

New Mexico's Cohabitation Law Violates the Rights of Single People

by Thomas F. Coleman, Esq.

New Mexico and a few other states make it a crime for an unmarried man and woman to cohabit in an intimate relationship. The others are Arizona, Idaho, Florida, Michigan, Mississippi, North Carolina, North Dakota, Virginia, and West Virginia.

The American Association for Single People believes that such laws are unconstitutional in violation of the right to privacy. Senate Bill 95, by Senator Michael Sanchez, just passed the state Senate and was sent to the House for its consideration.

If the Legislature does not repeal this law, the courts should invalidate it. There are 500,000 unmarried adults in New Mexico. Single people have constitutional rights which the state should respect. The government has no business prying into the private lives of its citizens.

This law has been used twice in the last two years. One case involved a man being prosecuted for a misdemeanor. The judge was going to release him pending trial, but when he found out that the defendant was living with his girlfriend (who was in court, and in fact, was pregnant at the time), the judge refused to release him unless he promised not to go home with her.

The more recent case involved an ex-spouse who tried to have her former husband and his new girlfriend prosecuted. Antiquated laws often lend themselves to blackmail or harassment.

Sometimes these laws are used to deny people jobs, on the theory that the employer does not want to hire a criminal. This is especially so for law enforcement jobs.

A member of the American Association for Single People, Debbie Deem, has her own horror story to tell about the anti-cohabitation laws of New Mexico and Arizona in the late 1980s. She was denied a job in Arizona because she was cohabiting. She moved to New Mexico, after reading a book that said New Mexico did not have such a law, only to find out that the book was wrong. She and her boyfriend subsequently moved to California. Their car had a bumper sticker which said: "Refugee From Arizona Laws." (We have a news article containing a photo with that bumper sticker.)

These laws are sometimes used in other harmful ways. For example, federal law says that if a relationship violates local law (such as the anti-cohabitation statute) then a wage-earner may not claim their partner as a dependent for income tax purposes.

Anti-cohabitation laws have also been cited by judges as an excuse to deny fair housing rights to unmarried couples, on the theory that the Legislature could not have intended to protect people whom it has branded as criminals.

Most people these days cohabit prior to marriage. It's wrong when a law brands the majority of the population as criminal. It's time for single people to stand up for their constitutional rights. There is strength in unity and the American Association for Single People is here to help you. ♦♦♦

AASP is a nonprofit and nonpartisan organization promoting the human rights and well being of unmarried adults, couples, parents, and families. For more information about AASP, or to interview its executive director, Thomas F. Coleman, who is an attorney with extensive experience in criminal and constitutional law, contact us at: (818) 242-5100, or e-mail our director of Public Affairs, Stephanie Knapik, at knapik@unmarriedamerica.com