

▼ SOLICITING FOR CHARITY

Many practitioners find themselves volunteering for a nonprofit organization as either a board member or volunteer counsel. Raising money for charity is tricky business, whether the effort is confined to Minnesota or expanded to other states. Beware that most behaviors targeted at raising money are considered “solicitations” under Minn. Stat. Chap. 309. Most other states’ statutes are similarly worded, since this statute is based on a model act. If in doubt, it’s safest to assume that a fund-raising activity is solicitation, wherever it’s being done, and laws apply. Don’t fall in the trap of “forgetting” to register the nonprofit entity to solicit. In all but ten states, a nonprofit must register with the State Attorney General’s Office or Secretary of State’s Office when solicitations exceed \$25,000 (and other narrow exceptions do not apply). While this means you may need to register in most states where funds are being raised, of the states that require registration, most will accept the Uniform Registration Statement (URS), which can be completed once and filed in multiple states. Only three states that require registration—Colorado, Oklahoma, and Florida—do not accept the URS, which can be obtained online at www.multistatefiling.org. A knowing failure to register is a misdemeanor.

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▲ MARITAL STATUS DISCRIMINATION

The right of spouses to pursue discrimination claims under the Minnesota Human Rights Act was clarified last spring by a ruling of the Minnesota Court of Appeals. For a long time, the law limited such claims unless adverse action was taken against the “institution of marriage” itself, regardless of the identity of the spouses. This restriction stemmed from a ruling of the Minnesota Supreme Court in *Cybyski v. Ind. Sch. Dist.* #196, 347 N.W.2d 256 (Minn. 1994), *cert. den’d* (469 U.S. 1994). But the Minnesota Court of Appeals put that limitation to rest in *Taylor v. LSI Corporation of America*, holding that a “marital status” employment claim can be brought under Minn. Stat. §363A.08, subd. 2, for the adverse action taken against an employee because of the identity of the spouse, irrespective of the employer’s intent to target “the institution of marriage itself.” The court relied upon a post-*Cybeski* amendment to the status statute extending its protection to “discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse,” which occurred four years after the *Cybeski* case. Under the *Taylor* ruling, employees who are subject to discipline or other adverse action attributable to the identity or conduct of a spouse (or exspouse) may pursue an actionable claim, subject to satisfying the three-prong standard for bias suits under the statute. Claimants and their advocates must show a causal connection between the adverse action and the other spouse, while employers defending on such claims should try show that the action was taken for independent reasons unrelated to the person’s spouse.



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▼ TELEPHONIC SEARCH WARRANTS

A request for a telephonic search warrant may only be made in circumstances that make it reasonable to dispense with a written affidavit. If the court deems the request reasonable, there are seven procedural steps the court must follow:

1. Record the entire conversation. The judge (or requesting officer) must record verbatim (electronically, stenographically, or by longhand) the testimony of all persons involved in making the warrant application.
2. Place under oath the applicant (officer) and each person who will testify.
3. The officer must prepare and read verbatim to the judge the “application for search warrant and warrant.”
4. The judge must prepare an “original warrant” by recording, verbatim, what has been read by the officer. Any modifications made by the judge must be included on the original and the duplicate original warrant.
5. Upon a finding of “probable cause,”

the judge directs the officer to sign the judge’s name on the duplicate original warrant (include date and time).

6. The judge then signs the original warrant and enters on the face of the original warrant the exact time the judge signed it.

7. After warrant is issued, the following post procedures must be followed:

- The recording must be transcribed, as soon as practical.
- The actual tape recording and transcription must be submitted to the judge, as soon as practical.
- The judge must certify the accuracy of the transcription. If the record is longhand the judge must sign it.
- The following must be filed with the court within ten days. a) the original warrant (the one prepared by the judge); b) the duplicate original warrant (the one prepared by the officer); c) the certified transcript of the recorded oral application; d) the actual tape recording (or other medium used to record, *i.e.* longhand).

All other requirements for the issuance of a warrant must also be met, including the basis for a no-knock and night-time warrant.

Hon. Alan Pendleton

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Judge Pendleton’s
tip on Telephonic
Warrants.

