

**IN THE SUPREME COURT OF GEORGIA**

DENNY C. CORMIER           §  
    Appellant, *pro se*       §  
  §  
v.                                 §  
  §  
NANCY CORMIER           §  
    Appellee                §

**CASE NUMBER:**

---

**APPLICATION FOR DISCRETIONARY APPEAL**

“While the outer limits of this aspect of privacy have not been marked by the Court, it is clear that among the decisions that an individual may make without unjustified government interference are personal decisions relating to marriage...”  
*Carey v. Population Services International*, 431 U.S. 678, 97 S. Ct. 2010 (1977).

Comes now Denny C. Cormier, *pro se*, to file this request for interlocutory Appeal of a non-final order overruling and denying a declaratory judgment motion of state constitutional challenges to the Georgia alimony statutes ( O.C.G.A. 19-6-1 et al) in an ongoing dissolution of marriage proceeding.

**INTRODUCTION**

This is a good faith effort by the Appellant, *pro se*, to change existing laws. The Georgia Constitutional challenges to the Georgia alimony statutes are issues of first impression and worthy of this Court’s reasoned opinion for

the benefits of all present and future Georgians. The Appellant offers well-founded legal precedence for this Court's consideration.

**ENUMERATION OF ERRORS**

- I. Whether the trial court erred by overruling and denying without reasoned opinion Appellant's motion that Georgia Statutes O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the:
  - a. Georgia Constitutional Liberty Interest and Right to Privacy,
  - b. Georgia Constitution Art. I Sec. I, Paragraph I Due Process,
  - c. Georgia Constitution Art. I Sec. I, Paragraph II Equal Protection
  - d. Georgia Constitution Art. I Sec. I, Paragraph VII Citizen's Protection,
  - e. Georgia Constitution Art. I Sec. I, Paragraph XXII Ban on Involuntary servitude
  - f. Georgia Constitution Art. I Sec I, Paragraph XXV Social Status,
    - i.e. Marital Status?
  
- II. Whether O.C.G.A § 19-6-3 (temporary alimony) impermissibly infringes Georgia Constitution Article I Section I Paragraph XXVII (Spouse's separate property) and XXVIII (Enumeration of rights not to be denied)?

III. Whether O.C.G.A. § 19-6-3 (temporary alimony) impermissibly infringes the Georgia Right to Privacy?

IV. Whether the trial court erred and abused its discretion by entering an incarceration order if the Appellant failed to pay Appellee's attorney fees within fifteen days without any evidence or a finding in the order of the Appellant's ability to pay such fees?

V. Whether the trial court erred and abused its discretion by granting temporary alimony to a deserting spouse in violation of O.C.G.A. § 19-6-1(b)?

### **JURISDICTION**

This appeal is of a case in which the constitutionality of a law is drawn into question as well as a divorce and alimony case. Jurisdiction is proper under Georgia Constitution Article VI, Section VI, Paragraphs (1) and (6).

### **STANDARD OF REVIEW**

Questions of law, the constitutional challenges here, are reviewed de novo.

The issue of entry of incarceration order without ability to purge is also a question of law reviewed de novo.

### **PROCEEDINGS BELOW**

Nancy Cormier, through counsel, filed a petition for divorce with a pleading for alimony on October 21, 2003. Denny Cormier, through counsel, responded November 1, 2003.

Over objections of Appellant, an *in camera* proceeding on November 11, 2003 resulted in a court order November 19, 2003 (Exhibit 1) concerning a transfer of possession of furniture and personal items in by Denny Cormier to Nancy Cormier, who had deserted the homestead and did not leave a forwarding address, and left a note to that effect (Exhibit 2). On May 25, 2004 and *in camera* proceeding was held whereupon a motion for revision of the November 19, 2003 order was denied.

On June 22, 2004, Denny Cormier removed the state court proceeding to United State District Court for the Middle District of Georgia, making a federal court challenge the constitutionality of the Georgia alimony statutes as violative of the federal and Georgia Constitutions Right to Privacy inter alia.

On November 15, 2004, the United State District Court for the Middle District of Georgia rendered an order remanding the proceeding to state court under the Younger Doctrine. (Exhibit 3)

On February 17, 2005, Denny Cormier filed a Motion for Declaratory Judgment in the state court, reserving his federal claims but raising his same state constitutional claims for consideration by the trial court. Denny Cormier also offered the same constitutional challenge claims as a Motion to Deny Nancy Cormier's Motion for Modification of Temporary Alimony. He also requested the trial court grant himself and Nancy Cormier an immediate divorce. Nancy Cormier did not oppose this motion. (Exhibit 4)

On March 25, 2005, the trial court overruled and denied Denny Cormier's Declaratory Judgment Motion challenging the constitutionality of the alimony without reasoned opinion (Exhibit 5). The trial court neither granted nor denied his motion for immediate divorce. The trial court order was silent on the divorce motion.

On March 25, 2005, the trial court also issued a finding of contempt against Denny Cormier for not transferring furniture to Nancy Cormier per its earlier order. Without any evidence or a finding of ability to pay the trial court ordered incarceration of Denny Cormier if he did not pay attorney fees levied against him in the contempt order within 15 days. (Exhibit 6)

On April 11, 2005, Appellant Denny Cormier, filed this Application for Discretionary Appeal, pursuant to the Family Law Project, divorce/alimony law appellate and constitutional challenge to a statute's constitutional jurisdiction.

### **FACTS**

Nancy Cormier is age 57. Denny Cormier is age 56. They were married January 7, 1971. Neither have any impediments to economic self-sufficiency. Nancy Cormier is the beneficiary of a substantial non-marital trust.

There are no minor children in this divorce proceeding. Custody and child support are not at issue.

On August 21, 2003, Nancy Cormier left a note to Denny Cormier stating,

“I just needed to get away for a while to give both of us a chance to think things over by ourselves. You have this great new opportunity now and this time I think we should consider factoring in what we both want for the future instead of just being one-sided. I'm OK and I'll be in touch with you soon.”  
(Exhibit 2)

However, after Nancy Cormier deserted the couple's residence without providing a forwarding address, she has never returned and has remained incommunicado.

Neither party has contested the entering of a court order divorcing them.

As of this filing, no financial records of assets, liabilities or income for Denny Cormier or Nancy Cormier has of yet been entered in the court record.

## **ARGUMENT AND CITATION OF AUTHORITIES**

### **Introduction**

“Federal constitutional standards represent the minimum, not the maximum, protection that this state must afford its citizens.” Fleming v. Zant, 259 Ga. 687, 690, 386 S.E.2d 339, 342 (1989).

The errors and issues here involve the impermissible infringement of the alimony statutes upon fundamental Georgia constitutional rights. The standard of review when a statute infringes a fundamental right is strict scrutiny.

Under the strict scrutiny standard, a statute is presumptively unconstitutional unless the state proves a compelling state interest minimally applied.

“It is well settled that . . . if a law ‘impinges upon a fundamental right explicitly or implicitly secured by the Constitution [it] is presumptively unconstitutional.’” Harris v. McRae, 448 U.S. 297, 312 (1980) (quoting City of Mobile v. Bolden, 466 U.S. 55, 76 (1980))

“The Court has held that the Due Process Clause also protects certain ‘fundamental liberty interest[s]’ from deprivation by the government, regardless of the procedures provided, unless the infringement is narrowly tailored to serve a compelling state interest. Washington v. Glucksberg, 521 U. S. 702, 721 (1997).

“Requiring a State to demonstrate a compelling interest and show that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law.” City of Boerne v. Flores 521 U.S. 507, 534 (1997)

**I. Whether the trial court erred by overruling and denying without reasoned opinion Appellant’s motion that ...**

**A. O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the Georgia Constitutional Liberty Interest and Right to Privacy.**

This Court has long recognized a right of privacy inherent in the due process clause of the Georgia Constitution, Pavesich v. New England Life Ins. Co., 122 Ga. 190, 199 (1905). This Court has determined that certain provisions of the 1983 Georgia Constitution confer greater rights and benefits than the federal constitution. See Grissom v. Gleason, 262 Ga. 374, 376, n. 1 (1992) and Powell v. State of Georgia, 510 So. 2d 18 (Ga. 1998).

“The Court has held that limitations on the right of privacy are permissible only if they survive ‘strict’ constitutional scrutiny - that is, only if the governmental entity imposing the restriction can demonstrate that the limitation is both necessary and

narrowly tailored to serve a compelling governmental interest. Griswold v. Connecticut, 381 U.S. 479, 485 (1965).” Planned Parenthood v. Casey, 505 U.S. 833, 859 (1992).

The Right of Privacy includes a Privacy Protected Zone of “personal decisions relating to marriage.” Nancy and Denny Cormier made the personal decision to divorce. Their decision, and the statute that regulates that decision, are written within the fundamental Right to Privacy.

“It is a promise of the Constitution that there is a realm of personal liberty which the government may not enter. We have vindicated this principle before. Marriage is mentioned nowhere in the Bill of Rights... but the Court was no doubt correct in finding it to be an aspect of liberty protected against state interference by the substantive component of the Due Process Clause in Loving v. Virginia, 388 U.S. 1, 12 (1967).” Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833, 847 (1992)

““While the outer limits of [the right of personal privacy] have not been marked by the Court, it is clear that among the decisions that an individual may make without unjustified government interference are personal decisions ‘relating to marriage, Loving v. Virginia, 388 U.S. 1, 12 (1967)...” Zablocki 484 U.S. at 385

“The Court's decisions have afforded constitutional protection to personal decisions relating to marriage, see, e.g., Loving v. Virginia, 388 U.S. 1...” Casey 505 at 834

Liberty Interest as a legal doctrine has become firmly rooted.

Lawrence v. Texas, 539 U.S. 558 (2003); Roe v. Wade, 410 U.S. 113 (1973); Griswold v. Connecticut, 381 U.S. 479(1965); Carey v Population

Services International 431 U.S. 678, (1977); Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 (1992).

“Although ‘[t]he Constitution does not explicitly mention any right of privacy,’ the Court has recognized that one aspect of the ‘liberty’ protected by the Due Process Clause of the Fourteenth Amendment is a right of personal privacy, or a guarantee of certain areas or zones of privacy.” Carey 431 at 684

So powerful has the doctrine become that Justice Kennedy chose it as his first word in the Lawrence (“Liberty protects the person from unwarranted government intrusions into a dwelling or other private places.”) and Casey (“Liberty finds no refuge in a jurisprudence of doubt.”) opinions.

The crystallization of liberty interest and its doctrinal presumptive pre-emption of government statutory intrusion on citizens is cogently analyzed in Kennedy’s Libertarian Revolution, Professor Randy E. Barnett, Cato Institute.

Personal decisions relating to marriage fall within the umbra of liberty interest. A definition of those rights which fall within liberty interest is cited in Bowers v Hardwick 478 U.S. 186, 191 (1986),

“The Court has sought to identify the nature of the rights qualifying for heightened judicial protection. In Palko v. Connecticut, . . . it was said that this category includes those fundamental liberties that are “implicit in the concept of ordered liberty,” such that “neither liberty nor justice would exist if [they] were sacrificed.” A different description of fundamental liberties appeared in Moore v. East Cleveland, . . .

where they are characterized as those liberties that are “deeply rooted in this Nation’s history and tradition.” . . . See also Griswold v. Connecticut. . . .”

Marriage, and the personal decisions relating to marriage meet those qualifications.

“Several decisions of this Court make clear that freedom of personal choice in matters of marriage and family life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment.” Roe 408 at 168.

“Marriage is one of the ‘basic civil rights of man,’ fundamental to our very existence and survival.” Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535, 541 (1942)

Finally, Littlejohn v Rose, 768 F.2d 765; 1985,

"Given the "associational interests that surround the establishment and dissolution of [the marital] relationship", such "adjustments" as divorce and separation are naturally included within the umbrella of protection accorded to the right of privacy. See Zablocki, 434 U.S. at 385; U.S. v. Kras, 409 U.S. 434, 444, 34 L. Ed. 2d 626, 93 S. Ct. 631 (1975)."

**I. B. ... O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the Georgia Constitutional Article I Section 1 Paragraph I, Due Process.**

“Paragraph I: Life, liberty, and property. No person shall be deprived of life, liberty, or property except by due process of law.”

Substantive due process has been viewed to encompass citizen's

Right to Privacy.

“In Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 (1992), the U.S. Supreme Court reaffirmed the substantive force of the liberty protected by the Due Process Clause. The *Casey* decision again confirmed that our laws and tradition afford constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education. *Id.*, at 851. In explaining the respect the Constitution demands for the autonomy of the person in making these choices:

“These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.” *Ibid.*” (Lawrence v. Texas, USSC, No.02-202, June 26, 2003)

**I. B. ... O.C.G.A. 19-6-1 et seq. alimony provisions,  
impermissibly infringe the Georgia Constitutional  
Article I Section 1 Paragraph II, Equal Protection.**

“Paragraph II. Protection to person and property; equal protection. Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.”

The parties to this divorce are similarly situated, each a divorcing spouse, but being treated differently. Nancy Cormier is being considered by

the trial court to receive an award of alimony, which represents an interest in the future industry and property of Denny Cormier. On the other hand, Denny Cormier is being discriminated against, similarly situated but treated differently, because the fruits of his future industry and his property rights in his earning are being considered by the trial court, i.e. the State of Georgia to be taken from him and given to Nancy Cormier because of the challenged alimony statutes.

Because the rewards of his future industry and his property rights are Georgia constitutional rights and this divorce action is a personal decision relating to his marriage, i.e. a fundamental Right of Privacy, the strict scrutiny standard of review should be applied to this equal protection claim.

““The Georgia . . . Constitution[] require[s] government to treat similarly situated individuals in a similar manner.”” Rodriguez v. State, 275 Ga. 283, 284, 565 S.E.2d 458, 460 (2002) (quoting Old South Duck Tours v. Mayor & Alderman of Savannah, 272 Ga. 869, 873, 535 S.E.2d 751, 755 (2000)); see also Hughes v. Reynolds, 223 Ga. 727, 730, 157 S.E.2d 746, 749 (1967) (“Where laws are applied differently to different persons under the same or similar circumstances, equal protection of law is denied.”).

“The second branch of the ‘compelling interest’ principle ... For it has been held that a statutory classification is subject to the ‘compelling interest’ test if the result of the classification may be to affect a ‘fundamental right,’ regardless of the basis of

the classification. This rule was foreshadowed in Skinner v. Oklahoma, 316 U.S. 535, 541 (1942),...” Shapiro v Thompson 394 U.S 618, 660 (1969)

Marital Status has been recognized as a suspect class in some contexts of Georgia Statutes. For example, O.C.G.A. § 7-6-2 (providing a cause of action for persons denied credit or a loan on the basis of race, national origin, marital status); O.C.G.A. § 7-6-1 (a)(“No bank . . . may discriminate on basis race, religion, national origin, or marital status”).

Additionally, marital status has been recognized by federal and numerous state legislatures. (Exhibits 7 and 8)

It is appropriate this Court recognize marital status as a suspect class for equal protection review, i.e. treating married Georgians different than divorcing Georgians, and thus apply a strict scrutiny standard of review to the alimony statute as discriminating between similarly situated people based on their marital status.

The Appellant asserts that the State of Georgia through O.C.G.A. §§ 19-6-1,4,5 treats Georgians whose marriages are dissolved differently as to the level of support obligation of a spouse than it does a married spouse. The State of Georgia does not measure the ability of married spouses to support each other nor establish any of the criteria for the level of support due a married spouse as it does apply to spouses who are dissolving their marriage.

**I. C. ... O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the Georgia Constitutional Article I Section 1 Paragraph VII, Citizen's Protection.**

“Paragraph VII. Citizens, protection of. All citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship.”

The General Assembly by enacting O.C.G.A. §§ 19-6-(1-35) is failing its constitutional duty to Georgians when it denies them the opportunity to exercise their constitutionally guaranteed fundamental rights related to the protected privacy zone of a personal decision relating to marriage, i.e. here, divorce, without intrusion.

On the contrary, the General Assembly is not protecting Georgians but is denying them the full enjoyment of their constitutional rights, privileges and immunities to which they are entitled by citizenship through enactment of the challenged alimony statutes.

**I. D. ... O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the Georgia Constitutional Article I Section 1 Paragraph XXII, Ban on Involuntary Servitude.**

“Paragraph XXII Involuntary Servitude. There shall be no involuntary servitude within the State of Georgia except as a punishment for crime after legal conviction thereof or for contempt of court.”

Involuntary Servitude is prohibited by both the 13<sup>th</sup> Amendment to the U.S. Constitution, and by Georgia Constitution Article I Section I Paragraph XXII.

And, while the term is easily definable, the “exact range of conditions it prohibits” is not so evident.

It is important to begin with the U.S. Supreme Court holding in United States v. Kozminski, [487 U.S. 931](#), 942 (1998):

“...we hold that, for purposes of criminal prosecution under 241 or 1584, the term ‘involuntary servitude’ necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.” Kozminski 487 at 952.

“We hold only that the jury must be instructed that compulsion of services by the use or threatened use of physical or legal coercion is a necessary incident of a condition of involuntary servitude.” Kozminski 487 at 953.

The distinction of this holding is that involuntary servitude cannot exist from mere psychological, economic or social coercion; there must be the use or threat of physical coercion or of the law and the legal process.

Alimony provisions of O.C.G.A. §§ 19-6-(1-35) create a condition of involuntary servitude for Georgians who divorce, in that they must forever labor for the benefit of their former spouse by the effect of law and under the coercion of law.

The alimony provisions of O.C.G.A. §§ 19-6-(1-35) alone create the prohibited condition of involuntary servitude, but the onerous coercive enforcement provisions in O.C.G.A. § 19-6-28, implying civil or criminal contempt and jail, are not only antediluvian, but also scandalously shameful.

**I. E. ... O.C.G.A. 19-6-1 et seq. alimony provisions, impermissibly infringe the Georgia Constitutional Article I Section 1 Paragraph XXV. Status of the Citizen**

“Paragraph XXV. Status of the citizen. The social status of a citizen shall never be the subject of legislation.”

A Georgian’s Marital Status is a measure of his social status. Ga. Con Art. I Sec. I P XXV expressly forbid legislation that addresses this social status.

Furthermore, the challenged alimony statutes are predicated on wealth and earning power. Each is a social status again prohibited from legislation.

We are educated to the suspect class of wealth and its relevance as a social class by Justice Warren dissenting in Shapiro v Thompson 394 U.S. 618, 658, 660 (1969). He points out the two branches of the compelling state standard in the equal protection context,

“The ‘compelling interest’ doctrine has two branches. The branch which requires that classifications based upon ‘suspect’ criteria be supported by a compelling interest apparently had its genesis in cases involving racial classifications, which have, at least since Korematsu v. United States, 323 U.S. 214, 216 (1944), been regarded as inherently ‘suspect.’ <sup>5</sup> The criterion of ‘wealth’ apparently was added to the list of ‘suspects’ as an alternative justification for the rationale in Harper [394 U.S. 618, 659] v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966),...” Shapiro 394 at 658

“The second branch of the ‘compelling interest’ principle ... For it has been held that a statutory classification is subject to the ‘compelling interest’ test if the result of the classification may be to affect a ‘fundamental right,’ regardless of the basis of the classification. This rule was foreshadowed in Skinner v. Oklahoma, 316 U.S. 535, 541 (1942),...” Shapiro 394 at 660)

Wealth, therefore, has also been recognized as a suspect class. Shapiro 394 at 658 and Harper v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966).

**II. Whether O.C.G.A § 19-6-3 (temporary and permanent alimony) impermissibly infringes Georgia Constitution Article I Section I Paragraph XXVII**

**(Spouse's separate property) and XXVIII**

**(Enumeration of rights not to be denied)?**

O.C.G.A. § 19-6-3, the provision of temporary and permanent alimony, is in conflict with the abrogation of coverture and the public policy effected by the abrogation of the Doctrine of Necessaries.

In Georgia, coverture was abolished with Ga. Con. Art. I Sec I, Paragraph XXVII. The Georgia legislature abrogated the Doctrine of Necessaries in 1979.

In its Executive Summary of the Gender and Justice in the Courts: A Report to the Supreme Court of Georgia by the Commission on Gender Bias in the Judicial System (1991), this Court noted that the Georgia Legislature had recognized in 1979 obvious gender bias against husbands. The effect is that the Legislature has forever severed relationship of alimony to divorce through abrogation of the Doctrine of Necessaries:

“This 1979 amendment to the law ... eliminated a husband's liability for the necessities of the wife, and made both parents jointly and severally liable for support of the children. It further abolished the causes of action for alienation of affection and criminal conversation.” (page 30)

**III. Whether O.C.G.A. § 19-6-3 (temporary and permanent alimony) impermissibly infringes the Georgia Right to Privacy.**

The same reasons the permanent alimony statute infringes the Right to Privacy are the same reasons the temporary alimony statute impermissibly infringes the Georgia Right to Privacy. The Appellant would reargue the same arguments above in I. A.

**IV. Whether the trial court erred and abused its discretion by entering an incarceration order if the Appellant failed to pay Appellee's attorney fees within only days without any evidence or a finding in the order of the Appellant's ability to pay such fees?**

Appellant argues that the contempt order entered against him did not fulfill the legal requirements for validity.

Appellant, at this time, could not find Georgia case law addressing proper civil contempt. He therefore relies on federal standards. A federal court may impose sanctions for civil contempt "to coerce obedience to a court order or to compensate the complainant for losses sustained as a result of the contumacy." Connolly v. J.T. Ventures, 851 F.2d 930, 932 (7th Cir. 1988); see also United States v. United Mine Workers of America, 330

U.S. 258, 303-04 (1947). Civil contempt is an appropriate sanction if a federal court can point to an order of its Court, which "set[s] forth in specific detail an unequivocal command" which a party has violated. Ferrell v. Pierce , 785 F.2d 1372, 1378 (7th Cir. 1986) (citation and internal quotation marks omitted); see also Project B.A.S.I.C. v. Kemp , 947 F.2d 11, 16 (1st Cir. 1991) ("[C]ivil contempt will lie only if the putative contemnor has violated an order that is clear and unambiguous."). The burden is on the complainant to prove civil contempt by clear and convincing evidence. *Id.* Willfulness is not an element of civil contempt. McComb v. Jacksonville Paper Co., 336 U.S. 187, 191 (1949).

The order for which the Appellant was held in contempt was vague and ambiguous. He was required to transfer possession of furniture to his wife. The requirements of who should make arrangements for the cost of transporting, and to what location the wife was to receive the furniture were never part of the court record or order.

Transcript of the contempt hearing supports the Appellants contention that he had never refused to transfer possession of the furniture to the wife. In fact, the transcript shows, he attempted to negotiate a dollar value substitution for the furniture itself to resolve vagueness of the trial court's

order. Indeed, the record is devoid of any willful refusal to transfer possession.

If the contempt order is valid, and the Appellant contends it is not, for the trial court to levy attorney fees associated with the contempt under threat of incarceration without a demonstrated ability to pay is an abuse of discretion. Not only is there no evidence in the entire court record of ability to pay, but the order contains no finding of facts to support the ability to pay.

**V. Whether the trial court erred and abused its discretion by granting temporary alimony to a deserting spouse in violation of O.C.G.A. § 19-6-1(b)?**

The trial court erroneously and through abuse of discretion granted alimony in its ruling of November 19, 2003, without a hearing and subsequent to an *in camera* proceeding on November 11, 2003 over objections of Appellant. In addition to infringing upon the Due Process and Equal Protection clauses of the Georgia Constitution, this ruling was made in direct violation of the prohibition against alimony to a deserting spouse in O.C.G.A. § 19-6-1(b), despite direct evidence of desertion by Appellee,

Nancy Cormier, as stated in her note of August 21, 2003 (Exhibit 2).

Specifically, O.C.G.A. § 19-6-1(b) states:

“A party shall not be entitled to alimony if it is established by a preponderance of the evidence that the separation between the parties was caused by that party’s adultery or desertion.”

Appellee, Nancy Cormier, has never returned and has remained incommunicado since August 21, 2003. On November 11, 2003, the trial court erroneously stated through counsel that discretion permitted violation of O.C.G.A. §19-6-1(b).

Additionally, on May 25, 2004, the trial court erred by holding during an *in camera* proceeding that it could neither modify nor revise said temporary alimony order of November 19, 2003 in violation of O.C.G.A. § 19-6-3(d). No such restriction is contained within O.C.G.A. § 19-6-3(d), which states:

“On application, an order allowing temporary alimony shall be subject to revision by the court at any time and may be enforced either by writ of fieri facias or by attachment for contempt.”

On two separate occasions, the Appellant was compelled to pay alimony in violation of both statutory law and both Due Process and Equal Protection provisions of the Georgia Constitution. Appellant is now being

held in contempt subsequent to modification of the erroneous order of the trial court originally entered on November 19, 2003.

### **Conclusion**

“The Constitution protects individuals, men and women alike, from unjustified state interference, even when that interference is enacted into law for the benefit of their spouses.” Parenthood v. Casey, 505 U.S. 833, (1992)

The above numerated errors founded in constitutional challenges to Georgia’s alimony statutes represent a series of questions of first impression in not only the state of Georgia, but any other state. The Appellant and thousands of Georgians like him have sustained injury, and will continue to sustain injury related to the challenged alimony statutes. Georgians are entitled to a reasoned opinion from this Court on the constitutionality of the challenged alimony statutes.

### **Prayer for Relief**

“It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.” O.W. Holmes. *The Path of the Law*. 10 *Harvard Law Review* 457 (1897)

**Wherefore**, DENNY C. CORMIER prays this Court accept this case  
for Appellate review.

Respectfully submitted,

---

DENNY C. CORMIER, pro se  
1000 Mallery Street #38  
St. Simons Island, Georgia 31522  
Telephone: 912-634-8675

Dated: April 11, 2005

## CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of April, 2005, I caused a true and accurate copy of the foregoing Application for Discretionary Appeal to be sent by U.S. Mail to:

Attorney for Nancy B. Cormier:  
Dwight May, Esq.,  
PO Box 1660  
Moultrie, GA 31776  
[FIRST CLASS MAIL]

Clerk of the Superior Court of Colquitt County  
9 South Main Street  
Moultrie GA 31768  
[FIRST CLASS MAIL]

John J. Jones, Senior Assistant Attorney General  
Laura W. Hyman, Assistant Attorney General  
Department of Law, 40 Capitol Square, S.W.  
Atlanta, Georgia 30334-130  
[FIRST CLASS MAIL]

---

DENNY C. CORMIER, pro se  
1000 Mallery Street #38  
St. Simons Island, Georgia 31522  
Telephone: 912-634-8675

## **APPENDIX – TABLE OF EXHIBITS**

- Exhibit 1    Trial Court Order of November 11, 2003 (transfer of possession of furniture)**
- Exhibit 2    Letter of Desertion of August 21, 2003**
- Exhibit 3    Federal Court Order of Remand of November 15, 2004**
- Exhibit 4    Appellant's Trial Court Motion for Declaratory Judgment and Immediate Grant of Divorce February 17, 2005**
- Exhibit 5    Trial Court Order Denying Declaratory Judgment and Silent on Grant of Divorce Motion of March 25, 2005**
- Exhibit 6    Trial Court Order of Contempt and award of Attorney Fees of March 25, 2005**
- Exhibit 7    Federal Statutes Prohibiting Discrimination Based on Marital Status**
- Exhibit 8    Martial Status as a Suspect Class--Statutory Support to Establish Public Policy**

## **Exhibit 7**

### **FEDERAL STATUTES THAT PROHIBIT DISCRIMINATION BASED ON MARTIAL STATUS**

- 5 U.S.C. § 2302. Prohibited personnel practices (employment)
- 5 U.S.C. § 7204(b) (“...[D]iscriminations because of race, color, creed, sex, or marital status is prohibited with respect to an individual or a position held by an individual.”)
- 12 U.S.C. § 3015. Eligibility of cooperatives
- 12 U.S.C. § 3106a(1) (b) (foreign banks must conduct operations in compliance with laws prohibiting discrimination on the basis of race, national origin, marital status)
- 15 U.S.C. § 1691(a)(1) (unlawful for creditor to discriminate on the basis of sex, race, religion, national origin, or marital status)
- 20 U.S.C. § 1087tt(c) (unlawful to discriminate in loaning money on basis of sex, race, religion, national origin, or marital status)
- 20 U.S.C. § 1071(a)(2) (same, for credit or insurance)
- 22 U.S.C § 3905. Personnel actions (foreign service)

## **Exhibit 8**

### **STATE STATUTES THAT PROHIBIT DISCRIMINATION BASED ON MARTIAL STATUS**

Harold L. Rosenberger

Today, in these United States of America, an overwhelming national consensus exists against discrimination based on martial status. Our nation's laws now reflect society's consensus that discrimination based on marital status in both the public and private sectors is unacceptable. Based on this author's research, 48<sup>1</sup> of 50 states have at least one statute – most states have multiple statutes – that prohibit discrimination based on martial status. State laws prohibit said discrimination in areas such as employment, banking and credit transactions, mortgage underwriting and real estate, motor vehicle insurance, juries and jurors, and access to public accommodations. At the federal level, laws prohibit discrimination based on martial status in the areas of banking, credit transactions, education assistance, insurance and employment. The District of Columbia, Puerto Rico and the Virgin Islands also have legislation in this area.

Many states also have a Civil Rights or Human Rights commission or agency whose mission is to promote equality, to prevent discrimination based on race, religion, national origin, sex and marital status, and to handle complaints from citizens who have been subject to such discrimination.

As the United States Supreme Court has held in a number of cases, the existence of federal and state law is the ultimate evidence of national consensus. “The primary and most reliable evidence of national consensus - the pattern of federal and state laws...” Stanford v. Kentucky, 492 U.S. 361, 362 (1989); “[F]irst” among the “objective indicia that reflect the public attitude toward a given sanction” are statutes passed by society’s elected representatives. McCleskey v. Kemp, 481 U.S. 279, 300 (1987), quoting Gregg v. Georgia, 428 U.S. 153, 171 (1976); “We have pinpointed that the “clearest and most reliable objective evidence of contemporary values is the legislation enacted by the country’s legislatures.” Atkins v. Virginia, 536 U.S. 304 (2002), citing Penry v. Lynaugh, 492 U.S. 302, 331 (1989).

---

<sup>1</sup> Alabama and Mississippi are the only two states that lack any statute that prohibits discrimination based on marital status.

**STATE STATUTES THAT PROHIBIT DISCRIMINATION  
BASED ON MARTIAL STATUS**

1) Alabama - No statutes found

2) Alaska Statutes (Lexis 2004)

§ 18.80.200. Purpose

§ 18.80.210. Civil Rights

§ 18.80.220. Unlawful employment practices; exception

§ 18.80.230. Unlawful practices in places of public accommodation

§ 18.80.240. Unlawful practices in the sale or rental of real property

§ 18.80.250. Unlawful financing practices

3) Arizona Revised Statutes (Lexis 2004)

§ 20-1548. Underwriting discrimination

§ 20-1632.01. Cancellation of nonrenewal for nonpayment of premium; grace period; discrimination; definition

4) Arkansas Code of 1987 Annotated Official Edition 2004 (Lexis 2004)

§ 4-87-104. Discrimination based on sex or marital status unlawful

§ 23-66-206. Unfair methods of competition and unfair or deceptive acts or practices

5) California Codes Annotated (Lexis 2005)

§ 230. Types of sexual discrimination prohibited

§ 798.20. Discrimination prohibited

§ 12920. Public Policy

§ 12927. Definitions regarding housing accommodations

§ 12940. Unlawful employment practices

§ 12955. Unlawful practices (Housing)

6) Colorado Revised Statutes (Lexis 2004)

§ 5-3-210. Discrimination prohibited. (Consumer credit)

§ 24-34-506. Unfair housing practices prohibited

§ 24-34-601. Discrimination in places of public accommodation

§ 24-34-602. Penalty and civil liability

7) Connecticut Annotated Statutes (Lexis 2004)

- § 4a-60. Nondiscrimination and affirmative action provisions in contracts of the state and political subdivisions other than municipalities
- § 10-153. Discrimination on account of marital status
- § 16-245r. Discrimination by electric suppliers prohibited
- § 16-247r. Discrimination by telephone companies and certified telecommunications provided prohibited
- § 38a-358. Declination, cancellation of nonrenewal of private passenger nonfleet auto insurance policies prohibited for certain reasons
- § 46a-60. Discriminatory employment practices prohibited
- § 46a-64. Discriminatory public accommodation practices prohibited
- § 46a-64c. Discriminatory housing practices prohibited
- § 46a-66. Discriminatory credit practices prohibited
- § 46a-70. Guarantee of equal employment in state agencies
- § 46a-71. Guarantee practices by state agencies prohibited
- § 46a-72. Discrimination in job placement by state agencies prohibited
- § 46a-73. Discrimination in state licensing and charter procedures prohibited
- § 46a-75. Discrimination in educational and vocational programs prohibited
- § 46a-76. Discrimination in allocation of state benefits prohibited

8) Delaware Code Annotated (Lexis 2005)

- § 4501. Purpose and construction
- § 4601. Declaration of purpose and construction
- § 4603. Discrimination in sale or rental of housing and other prohibited practices
- § 4604. Discrimination in residential real estate-related transactions
- § 4605. Discrimination in provision of brokerage services
- § 4619. Prohibition of intimidation, violations and penalties
- § 4124. Discriminatory practices prohibited
- § 711. Unlawful employment practices; employer practices
- § 5116. Fair housing provisions
- § 3804. Qualifications of Board members

9) Florida Annotated Statutes (Lexis 2004)

- § 175-333. Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants
- § 185-341. Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants
- § 725-07. Discrimination on the basis of sex, marital status, or race forbidden

- § 760-01. Purposes; construction; title (Florida Civil Rights Act)
- § 760-05. Functions of the commission
- § 760-10. Unlawful employment practices
- § 760-60. Discriminatory practices of certain clubs prohibited; remedies
- § 1000.05. Discrimination against students and employees in the Florida K-20 public education system prohibited' equality of access required.

10) Georgia, Official Code of, Annotated (Lexis 2004)

- § 7-6-1. Discrimination in extending credit or making loans prohibited

11) Hawaii Revised Statutes Annotated (Lexis 2004)

- § 368-1. Purpose and intent
- § 378-2. Discriminatory practices made unlawful; offenses defined (employment)
- § 431:10C-207. Discriminatory practices prohibited (insurance)
- § 477E-3. Prohibited credit discrimination
- § 515-3. Discriminatory practices (real estate)
- § 515-5. Discriminatory practices financial (real estate)
- § 515-6. Restrictive covenants and conditions (real estate)
- § 515-6. Blockbusting (real estate)
- § 515-16. Other discriminatory practices

12) Idaho Code (Lexis 2004)

- § 33-4407. Eligible type of employment
- § 39-5211. Qualification of applicants

13) Illinois Compiled Statutes Annotated (Lexis 2004)

- § 105 ILCS 5/27A-4. General provisions (education)
- § 205 ILCS 635/3-8. Discrimination and Redlining Prohibited
- § 305 ILCS 5/11-1. No discrimination
- § 775 ILCS 5/1-102. Declaration of Policy (credit cards)
- § 815 ILCS 140/1a. [Prohibited practices]

14) Indiana Statutes Annotated (LEXIS 2004)

- § 20-6.1-6-11. Marital status - Discrimination prohibited (Employment of Teachers)
- § 24-9-3-9. Discrimination (Prohibited lending practices generally)

15) Iowa Statutes Annotated (LEXIS 2003)

- § 15A.1 Economic development - public purpose - environmental protection and waste disposal requirements
- § 216.9 Unfair or discriminatory practices - education.
- § 280.3 Duties of board.
- § 537.3311 Discrimination prohibited. (MONEY AND CREDIT)
- § 729.4 Fair employment practices.

16) Kansas Statutes Annotated (LEXIS 2003)

- § 40-3510. Discrimination in issuing or extending insurance prohibited
- § 40-5104. Prohibited acts. (Insurance)

17) Kentucky Revised Statutes Annotated (LEXIS 2004)

- § 304.12-013. Prohibited unfair or deceptive practices in the writing of insurance
- § 304.20-340. Declination or termination prohibited
- § 171. State tax to be levied

18) Louisiana Revised Statutes Annotated (LEXIS 2004)

- § 9:3583. Discrimination prohibited (credit)
- § 22:1214. Methods, acts, and practices which are defined herein as unfair or deceptive (insurance)

19) Maine Revised Statutes Annotated (LESIS 2004)

- § 4552. Policy (Human Rights Act)
- § 4595. Right to freedom from discrimination solely on the basis of age, race, color, sex, marital status, ancestry, religion or national origin in any credit transaction
- § 4596. Unlawful credit extension discrimination
- § 4602. Unlawful educational discrimination
- § 7051. General provisions (State Civil Service System, discrimination prohibited)
- § 1202-A. Prohibition of discrimination (juries)

20) Maryland Annotated Code (LEXIS 2003)

- § 2-302. Discrimination, harassment prohibited (state employment policies)
- § 5. Prohibited; civil penalties (Public Accommodations)
- § 8. Discrimination by persons, businesses, etc., licensed or regulated by Department of Labor, Licensing, and Regulation; civil penalties
- § 8A. Leasing of property for commercial usage
- § 16. Unlawful employment practices
- § 19. Declaration of policy; administration of subtitle (Discrimination In Housing)
- § 37. Prohibition against injury, intimidation, etc., by force or threat of force, to prevent exercise of rights
- § 12-113. Discrimination prohibited (credit and loans)
- § 12-305. Discrimination prohibited (credit and loans)
- § 12-503. Establishment of account (Retail Credit Accounts)
- § 12-603. Discrimination prohibited (Retail Installment Sales)
- § 12-702. Findings and purpose. (Equal Credit Opportunity Act)
- § 12-704. Discrimination prohibited; compliance with or violation of federal Equal Credit Opportunity Act

21) Massachusetts Annotated Laws (LEXIS 2005)

- § 4. Discrimination Prohibited in Refusal to Enter into Arrangement; Selection of Providers; Terms and Conditions of Offer Subject to Disapproval of Commissioner.
- § 4C. Discrimination in Provision of Homeowners Insurance Based on Race, Color, etc. Prohibited
- § 22E. Refusal to Issue, Renew or Execute Motor Vehicle Liability Policy or Bond; Discrimination Based on Age, Sex, Race, Occupation, Marital Status, or Principal Place of Garaging of Vehicle.

22) Michigan Compiled Laws (LEXIS 2004)

- § 37.2102. Nondiscrimination, recognition and declaration as civil right.
- § 37.2202. Employers, prohibited conduct; construction; inapplicability to employment by parent, spouse, or child.
- § 37.2203. Employment agencies, prohibited conduct.
- § 37.2204. Labor organizations, prohibited conduct.
- § 37.2205. Apprenticeships and training programs; nondiscrimination.
- § 37.2207. Persons seeking employment; notices or advertisements.
- § 37.2209. Covenant in public contracts; breach, effect.
- § 37.2302. Prohibited conduct.
- § 37.2402. Educational institution, prohibited practices.

- § 37.2502. Persons engaging in real estate transactions, real estate brokers, or real estate salesmen; prohibited practices;
- § 37.2504. Financing; prohibited conduct; discrimination in obtaining loans to acquire or benefit, or secured by, residential real estate; inapplicability of certain provisions.
- § 37.2505. Limitations on use or occupancy; religious or charitable institution or organization or property; discriminatory provisions in instruments prohibited.
- § 125.1446. Discrimination. (Housing)
- § 324.79118. Discrimination prohibited. (Public Accommodations)
- § 333.21761. Certification of nondiscrimination; violation of rights; giving preference to members of religious or fraternal institution or organization

23) Minnesota Statutes Annotated (LEXIS 2004)

- § 41.60 Discrimination prohibited (FAMILY FARM SECURITY PROGRAM)
- § 43A.01 Policies (employee relations)
- § 72A.20 Methods, acts, and practices which are defined as unfair or deceptive
- § 273.112 Private outdoor recreational, open space and park land tax
- § 363A.08 Unfair discriminatory practices relating to employment or unfair employment practice
- § 363A.09 Unfair discriminatory practices relating to real property
- § 363A.11 Public accommodations
- § 363A.16 Credit; discrimination

24) Mississippi - No statutes found

25) Missouri Statutes Annotated (LEXIS 2004)

- § 108.470. Discrimination in granting of loans is unlawful
- § 199.043. Discrimination prohibited
- § 314.100. Denial of credit based on sex or marital status of applicant prohibited
- § 375.936. Unfair practices defined
- § 375.995. Sex or marital status discrimination as to benefits or coverage prohibited
- § 408.550. Discrimination prohibited - damages recoverable (loan)
- § 443.863. Unlawful discrimination for refusal to loan or vary terms of the loan
- § 630.200. Discrimination prohibited (access to mental health)

26) Montana Code Annotated (LEXIS 2004)

- § 20-25-707 Antidiscrimination.
- § 33-18-210 Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances.
- § 49-1-102 Freedom from discrimination. (Basic personal rights)
- § 49-2-303 Discrimination in employment.
- § 49-2-304 Discrimination in public accommodations.
- § 49-2-305 Discrimination in housing - exemptions.
- § 49-2-306 Discrimination in financing and credit transactions.
- § 49-2-307 Discrimination in education.
- § 49-2-308 Discrimination by the state.
- § 49-2-309 Discrimination in insurance and retirement plans.
- § 49-3-202 Employment referrals and placement services.
- § 49-3-204 Licensing.

27) Nebraska Revised Statutes Annotated (LEXIS 2004)

- § 18-1724. Discrimination; employment, public accommodations, and housing; ordinance to prevent
- § 44-1525. Unfair trade practices; enumerated
- § 45-1056. Licensee; discrimination prohibited
- § 48-1104. Unlawful employment practice for an employer
- § 48-1115. Notice of employment; preference or discrimination; race, color, religion, sex, disability, marital status, national origin; unlawful
- § 51-211. Library board; general powers and duties; discrimination prohibited
- § 79-2,116. Legislative findings; discriminatory practices enumerated
- § 81-1355. Public policy; equal employment opportunity
- § 85-9,168. Legislative findings; discriminatory practices enumerated

28) Nevada Revised Statutes Annotated (LEXIS 2004)

- § 118.100. Prohibited acts and practices (housing)
- § 126.031. Relationship of parent and child not dependent on marriage
- § 217.420. Grants from account for aid for victims of domestic violence: Eligibility
- § 598B.020. Declaration of public policy (credit)
- § 686A.680. Consumer credit reports: Uses; limitations.

29) New Hampshire Revised Statutes Annotated (LEXIS 2004)

- § 151:21. Patients' Bill of Rights
- § 301-A:12. Membership Qualifications (Consumer's cooperative associations)
- § 354-A:1. Title and Purposes of Chapter (State Commission for Human Rights)
- § 354-A:6. Opportunity for Employment Without Discrimination a Civil Right

- § 354-A:7. Unlawful Discriminatory Practices (employment)
- § 354-A:8. Equal Housing Opportunity Without Discrimination a Civil Right
- § 354-A:10. Unlawful Discriminatory Practices (housing)
- § 354-A:16. Equal Access to Public Accommodations a Civil Right
- § 354-A:17. Unlawful Discriminatory Practices in Public Accommodations
- § 417:4. Unfair Methods, Acts, and Practices Defined
- § 420-C:5. Discrimination Prohibited (insurance)

30) New Jersey Annotated Statutes (LEXIS 2004)

- § 10:1-1. Right of citizens to hold office or employment; no discrimination because of sex or marital status
- § 10:1-10. Defense industries; discrimination in employment based on race, color, creed, national origin, ancestry, marital status or sex
- § 10:2-1. Antidiscrimination provisions
- § 10:5-3. Findings, declarations (Law against Discrimination)
- § 10:5-4. Obtaining employment, accommodations and privileges without discrimination; civil right
- § 10:5-6. Division on Civil Rights created; powers
- § 10:5-8. Attorney General's powers and duties
- § 10:5-9.1. Enforcement of laws against discrimination in public housing and real property
- § 10:5-12. Unlawful employment practices; discrimination
- § 10:5-12.5. Regulation of land use, housing, unlawful discrimination
- § 10:5-33. Contents of bid specs, contract provisions
- § 40A:9-1.10. Preemption of order of court or of state or federal agency to eliminate discrimination
- § 46:3-23. Discrimination prohibited in promise, covenant, restriction
- § 52:31-31. Discrimination in rental; prohibition

31) New Mexico Statues Annotated (LEXIS 2005)

- § 59A-22A-6. Preferred provider participation requirements (insurance)
- N.M. Code Judicial Conduct 21-300 (2004). A judge shall perform the duties of office impartially and diligently

32) New York Consolidated Laws (LEXIS 2004)

- § 100.2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities
- § 290. Purposes of article (Human Rights Law)
- § 291. Equality of opportunity a civil right

- § 296. Unlawful discriminatory practices
- § 296-a. Unlawful discriminatory practices in relation to credit
- § 312. Equal employment opportunities for minority group members and women
- § 427. Equal employment opportunity program (transportation law)
- § 2607. Discrimination because of sex or marital status (insurance)
- § 2609. Discrimination in the issuance of performance or surety bonds
- § 2050-v. Affirmative action (Public authorities law)

33) North Carolina General Statutes (LEXIS 2004)

- § 53-180. Limitations and prohibitions on practices and agreements (Consumer finance)

34) North Dakota Century Code (LEXIS 2005)

- § 26.1-30.1-01.1. Unlawful grounds for declination (insurance)
- § 26.1-39-17. Prohibited reasons for declination or termination of property and casualty policies
- § 26.1-40-11. Terminations -- Declinations -- Prohibited reasons
- § 26.1-47-04. Preferred provider participation requirements
- § 34-11.1-04.1. Discrimination on basis of marital status in state employment prohibited -- Exception

35) Ohio Revised Code Annotated (LEXIS 2005)

- § 176.04. Conditions for issuing general obligations or expending tax moneys
- § 3901.21. Unfair and deceptive acts defined
- § 3905.55. Agent fees charged to consumer (insurance)
- § 4112.021. Unlawful discriminatory practice of creditor

36) Oklahoma Statutes Annotated (LEXIS 2004)

- § 1-109. Discrimination in extension of credit on basis of sex or marital status prohibited
- § 506. Right to refuse accommodation--Financial guarantees--Limitation on number of occupants--Immunity
- § 953. Use of credit information--Prohibited acts
- § 1104.6. Choose Life Assistance Program--Revolving fund--Applications for funds--Restrictions on use of funds
- § 6633. Unfair or deceptive trade practices defined

37) Oregon Revised Statutes (LEXIS 2003)

- § 20.107. Attorney and expert witness fees and other costs on claim of unlawful discrimination; defense.
- § 179.750. Equal care and services for persons in state institutions
- § 182.100. Affirmative action policy; implementation on appointments
- § 240.306. Recruitment, selection and promotion of state employees; criteria; procedures; duties of department.
- § 243.305. Policy of affirmative action and fair and equal employment opportunities and advancement
- § 659.850. Discrimination in education prohibited; rules
- § 659A.003. Purpose of ORS chapter 659A
- § 659A.006. Declaration of policy against discrimination; opportunity to obtain employment without discrimination recognized as a civil right; exception of religious group.
- § 659A.012. State agencies to carry out policy against discrimination in employment; evaluation of supervisors; affirmative action reports.
- § 659A.030. Discrimination because of race, religion, color, sex, national origin, marital status or age prohibited.
- § 659A.403. Discrimination in place of public accommodation prohibited
- § 659A.406. Aiding or abetting certain discrimination prohibited
- § 659A.409. Notice that discrimination will be made in place of public accommodation prohibited; age exceptions.
- § 659A.421. Discrimination in selling, renting or leasing real property prohibited

38) Pennsylvania Statues Annotated (LEXIS 2004)

- § 991.2003. Discrimination prohibited
- § 1171.5. Unfair methods of competition and unfair or deceptive acts or practices defined

39) Rhode Island, General Laws (LEXIS 2004)

- § 27-29-4. Unfair methods of competition and unfair or deceptive acts or practices defined
- § 28-5-7. Unlawful employment practices
- § 34-37-1. Finding and declaration of policy
- § 34-37-2. Right to equal housing opportunities -- Civil rights
- § 34-37-3. Definitions
- § 34-37-4. Unlawful housing practices
- § 34-37-4.3. Discrimination in granting credit or loans prohibited
- § 34-37-5.2. Discrimination in brokerage services
- § 34-37-5.4. Discrimination in residential real estate related transactions
- § 34-37-9. Construction

40) South Carolina Code of Laws Annotated (LEXIS 2004)

- § 38-75-1210. Prohibited grounds for refusal to issue policy or determination of premiums; penalties
- § 38-75-1220. Prohibited grounds for refusal to renew policy; immunity from liability; review by director of cancellation or refusal; penalties.
- § 38-77-122. Insurers and agents prohibited from refusing to issue automobile insurance policies due to certain factors; prohibited factors for premium rates
- § 38-77-123. Insurers and agents prohibited from refusing to renew automobile insurance policies due to certain factors; cancellation restrictions; penalties for violations.

41) South Dakota Codified Laws Annotated (LEXIS 2003)

- § 43-29-8. It shall not be necessary to perform any of the following acts to correct the record with respect to the title to real estate...
- § 58-11-55. Except as provided in §§ 58-11-55.1 and 58-11-55.2, no insurer may refuse to issue or to renew a policy or certificate solely because of the age, residence, race, color, creed, national origin, ancestry, occupation, or marital status of the applicant or the insured.
- § 58-33-13.1. An insurance contract may not be denied to an insured or prospective insured on the basis of his or her sex or marital status

42) Tennessee Code Annotated (LEXIS 2004)

- § 47-18-802. Unlawful discrimination (consumer credit)
- § 68-34-104. Contraceptives -- Availability -- Information -- Religious belief

43) Texas Statutes and Code Annotated (LEXIS 2004)

- § 17.004. Customer Protection Standards
- § 39.101. Customer Safeguards
- § 64.004. Customer Protection Standards
- § 102.003. Rights of the Elderly
- § 153.003. No Discrimination Based on Sex or Marital Status (parent-child relationship)
- § 154.010. No Discrimination Based on Marital Status of Parents or Sex (child support)
- § 160.202. No Discrimination Based on Marital Status (parent-child relationship)
- § 341.401. Discrimination Prohibited (loans and credit)

§ 544.002. Unfair Discrimination (insurance)

44) Utah Code Annotated (LEXIS 2004)

§ 11-25-12. Equal opportunity requirements (residential rehabilitation act)

§ 13-7-1. Policy and purposes of act (public accommodations)

§ 29-2-103. Innkeeper's rights -- Liability -- Prohibition on discrimination

45) Vermont Statutes (LEXIS 2004)

§ 1204. Benefits, protections and responsibilities of parties to a civil union

§ 2362. Prohibition on discrimination based on sex, sexual orientation, marital status, race, color, religion, national origin, age or handicapping condition (motor vehicle financing)

§ 2410. Prohibition on discrimination based on sex, sexual orientation, marital status, race, color, religion, national origin, age or handicapping condition (real estate financing)

§ 2488. Prohibition on discrimination based on sex, sexual orientation, marital status, race, color, religion, national origin, age or handicapping condition (agricultural leases)

§ 4502. Public accommodations

§ 4724. Unfair methods of competition or unfair or deceptive acts or practices defined (insurance)

§ 10403. Prohibition on discrimination based on sex, marital status, race, color, religion, national origin, age, sexual orientation or handicapping condition (consumer credit)

46) Virginia Code (LEXIS 2004)

§ 2.2-3900. Short title; declaration of policy (human rights act)

§ 2.2-3901. Unlawful discriminatory practice defined

§ 15.2-853. Commission on human rights; human rights ordinance (housing)

§ 38.2-2115. Discrimination in issuance of fire insurance

§ 38.2-2213. Discrimination in issuance of motor vehicle insurance

§ 59.1-21.21:1. Prohibited discrimination; notification of action on credit application; statement of reasons for adverse action

§ 59.1-21.22. Requirement of signatures of both parties to a marriage not discriminatory in a secured transaction

47) Washington Revised Code (LEXIS 2004)

§ 26.26.106. No discrimination based on marital status (domestic relations)

- § 48.30.300. Unfair discrimination, generally -- Disability policies, specifically (insurance)
- § 49.60.010. Purpose of chapter (human rights)
- § 49.60.030. Freedom from discrimination -- Declaration of civil rights
- § 49.60.175. Unfair practices of financial institutions
- § 49.60.176. Unfair practices with respect to credit transactions
- § 49.60.178. Unfair practices with respect to insurance transactions
- § 49.60.180. Unfair practices of employers
- § 49.60.190. Unfair practices of labor unions
- § 49.60.200. Unfair practices of employment agencies
- § 49.60.222. Unfair practices with respect to real estate transactions, facilities, or services
- § 49.60.225. Relief for unfair practice in real estate transaction -- Damages -- Penalty
- § 49.74.005. Legislative findings -- Purpose

48) West Virginia Annotated (LEXIS 2004)

- § 30-1-6 Application for license or registration; examination fee; prohibiting discrimination
- § 33-6A-4a Alternative method for nonrenewal for automobile liability and physical damage insurance
- § 33-6B-3 Declinations; prohibited reasons (automobile insurance)
- § 33-17A-6 Discriminatory terminations and declinations prohibited (insurance)
- § 48-26-601 Funding application requirements (domestic relations)

49) Wisconsin Annotated Statutes (LEXIS 2004)

- § 15.04. Heads of departments and independent agencies; powers and duties.
- § 36.12. Student discrimination prohibited.
- § 38.23. Student discrimination prohibited.
- § 66.1011. Local equal opportunities (housing and transportation)
- § 106.50. Open housing.
- § 111.31. Declaration of policy. (employment relations)
- § 111.321. Prohibited bases of discrimination. (employment relations)
- § 111.322. Discriminatory actions prohibited. (employment relations)
- § 138.20. Discrimination in granting credit or loans prohibited.
- § 452.14. Investigation and discipline of licensees.

50) Wyoming Statutes Annotated (LEXIS 2004)

- § 14-2-502 No discrimination based on marital (parent-child relationship)

**DISTRICT OF COLUMBIA, PUERTO RICO, and VIRGIN ISLANDS  
STATUTES THAT PROHIBIT  
DISCRIMINATION BASED ON MARTIAL STATUS**

District of Columbia Code Annotated (Lexis 2004)

- § 2-1401.01. Intent of Council
- § 2-1402.11. Prohibitions (employment)
- § 2-1402.21. Prohibitions (real estate)
- § 2-1402.31. Prohibitions (public accommodations)
- § 2-1402.41. Prohibitions (education)
- § 2-1402.71. Prohibitions (motor vehicle insurance)
- § 7-1231.04. Conditions of mental health service delivery
- § 11-1903. Prohibition of discrimination (juries and jurors)
  
- § 31-2231.11. Unfair discrimination (insurance)
- § 31-2231.13. Unfair discrimination and rebates prohibited; property, causal, and surety insurance.
  
- § 32-408. Discrimination prohibited (licensing and regulation)

Puerto Rico Laws Annotated (LEXIS 2002)

- § 146a. Discrimination because of age, race, color, sex, social or national origin, social condition, political affiliation, political or religious ideology--Publishing; advertising
- § 147. Discrimination because of age, race, color, sex, social or national origin, social condition, political affiliation, political or religious ideology--  
Discrimination by labor union
- § 147a. Discrimination because of age, race, color, sex, social or national origin, social condition, political affiliation, political or religious ideology--  
Apprenticeship, training or retraining

Virgin Islands Code Annotated (LEXIS 2004)

- § 64. Unlawful discriminatory practices (Civil Rights Commission)
- § 65. Unfair labor practices
- § 646. Master Service Provider Agreement (equal telecommunication services)

**AREAS OF LAW THROUGHOUT  
THE UNITED STATES IN WHICH DISCRIMINATION IS PROHIBITED  
BASED ON MARTIAL STATUS**

1. Advertising
2. Banking
3. Domestic Relations
4. Education
5. Employment
6. Housing
7. Juries and Jurors
8. Mortgage Underwriting
9. Motor Vehicle Insurance
10. Pension Benefits
11. Private Clubs
12. Public Accommodations
13. Real Estate
14. State Contracts and Contractors
15. State Licensing Procedures
16. Trade Practices
17. Labor Unions

**STATE ORGANIZATIONS WHOSE MISSION INCLUDES, *inter alia*,  
THE PREVENTION OF DISCRIMINATION  
BASED ON MARTIAL STATUS**

Arizona

Civil Rights Division of the Arizona Attorney General's Office  
WEB site: [http://www.ag.state.az.us/civil\\_rights/index.html](http://www.ag.state.az.us/civil_rights/index.html)

California

California Human Rights/Fair Housing Commission  
WEB site: [www.hrfh.org](http://www.hrfh.org)

Connecticut

Connecticut Commission on Human Rights & Opportunities  
WEB site: <http://www.state.ct.us/chro/>

Colorado

Colorado Civil Rights Division  
WEB site: <http://www.dora.state.co.us/civil-rights/>

Delaware

Office of Human Relations and State Human Relations Commission  
WEB site: <http://www.state.de.us/sos/hr/default.shtml>

Florida

The Florida Commission on Human Relations  
WEB site: <http://fchr.state.fl.us/>

Hawaii

Hawaii Civil Rights Commission  
WEB site: <http://hawaii.gov/labor/hcrc/>

Illinois

Illinois Human Rights Commission

WEB site: <http://www.state.il.us/ihrc/>

Iowa

Iowa Civil Rights Commission

WEB site: <http://www.state.ia.us/government/crc/>

Maine

Maine Human Right Commission

WEB site: <http://www.state.me.us/mhrc/index.shtml>

Maryland

Maryland Commission on Human Relations

WEB site: <http://www.mchr.state.md.us/>

Michigan

The Michigan Civil Rights Commission & Department of Civil Rights

WEB site: <http://www.michigan.gov/mdcr>

Minnesota

Minnesota Department of Human Rights

WEB site: <http://www.humanrights.state.mn.us/>

Montana

Montana Human Rights Bureau

WEB site: <http://erd.dli.state.mt.us/humanright/hrhome.asp>

New Hampshire

New Hampshire Commission for Human Rights

WEB site: <http://www.nh.gov/hrc/>

New Jersey

New Jersey Office of the Attorney General, Division on Civil Rights  
WEB site: <http://www.state.nj.us/lps/dcr/>

New York

The New York State Division of Human Rights  
WEB Site: <http://www.nysdhr.com/>

North Dakota

North Dakota Department of Labor, Human Rights Division  
WEB site: <http://www.state.nd.us/labor/services/human-rights/>

Ohio

### **Suspect Classes**

1. **Race:** McLaughlin v. Florida, 379 U.S. 184, 191 -192 (1964); Loving v. Virginia, 388 U.S. 1, 9 (1967); Bolling v. Sharpe, 347 U.S. 497, 499 (1954).
2. **National Origin/Ancestry:** Oyama v. California, 332 U.S. 633, 644-646 (1948); Korematsu v. United States, 323 U.S. 214, 216 (1944); Hirabayashi v. United States, 320 U.S. 81, 100 (1943);
3. Religion: City of New Orleans v. Dukes, 427 U.S. 297, 303 (1976); Employment Div., Dep't of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990); McDaniel v. Paty, 435 U.S. 618 (1978); Torcaso v. Watkins, 367 U.S. 488 (1961).
4. **Alienage:** Graham v. Richardson, 403 U.S. 365 (1971).

### **Quasi-Suspect Classes**

1. **Gender:** Mississippi University for Women v. Hogan, 458 U.S. 718, 723-24 (1982)
2. **Illegitimacy:** Lalli v. Lalli, 439 U.S. 259, 265 (1978)

### **Almost Suspect**

1. Mentally Disabled
2. Undocumented Children
3. Wealth
4. Marital Status