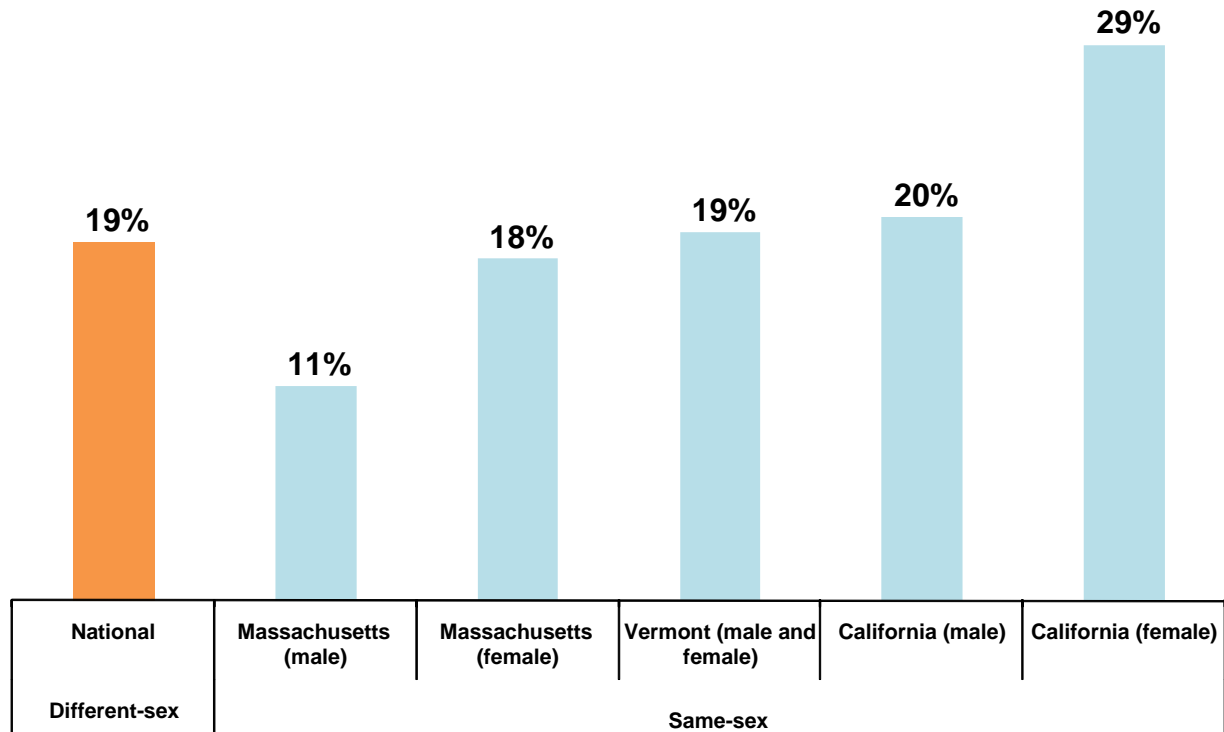
Data from three states suggest that the likelihood of being previously married does not vary much between same-sex and different-sex couples.

Compared to those in different-sex married couples, women in same-sex couples are about as likely to have been previously married and men in same-sex couples are less likely to have been married. Presumably, those in same-sex couples are reporting a previous different-sex marriage.¹³

Figure 5 shows the share of individuals in these couples who were previously married. Nationally, 19% of spouses in different-sex married couples were previously married.¹⁴ In Massachusetts, Vermont, and California, the proportion of individuals in same-sex couples who have been previously married varies from 11 to 29%.

Women in same-sex partnerships are more likely to have been previously married than their male counterparts in Massachusetts and California. In Massachusetts, 11% of individuals in a same-sex male couple and 18% of those in a female same-sex couple have been previously married. In California, the comparable figures are 20% versus 29%.

Figure 5. Percent previously married among individuals in couples who seek marriage or legal recognition.



Do Same-Sex Couples Prefer Marriage over Civil Unions or Domestic Partnerships?

While the legal rights and responsibilities of civil unions (and domestic partnerships in California and Oregon) are designed to be as close to those of marriage as possible, the question remains as to whether those new statuses can replace marriage in its social and cultural value.

Data from the states suggest that same-sex couples are more likely to seek legal recognition when the status offered is called marriage or when an alternative status provides more of the legal rights and obligations of marriage under state law. In short, a great deal of evidence points to the conclusion that same-sex couples see marriage as more desirable than civil unions or domestic partnerships.

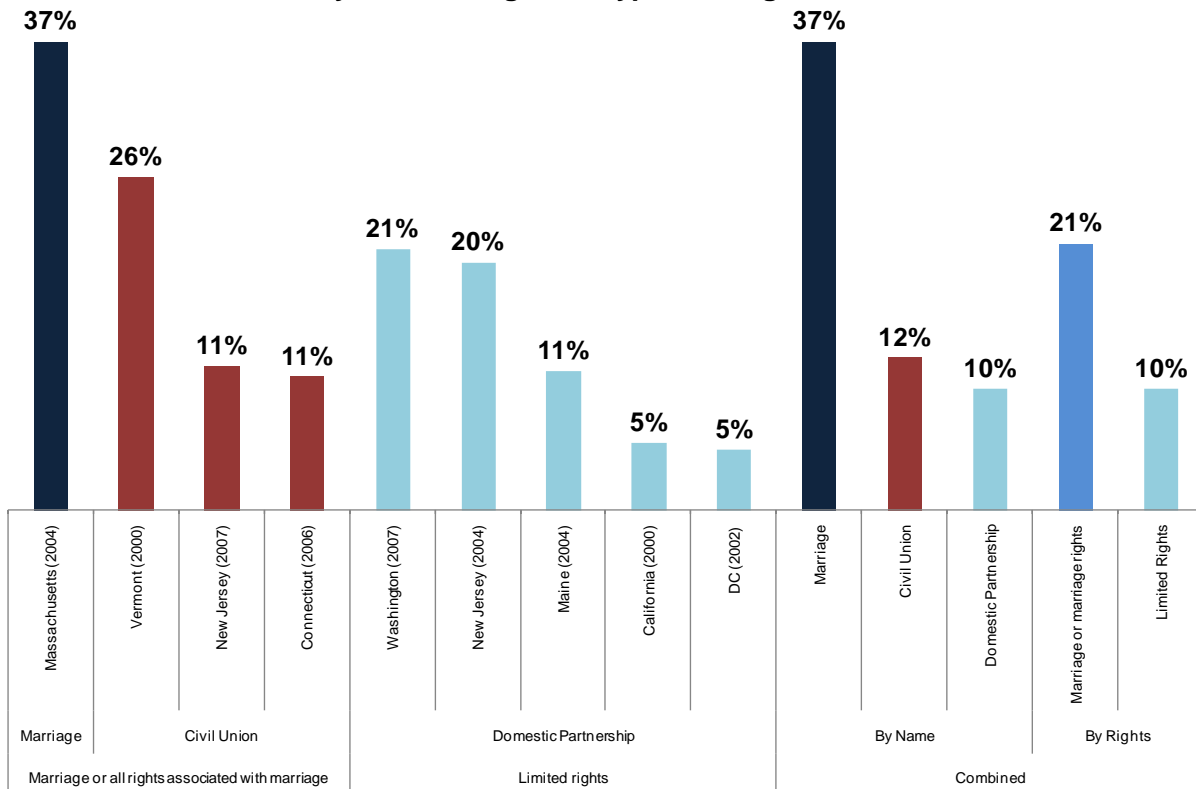
First, the portion of same-sex couples who seek legal recognition in the first year that it is offered is much higher for marriage than for other statuses. In the first year that marriage was offered in Massachusetts, 37% of same-sex

couples were married (see Figure 6). In fact, nearly 8 in 10 of those first-year couples married in the first three months that marriage was available.

In contrast, the percentages of couples who seek civil unions and domestic partnership registration in the first year those statuses are offered has been much lower. In Vermont, the first state to offer “marriage-like” recognition via civil unions, only about 26% of couples received a civil union in the first year. Five years later when Connecticut offered a similar status, less than 11% of same-sex couples there took advantage of the opportunity. Similarly, only 11% of New Jersey couples sought civil unions in 2007.

Among all states with civil unions, only 12% sought legal recognition in the first year it was offered. States with domestic partnership registries show initial take-up rates averaging only 10%. This slower take-up of the opportunity to enter civil unions offers evidence that marriage generates greater interest among same-sex couples.

Figure 6. Percent of same-sex couples who seek legal recognition in the first year it is offered, by state, recognition type, and rights.



The data also suggest that same-sex couples' preference for marriage has increased over the past eight years, perhaps due to an increased expectation that marriage might be offered in the future in their state. Since 2004, the year that Massachusetts began to allow same-sex couples to marry, nearby New Jersey and Connecticut experienced first-year take-up rates for their civil unions of only 11%. In particular, the finding that 26% of same-sex couples entered into civil unions in Vermont in 2000 was likely due to the fact that Vermont was the first state to offer any such form of recognition to same-sex couples. In short, the take-up rate for non-marital forms of recognition during the first year has been less than half of the take-up rate for marriage by same-sex couples in Massachusetts.

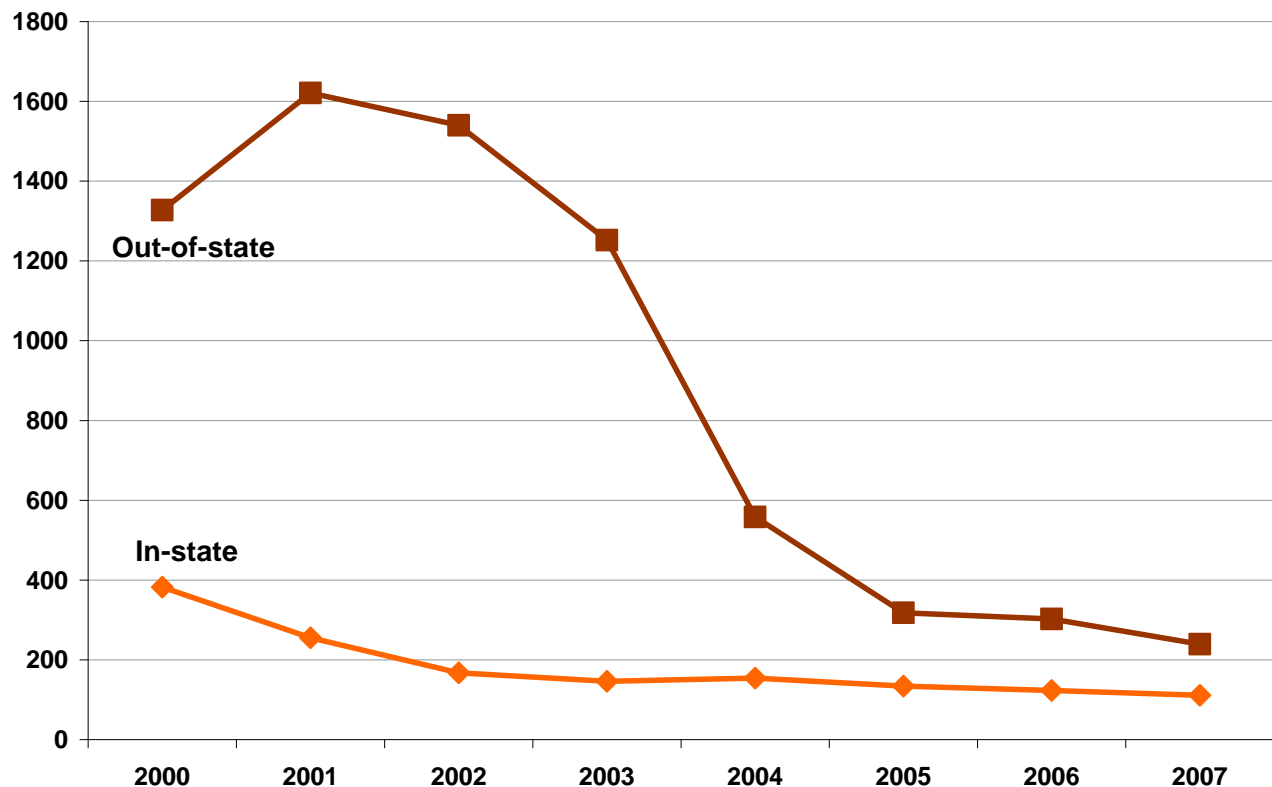
Similarly, data support the conclusion that after marriage was extended to same-sex couples in Massachusetts, same-sex couples have been less likely to travel to other states to seek non-marital forms of recognition. For example, the availability of marriage in Massachusetts may have had a sizable impact on out-of-state

individuals seeking civil unions in neighboring Vermont. Coincident with the marriages of same-sex couples in Massachusetts in 2004, the number of out-of-state civil unions in neighboring Vermont declined substantially, from more than 1,200 in 2003 to less than half that number in 2004 (see Figure 7). By 2007, only about 200 out-of-state couples sought a civil union in Vermont.

In fact, Vermont appears to be the only state that experienced any serious out-of-state demand for partner recognition. Again, this is likely due to the fact that it was the first state to offer recognition that was viewed as something approximating marriage. Out-of-state couples comprise less than 5% of New Jersey and California domestic partnership registries (see Table 2). All of this evidence suggests that in states with non-marital forms of recognition, some same-sex couples are now waiting for the availability of marriage before they seek recognition.

Evidence also suggests that same-sex couples are responsive to changes in the laws associated

Figure 7. Number of in-state and out-of-state unions in Vermont, 2000-2007.



with recognition in their own state and responsive to changes in other state laws. As the legal status more closely tracks marriage by offering more of the rights and obligations of marriage, more couples register. In the states that have offered all or most of the rights and obligations of marriage under state law, more than 21% of same-sex couples enrolled in the first year (see Figure 6). In sharp contrast, only 10% of same-sex couples enrolled in the first year in states that only offer a limited set of rights (see Figure 6).

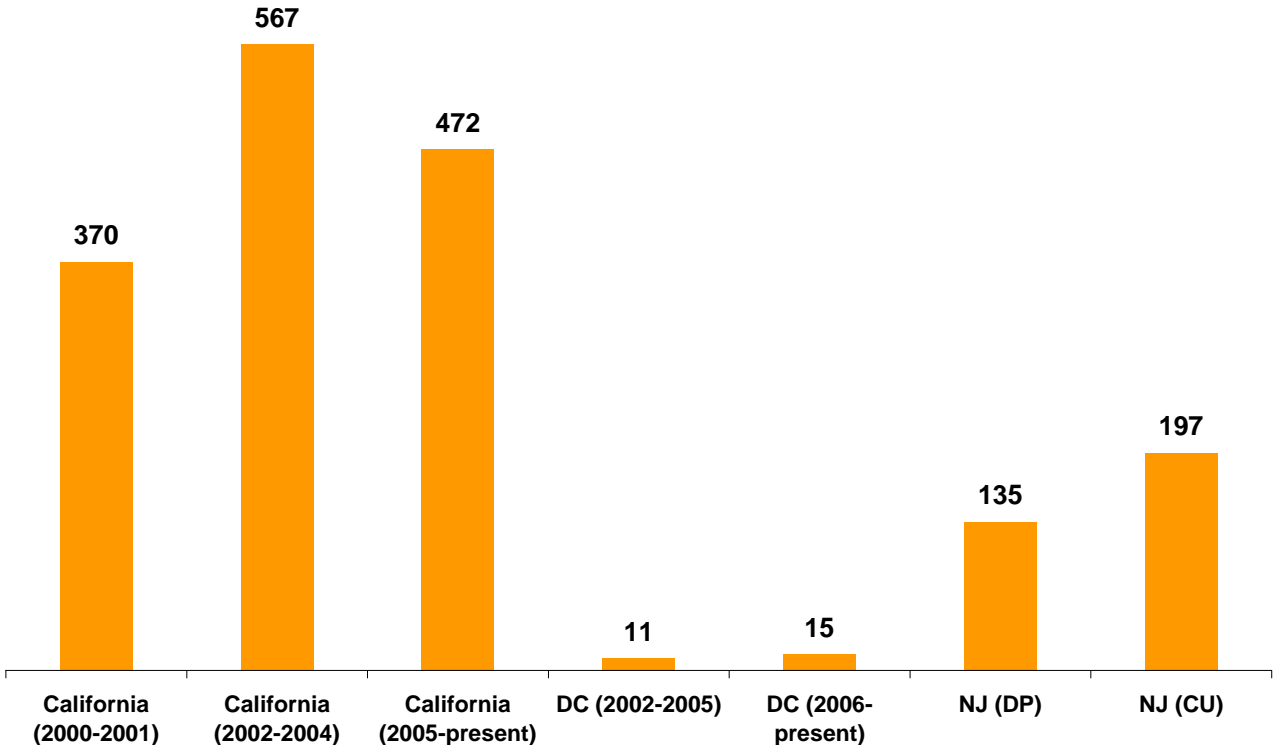
Registrations also appear to expand in states that increased the benefits and obligations associated with legal recognition of same-sex couples over time. In California, domestic partnership was established in 2000¹⁵ and then significantly expanded in 2002¹⁶ and again in 2005,¹⁷ when community property¹⁸ was established and the legislature decreed that domestic partners would have all of the rights and responsibilities associated with marriage. In D.C., a fairly limited domestic partnership status established in 2002¹⁹ was expanded in 2006²⁰ and has been expanded again in 2008.²¹ New

Jersey established domestic partnership in 2004²² and created civil unions, designed to be equal to marriage, in 2007.²³

Figure 8 shows the average monthly registration figures for California, D.C., and New Jersey in the first year that the legal status was created and then in the first year after the status was expanded to include more of the rights and obligations of marriage. The expansion of legal rights in D.C. is associated with increased monthly registrations. Similarly, monthly rates of the more comprehensive civil union status in New Jersey are higher than those associated with the more limited domestic partnership status. While the 2002 expansion of domestic partner rights in California led to higher monthly registrations, the rate slowed somewhat after the comprehensive reforms in 2005 that included community property, although the monthly figures were still much higher than in the early phase of domestic partnership.

Finally, in states that allow different-sex couples to choose between marriage and another status, they are much more likely to choose marriage.

Figure 8. Average monthly registrations in states that expanded rights associated with the legal recognition of same-sex couples.



In New Jersey and California, the rates of domestic partner registrations among different-sex couples aged 62 or older is very low. Only 5-6% of registered domestic partners in California are different-sex partners,²⁴ although at least one partner must be 62 or older to register, limiting the eligible pool. Census 2000 data for California suggest that this figure accounts for only about 6% of eligible different-sex couples in that age group, leaving 94% or so unregistered and unmarried. In New Jersey, only 90 of the 4,111 couples registering as domestic partners from July 2004 to May 2006 were different-sex couples.²⁵ Comparing that figure to the estimated 3,400 age-eligible different-sex unmarried couples in New Jersey gives a very low take-up rate of 2.7%.

Dissolution

Patterns of dissolution among same-sex couples are similar to those of different-sex couples. With the exception of California, all states have less than 40 dissolutions per year (see Table 3).²⁶ However, the fact that Connecticut, New Hampshire, New Jersey, and Vermont all require that one partner have residency in the state in order to dissolve the legal relationship may have an impact on the numbers of dissolutions,²⁷ so there might be out-of-state couples who dissolve their relationships without doing so formally in those states.

Not surprisingly, states tend to have fewer dissolutions in the first few years after the legal status is made available. As more couples register for a legal status, the pool of potential terminations increases, and correspondingly the actual number of dissolutions increase. The two exceptions to this pattern are Maine and California. Maine had the highest number of dissolutions in the first year that domestic partnership was made available (15), with fewer in later years. Although Maine has no residency requirement to terminate a domestic partnership, partners must reside in the state for twelve months prior to registering for a domestic partnership.²⁸ It is not clear why Maine had a higher number of dissolutions the first year domestic partnerships were made available, but overall the actual numbers are quite small each year.

California’s dissolutions initially followed the same pattern as the other states, with lower levels of dissolution in the first few years, followed by a steady increase. However, the dissolution rate tripled in 2004. This large increase is likely related to the significant change in the law that was to take effect January 1, 2005. The new law greatly expanded the obligations of already-registered domestic partners, most notably by making couples subject to community property, and making it more complicated to terminate a partnership, essentially requiring the same procedures as dissolutions for married couples.²⁹

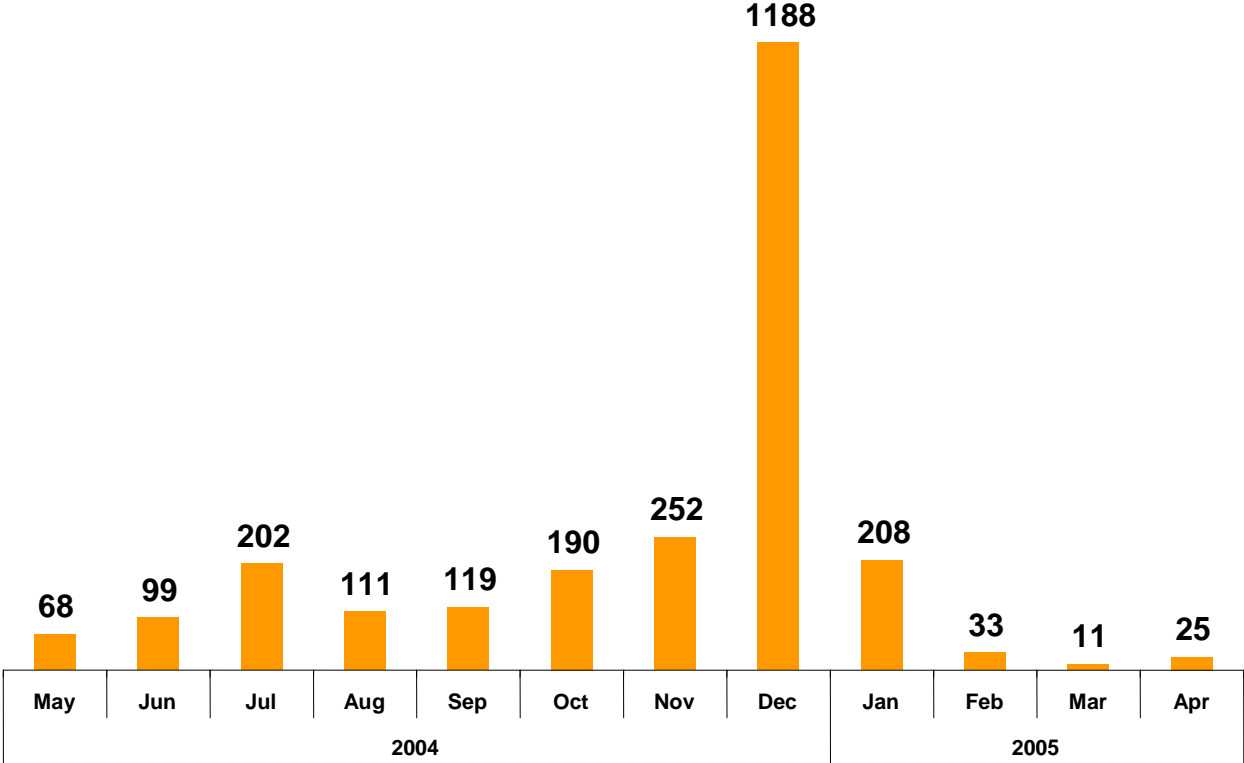
Table 3. Dissolutions of legally recognized same-sex couple relationship, by state and year.

	Pre-2000	2000	2001	2002	2003	2004	2005	2006	Total
California	0	52	153	296	733	2513	511	493	4,751
Connecticut								12	12
District of Columbia				5	1	3	5	12	26
Hawaii	19	4	9	12	11	13	25	29	122
Maine						15	8	4	27
New Jersey							6	17	23
Vermont			4	9	14	36	34	37	134

During 2004, three notices were sent out to registered domestic partners in California to make them aware of these changes.³⁰ Figure 9 shows the monthly dissolution figures for domestic partners in California. The spike at the end of 2004 followed the mailing of the final letter, which also explained that community property would be applied to relationships from the date of registration as opposed to the date that the new law would become effective, January 1, 2005.³¹

After this spike, dissolution rates in California returned to approximately the same level that they were prior to the spike. This spike suggests a great deal of responsiveness among registered domestic partners in California to a significant change in the legal rights and obligations attached to that status.

Figure 9. Monthly dissolutions of domestic partnerships in California, 2004.



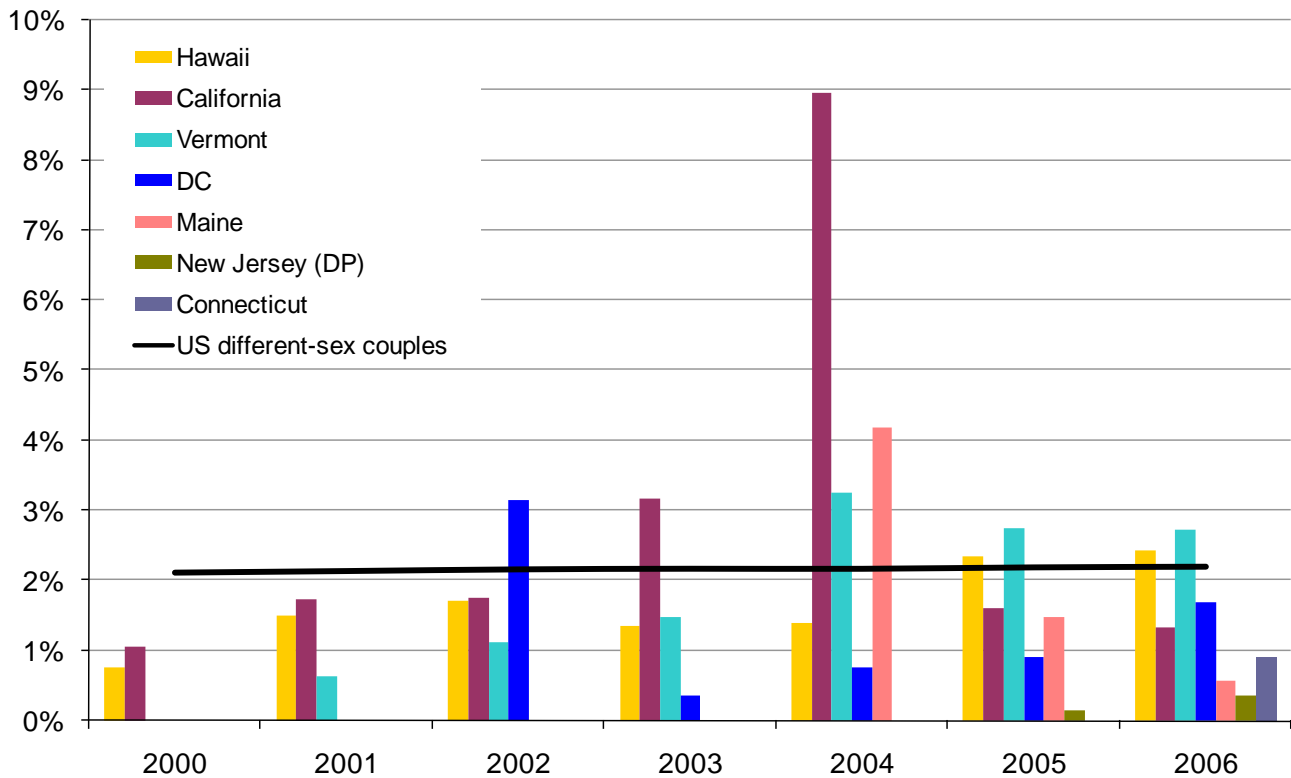
Same-sex versus different-sex couple dissolution

In order to compare dissolution patterns between same-sex and different-sex couples, we calculated the fraction of dissolutions among same-sex couples in a legally recognized relationship for each year in the states where data were available.³² We compare that to the fraction of divorces among married couples nationally.

Figure 10 shows the percentage of dissolutions among same-sex couples in a legally recognized relationship for states from 2000 to 2006.

Approximately 2% of different-sex marriages divorce each year.³³ With the exceptions of California in 2004 (when domestic partnership rights and responsibilities were greatly expanded to include all of the rights and obligations of marriage) and Maine in 2004, comparable rates of dissolution among same-sex couples have ranged from approximately 1-3%.

Figure 10. Percent dissolutions among same-sex couples by state compared to percent dissolutions among married couples in the US, 2000 to 2006.



Projecting the future of legal recognition of same-sex couples

We turn our discussion to the future of legal recognition of same-sex couples in the United States. In this section, we make two sets of projections for the percentage of marriages or other forms of legal recognition, one for the nation and then a set of projections for all 50 states and the District of Columbia.

Using data from states that have granted legal recognition to same-sex couples, we can estimate how long it will take before the percentage of same-sex couples in legally recognized relationships reaches the percentage of different-sex couples who are married.

According to 2006 data from the U.S. Census Bureau, more than 90% of different-sex couples are married. However, that figure began declining long before same-sex couples could be legally recognized in any state. For instance, 97% of different-sex cohabitating couples were married in 1990, but by 2000, that figure had declined to 92%. Today it stands at 91%.

As noted earlier, about 40% of same-sex couples are in a legally recognized relationship in those states where legal recognition is available, an increase from the 7% of couples who were in such relationships in states where recognition was available in 2000.

While the percentage of same-sex couples in legally recognized relationships is growing, it is still substantially lower than the proportion of different-sex couples who marry. A variety of factors could explain this difference, including the following:

- Some same-sex couples may be holding out for marriage, viewing civil unions and domestic partnership as unattractive alternatives that fall short of marriage.
- Formal recognition of same-sex couples is new. Like their different-sex coupled counterparts, same-sex couples understand that legal recognition comes with both rights and responsibilities. It may take time for many same-sex couples to decide to make this formal

commitment and accept the responsibilities that go with it.

- Since same-sex couples, particularly male couples, are less likely to have children than their different-sex counterparts, they may also be less likely to pursue marriage.
- Some same-sex couples may maintain political objections to the idea of marriage as a primarily heterosexual construct.
- Some same-sex couples may prefer alternative mechanisms for formalizing their relationships that draw on social support from friends and religious communities. Many have had personal commitment ceremonies and religious ceremonies. Some have also already created legal documents to tailor their commitments and responsibilities to their specific situation.

Assuming current registration and marriage trends continue, how long might it take for same-sex couples to catch up to different-sex couples?

Figure 11 shows a simple linear projection of what would happen if same-sex couples continue to seek recognition at the pace established since 2000.³⁴ It also projects the decreases in the portion of different-sex couples who seek marriage. If the trends continue, the percent of same-sex couples who are legally recognized will be equal to the percent of different-sex couples who are married in approximately 20 years. By this projection, parity will occur in 2028.

In the case of Massachusetts, there were 18,362 same-sex couples in 2004. By the end of 2006, 9,608 same-sex couples (or 52%) had married. Of that group, 64% married in the first year, 21% in the second year, and 15% in the third year. For simplicity, we will assume that half of existing couples will marry and use the annual percentages from Massachusetts to predict marriages for each of the next three years.³⁵

Unfortunately, Massachusetts does not have data on same-sex couple divorces, but evidence from dissolutions in other states suggests that dissolutions among same-sex couples are similar

to those among different-sex couples, so we assume that 2% of couples will dissolve their relationships in each of the three years.

Based on this model, nationally we project that more than 370,000 same-sex couples would marry over the next three years, and nearly 7,500 of these couples would seek dissolutions.

The ten states with the highest number of predicted marriages among same-sex couples are shown in Table 4. The top four states are California, Florida, New York, and Texas. One third of all same-sex marriages would take place in these four states.

If our projections are correct, they imply that in three years, 6.5 of every 1,000 married couples in the United States would be a same-sex couple. However, as shown in Table 4, that figure would be substantially higher in the District of Columbia, where nearly 29 of every 1,000 married couples would be same-sex. In Vermont, it would be 9.3 per thousand, followed by New Mexico at 9.2, Washington at 8.6 and Oregon at 8.6. Appendix 1 provides these estimates for all fifty states and the District of Columbia.

Figure 11. Projection of the percentage of same-sex and different-sex couples who will seek marriage or legal recognition.

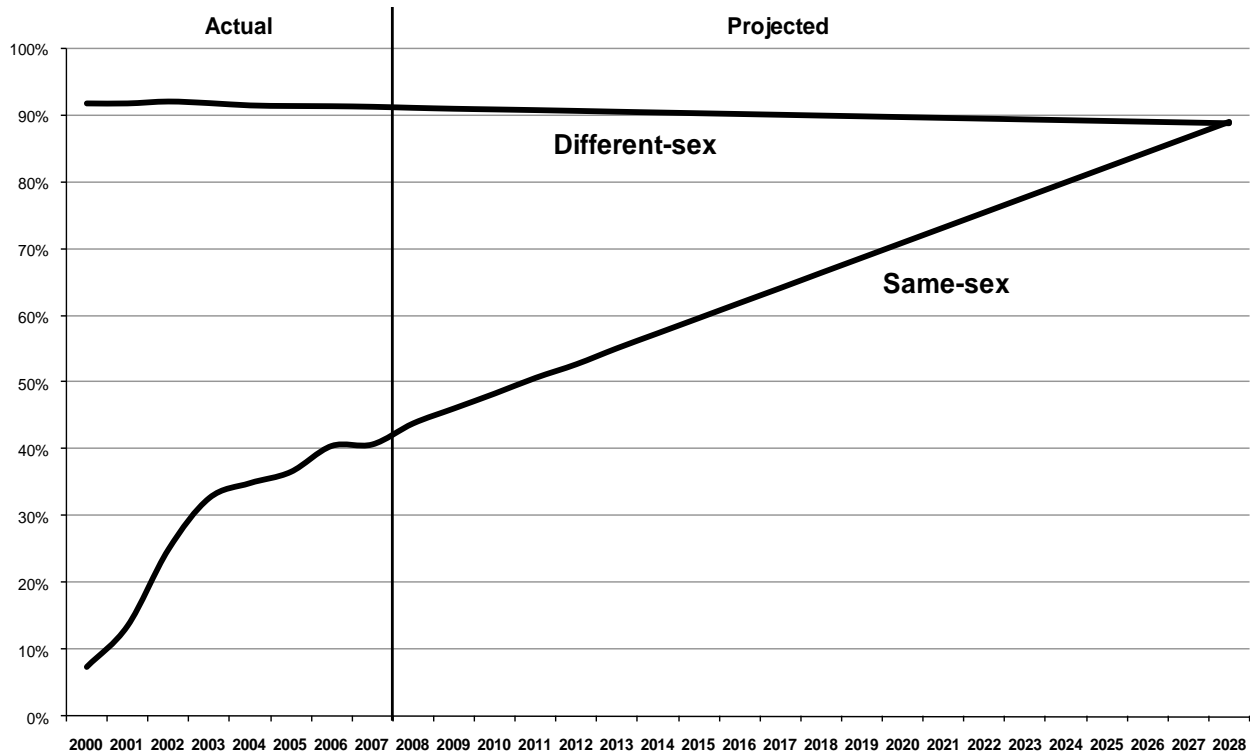


Table 4. Top ten states for married same-sex couples.

Rank	Projected number of same-sex couples who would marry in the first three years		Projected number of same-sex couples per 1,000 married couples	
1	California	50,293	District of Columbia	28.6
2	Florida	25,624	Vermont	9.3
3	New York	23,893	New Mexico	9.2
4	Texas	23,282	Washington	8.6
5	Pennsylvania	14,976	Oregon	8.6
6	Illinois	14,787	California	8.2
7	Ohio	13,157	Maine	8.1
8	Michigan	11,672	Rhode Island	7.9
9	Georgia	11,141	New Hampshire	7.9
10	Washington	10,721	Colorado	7.5

Conclusions

Data from the states that have already extended legal recognition to same-sex couples support the conclusion that same-sex couples are entering into these relationships at significant rates, with over 40% of same-sex couples already in legally recognized relationships in those states. While the proportion of legally recognized same-sex couples is still substantially smaller than the percentage of different-sex couples who are married, we predict that the rates will reach parity within the next twenty years.

In addition, the data show that same-sex couples respond to changes in how states define their relationships. For example, average monthly registrations increased in the District of Columbia when the domestic partnership rights were increased. In New Jersey, the average number of monthly civil unions was higher than the number of domestic partnerships once the expanded civil union status was made available. Conversely, when California changed domestic partnership to a status much closer to that of marriage, a large number of couples chose to dissolve their official partnerships.

The data from these states also demonstrate that same-sex couples prefer marriage over civil unions or domestic partnerships. While 37% of same-sex couples married during the first year that marriage was made available to them in Massachusetts, only 12% of same-sex couples have entered civil unions and 10% have entered domestic partnerships during the first year in which states have offered these forms of recognition. Beyond having the legal rights and obligations associated with marriage, the name "marriage" matters for same-sex couples. As a result, it may be that in states that have recently extended non-marital forms of recognition to same-sex couples, some couples are waiting to register in the hope that marriage will someday become available or recognized in their state.

APPENDIX 1

Three-year projection of marriages among same-sex couples by state.

State	Same-sex couples	Estimated marriages Year 1	Estimated marriages Year 2	Estimated marriages Year 3	Estimated marriages Years 1-3	Estimated Dissolutions	Total same-sex married couples	Same-sex couples per 1000 married couples
United States	754,669	235,895	78,362	56,381	370,638	7,413	363,225	6.50
Alabama	8,643	2,766	908	648	4,322	86	4,235	4.74
Alaska	1,483	475	156	111	742	15	727	6.16
Arizona	15,709	5,027	1,649	1,178	7,854	157	7,697	6.92
Arkansas	5,757	1,842	604	432	2,879	58	2,821	4.95
California	102,639	32,844	10,777	7,698	51,320	1,026	50,293	8.24
Colorado	14,317	4,582	1,503	1,074	7,159	143	7,015	7.45
Connecticut	9,409	3,011	988	706	4,704	94	4,610	6.73
Delaware	2,346	751	246	176	1,173	23	1,149	7.26
District of Columbia	3,359	1,075	353	252	1,680	34	1,646	28.62
Florida	52,294	16,734	5,491	3,922	26,147	523	25,624	7.37
Georgia	22,738	7,276	2,387	1,705	11,369	227	11,141	6.75
Hawaii	2,898	927	304	217	1,449	29	1,420	6.34
Idaho	2,457	786	258	184	1,229	25	1,204	3.82
Illinois	30,178	9,657	3,169	2,263	15,089	302	14,787	6.24
Indiana	15,849	5,072	1,664	1,189	7,924	158	7,766	6.18
Iowa	6,427	2,057	675	482	3,213	64	3,149	4.89
Kansas	5,814	1,860	610	436	2,907	58	2,849	4.96
Kentucky	9,120	2,919	958	684	4,560	91	4,469	5.34
Louisiana	9,075	2,904	953	681	4,538	91	4,447	5.91
Maine	4,644	1,486	488	348	2,322	46	2,276	8.15
Maryland	15,164	4,852	1,592	1,137	7,582	152	7,430	7.25
Massachusetts	21,956	1,427	1,427	1,427	4,281	86	4,196	3.56
Michigan	23,821	7,623	2,501	1,787	11,910	238	11,672	5.98
Minnesota	14,098	4,511	1,480	1,057	7,049	141	6,908	6.45
Mississippi	4,732	1,514	497	355	2,366	47	2,319	4.64
Missouri	14,275	4,568	1,499	1,071	7,138	143	6,995	6.02
Montana	1,924	616	202	144	962	19	943	4.75
Nebraska	3,385	1,083	355	254	1,693	34	1,659	4.45
Nevada	6,298	2,015	661	472	3,149	63	3,086	6.90
New Hampshire	4,345	1,390	456	326	2,172	43	2,129	7.88
New Jersey	21,178	6,777	2,224	1,588	10,589	212	10,377	6.32
New Mexico	6,515	2,085	684	489	3,258	65	3,193	9.16

State	Same-sex couples	Estimated marriages Year 1	Estimated marriages Year 2	Estimated marriages Year 3	Estimated marriages Years 1-3	Estimated Dissolutions	Total same-sex married couples	Same-sex couples per 1000 married couples
New York	48,761	15,604	5,120	3,657	24,381	488	23,893	7.41
North Carolina	20,711	6,628	2,175	1,553	10,356	207	10,148	5.91
North Dakota	1,054	337	111	79	527	11	517	3.72
Ohio	26,852	8,593	2,819	2,014	13,426	269	13,157	5.94
Oklahoma	8,010	2,563	841	601	4,005	80	3,925	5.58
Oregon	12,659	4,051	1,329	949	6,330	127	6,203	8.55
Pennsylvania	30,563	9,780	3,209	2,292	15,282	306	14,976	6.20
Rhode Island	3,107	994	326	233	1,554	31	1,522	7.92
South Carolina	9,631	3,082	1,011	722	4,816	96	4,719	5.88
South Dakota	1,036	332	109	78	518	10	508	3.05
Tennessee	14,416	4,613	1,514	1,081	7,208	144	7,064	5.96
Texas	47,514	15,204	4,989	3,564	23,757	475	23,282	5.55
Utah	5,777	1,849	607	433	2,888	58	2,831	5.59
Vermont	2,435	779	256	183	1,217	24	1,193	9.30
Virginia	18,386	5,884	1,931	1,379	9,193	184	9,009	6.11
Washington	21,880	7,001	2,297	1,641	10,940	219	10,721	8.61
West Virginia	3,085	987	324	231	1,543	31	1,512	3.86
Wisconsin	14,866	4,757	1,561	1,115	7,433	149	7,284	6.31
Wyoming	1,080	346	113	81	540	11	529	4.78

APPENDIX 2

Data sources

We collected the best available data regarding marriages, civil unions, domestic partner registrations, and reciprocal beneficiary designations for same-sex couples in California, Connecticut, the District of Columbia, Hawaii, Maine, Massachusetts, New Jersey, Oregon, Vermont, and Washington. Wherever possible, we use data provided by state agencies. Sources for all data are listed in the table below.

State	Data description	Data source	Date
California	Domestic Partners, same-sex and different-sex	California Secretary of State, Special Filings, Domestic Partnership Section	2000-April 2008
	Dissolutions		
	In-state v. out-of state domestic partnerships		
	Same-sex v. different-sex domestic partnerships	Susan Cochran, Department of Epidemiology, UCLA, personal communication	2005
	Demographic characteristics of same-sex couples in domestic partnerships	Carpenter, C, Gates, G. 2008 Gay and Lesbian Partnership: Evidence from California, <i>Demography</i> 45 (3).	Uses data from 2004 CA LGBT Tobacco-Use Survey
Connecticut	Civil Unions, same-sex only	Connecticut Department of Public Health, Office of Communications	October 2005-April 2008
District of Columbia	Domestic Partners, same-sex and different-sex	District of Columbia Vital Records Division	2002-April 2008
	Dissolutions		
Hawaii	Reciprocal Beneficiaries, same-sex and different-sex	Hawaii Department of Health	July 1997-May 2008
Maine	Domestic Partners, same-sex and different-sex	Maine Department of Health and Human Services, Office of Health Data and Program Management	July 2004-April 2008
Massachusetts	Marriage, same-sex and different-sex	Massachusetts Executive Office of Health and Human Services, Department of Public Health, Registry of Vital Records and Statistics	May 2004-August 2007
			Demographic characteristics through 2006
New Hampshire	Domestic Partnership	Bill Bolton, State Registrar, Division of Vital Records Administration, New Hampshire Department of State	January-July 2008

State	Data description	Data source	Date
New Jersey	Domestic Partnership, same-sex and different-sex; Civil Unions, same-sex only	New Jersey Department of Health and Senior Services, Center for Health Statistics	July 2004-April 2008
	Dissolutions	New Jersey Administrative Office of the Courts, Family Division Research and Statistics	July 2004-March 2007
Oregon	Domestic Partnership, same-sex and different-sex	Oregon Department of Human Services, Center for Health Statistics	February-April 2008
Vermont	Civil Unions, same-sex only	Vermont Department of Health, Center for Health Statistics	July 2000-April 2008
	Dissolutions		
Washington	Domestic Partnership, same-sex and different-sex	Washington Secretary of State	July 2007-April 2008

It is important to note that in D.C., Hawaii, Maine, and the domestic partnership registries in California and New Jersey, it is possible for some different-sex couples to register some partnerships.³⁶ New Jersey is the only state that actually maintains separate statistics for same-sex couples. For California, we used Cochran’s (2005) estimate (based on matching genders to the names of those actually registered as domestic partners) that nearly 95% of registered couples in California are same-sex couples.³⁷ For D.C., Hawaii, and Maine, we must assume that all registrants are same-sex couples. This assumption is reasonable given that so few different-sex couples registered in New Jersey and California, and given the fact that different-sex couples have a much stronger form of legal recognition—marriage—available to them.

Total counts of same-sex couples come from U.S. Census Bureau counts of same-sex “unmarried partner” couples. In 2000, the figures come from the 2000 Decennial Census. In subsequent years, we use annual estimates from the American Community Survey (ACS). Specifically, we use the following tables from the Census Bureau American Factfinder website (<http://factfinder.census.gov>):

Census 2000	PCT14 – Unmarried-Partner households by sex of partner
ACS 2002	PCT008 - Unmarried-Partner households by sex of partner
ACS 2003	PCT008 - Unmarried-Partner households by sex of partner
ACS 2004	B11009 – Unmarried-partner Households and Household type by sex of partner
ACS 2005	B11009 – Unmarried-partner Households and Household type by sex of partner
ACS 2006	B11009 – Unmarried-Partner households by sex of partner

Census 2000 counts of same-sex couples are derived from the full census of the United States while ACS counts are estimates derived from an annual survey of a sample of U.S. households. At the state level, annual ACS estimates can be variable as they are made with a margin of error. In order to account for the variability, we calculate state-level annual estimates of same-sex couples by using a three-year moving average. So, for example, estimates from 2004 are an average of counts from 2002, 2003, and 2004, and estimates from 2005 are an average of counts from 2003, 2004, and 2005.

Counts of the number of married couples in a given year (used to estimate the annual percent of divorces among married couples) come from the 2000 Decennial Census and annual estimates from the ACS. We

use the following tables from the Census Bureau American Factfinder website (<http://factfinder.census.gov>):

Census 2000	P19. Households By Presence Of People Under 18 Years By Household Type
ACS 2002	P011. Household Size, Household Type, And Presence Of Own Children
ACS 2003	P011. Household Size, Household Type, And Presence Of Own Children
ACS 2004	B11001. Household Type (Including Living Alone)
ACS 2005	B11001. Household Type (Including Living Alone)
ACS 2006	B11001. Household Type (Including Living Alone)

State Recognition of Same-Sex Couples

Partnership Recognition Type		State (Date Enacted)	Name	Statute or Case	Eligible Couples	Requirements for Registration ¹	Benefits Under State Law	Dissolution Process	Residency Requirements for Registration/ Dissolution	Recognition of Legal Out-of-State Same-Sex Relationships
Marriage	Available to both same-sex and different-sex couples	Massachusetts (2004)	Marriage	<i>Goodridge v. Dep't Pub. Health</i> , 440 Mass. 309 (2003); Mass. General Laws c.207	Two unrelated individuals	Same as for spouses	Same rights as spouses	Same as for spouses	Dissolution: one of the parties must be a resident if the grounds for divorce occurred in the state, if not, then one party must be a resident for one year (c. 208)	Yes, if legally married in another state
		California (2008)	Marriage	<i>In re Marriage Cases</i> , 43 Cal. 4th 757 (2008); Cal. Fam. Code §300 et seq.	Two unrelated individuals	Same as for spouses	Same rights as spouses	Same as for spouses	Dissolution: one of the parties must be a resident of the state for six months and a resident of the county for three months	Yes, if legally married in another state

¹ To be eligible to enter into any of these relationships, all states require, at a minimum: both person be at least 18 years of age (unless mechanism for parental permission or judicial bypass exists for minors), not already in a recognized relationship with someone else, and not be prohibited from entering into such a relationship by law (e.g., related by blood, mentally incompetent). Once these requirements are met, couples must file the appropriate application and pay a filing fee. Any additional requirements, above and beyond these minimums, are listed in this section. The listed requirements do not apply to different-sex couples.

Partnership Recognition Type		State (Date Enacted)	Name	Statute or Case	Eligible Couples	Requirements for Registration ²	Benefits Under State Law	Dissolution Process	Residency Requirements for Registration/ Dissolution	Recognition of Legal Out-of-State Same-Sex Relationships
Civil Union/ Domestic Partnership	All state-level rights and responsibilities associated with marriage	Vermont (2000)	Civil Union	<i>Baker v. State</i> , 170 Vt. 194 (1999); Vt. Stat. Ann. tit. 15 §1201-07	Same-sex couples	Same as for spouses	Same rights as spouses	Same as for spouses	Dissolution: one partner must live in the state for six months prior to filing and at least one year before final dissolution	No mention in statute
		California (2005)	Domestic Partnership	Cal. Fam. Code §§297-299.6	Same-sex couples Different-sex couples, one of whom is 62+	Mutual care and responsibility Share a common residence	Same rights as spouses	Same as for spouses if either partner has minor children, the partnership lasts more than 5 years, or there is substantial community property; otherwise, only file a notice	Dissolution: there is no residency requirement for dissolution	Yes, if legal in another state and substantially equivalent to California's DP but not marriage
		Connecticut (2005)	Civil Union	Conn. Gen. Stat §46b-38aa et seq.	Same-sex couples		Same rights as spouses	Same as for spouses	Dissolution: one partner must reside in state for one year prior to filing	Yes, if legal in another state and valid under CT requirements, but not marriage
		New Jersey (2007)	Civil Union	<i>Lewis v. Harris</i> , 188 N.J. 415 (2006); N.J.S.A. 37:1-28 et seq.	Same-sex couples		Same rights as spouses	Same as for spouses	Dissolution: one partner must reside in state for one year prior to filing, unless cause is adultery	Yes, if legal in another state and equivalent to New Jersey's CU

² To be eligible to enter into any of these relationships, all states require, at a minimum: both person be at least 18 years of age (unless mechanism for parental permission or judicial bypass exists for minors), not already in a recognized relationship with someone else, and not be prohibited from entering into such a relationship by law (e.g., related by blood, mentally incompetent). Once these requirements are met, couples must file the appropriate application and pay a filing fee. Any additional requirements, above and beyond these minimums, are listed in this section. The listed requirements do not apply to different-sex couples.

Partnership Recognition Type		State (Date Enacted)	Name	Statute or Case	Eligible Couples	Requirements for Registration ³	Benefits Under State Law	Dissolution Process	Residency Requirements for Registration/ Dissolution	Recognition of Legal Out-of-State Same-Sex Relationships
Civil Union/ Domestic Partnership	All state-level rights and responsibilities associated with marriage	New Hampshire (2008)	Civil Union	N.H. Rev. Stat. §457-A	Same-sex couples		Same rights as spouses	Same as for spouses	Dissolution: one partner must reside in state for one year prior to filing	Yes, if legal marriage or civil union
		Oregon (2008)	Domestic Partnership	Or. Rev. Stat §106	Same-sex couples		Same rights as spouses	Same as for spouses	Registration: one partner must be a resident	No mention in statute
Domestic Partnership/ Reciprocal Beneficiary	A limited set of rights and responsibilities that vary by state	Hawaii (1997)	Reciprocal Beneficiary	Haw. Rev. Stat. ch. 572C	Any two individuals who cannot legally establish a marriage under HI law		Only enumerated rights; see Appendix 4	One party may terminate by submitting a notarized notice along with fee	None	No mention in statute
		Vermont (2000)	Reciprocal Beneficiary	Vt. Stat. Ann. tit. 15 §§1301-1306	Any two individuals related by blood or adoption who cannot legally establish a marriage or civil union under VT law		Only enumerated rights; see Appendix 4	One party may terminate by submitting a notarized notice along with fee	None	No mention in statute

³ To be eligible to enter into any of these relationships, all states require, at a minimum: both person be at least 18 years of age (unless mechanism for parental permission or judicial bypass exists for minors), not already in a recognized relationship with someone else, and not be prohibited from entering into such a relationship by law (e.g., related by blood, mentally incompetent). Once these requirements are met, couples must file the appropriate application and pay a filing fee. Any additional requirements, above and beyond these minimums, are listed in this section. The listed requirements do not apply to different-sex couples.

Partnership Recognition Type		State (Date Enacted)	Name	Statute or Case	Eligible Couples	Requirements for Registration ⁴	Benefits Under State Law	Dissolution Process	Residency Requirements for Registration/ Dissolution	Recognition of Legal Out-of-State Same-Sex Relationships
Domestic Partnership/ Reciprocal Beneficiary	A limited set of rights and responsibilities that vary by state	District of Columbia (2002; revisions through 2008)	Domestic Partnership	D.C. Mun. Regs. tit. 29, §8000 et seq.	Any two unmarried adults	Share a common residence	Only enumerated rights; see Appendix 4	One party may terminate by submitting a notarized notice along with fee	None	No mention in statute
		Maine (2004)	Domestic Partnership	Me. Rev. Stat. Ann tit. 22.2 §2710	Any two unmarried, unrelated adults	Mutual responsibility Share a common residence	Only enumerated rights; see Appendix 4	Notice signed by both partners or signed by one with notice of intention to terminate given to other partner	Registration: Both partners must reside together in state for one year prior to registration	No mention in statute
		New Jersey (2004)	Domestic Partnership	N.J.S.A. 26:8A	Same-sex couples registered before February 19, 2007 Same-sex and different-sex couples, one of whom is 62+	Mutual care and responsibility Share a common residence	Only enumerated rights; see Appendix 4	Same as for spouses, but no equitable division of property (§26:8A-10(a)(3))	Registration: Must have a common residence in the state or one partner must be a member of state retirement system	Yes, if valid in another state, but not marriage

⁴ To be eligible to enter into any of these relationships, all states require, at a minimum: both person be at least 18 years of age (unless mechanism for parental permission or judicial bypass exists for minors), not already in a recognized relationship with someone else, and not be prohibited from entering into such a relationship by law (e.g., related by blood, mentally incompetent). Once these requirements are met, couples must file the appropriate application and pay a filing fee. Any additional requirements, above and beyond these minimums, are listed in this section. The listed requirements do not apply to different-sex couples.

Partnership Recognition Type		State (Date Enacted)	Name	Statute or Case	Eligible Couples	Requirements for Registration ⁵	Benefits Under State Law	Dissolution Process	Residency Requirements for Registration/Dissolution	Recognition of Legal Out-of-State Same-Sex Relationships
Domestic Partnership/ Reciprocal Beneficiary	A limited set of rights and responsibilities that vary by state	Washington (2008; expansion effective January 1, 2009)	Domestic Partnership	Wash. Rev. Code §26.60	Same-sex couples Different-sex couples, one of whom is 62+	Share a common residence	Only enumerated rights; see Appendix 4	Same as for spouses if either partner has minor children or partnership lasts more than 5 years; otherwise, fee and notice signed by both partners or signed by one with notice of intention to terminate given to other partner	None	Yes, if legal in another state and equivalent to Washington's DP, but not marriage

⁵ To be eligible to enter into any of these relationships, all states require, at a minimum: both person be at least 18 years of age (unless mechanism for parental permission or judicial bypass exists for minors), not already in a recognized relationship with someone else, and not be prohibited from entering into such a relationship by law (e.g., related by blood, mentally incompetent). Once these requirements are met, couples must file the appropriate application and pay a filing fee. Any additional requirements, above and beyond these minimums, are listed in this section. The listed requirements do not apply to different-sex couples.

Key Rights Under State Laws with Enumerated Rights

	Hospital Visitation/ Healthcare Decisions	Decision-making regarding disposition of remains & anatomical gifts	Inherit without will	Domestic Violence Laws Apply	Consent to Post-mortem exams	Employee Health & Pension Benefits	Joint Tenancy/ Joint Deeds	Ability to Sue for Wrongful Death	Exempt from tax on transfers of property	Equitable Distribution of Property Upon Dissolution	File joint state tax return	Exempt from Deed Taxation	Spousal Privilege	Pre-Marital Agreement	Tort Liability	Other Key Rights
Hawaii																Workers Compensation; Disaster relief loan eligibility
Vermont (Reciprocal Beneficiary)																
District of Columbia						(District employees only)										Exempt from motor vehicle transfer tax; mortgage eligibility
Maine						(all insurance providers operating in state must make health insurance available to partners)										
New Jersey (Domestic Partnership)						(state employees only)										
Washington						(state employees only)										

Shaded regions denote that rights are explicitly conferred under state law.

¹ Gallagher, M. and J.K. Baker. 2006. "Demand for Same-Sex Marriage: Evidence from the United States, Canada, and Europe." *Institute for Marriage and Public Policy Brief* 3:1.

² Hawaii: Haw. Rev. Stat. ch. 572C (1997) (reciprocal beneficiary); Vermont: Vt. Stat. Ann. tit. 15, §1201-07 (2000) (civil union); California: Cal. Fam. Code §297 (2000) (domestic partnership), *In re Marriage Cases*, 43 Cal. 4th 757 (2008) (marriage); District of Columbia: D.C. Mun. Regs. tit. 29, §8000 (1992) (domestic partnership); Maine: Me. Rev. Stat. Ann. tit. 22.2 §2710 (2004) (domestic partnership); Massachusetts: *Goodridge v. Dep't Pub. Health*, 440 Mass. 309 (2003) (marriage); New Jersey: P.L.2003, c.246 (domestic partnership); P.L.2006, c.103 (civil union); Connecticut: Conn. Gen. Stat. §46b-38aa (2005) (civil union); New Hampshire: N.H. Rev. Stat. §457-A (2008) (civil union); Oregon Or. Rev. Stat. §106 (2008) (domestic partnership); Washington: Wash. Rev. Code §26.60 (2008) (domestic partnership).

³ The following states have Constitutional amendments restricting marriage to one man and one woman: Alabama, Alaska, Arkansas, Colorado, Georgia, Idaho, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin. These states have statutory regulations restricting marriage to one man and one woman: Arizona, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Maine, Minnesota, New Hampshire, North Carolina, Pennsylvania, Washington, and West Virginia. Analysis of Clifford J. Rofsky, Williams Institute Senior Research Fellow, June 27, 2008.

⁴ The laws or amendments in these states could affect other legal relationships, such as civil unions or domestic partnerships: Alabama, Arkansas, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Michigan, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and Wisconsin. Analysis of Clifford J. Rofsky, Williams Institute Senior Research Fellow, June 27, 2008.

⁵ California: Cal. Fam. Code §299.2 (2000); Connecticut: Conn. Gen. Stat. §46b-38mm (2005); New Hampshire: N.H. Rev. Stat. §457-A:8 (2008); New Jersey: P.L.2006, c.103§37.1:1-34; Washington: Wash. Rev. Code c.26.60§1101 (2008).

⁶ New Hampshire: N.H. Rev. Stat. §457-A:8 (2008); New Jersey: Formal Op. Att'y Gen.(N.J.) No. 3-2007, 2007 WL 749807 (Feb. 16, 2007).

⁷ New Mexico: See Abel, D. 2007. "Same-sex couples from N.M. allowed to marry in Mass. Bay State agency clarifies ruling," *The Boston Globe*, July 27; http://www.boston.com/news/local/articles/2007/07/27/same_sex_couples_from_nm_allowed_to_marry_in_mass (accessed June 30, 2008). This is due largely to the strong New Mexico comity statute for recognizing marriages from other states. NMSA Section 40-1-4 (1978) and *Lesinske v. Poole*, 798 P.2d 1049 (1990) (interpreting NMSA Section 40-1-4); New York: New York's Governor, Attorney General, and Department of Civil Service have all recently issued statements that New York will recognize same-sex marriages in other states. See Memorandum from David Nocenti to All Agency Counsel (May 14, 2008); Op. Att'y Gen. No. 2004-1 (Mar. 3, 2004), available at http://www.oag.state.ny.us/press/2004/mar/mar3a_04_attach2.pdf (accessed June 30, 2008). In addition, New York's Governor has specifically confirmed that New York couples who marry in California will have their marriages recognized. See Peters, J. 2008. "New York to Back Same-Sex Unions From Elsewhere." *The New York Times*. May 29: A1; Rhode Island: See *Cote-Whitacre v. Dept. of Public Health*, 446 Mass. 350, 844 NE2d 623 (March 30, 2006) and the Amended and Final Judgment of the trial court on May 10, 2007. However, a recent ruling by the Rhode Island Supreme Court that leaves the determination by Massachusetts courts in doubt. See *Chambers v. Ormiston*, 935 A.2d 956 (R.I. 2007).

⁸ Defense of Marriage Act, Pub. L. No. 104-199, 110 Stat. 2419 (1996), codified at 28 U.S.C. § 1738C, stating that "[n]o State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship."

⁹ Hawaii and Vermont provided in-state and out-of-state counts of reciprocal beneficiaries, civil unions, and domestic partnerships. We obtained a list of addresses for all California registered domestic partnerships and determined that 95% of addresses were in-state. Massachusetts had a residency requirement for same-sex marriages until July 31, 2008. Only couples from Massachusetts or from states that recognized marriage for same-sex couples were permitted to marry there.

¹⁰ Compare Vt. Stat. Ann. tit. 15, §1201-07 (2000) (civil union) which granted virtually all the rights associated with marriage with Haw. Rev. Stat. ch. 572C (1997) (reciprocal beneficiary) granting some rights previously available only to married couples such as hospital visitation, inheritance rights, and property rights. Analysis by Williams Institute, June 30, 2008. See Appendices 3 and 4 for details.

¹¹ These are the only four states where data about the sex of the same-sex couples are currently available. Data from Vermont covers 2000-2003 only and combines state residents and nonresidents. Data from California are not

administrative. Instead, we use data from the 2004 California LGBT Tobacco Use Survey. See Carpenter, C. and Gates, G.J. 2008. "Gay and Lesbian Partnership: Evidence from California," *Demography* 45(3) for more detail on this survey.

¹² Massachusetts, Vermont, and New Jersey are the only three states where data about the sex of the same-sex couples are currently available.

¹³ Vermont and Massachusetts report the previous marital history of same-sex couples and Massachusetts also provides the same figures for different-sex couples who married over the same time period. Carpenter and Gates provide similar estimates for California same-sex couples who are in registered partnerships. Carpenter, C. and Gates, G.J. 2008. "Gay and Lesbian Partnership: Evidence from California," *Demography* 45(3).

¹⁴ The percentage of different-sex couples previously married in Massachusetts, the only state to provide such data for both different-sex and same-sex couples, is the same as the national figure.

¹⁵ Domestic Partner Register (A.B. 26) (1999) effective July 1, 2000.

¹⁶ Domestic Partnership Limited Rights and Responsibilities (A.B. 25) (2001) effective January 1, 2002. A.B. 25 greatly expanded the legal effects of registration and extended eligibility to different-sex couples over the age of 62.

¹⁷ Domestic Partnership Rights and Responsibilities Act of 2003 (A.B. 205) (2003) effective January 1, 2005 modified registration and termination procedures for domestic partnerships. For domestic partnerships registered on or after January 1, 2005, this act extended all the rights and duties of marriage. See also, Domestic Partners Clarifying Amendments (A.B. 2580) (2004), Equality in Prevention and Services for Domestic Abuse Act (A.B. 2051) (2006), and Name Equality Act (S.B. 102) (2007).

¹⁸ Community property is defined as "property owned in common... as a result of its having been acquired during the marriage [or domestic partnership] by means other than an inheritance or gift to one spouse, each spouse holding a one-half interest in the property. Only nine states have community property systems: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin." BLACKS LAW DICTIONARY 274 (Bryan A. Garner ed., West Group, 1999) (1891).

¹⁹ Health Care Benefits Expansion Act of 1992 (D.C. Law 9114) (1992, implemented 2002). Expansions included Health Care Decisions Act of 2003 (D.C. Law 15-17) (2003), Deed Recordation Tax and Related Amendments Amendment Act of 2004 (D.C. Law 15-176) (2004), Department of Motor Vehicles Reform Amendment Act of 2004 (D.C. Law 15-307) (2004), Domestic Partnership Protection Amendment Act of 2004 (D.C. Law 15-309).

²⁰ Domestic Partnership Equality Amendment Act of 2006 (D.C. Law 16-79).

²¹ Omnibus Domestic Partnership Equality Amendment Act of 2008 (D.C. Law 17-135) increased the rights associated with domestic partnerships to more closely mirror the rights of marriage, including 39 new provisions.

²² Domestic Partnership Act, P.L.2003, c.246 effective January 12, 2004.

²³ Civil Union Act, P.L. 2006, c.103 effective February 20, 2007.

²⁴ Susan Cochran, Department of Epidemiology, UCLA, personal communication, 2005.

²⁵ M.V. L. Badgett, Sears R.B. and Ho, D. 2006. "Supporting Families, Saving Funds: An Economic Analysis of Equality for Same-Sex Couples in New Jersey," *Rutgers Journal of Law and Public Policy*, "4:1.

²⁶ Massachusetts does not maintain separate statistics on same-sex couples who divorce.

²⁷ Connecticut: Conn. Gen. Stat. §46b-44 (2005); New Hampshire: N.H. Rev. Stat. §458:5 (2004); New Jersey: P.L.2006, c.103 C.2A.34-8; Vermont: Vt. Stat. Ann. tit. 15, §1206 referring to tit. 15 §592.

²⁸ Me. Rev. Stat. Ann. tit. 22.2 §2710 (2004).

²⁹ Domestic Partnership Rights and Responsibilities Act of 2003 (A.B. 205) (2003) effective January 1, 2005.

³⁰ Cal. Fam. Code §299.3 indicates that letters were to be sent on June 30, 2004, December 1, 2004, and January 31, 2005 to all registered domestic partners informing them about the changes to the law.

³¹ Domestic Partners Clarifying Amendments (A.B. 2580) (2004) amended Cal. Fam. Code §299.3 and revised the language of letters sent to registered domestic partners.

³² The fraction of dissolutions in a given year is the number of dissolutions in that year divided by the cumulative total of recognized couples over all years, where the cumulative total is net of any prior dissolutions.

³³ To calculate the annual percent of divorces among married couples, we multiplied the annual divorce rate (calculated as divorces per 1,000 population) by the annual population (divided by 1,000) to get the total number of annual divorces, then divided that figure by the number of married couples in the population. Annual divorce rates are found in "Table 77: Live Births, Death, Marriages, and Divorces: 1960-2006." *Statistical Abstract of the United States*, U.S. Census Bureau; Population estimates are derived from Table 1: "Annual Estimates of the Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2007." Population Division, U.S. Census Bureau, December 27, 2007. Figures for the number of married couples come from Census 2000 and the annual American Community Survey. Details regarding specific tables are shown in Appendix 2.

³⁴ Projected increases are calculated as a moving average of the annual increases in the last five years, so the projection for same-sex couples does include the very steep increases in the first few years where recognition was available.

³⁵ For simplicity, we also do not take into account the annual increases in the number of same-sex couples who report themselves as such in the American Community Survey. Instead, we are predicting the number of current couples who will marry. In the case of Massachusetts, we use the 6.5% of existing same-sex couples who married in 2006 (the last full year of data that we had available) and assume that a similar percentage will marry in the next three years.

³⁶ Washington, D.C.: D.C. Mun. Regs. tit. 29, §8001 (1992); Hawaii: Haw. Rev. Stat. ch. 572C-4 (1997); Maine: Me. Rev. Stat. Ann. tit. 22.2 §2710 (2004); California: Cal. Fam. Code §297 (2000); New Jersey: P.L.2006, c.103 C37:1-30.

³⁷ Susan Cochran, Department of Epidemiology, UCLA, personal communication, 2005.

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