

tions like Canada and Massachusetts will find their marriage status holds in Washington as well. According to Allen, this can get tricky: “There are many couples now who have married in a variety of jurisdictions, and registered as domestic partners as well. The problem that has occurred for a lot of people is that if they decide to divorce, they will have to follow the procedures of those jurisdictions one by one.” Automatic recognition is a comfort to some Oregon couples that previously wed elsewhere. Campbell states excitedly at the time of this interview, “We are married in Washington as of last night!”

DOMA DOWNER: THE FEDS BLOCK GAY MARRIAGE

At the time this article is being written, the Supreme Court is reviewing a major case that challenges DOMA, the Defense of Marriage Amendment that makes federal recognition of same-sex marriage illegal. For the past several years, same-sex couples that wed in marriage-equality states have been effectively blocked from receiving the types of federal benefits that heterosexual spouses get. “The Windsor case,” explains Johnson Roberts, “Asks whether the federal government can officially block marriage contracted under state law. If that case is favorably decided, what it means is that married couples in places like Washington can access federal benefits like social security.” There’s also a good chance that the fall of DOMA would persuade legislators in states that currently offer domestic partnerships to immediately legalize same-sex marriage: “The suggestion is that if DOMA were to fall, the fed might look at Domestic Partnership as equivalent to a marriage,” says Johnson Roberts.

In the meantime, DOMA prevents a range of benefits from trickling down to both legally married couples and registered domestic partners.

JUST IN CASE: COVER YOUR ASS ACROSS STATE LINES

As Allen points out, extra paperwork is especially vital for same-sex parents, even those who are endowed with automatic second-parent status under the Oregon registered domestic partnership. “If a [registered] lesbian couple has a child using a sperm donor,” Allen says, “The non-birth mom will be on the birth certificate also, and they have equal status as parents under the law. The problem with that is if you step outside of Oregon, not all states will recognize the second mom. Registered or not, all couples should do a second parent adoption. A birth certificate is not a sufficient

federal document.” Same goes for other rights endowed by marriage and domestic partnership, such as power of attorney in case of illness. If you want it to be recognized outside of the state, you need to make sure to consult with a lawyer and do the extra paperwork necessary to make sure those rights are in place wherever you travel. Johnson Roberts tells his clients to “think of it like a flashlight — in one state it’s on, then you go to another state and it turns off. It’s a crazy system, but it’s what we’re stuck with for the time being.”

THE ELEPHANT IN THE ROOM: SEPARATION AND THE GAY DIVORCÉE

Ironically, Johnson Roberts says most of his clients these days need help splitting up. The more convoluted the process of legalizing same-sex partnership becomes, the more complicated it is to get divorced. Let’s say there’s a lesbian couple who is married in Canada, registered as domestic partners in New York, registered in Oregon, and who also took extra steps to make sure they were covered in each other’s wills and property on a permanent, nationwide level. If that couple finds that they want to separate, they now need to dissolve every one of those contracts separately. That can be made especially complex given the residency requirements of some jurisdictions; for example, to get divorced in Canada you must reside in Canada for a minimum period of time. Each area is going to have its own unique requirements for separations and dissolutions, so an exit plan is an important part of marriage, despite the fact that most newlyweds aren’t exactly thinking about divorce. “For us, it was kind of a plus not to be able to get divorced,” says Clark. “We pretty much considered it a permanent thing.” Indeed, there are other reasons a couple might not give much thought to the divorce process — after all, if your marriage isn’t even legal under federal law, then the marriage is purely symbolic, right? But this will become a larger problem as the country gets closer to repealing DOMA, and as more states add gay marriage. It is also something to be concerned about in regard to future partnerships. Regardless of the reasoning, understanding the whole course of action is essential before getting hitched. §

Mary Emily O’Hara is a freelance writer living in Portland. A native New Yorker, her passions range from the political economics of the art world to pole dancing. She spends her free time with her girlfriend and their three crazy dogs. Her writing can be found at maryemilyohara.com.

CHECKLIST FOR REGISTERED DOMESTIC PARTNERS:

To file for partnership, go to the county marriage office in the county where one or both partners reside. Only one person in the couple needs to reside in the county.

Name changes are automatic within Oregon, but won’t be recognized elsewhere unless you go to court to obtain an official name change.

Adoption papers are absolutely necessary for families with children — even though female same-sex partners are automatically given state parentage, it won’t be recognized elsewhere without second parent adoption.

Federal employees should keep in mind that their job benefits won’t be available to partners.

Remember, getting married somewhere else does not mean your marriage is recognized in Oregon. You still need to become Registered Domestic Partners.

Once you get registered, both of your wills are revoked and you need to write new ones.

Visit the state website to download forms and get more information: public.health.oregon.gov/BirthDeathCertificates/RegisterVitalRecords