

Sec. 25.05.011. Civil contract.

(a) Marriage is a civil contract entered into by one man and one woman that requires both a license and solemnization. The man and the woman must each be at least one of the following:

- (1) 18 years of age or older and otherwise capable;
- (2) qualified for a license under AS 25.05.171; or
- (3) a member of the armed forces of the United States while on active duty.

(b) A person may not be joined in marriage in this state until a license has been obtained for that purpose as provided in this chapter. A marriage performed in this state is not valid without solemnization as provided in this chapter.

History -

(Sec. 1 ch 58 SLA 1963; am Sec. 9 ch 245 SLA 1970; am Sec. 92 ch 127 SLA 1974; am Sec. 1 ch 28 SLA 1975; am Sec. 1 ch 21 SLA 1996)

Decisions -

License mandatory. - Provision requiring a marriage license is mandatory and not merely directive. *Edwards v. Franke*, 364 P.2d 60 (Alaska 1961), decided under former Sec. 21-1-1, ACLA 1949.

Alaska's same-sex marriage laws violate equal protection and due process clauses of Fourteenth Amendment. - Alaska's ban on same-sex marriage and refusal to recognize same-sex marriages lawfully entered in other states as set forth in Alaska Const. art. 1, Sec. 25 and AS Sec. 25.05.011, 25.05.013, is unconstitutional as a deprivation of basic due process and equal protection principles under the Fourteenth Amendment of the U.S. Constitution. No state interest provides exceedingly persuasive justification for the significant infringement of rights that they inflict upon homosexual individuals. *Hamby v. Parnell*, 56 F. Supp. 3d 1056 (D. Alaska 2014).

And marriage relationship without license is invalid. - A marriage relationship sought to be effected without the benefit of a marriage license is invalid. *Edwards v. Franke*, 364 P.2d 60 (Alaska 1961), decided under former Sec. 21-1-1, ACLA 1949.

Common law marriages are not valid in Alaska. *Burgess Constr. Co. v. Lindley*, 504 P.2d 1023 (Alaska 1972); *United States v. Lustig*, 555 F.2d 737 (9th Cir. 1977), cert. denied, 434 U.S. 1045, 98 S. Ct. 889, 54 L. Ed. 2d 795 (1978).