

Married in Iowa, single in Nebraska

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By [Martha Stoddard](#) / World-Herald Bureau

LINCOLN — As a newlywed, Leah Ripperger was eager to get her identification changed to her married name.



Shelby Ripperger, left, and Leah Ripperger were recently married in Iowa. Their home state, Nebraska, does not recognize their marriage, but federal law does, creating legal and tax complications.

The Omaha woman gathered up what the Department of Motor Vehicles requires for a name change due to marriage — her marriage license, a couple of pieces of mail to verify her address and the \$13.50 fee for a replacement driver's license.

But the employee at the counter turned Ripperger away, saying she had to go through the long, costly process of changing her name in court.

The problem? Leah Limbach married Shelby Ripperger, a woman. And while her marriage is legal in Iowa, where it was performed Oct. 5, the Nebraska Constitution bars recognition of same-sex marriage.

“I'm kind of stuck now,” Leah Ripperger said, pondering even how to identify herself to a reporter. “The bottom line is it's just not fair.”

Her experience is just one of the difficulties that same-sex couples who marry legally in other states confront in Nebraska.

Those difficulties multiplied when the U.S. Supreme Court in June struck down a federal ban on recognizing same-sex marriages.

State Sen. Brad Ashford of Omaha wants to address some of those difficulties. Ashford, chairman of the Judiciary Committee, called a legislative hearing today to explore the implications of the Supreme Court ruling.

Lawyers testified about a host of ways that the ruling creates complications for Nebraska same-sex married couples, their employers and others.

“Most employers that I work with right now are still trying to work out how to rectify these different laws and what their employees are entitled to,” said employment lawyer Kate Dittrick.

Attorney Susan Koenig said the area of family law needs major clarification from the Legislature.

Ripperger encountered one of the issues.

Federal recognition of same-sex marriages means she could get her name changed easily at the Social Security office, which is federal.

But that would leave her with one name on her state identification and another on federal documents, unless she changed her name through the courts.

She has not decided how she wants to proceed. “The whole thing is just kind of disjointed,” Ripperger said.

Rhonda Lahm, director of the Department of Motor Vehicles, said her agency has no choice in the matter because of the amendment to the Nebraska Constitution passed by voters in 2000.

Along with same-sex marriage, the amendment bars recognition of civil unions, domestic partnerships and “similar same-sex relationship(s).”

The Nebraska amendment and the U.S. Supreme Court ruling create difficult situations.

Federal recognition means same-sex married couples must use married status when filing federal income tax returns.

But Nebraska Tax Commissioner Kim Conroy recently ruled that those same couples have to file their state returns using single status.

She said the state constitution trumps a state law that says state tax liability is to be figured jointly for husbands and wives who file joint federal returns.

Conroy said guidance will be coming later to help couples separate their joint federal returns for purposes of filing in Nebraska.

[Megan Mikolajczyk](#), an Omaha attorney, has looked at some other areas of potential conflict.

One is the handling of federal estate taxes versus state inheritance taxes if a person in a same-sex marriage dies.

Neither estate nor inheritance taxes apply when property is left to a spouse.

But because Nebraska does not recognize same-sex marriage, a same-sex spouse would be considered an unrelated person and the inheritance would be taxed at the highest rate.

Nebraska courts also have refused to grant divorces to same-sex married couples, saying that to do so would amount to illegal recognition of their marriage.

Mikolajczyk said that puts couples into legal limbo, forcing them to either move out of state and re-establish residency to get a divorce or remain married forever in the eyes of federal law and the law of many states.

Fourteen states, including Iowa, allow same-sex marriage. Hawaii is expected to join the list soon.

If same-sex married couples can't divorce, it creates such questions as whether one estranged spouse is liable if the other goes into bankruptcy, Mikolajczyk said.

“It puts people in a really sticky situation where they don't know what their status is as an individual and as a couple,” she said.

Adding children to the mix makes the legal situation even murkier. Spouses generally are considered the parents of children born in their marriage.

But Nebraska neither recognizes same-sex marriages nor allows adoption by two unrelated people, meaning the

state considers children of same-sex married couples to have only one parent.

This morning's hearing covered such topics as family law, as well as issues of probate and estate, immigration, taxes and benefits, employment and small-business law.

Without legislative guidance, "the bottom line is uncertainty, unpredictability, litigation — a lot of work for law firms like ours," said Koenig, a family law attorney.

One backer of Nebraska's ban on the recognition of same--sex marriage said that same--sex couples already faced legal complications, and the U.S. Supreme Court only added more.

"When you have a mobile country like we do, eventually you're going to have a conflict of law anyway," said Dave Bydalek of the Lincoln-based Nebraska Family Alliance.

Instead of undermining state bans on same-sex unions, Bydalek said the high court ruling reinforced that defining marriage is an issue for each state to decide. In Nebraska, voters put the definition in the state constitution.

"The people who want to change our constitutional provision will have to go back to the people," he said.

World-Herald staff writers Paul Hammel and Roseann Moring contributed to this report.