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## Sexism in Iowa Law

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# OPINION

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## LETTERS TO THE EDITOR

### *Sexism in Iowa law*

**W**OULD YOU BELIEVE that a female worker in Iowa who is laid off from a seasonal job could be denied unemployment-compensation benefits on the ground that she is customarily self-employed solely by virtue of being a housewife? It's true.

In 1939, two years after enacting an unemployment-insurance law, the Iowa Legislature amended it in a blatantly discriminatory fashion to single out a married woman as ineligible for benefits insofar as she devoted "the major portion of her working time and efforts to . . . her duties as housewife" (Iowa Code 96.19.18).

Ironically, this exceptional recognition of the economic value of women's reproductive labor did not redound to their benefit. Moreover, this provision remained on the books until 1984 when it fell victim, not to the Legislature's correction of its earlier sexist enactment, but to inadvertent tampering by the Iowa Code editor.

The Legislature has authorized the Code editor to edit statutes "in order that words which designate one gender will be changed to reflect both genders when the provisions of law apply to persons of both genders." But the Code editor is expressly prohibited from making "any substantive changes." The new gender-neutral wording now applies to any "employee's household duties."

The Code editor has made an unauthorized substantive change. In 1939, the Iowa Legislature obviously intended to discriminate against married women. The Code editor has no authority to eliminate this bias through the back door. Instead, the Iowa Legislature should be embarrassed into publicly renouncing its historical discriminatory intent.

If it ever gets around to doing so, the Legislature should also consider deleting altogether the disqualification for failure to "return to customary self-employment." Despite advice from the federal Social Security board a half-century ago not to adopt such a provision, Iowa remains one of the very few states retaining this unnecessary restriction; it is also the only state that expressly defines household duties as self-employment that disqualifies claimants for benefits.

This provision leaves open the possibility that virtually everyone with a home might be deemed self-employed and therefore ineligible for benefits. In order to avoid this palpably absurd result, the Legislature should . . . mandate use of the established requirement that a recipient of unemployment compensation benefits apply for and accept suitable work when offered. — Gail Hollander, graduate student, University of Iowa, and Marc Linder, visiting professor of law, University of Iowa, Iowa City.