April 5, 2022

Senator David Wilson
Chair, Senate Health & Social Service Committee
State Capitol – Room 121
Juneau, Alaska 99801

Re: Opposition to HB 62

Dear Senator Wilson:

Alaska Family Action urges you to oppose House Bill 62, which proposes several changes to statutes that regulate marriage. We believe this bill is a solution in search of a problem.

The first significant change proposed by HB 62 is to eliminate the current statutory requirement for two witnesses at a marriage solemnization ceremony. The rationale for this proposed change is to remove an inconvenience for the "wedding tourism" industry. With respect, we believe that Alaska has far more important interests at stake in marriage than promoting greater profits for a segment of our tourism industry.

Alaska's law requiring witnesses is not unusual. About half of states require one or more witnesses for a marriage to be solemnized. State law also requires witnesses for other serious matters, such as self-proved wills, supported decision-making agreements, certain agreements for organ donations, even casting an absentee ballot. The requirement for witnesses provides a tangible reminder to the parties involved that the action being taken is a serious one.

In our pluralistic society, there are diverse views about the cultural and religious significance of marriage. But even if we view marriage strictly as a legal contract, it remains a weighty matter. Marital status comes attached with many legal benefits, and also many responsibilities. Most married couples have children, and thus the successful rearing of future generations depends on the health of marriages.

The role of government in promoting healthy marriages and families is very limited. However, to say that it is limited does not mean it is trivial or inconsequential. The benefits to state government from healthy marriages and families are enormous. Conversely, when marriages fail and families break apart, it creates huge burdens on state government. Alaska's marriage statutes could indeed be improved, but we should consider reforms that emphasize the gravity of the marriage commitment, rather than removing witnesses or making other changes that suggest that marriage contracts are a casual matter.

A second significant change proposed by HB 62 concerns the age of consent for marriage. This portion of the bill was added as an amendment adopted on the House floor and received no scrutiny at the committee level, which is problematic.

Existing law (AS 25.05.01) states that a person 18 years of age or older may enter into a marriage, and a person who is 16-17 years of age can be married if parental consent has been granted. HB 62 does not change these consent ages, but it does change the provision concerning marriage of minors who are 14 or 15 years old.

Under current statute (AS 25.05.171(b)), marriage of a minor only 14 or 15 years of age is complicated and would ordinarily require both parental consent and permission from a judge. The superior court judge would have to conduct a hearing at which the parents and the minor are given the opportunity to appear and be heard, and the judge would have to find that the marriage is in the best interest of the minor.

As might be expected, the number of cases in which both parents and a judge agree that marriage is in the best interests of a 14 or 15-year-old minor are exceedingly rare. According to data from the Health Analytics and Vital Records section of DHSS, during the 10-year period from 2006 to 2015, a total of 55,722 persons entered into marriages in Alaska. Of these, only 13—one out of every 4,286—were persons of the age of 14 or 15.

HB 62 strikes the entire section of law concerning marriage for persons who are 14 or 15 years of age. The practical effect is to make marriage of 14 and 15-year-olds impossible. Parents would not even have the option of providing consent, and neither minors or parents would be able to petition the court for a ruling that marriage is in the best interests of the minor.

The stated purpose for this change is to protect minors from being exploited. While this is a laudable goal, it must be carefully balanced with the interests of the minor and the minor's parents to make a decision that is in accordance with their cultural and religious values. We are not convinced that HB 62 strikes this proper balance.

Is there any concrete evidence demonstrating that the current legal process, requiring a court to issue a "best interest finding," is inadequate to protect minors from exploitation or coercion? Has the Alaska Court System been invited to provide input on this matter? Has the legislature obtained any testimony from attorneys, parents, and minors who have participated in the current process for securing court permission for an under-age marriage? These seem like relevant questions that a legislative committee would want to ask before making a change to our marriage law.

In addition, the legislature should scrutinize the change proposed by HB 62 in the broader context of the whole array of state laws that are designed to safeguard the welfare of minors and the ability of parents to protect their children.

During the House floor debate on HB 62 on March 9, Representative DeLena Johnson offered some meaningful comments, excerpts of which we quote below:

> "I just want to say on the record that my mom was married at 14… and was married with my father for many, many years until they passed away. [They] would have had a number of children that were illegitimate if not able to marry…"
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> "…Have times changed? Maybe, but people haven't. People sometimes make decisions at a young age. People sometimes have to work at a young age. Sometimes, people become adults at a young age."
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> "I have not had an upswelling of people from my district asking me to change the marriage laws. I have had people speak to me about access to contraceptives at a young age, at 12, 13, 14, 15, 16, without parental consent."

We believe Rep. Johnson makes a valid point. In Alaska today, the law explicitly allows a 14-year-old minor to obtain contraceptives without a parent even knowing about it, much less providing consent (see AS 25.20.025(a)(4)). A 14-year-old can even obtain an abortion without a parent knowing about it. Yet under HB 62, this same 14-year-old minor would be prohibited from getting married—even if her parents consented, and even if a court found that the marriage was in her best interest.

There is a cognitive dissonance baked into our current statutes concerning the rights and responsibilities of minors and their parents. We believe the legislature should take a comprehensive look at this entire area of law and not rush to make changes in the age of consent for marriage until this issue has received more thorough scrutiny.

Sincerely,

Jim Minnery, President
Alaska Family Action