



Court hears arguments in same-sex divorce case

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LINCOLN, Neb. (AP) — A same-sex divorce case involving two women legally married in Iowa is now in the hands of the Nebraska Supreme Court, which could decide whether the state has to recognize their relationship.

The court heard arguments Wednesday in the case of Bonnie Nichols, a Raymond woman who married her longtime partner, Margie Nichols, in 2009. Bonnie Nichols filed for divorce in Lancaster County last year, but a judge ruled there that the court couldn't grant a divorce without acknowledging the marriage.

Same-sex marriages began in Iowa in 2009, after the state's Supreme Court struck down a law that defined marriage as the union of one man and one woman. Nebraska doesn't recognize same-sex marriages, civil unions or domestic partnerships because of a constitutional amendment that was overwhelmingly approved by voters in 2000.

Bonnie Nichols' attorney, Megan Mikolajczyk, said the U.S. Constitution's "full faith and credit" clause requires

Nebraska to recognize the marriage.

"The Nebraska Constitution may not be used or applied in a matter that is inconsistent with the federal Constitution," Mikolajczyk said. "... The validity of the marriage in Iowa is not at issue in this case, and the full faith and credit clause is clear."

The Nebraska attorney general's office, in a friend of the court brief, argued that allowing the divorce would run afoul of the constitutional amendment. The attorney general's office was not involved in the marital dispute but intervened because of the potential state-wide impact.

Granting the divorce "would in effect disenfranchise 70 percent of Nebraska's voters (who voted for the amendment), and recognize something that hasn't been recognized by the U.S. Supreme Court itself," said Assistant Attorney General James Smith.

The U.S. Supreme Court last year struck down part of the federal anti-gay marriage law, the Defense of Marriage Act, which had kept legally married same-sex couples from receiving tax, health and pension benefits

available to other married couples. The court did not address similar state laws that are in effect.

The latest state to allow gay and lesbian marriages is Pennsylvania, where a federal judge deemed that state's statutory ban unconstitutional and the Republican governor said that he would not appeal and instead let the decision take effect. Pennsylvania became the 26th state where same-sex couples can get married or a judge has ruled they ought to be allowed.

Several Nebraska Supreme Court judges asked Wednesday about technical and procedural aspects of the case, a possible sign that they could decide without ruling directly on same-sex marriage.

The American Civil Liberties Union of Nebraska and Legal Aid of Nebraska have also filed friend of the court briefs in support of the appeal. Both groups argued that the divorce could be handled without delving into the constitutionality of Nebraska's ban of same-sex marriage, and that not letting courts hear such cases violates the due process and equal protection clauses of the U.S. Constitution.