

Differently Worded Provisions

Racing Association of Central Iowa v. Fitzgerald
675 N.W.2d 1 (Iowa 2004)

State v. Brown
930 N.W.2d 840 (Iowa 2019)

Racing Association of Central Iowa v. Fitzgerald

675 N.W.2d 1 (Iowa 2004)

U.S. Constitution, Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.

Iowa Constitution, Article 1, § 6

All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not apply equally to all citizens.

State v. Brown

930 N.W.2d 840 (Iowa 2019)

**State court rulings that address
both federal and state bases for
decision**

Ohio v. Robinette

653 N.E.2d 695 (Ohio 1995)

519 U.S. 33 (1996)

685 N.E.2d 762 (Ohio 1997)

Important Precedent:

Michigan v. Long

463 U.S. 1032 (1982)

Compare & Contrast

Racing Association of Central Iowa v. Fitzgerald

675 N.W.2d 1 (Iowa 2004)

Ohio v. Robinette

685 N.E.2d 762 (Ohio 1997)

Sequencing

In what order should a state court resolve state and federal constitutional claims?

1. “Primacy” approach
2. “Dual sovereignty” approach
3. “Interstitial” or “Secondary” approach

What does “equality” mean?

- People being treated the same
- Similar access to opportunities
- “Substantive” equality
- Legal / Social / Economic / Political / Religious
- Question of equity? Never total equality

Federal Constitutional Backdrop

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.”

U.S. Constitution, Fourteenth Amendment.

How might constitutional guarantees differ?

“All people are created equal and are entitled to equal rights and opportunity under the law.” Wis. Const. art. I, § 1

“Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.” Utah Const. Art. IV, § 1.

Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas. Mont. Const. Art. II § 4.

“No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability.” Conn. Const. Art I. § 20.

Tiers of scrutiny

Rational basis

Applies when no suspect classification is at issue.

To survive judicial review, the law must serve a *legitimate* government interest and there must be a *rational connection* between the law's means and that interest.

Intermediate scrutiny

Applies to quasi-suspect classifications such as gender.

To survive judicial review, the law must further an *important* government interest and must do so by means that are *substantially related* to that interest.

Strict scrutiny

Applies to suspect classifications such as race, national origin, and religion.

To survive judicial review, the law must further a *compelling* government interest and law must be *narrowly tailored* to achieve that interest.

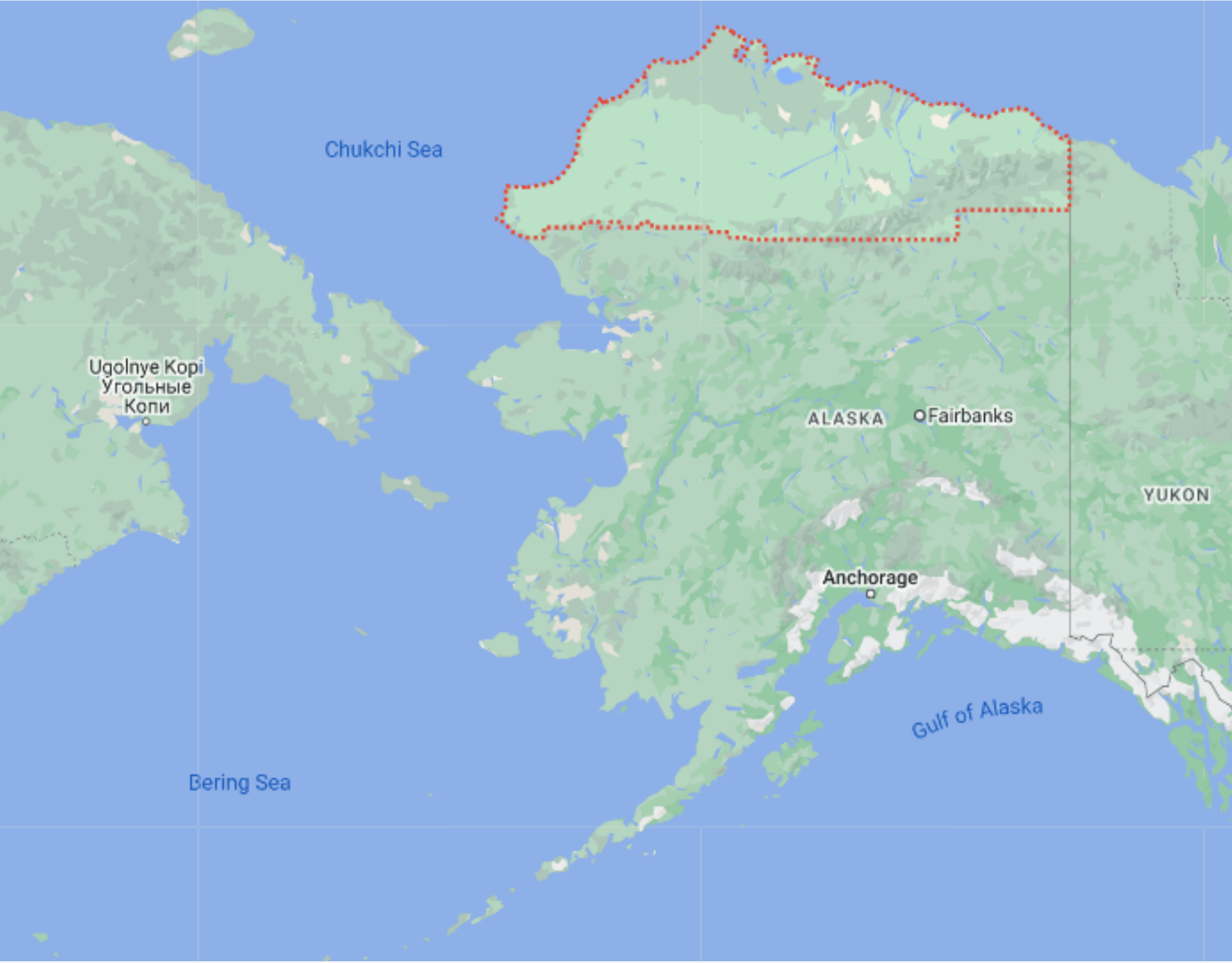
Malabed v. North Slope Borough

70 P.3d 416 (Alaska 2003)

Important Precedent:

Morton v. Mancari

417 U.S. 535 (1974)



“[A]ll persons are equal and entitled to equal rights, opportunities, and protection under the law.”

Article I, § 1, Alaska Const.

“No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin.”

Article I, § 3, Alaska Const.

Three-step sliding scale test

1. Weight of the interest impaired
2. Importance of purpose behind government action
3. Means-to-end fit

Commonwealth v. Penn. Interscholastic Athletic Ass'n

334 A.2d 839 (Pa. Commw. Ct. 1975)

“Girls shall not compete or practice against boys in any athletic contest.”

Athletic Association by law.

“Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual.”

Art. I, § 28, Penn. Const.

State v. Rivera

612 P.2d 526 (Haw. 1980)

“Equality of rights under the law shall not be denied or abridged by the State on account of sex.”

Art. 1, § 21, Hawaii Const.