

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 29, 2006

2:36 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson
Representative John Coghill
Representative Pete Kott
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 308

"An Act relating to false caller identification."

- MOVED CSHB 308(JUD) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 32

Proposing an amendment to the section of the Constitution of the State of Alaska relating to marriage.

- HEARD AND HELD

HOUSE BILL NO. 325

"An Act relating to post-conviction DNA testing; and amending Rule 35.1, Alaska Rules of Criminal Procedure."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 414

"An Act relating to allowing a parent or guardian of a minor to intercept the private communications of the minor and to consent to an order authorizing law enforcement to intercept the private communications of the minor."

- BILL HEARING POSTPONED TO 3/31/06

PREVIOUS COMMITTEE ACTION

BILL: HB 308

SHORT TITLE: CALLER ID HACKERS

SPONSOR(S): REPRESENTATIVE(S) LYNN

05/08/05 (H) READ THE FIRST TIME - REFERRALS
05/08/05 (H) JUD, FIN
03/22/06 (H) JUD AT 1:00 PM CAPITOL 120
03/22/06 (H) <Bill Hearing Postponed to 03/24/06>
03/24/06 (H) JUD AT 1:00 PM CAPITOL 120
03/24/06 (H) <Bill Hearing Postponed to 03/29/06>
03/29/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HJR 32

SHORT TITLE: CONST. AM: BENEFITS & MARRIAGE

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/10/06 (H) READ THE FIRST TIME - REFERRALS
02/10/06 (H) JUD, FIN
03/15/06 (H) JUD AT 1:00 PM CAPITOL 120
03/15/06 (H) -- Meeting Canceled --
03/17/06 (H) JUD AT 1:00 PM CAPITOL 120
03/17/06 (H) -- Meeting Canceled --
03/27/06 (H) JUD AT 1:00 PM CAPITOL 120
03/27/06 (H) <Bill Hearing Postponed to 03/29/06>
03/29/06 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

TIM MURPHY, Congressman
U.S. House of Representatives
Upper St. Clair, Pennsylvania
POSITION STATEMENT: Provided comments, shared a personal
example, and responded to questions during discussion of HB 308.

REPRESENTATIVE BOB LYNN
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 308.

DIRK MOFFATT, Staff
to Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: During discussion of HB 308, provided a
comment on behalf of the sponsor, Representative Lynn.

ROBERT DOUGLAS

PrivacyToday.com

Steamboat Springs, Colorado

POSITION STATEMENT: Provided comments during discussion of HB 308.

KEVIN G. CLARKSON, Esq., Attorney at Law

Brena, Bell & Clarkson, PC

Anchorage, Alaska

POSITION STATEMENT: On behalf of Legislative Council, provided comments during discussion of HJR 32, and responded to questions.

MAUREEN LONGWORTH, M.D.

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 32, provided comments on behalf of both herself and the Alaska Academy of Family Physicians.

DOUG VEIT

Craig, Alaska

POSITION STATEMENT: Expressed concerns with HJR 32.

KEVIN DOUGHERTY

Eagle River, Alaska

POSITION STATEMENT: Testified in support of HJR 32.

LAURA MOSLEY-MINNE

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 32, expressed concerns and requested that the committee not allow HJR 32 to move forward.

KIM PATTERSON

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 32, provided comments and expressed his hope that the resolution will pass and go before the voters.

DEBBIE JOSLIN

Eagle Forum Alaska

Delta Junction, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 32, and asked that the resolution be passed.

KAREN TAFT WELLS

Juneau, Alaska

POSITION STATEMENT: Expressed concerns during discussion of HJR 32.

BEN KRALL

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

CINDY BOESSER

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

BARBARA BELKNAP

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

JAMES GRAY

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

GREG SCHMIDT

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 32.

CHARLES L. O'CONNELL

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

RANDY MAGEN, Ph.D., President

Alaska Chapter

National Association of Social Workers (NASW)

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

LIN DAVIS

Juneau, Alaska

POSITION STATEMENT: Provided comments on HJR 32 and urged the committee to vote no on it.

SIDNEY HEIDERSDORF

Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 32.

DIXIE A. HOOD

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 32, provided comments and urged the committee to stop the proposal to deny rights and benefits based on marital status.

AMY PAIGE

Juneau, Alaska

POSITION STATEMENT: Urged the committee to refrain from passing HJR 32.

MARY ELIZABETH RIDER

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

MARINA DAY

Fairbanks, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 32 and asked the committee not to pass it.

JEANNE LAURENCELLE

Social Action Committee

Unitarian Universalist Fellowship of Fairbanks

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 32, provided comments and urged the committee to oppose the legislation.

JIM MINNORY

Alaska Family Council

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 32, provided comments and urged the committee to vote in favor of the resolution so as to allow it to go before the voters.

STEVEN JACQUIER

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 32, expressed concerns and asked the committee to defeat the resolution.

FRANCIS MANYOKY

Eagle River, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

ACTION NARRATIVE

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at [2:36:36 PM](#). Representatives McGuire, Gara, Kott, and Coghill were present at the call to order. Representatives Gruenberg and Anderson arrived as the meeting was in progress.

HB 308 - CALLER ID HACKERS

2:38:26 PM

CHAIR McGUIRE announced that the first order of business would be HOUSE BILL NO. 308, "An Act relating to false caller identification." [In committee packets was a proposed committee substitute (CS) for HB 308, Version 24-LS0779\F, Bannister, 1/25/06.]

2:38:40 PM

TIM MURPHY, Congressman, U.S. House of Representatives, relayed that in October, 2005, his office in Pittsburgh received nearly 100 calls from constituents who'd received recorded phone messages that were politically critical of him; what was of particular concern was that the caller identification (ID) number that appeared on the constituents' phones was that of his congressional office. He went on to say:

Needless to say, the calls did not come from my office, and my constituents were confused, annoyed, and asked me to stop making the calls. Their complaints, in fact, tied up my phone line in my district office for a good two days. The calls stated, in their recording, that they were sponsored by an unknown group called, "We the People" that have lobbed similar calls from the districts of my colleagues in Congress. Stealing, masking, or otherwise altering one's caller identification is certainly a deceptive, unaccountable practice that exasperates citizens. When these calls are directed at elected officials, these anonymous attacks also undermine the political process, which is [an] important part of the democracy.

And those who commit caller ID fraud for political reasons are essentially the snipers of politics because they anonymously fire attacks at candidates and public officials without accountability or the possibility of a truthful rebuttal. As it turns out, the information they were providing in these calls was false. What's important to bear in mind is, I think they're motivated by the idea that if they convince 1 out of 100 people that they call, these fraudulent callers would likely consider their campaign a success, and that's why they continue to do that -

they don't really care how many constituents they've bothered along the way.

But consider the effects of the false use of caller ID in other areas. Past federal and state efforts to block unwanted phone solicitations with do-not-call lists [were] ... supposed to provide some privacy for citizens, but when someone hijacks your phone number, they can bypass that protection. In the U.S. House [of Representatives], I'm working, now, with my colleagues, to enact legislation that stops those who engage in this misleading [indisc.]. Why? Because of some of the problems it causes. The reason to enact a law to penalize caller ID fraud is not just ... to protect politicians, but ... to protect American families, because illegally using another person's phone number could have limitless unlawful applications, including being used for physical threats to other citizens, businesses, schools, and so on.

And of course it doesn't take much imagination to understand how dangerous this ability could be for unlawful people: criminals seeking personal financial information from citizens by falsely using a bank's phone number; a pedophile stalking children using a school's phone number; ... a sexual predator using a doctor's office phone number; [or] a terrorist making threats from a government phone number. So I salute your efforts to fight back against caller ID fraud perpetrators, and I'm going to continue my work to enact caller ID fraud protection for all Americans. In the meantime, I'm pleased that my good colleagues in Alaska are working hard at this and really setting up a pace of leadership for our nation that the rest of the states should follow, and urge your considerations to enact this bill to protect all Alaskans.

CONGRESSMAN MURPHY, in response to a question, relayed that he represents the 18th congressional district of Pennsylvania.

REPRESENTATIVE KOTT asked what kind of sanctions or penalties are being proposed via the aforementioned federal legislation.

CONGRESSMAN MURPHY said they were still exploring options, options such as levying a fine for each instance of a call;

researching how the Federal Communications Commission (FCC) proposes to deal with this issue; or adding a fine on top of some other criminal penalty. Using fraudulent caller ID numbers is not a matter of free speech, and the goal is to protect people from those that would use such numbers for criminal purposes.

2:44:01 PM

REPRESENTATIVE KOTT moved to adopt the proposed committee substitute (CS) for HB 308, Version 24-LS0779\F, Bannister, 1/25/06, as the work draft. There being no objection, Version F was before the committee.

2:44:30 PM

REPRESENTATIVE BOB LYNN, Alaska State Legislature, sponsor, said that one should be careful when looking at the name and number provided by a telephone caller ID mechanism because they could be phony; the fraudulent use of names and numbers in this manner could be part of a joke, but it could also be part of a criminal activity. A child molester could be calling one's children, or a person could be claiming to be the police or a school official or one's doctor's office. Someone could use this form of fraud to destroy another's good reputation. The power to create serious mischief with caller ID "spoofing" technology is almost unlimited, from simple pranks, to spying, to telemarketing, to fraud, and to enticing victims to dangerous locations.

REPRESENTATIVE LYNN opined that although the FCC and the Federal Bureau of Investigation (FBI) are most often the entities dealing with caller ID spoofing, Alaska can take steps by publicizing the threat and making it a class B misdemeanor to insert false information into a caller ID system. The bill, however, does contain an exemption for municipal, state, and federal law enforcement agencies. He concluded by asking for support for the legislation.

2:48:06 PM

DIRK MOFFATT, Staff to Representative Bob Lynn, Alaska State Legislature, sponsor, added on behalf of Representative Lynn that a "spoof card" - a sample of which has been provided in members' packets - can be purchased for between \$10 and \$40, and that such cards allow the caller to change the number that is displayed on someone else's caller ID system or even change the

sound of the caller's own voice; if one can use a calling card, one can "caller spoof."

REPRESENTATIVE KOTT asked what the penalty is for impersonating a police officer.

REPRESENTATIVE LYNN said he didn't know.

REPRESENTATIVE KOTT questioned whether it is a crime to impersonate others, particularly those in positions of authority. He offered his belief that under certain circumstances, a class B misdemeanor is too low a penalty, and asked the sponsor whether he'd given thoughts to increasing the level of penalty should one be caught attempting to impersonate a police officer via fraudulent caller ID technology. For example, a person could call up a homeowner, claim to be a police officer, instruct the homeowner to vacate the home for a specified period of time, and then burgle the home during that timeframe. Could a higher penalty be imposed if such a person were caught before the successful completion of the burglary if fraudulent caller ID technology was used?

REPRESENTATIVE LYNN said he is assuming that there is a penalty for impersonating a police officer, or, if there isn't one currently, there certainly should be. He characterized the use of spoofing technology to impersonate a police officer as more egregious behavior than if such technology were used to impersonate some other type of person, and thus he would be friendly towards any amendment that would raise the penalty for impersonating a police officer via the use of fraudulent caller ID technology.

CHAIR MCGUIRE noted that there are statutes pertaining to criminal impersonation in the first degree and criminal impersonation in the second degree - AS 11.46.565 and AS 11.46.570:

Sec. 11.46.565. Criminal impersonation in the first degree.

(a) A person commits the crime of criminal impersonation in the first degree if the person

(1) possesses an access device or identification document of another person;

(2) without authorization of the other person, uses the access device or identification document of another person to obtain a false identification document, open an account at a financial institution,

obtain an access device, or obtain property or services; and

(3) recklessly damages the financial reputation of the other person.

(b) Criminal impersonation in the first degree is a class B felony.

Sec. 11.46.570. Criminal impersonation in the second degree.

(a) A person commits the crime of criminal impersonation in the second degree if the person

(1) assumes a false identity and does an act in the assumed character with intent to defraud, commit a crime, or obtain a benefit to which the person is not entitled; or

(2) pretends to be a representative of some person or organization and does an act in the pretended capacity with intent to defraud, commit a crime, or obtain a benefit to which the person is not entitled.

(b) Criminal impersonation in the second degree is a class A misdemeanor.

REPRESENTATIVE KOTT surmised, then, that under AS 11.46.570, the person could be charged with a class A misdemeanor.

CHAIR MCGUIRE concurred, but noted that HB 308 provides for a class B misdemeanor penalty.

REPRESENTATIVE COGHILL said it seems as though it would be difficult to either prove a person used fraudulent caller ID technology, or to track down someone who has used it.

REPRESENTATIVE LYNN suggested that it might be possible to backtrack to the person who is using such technology.

CHAIR MCGUIRE, in response to questions, pointed out that HB 308 provides for a mental state of "knowingly," and surmised that someone might be charged with this particular crime once another crime is committed or a complaint is received and the victim reports that he/she received a phone call from someone who turned out to not be the person listed on his/her caller ID system. For example, one could report that one's child is getting repeated phone calls from someone who seems to be using fraudulent caller ID technology, and then that situation could be investigated by law enforcement.

REPRESENTATIVE COGHILL pondered whether they were creating a crime that can't be enforced.

REPRESENTATIVE GARA acknowledged that this type of crime could be very hard to prove, but offered his understanding that a fraudulent caller ID would be recorded on a caller ID system and so someone might be caught in that fashion.

CHAIR McGUIRE remarked that "knowingly" is a high standard.

[2:57:07 PM](#)

ROBERT DOUGLAS, PrivacyToday.com, relayed that he's spent the last nine years as an information security consultant, specifically examining information brokers and others who use various types of deceit in order to obtain personal information and, in many cases, sell it on the Internet. He mentioned that he recently testified in the House and Senate of the U.S. Congress on [certain] issues, including the issue of caller ID spoofing. Mr. Douglas said that he would like to adopt the comments made by Congressman Murphy and Representative Lynn and point out that the services are being used at a substantial volume. Furthermore, there are investigations underway and although those investigations are in their infancy, it's evident that these services and devices are being used successfully to deceive both consumers and American businesses into divulging proprietary and personal information.

MR. DOUGLAS said that these devices are also being used against banks, companies, and the military. Furthermore, they are used in corporate espionage, defeating the federal and state "do not call" lists, and by pedophiles and stalkers. He then referred to a case that occurred in New Hampshire in which deceit was used in a murder case. He explained that a woman named Amy Boyer was stalked by a number of years by a Liam Uen. Mr. Uen was documenting the stalking and his intent to kill Ms. Boyer and others. Moreover, Mr. Uen went to a number of information brokers to obtain personal information about Ms. Boyer in order to assist him in conducting the murder. Mr. Uen used a company that called Ms. Boyer's mother pretending to be an insurance company that had a refund for Ms. Boyer that needed to be processed through her employer. Ms. Boyer's mother thought it was a legitimate request and turned over Ms. Boyer's work address. Within weeks, Ms. Boyer was gunned down at her place of employment.

MR. DOUGLAS opined that the aforementioned example graphically illustrates that if these services can be used to convince the recipient of a phone call that they are from an organization to which the information can be legitimately released, the more likely they are to succeed. He posited that there is really no legitimate purpose for these services, and therefore he applauded the introduction of HB 308.

REPRESENTATIVE GRUENBERG referred to page 1, line 6, and offered his belief that a national security agency may potentially have to do this. Therefore, he questioned whether the language "or national security agency" should be inserted after "law enforcement agencies".

[3:02:09 PM](#)

REPRESENTATIVE LYNN said that he would accept the aforementioned as a friendly amendment.

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1, to insert, on page 1, line 6, after the words, "law enforcement agencies", the words, "or national security agencies". There being no objection, Conceptual Amendment 1 was adopted.

CHAIR MCGUIRE, after ascertaining that no one else wished to testify, closed public testimony on HB 308.

REPRESENTATIVE GARA said that he couldn't think of any unintended consequences of this legislation, but suggested that some thought be given to any possibilities. He surmised that political polls would be swept in by this legislation as well, which he said may not be a bad thing. He then said that the legislation should be moved out of the committee.

REPRESENTATIVE LYNN pointed out that HB 308 addresses the utilization of an actual device that can be purchased at various stores. He also pointed out that those performing polls do so using a regular telephone call.

[3:04:42 PM](#)

REPRESENTATIVE ANDERSON moved to report the proposed CS for HB 308, Version 24-LS0779\F, Bannister, 1/25/06, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB

308(JUD) was reported from the House Judiciary Standing Committee.

HJR 32 - CONST. AM: BENEFITS & MARRIAGE

[Contains brief mention of SJR 20, Senate companion bill to HJR 32.]

3:05:01 PM

CHAIR MCGUIRE announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 32, Proposing an amendment to the section of the Constitution of the State of Alaska relating to marriage.

3:05:11 PM

REPRESENTATIVE COGHILL, speaking as the sponsor, relayed that HJR 32 was engendered by the Alaska Supreme Court ruling in the 2005 Alaska Civil Liberties Union v. State & Municipality of Anchorage case regarding benefits for same-sex couples, a ruling with which he disagrees. He offered his belief that in passing the 1998 [marriage] amendment to the Alaska State Constitution, 68 percent of the voters also had the expectation that no benefits would be granted based on same-sex relationships. [Via HJR 32], he is proposing that the people of Alaska get a chance to speak to this issue specifically; he said his concern is that the movement to establish that same-sex relationships are equal to marriage will have a huge impact on Alaska's whole body of law, and his hope, as the resolution continues through the process, is to have statutes and other [provisions of law] [underscore] his belief that [no benefits should be granted based on same-sex relationships].

REPRESENTATIVE COGHILL said he is concerned that the only way the people of Alaska will have an opportunity to speak to this issue is via a constitutional amendment, and although he is reluctant to propose any amendment to the Alaska State Constitution, his view is that there is a tension between what the people of Alaska think and what the courts think. He opined that the legislature has been clear regarding same-sex relationships, even putting it in statute that the benefits of marriage would not be afforded to same-sex couples; the legislature has been clear on what a marriage is, what the benefits of marriage are, to whom they belong, and yet the courts have gone right around that.

REPRESENTATIVE COGHILL surmised that some will raise the argument that [HJR 32] is discriminatory, and he somewhat agrees; "it's discrete that a marriage should be between a man and a woman, and the benefits of marriage should be between that man and that woman in that marriage." To allow another relationship to be equal to or congruent with marriage is not something that "we as a society" should do, he opined. He said he would like to appeal to the people of Alaska and ask them if "that's what they really mean." Again, there is a tension between how the courts view this issue and how the people view it, but unless the people get a chance to speak, there will only be the court's viewpoint to go by.

REPRESENTATIVE COGHILL characterized the language of HJR 32 as being fairly clear, noting that it says in part, "No other union is similarly situated", remarking that the term "similarly situated" comes directly from the aforementioned Alaska Supreme Court decision in which the court equated a same-sex relationship to marriage. And so by necessity, he opined, the language in the Alaska State Constitution must be changed so that it speaks to the issue of whether the rights, benefits, obligations, qualities, and effects of marriage should be extended to any other union.

REPRESENTATIVE COGHILL said he is sympathetic towards people who need healthcare coverage and benefits, but he stands firm in his belief that the relationship of marriage is one of the "health cornerstones" of the country. He relayed that he would speak more on this issue after the public has testified.

[3:11:44 PM](#)

REPRESENTATIVE GARA said he doesn't think the sponsor has stated the issue the way he thinks it is being presented to [the legislature]. He elaborated:

I think the voters, in 1998, said marriage shall be between a man and a woman, and I think you can respect that and separately consider the issue ... [of] whether ... people who are not heterosexual are entitled to health benefits at work. I think they're separate questions, and I don't believe that you would disrespect the [Alaska State] Constitution, the prohibition against same-sex marriage, by letting somebody get health benefits for working - or their partner. I certainly understand there might be an opposition to that latter concept; we can have that

debate, and I want [to] ... hear the discussion on whether ... we should limit health benefits to only straight couples, but I don't think that has anything to do with the separate question of same-sex marriage. And so I guess I don't agree with your characterization of the issue.

CHAIR McGUIRE asked members to refrain from using witnesses to profess their own views.

[3:14:38 PM](#)

KEVIN G. CLARKSON, Esq., Attorney at Law, Brena, Bell & Clarkson, PC, relayed that he'd been retained by Legislative Council to provide legal advice regarding the recent Alaska Supreme Court case, ACLU v. State & Municipality of Anchorage, and the proposed amendments - SJR 20 and HJR 32 - that were introduced in response to that case. He then said:

By way of introduction, I was legal counsel for the Alaska legislature in 1998 in the legal action that related to whether the marriage amendment, Article I, Section 25, would remain on the ballot so that the people of Alaska could vote to ratify it. I also represented the Alaska legislature in the original same-sex marriage case itself, and I was one of the primary drafters of the marriage amendment. Now, in order to understand the significance of HJR 32, it's essential to understand the history that has lead up to its introduction in the legislature at this time. Relevant history, I think, includes events in the United States Congress, the Lower 48 states, also in Alaska.

Now, in 1996, Congress adopted the federal Defense of Marriage Act - DOMA. Congress passed [the] DOMA because of a decades-long assault that had been made in various courts challenging the definition and constitutionality of marriage, and particularly in response to a Hawaii court decision at that time. [The] DOMA has two sections: one defining "marriage" for purposes of federal law, and the other affirming federalism principles under the authority granted by Article IV, Section 1, of the U.S. Constitution, which is the full faith and credit clause. The first section of [the] DOMA states that for purposes of federal law, marriage means a legal union between a

man and a woman. The second ... section reaffirmed the power of the states to make their own decisions about marriage.

By way of [the] DOMA, all of the various attributes, benefits, and privileges of marriage that are created or assigned by federal law, are assigned or provided only to, one, "marriages," which are limited to only legal unions between one man and one woman as husband and wife, or, two, "spouses," which is defined in [the] DOMA as a person of the opposite sex who is a husband or a wife. Thus, under [the] DOMA, and under federal law, none of the various attributes, benefits and/or privileges of marriage that exist under federal law are available to any unmarried couples, whether same sex or opposite sex. Now, in Alaska, ... the marriage amendment was ratified by the people, on a vote of 68 percent to 32 percent.

MR. CLARKSON continued:

Now, the Alaska marriage amendment can be said to have its origin in reaction to a specific judicial decision, much like HJR 32; the marriage amendment was ratified in response to a decision by ... [an Alaska] Superior Court judge in a case called Brause v. Bureau of Vital Statistics. On February 28, 1998, that ... judge ruled that the Alaska [State] Constitution provided a fundamental right to marry someone of the same sex.

Now, the history of Alaska's marriage statute, which is relevant as well, dates back to about the early turn of the century; Alaska's marriage statute is based on a territorial law, which defined marriage as being a civil contract entered into between males of the age of 21, and females of the age of 18. In [1959] the law was changed slightly to change the ages that people could marry at; in 1970, the statute was modified to reduce, from "21" to "19," the age at which a man could marry. And, up to this point in time, Alaska's marriage statutes clearly restricted marriage to one man and one woman - along with all the benefits and attributes of marriage that went along with marriage.

Now, something very interesting, and also very unintended, occurred in 1974. The Alaska revisor of statutes set upon the task of rendering Alaska's statutes "gender neutral" in language and, in the process, made two unintended substantive changes to the marriage statute, one clear and express and the other implicit. ... Now, mind you, the revisor of statutes has no authority whatsoever to be changing the substance of Alaska statute; that's something that only the legislature is supposed to be doing, or the people, by initiative, but nonetheless it occurred. The express substantive change which the revisor of statute's made was to change the age of permissible marriage for both genders to 19 from the previous 19 for men and 18 for women. And the second substantive change, which was only implicit in effect, was to eliminate the words "man" and "woman" from the statute and insert the word "person" in their place.

MR. CLARKSON added:

Now, while gender neutrality is probably a very noble goal, and appropriate in the context of most Alaska statutes, from the standpoint of the substantive meaning and effect of the marriage law, the result was very drastic. ... By eliminating the words "man" and "woman" from the marriage statute, the revisor's gender neutral language had the appearance of changing Alaska's definition of marriage to being a civil contract which could be entered into between any two persons, presumably of any combination of either gender, who are 19 years [of age] or older.

[3:20:02 PM](#)

The statute was again modified in 1975, this time by the legislature itself, to reduce the age of marriage to 18 for both men and women, and, apparently unaware of the substantive change that had been made by the revisor at that time, the Legislature just retained the gender-neutral language and didn't even discuss what effect it might have. And from that point forward, the marriage statute remained unchanged and unchallenged for the next 21 years until 1996.

Now just a year before the marriage amendment was adopted, the Alaska Supreme Court heard a case

involving two employees of the University of Alaska who wanted healthcare insurance for their same-sex partners. The employees challenged the University's decision not to extend the benefits to their same-sex partners, claiming that there was a violation of the state human rights Act, which prohibited marital-status discrimination.

The plaintiffs in that case challenged the University of Alaska Fairbanks's policies limiting spousal benefits to the husbands or wives of its married employees. The superior court judge in Fairbanks pretty much set loose a firestorm when she ruled that UAF could not legally limit spousal benefits to traditional husbands and wives, basing her decision in part on the revisor of statute's 1974 bill and the sort of inaction of the legislature in 1975 when it failed to mention the impact of that gender neutral language.

MR. CLARKSON also said:

Now, suddenly, at that time, the Alaska legislature became very aware of the potential substantive change that had taken place and the impact that it would have upon the extension of marriage benefits, privileges, and attributes. And in 1995, Representative [Norman] Rokeberg introduced House Bill 227, which was designed to define marriage specific to a man and a woman and to limit the benefits and privileges of marriage to a marriage between a man and a woman, and there was another bill, House Bill 226, that was introduced also at that same time. Those bills were passed and enacted and the statute was amended to clearly define marriage as [between] a man and a woman only, and to limit the benefits, privileges, attributes [of] marriage to that marriage relationship between a man and a woman.

Now, the plaintiffs in the Brause case - which is the same-sex marriage case, which was filed in 1995 also - ... sought marriage as a doorway to the benefits and privileges that the law bestows upon married couples. The plaintiffs in Brause argued repeatedly that there are some 115 benefits and privileges available to married couples under Alaska law, which they could not access. The plaintiffs in Brause sought to use the

status of marriage as a doorway by which they could access the various benefits and privileges of marriage, and attach them to their same-sex relationship.

The Brause litigation treated marital status and marital benefits as being inseparable. In Brause, the plaintiffs specifically sought benefits based on marital status. In fact, the [Alaska] Superior Court's ruling in Brause treated marital status and benefits as being inseparable. "Once married," the court said, ... "the state provides benefits and imposes duties that are significant and valuable to society as well as to the individual members of the marriage." ... Put another way, the [Alaska] Superior Court's ruling treated the benefits, privileges, and duties of marriage as being entirely consequent upon marital status.

MR. CLARKSON then said:

Now, the marriage amendment, in 1998, ... was specifically designed to close marital status as a doorway by which same-sex couples, or any combination of opposite sex couples, other than one man and one woman, might access the benefits and privileges of marriage. The marriage amendment as it was originally introduced in the legislature as [Senate Joint Resolution 42] contained three sentences - today it only has one - ... and it provided that to be valid or recognized in the state, a marriage may exist only between one man and one woman. ...

The second sentence [said that] no provision of the [Alaska State] Constitution may be interpreted to require the state to recognize or permit marriage between individuals of the same sex. [The] final sentence [said that] additional requirements related to marriage may be established to the extent permitted by the Constitution of the United States and the Constitution of the State of Alaska. The third sentence of the amendment was dropped by the legislature during the legislative process.

CHAIR MCGUIRE, noticing that Mr. Clarkson was merely reading his written testimony, requested that he summarize, since members' packets already contained that 19-page document. She also

mentioned to Mr. Clarkson that Representative Coghill has asked that he remain on line, listen to the remainder of the meeting, and be available as a resource.

[3:25:14 PM](#)

MR. CLARKSON, in conclusion, then, opined that HJR 32 is in line with the amendments that have been passed and proposed in the Lower 48, noting that 19 states have marriage amendments, 11 of which contain language very similar or identical in effect to HJR 32. Also, there are 12 more states with similar amendments pending; should these all be adopted, there would be 31 states with marriage amendments. In response to a question, he said he didn't know why originally men in Alaska had to wait until they were 21 to get married.

REPRESENTATIVE COGHILL surmised that maturity might have played a role.

MR. CLARKSON, in response to further questions, relayed that his fee is \$235 per hour, that his total bill to the state so far is probably less than \$4,000, and that it would be up to Legislative Council to decide whether he would also be getting paid for his time testifying before committees.

REPRESENTATIVE GARA remarked, "I think much of this is really a political debate and not a legal debate, and, frankly, I don't think that we need to keep you on line for the next hour, hour and a half, at \$235 an hour, to listen to this."

MR. CLARKSON said, then, that he would not bill the legislature for [the time he remains on line].

[3:29:02 PM](#)

MAUREEN LONGWORTH, M.D., relayed that she would be testifying on behalf of both herself and the Alaska Academy of Family Physicians. Referring to the term cornerstone, she said that she grew up in a very religious atmosphere, and her family was taught the value of love and of loving everyone at the expense of any judgment. She offered:

My father entered the kitchen every morning saying to my mother, "Oh, my vision of loveliness," before he kissed her. This was taken even [further] when anybody in the family had a need, whether it be something ... we could barely afford; my father worked

very hard, for our family of nine people, to support us, and it wasn't easy. Beyond that, he taught us that in a religious context - and he used the bible as his guide - we would extend that kind of love and fairness to others outside our family.

I remember when I was 10 years old, the first time a black student enrolled in my grammar school, my father sat all nine of us down and talked to us about discrimination, and he said, "We will treat Blen (ph) as we wish to be treated, we will always love one another the way we wished to be loved." Later, in my thirties, my father was asked to speak at a gay commitment ceremony, and it was at a time when that was still a very new thing, and I was very proud of the words my father spoke at the microphone at that ceremony; it was: "May all the barriers that face you and others in your minority group fall away, and may you be met by the love you have for one another, reflecting back to you, all the days of your lives."

You know by what I'm saying that I'm very lucky to have been raised with my father. He obviously was a sacred leader, someone who went beyond what he felt about anyone judgmentally, to be able to teach us what's right and wrong ... [and] to practice what he preached to us about love and about equality and lack of discrimination. This made it easier for me, when I decided to become a physician, to practice that way with my patients, so that I'm able to walk into the emergency room and give non-discriminate care to the girl who was raped or to the uncle who raped her.

DR. LONGWORTH relayed that what the Alaska Academy of Family Physicians is pointing out, along with the American Academy of Family Physicians - which, respectively, are groups of 355 doctors and 94,000 physicians in the United States - is that a legislator's oath of office is of a similar sacred nature. She said she agrees with Representative Gara that this is not about marriage at all, but is instead about equal access for healthcare. She said:

This is a cornerstone of our constitution, of our rights as Americans, to be able to provide better health for all people, and we should certainly not change it in our constitution. We believe, as people who've taken a sacred oath, that you who've taken a

sacred oath need to not let this go to a ballot box, where people who do not take any sacred oath are given an opportunity to vote. Whatever your prejudices, whatever your feelings about gay marriage, your duty, as our legislators, is to guarantee health access to the families of all our workers. In actuality, and you can look at any statistics, ... when ... [such is] provided for more families, we know that economically we have a ... [stronger] nation. We know, as well, that it strengthens the healthcare of a people to have benefits - there's less disease and there's less poverty.

So we are asking you to put aside your ideas of what's discrimination and what's not discrimination; all these ... thousands of physicians are asking you [to understand] that this is not an issue for the ballot box. It requires your sacred oath, the one that you swore to when you came into office, and I hope that some of you, enough of you, will be as big as my father, who taught me this at a young age. And I wish for all of you that you had the example that I had growing up, and I'm sorry that not everyone does. Thank you so much.

DR. LONGWORTH, in closing, offered her belief that members' packets contain a letter from the Alaska Academy of Family Physicians.

[3:36:34 PM](#)

PAULA TERREL said she is opposed to HJR 32, and would like to discuss two points. She relayed that she's been in a loving relationship for 20 years followed by 7 years of marriage, and that she used to work for the legislature - for 28 sessions - and had wanted to "pull" her retirement. Doing so, however, meant that she couldn't protect her then-partner - with regard to health benefits and survivor benefits - without getting married, and so they were married for that practical reason. She had that choice, she pointed out, because she happened to be heterosexual, but those that are gay don't have that same choice. The issue of equity is what the Alaska Supreme Court was speaking to, she opined, rather than to the marriage amendment, which was passed while she worked as a legislative aide.

MS. TERREL offered her understanding that Representative Coghill is concerned that "opening up ... benefits for state workers" would open up a "Pandora's Box" because it would open up so many other benefits for same-sex couples; her response to that concern is, "Why not?" To her, she relayed, such would be fine if the couple is in a committed relationship. She urged the committee to oppose HJR 32, adding her belief that although some issues should go before the voters, some things shouldn't - the Alaska State Constitution is more powerful in its right of privacy and equal protection [clauses] than other states. Recalling testimony provided during a Senate committee hearing, she asked members what they think would have happened if, in 1965, the issue of integration had been put before a vote of the people; had such been done, she surmised, integration would not have passed. For some issues, she concluded, the people must rely on their legislators and on the Alaska Supreme Court.

3:40:38 PM

DOUG VEIT, after relaying that he is homosexual and currently doesn't have a partner, said he is very dismayed that the supporters of HJR 32 are bringing forth ponderous legal arguments, bending over backwards, in an attempt to illustrate the logic and order of this proposal, and yet the very fact that "we are here in the first place" is because of illogic, "no thinking," and fear - all based upon religious beliefs. He went on to say:

I find it very disappointing that now we are having logic when why wasn't logic applied in the very first place concerning whether there is anything inappropriate about gay people marrying. It's already been mentioned that this amendment is nothing but flagrant and blatant discrimination. I find it very upsetting that on the pretext of citizens' rights, that the people of this state should have the right to fine-tune this, the original ignorance; that on the basis of their citizens' rights, you're stripping another group of people of their rights; that you're stripping human rights from loyal, successful, useful, instructive members of both state government and state citizenship just because of their gender orientation.

Why? What have they ever done to deserve this? Again, you're favoring one group over another group, all because of ... religious beliefs. The arguments of pros and cons about what constitutes a gay person

and/or those relationships has never really been adequately, logically discussed or debated. In conclusion, I just want to say that anybody who's thinking about dollars today, that that issue is miniscule and petty in the extreme compared to the real damage done, willy-nilly, to other humans for the sake of somebody else's religious beliefs. I think if this proposal is passed, ... [then] the support for it is actually representative government at its most vicious, and, I think, in its darkest mode. Thank you for your time.

3:44:30 PM

KEVIN DOUGHERTY, mentioning that he is a retired attorney, stated that he strongly supports HJR 32 and the Senate companion bill. He offered his recollection that from the time Alaska became a state, 27 amendments to the Alaska State Constitution have been approved, all with the goal, he surmised, of reconciling the will of the people with conflicting law or court decision. He opined that constitutional policy questions are very different than political questions; characterized Alaska constitutional law as the "organic law" of the people; and read the first few words of the Preamble, as well as a good portion of Article I, Section 2, of the Alaska State Constitution, to underscore his belief that it is not the will of the legislature or the courts or the executive branch [to decide this issue]. In conclusion, he posited that although the Alaska Constitutional Convention makes no mention of redefining marriage, there is constitutional history surrounding the 1998 marriage amendment, and opined that they ought to honor the constitution and the "foundation" by respecting the right of the people to vote, rather than viewing this issue from a political standpoint.

3:47:43 PM

LAURA MOSLEY-MINNE thanked the committee for the opportunity to testify. Acknowledging that Representative Coghill is the sponsor of HJR 32, she opined that this proposal to amend the Alaska State Constitution's definition of marriage will, in effect, limit healthcare benefits to straight couples only, and will specifically discriminate against a minority group of people, and that, as her father's son has stated, "is simply un-American." She went on to say:

At home, as well as in our schools, we teach our children to welcome diversity, to accept differences in others, and to be willing to stand up for what we believe is right. I am the mother of a 10-year-old son. Both his father and myself work hard at teaching him to be tolerant of behavior he may not understand. We encourage him to search deeper to find meaning and worth in another person he may not agree with or even like. We teach him about acceptance and about being fair.

Children are not born with discriminating thoughts or prejudices, they are learned ... [from] the adults in their lives. Parents and leaders alike have the responsibility to our children to begin, as a society, to walk this talk of embracing diversity and demonstrating their belief in equality and justice for all. As representatives for all the people, I ask that you do not discriminate against those that may not believe as you do. I want to remind you that same-sex couples are people who believe in god, and are doctors, your friends, your children, your coworkers, your family members.

These are people who, like you, have fully committed to sharing their lives and hearts with one other person. This issue is about discrimination and inequality. I ask that you search within yourself to find what your real intention and truth is. We are people who vote, who have strong voices, values, and commitments to our families, communities, and to this beautiful state. We are not odd or despicable. We just happen to love differently than you may. I ask that you take a stand for what is truth and just, and do not allow the proposed [resolution] ... to go any further.

[3:50:54 PM](#)

KIM PATTERSON thanked the committee for the opportunity to testify on HJR 32, and relayed that he has been married 19 years and makes a living helping people. He offered three reasons for putting this issue before Alaska voters. One, it will provide Alaskans a final opportunity to restate more clearly - statewide and to the rest of the nation - what was determined in the 1998 marriage amendment, that the majority of Alaskans hold to the view that marriage in Alaska should be defined, legally, as

being a union between one man and one woman. Two, it will draw more people to the polls, people who will want to make it known that they feel marriage should be between one man and one woman. And three, as an African-American male, he is insulted by those who bring up the issue of discrimination because of race as a basis for acquiring healthcare, since members of minority races can't choose their race. He expressed his hope that HJR 32 will pass.

REPRESENTATIVE GARA asked testifiers to try to keep their comments civil and non-personal.

REPRESENTATIVE COGHILL concurred, but added that he doesn't want people to refrain from expressing their passion on this issue.

[3:54:42 PM](#)

DEBBIE JOSLIN, Eagle Forum Alaska, thanked the sponsors for introducing HJR 32 and SJR 20. She said:

Since the beginning of history, marriage between one man and one woman has been recognized as special and unique. The people of Alaska thought we had made ourselves quite clear on this subject in 1998, when we voted overwhelmingly to adopt the marriage amendment as part of our [Alaska] State Constitution. The Alaska Supreme Court has once again undermined the will of the people in their October 2005 decision. The court's ruling to mandate the state to pay spousal benefits to same-sex partners of state employees shows no regard for the meaning and spirit of the law.

The [Alaska] Supreme Court is supposed to be upholding our constitution, but has instead chosen to attempt a rewrite by legislating from the bench; ... the meaning of the amendment in 1998 was very clear to everyone but the [Alaska] Supreme Court. So now we are forced to spell out, in capital letters, that marriage is for one man and one woman, and marriage is special and unique from any other relationship. Passing HJR 32 will allow the people of Alaska to clarify what we said in 1998, for those who did not understand. Please pass this ... [resolution]. Thank you.

[3:56:29 PM](#)

KAREN TAFT WELLS noted that she has worked for the State of Alaska for 27 years and is taking annual leave in order to be present to testify. She said:

The [Alaska] State Constitution says that I have equal protection under the law. What some of your colleagues have proposed to do is take that right away from a certain class of people and say that everyone is protected except for gays and lesbians. By placing this [resolution] on the fall ballot, you will be a party to further discrimination against a certain class of people. I am one of those people, and I ask you to stop this initiative today.

I have thought about this issue for many years, and had many conversations about what is the truth. In my mind, the truth is that this is an issue of separation of church and state, that each church across the land should let their congregations decide who and what they want to recognize as marriage in the eyes of their chosen god and beliefs. State and federal government, however, should be responsible for granting to all people equal protection, rights, and benefits. Since this is not the system within which we live, you as our elected officials and representatives need to protect all citizens.

When Alaskans chose to deny gay and lesbian couples the right to marry, discrimination happened - this lie was written into the constitution. The reason it is a lie is that I exist, I am here, I am a resident of this state, I work for the state, I love a woman, and my god holds a space for any person who loves to be treated equally. The Constitution denies me the right to receive a marriage license, which is the document that bestows benefits to heterosexual couples. Because I cannot obtain the license, I am discriminated against in terms of being granted the same benefits my married co-workers receive.

Why is there anything written into the constitution about human genitalia? Why can't we make laws based on the human heart? The heart is the organ of perception, it is the organ where love arises, and where my love for another is as precious and deserving as yours. My heart longs to join with another and create a divine union just as yours does. Who cares

if my love is for a woman, rather than a man, and if I want to share my life with a woman? What business is it of yours or any other person who lives in this state to judge who and how I love?

The people of this state do not vote on union contracts, on GGU or legislative pay raises or any other personnel policies. Why should they vote on this particular issue? How do you think the majority would vote? Do you really think the people of this state can navigate the legal waters better and more fairly than our esteemed Alaska Supreme Court? I don't. I think the wording of this [resolution] ... is mean spirited and seeks to discriminate against a class of employees that you, as the body that represents us, are responsible for protecting. A better question to put to the voters would be to ask if they want to limit the equal protection clause so that it no longer applies to unmarried individuals.

And lastly, what scares me the most is that amending the constitution to discriminate against some citizens will set the standard for any other minorities to be written out of the constitution. Because I am ... part of a minority group should not lessen my value or worth as an employee. What group will be next? I hired a new employee last week and she has two children - three new people for the state insurance benefits without a thought, let alone a constitutional change. It gave me pause. I passed a car this morning with a bumper sticker [that said]: "If the people lead, the leaders will follow."

I pray that your decision will be in service of the truth and right action, rather than political agendas influenced by constituents who do not have tolerance for human differences. Thank you for this opportunity, and [I] just hope you know that this is such an emotional thing to sit before you and do this.

4:00:52 PM

BEN KRALL, after relaying that he is 10 years old and was born and raised in Juneau, said he would be testifying against HJR 32. He said:

I know that the legislature has already made one big mistake by stopping gays and lesbians from being able to marry. I was the ring bearer in the joining ceremony of two of my really good friends who are lesbian. I just can't believe you think that any two people are less than any other people, when they are so much in love with each other. But now you are just going too far. You are trying to make life for gays and lesbians harder than ever by taking away from them so many things that all people deserve to have. Like they want to be able to take care of the people that they love and their children, but you're not going to let them have insurance and other things they need.

My friends are about to start a family, and I know they'll be really good at it. They have babysat me many times, come to lots of my soccer games, taught me how to play cribbage, taken me on hikes, fed me, played at the beach, come to all my birthday parties, and just been great friends. My parents have chosen them as some of the people who might take care of me if both Mom and Dad died, and I think they're great choices. But what if you pass this amendment to the Alaska [State] Constitution? I don't know all the rights that married people get, but I have heard of some of them.

How will they be able to pay for their kids' insurance? And how will they have the right to take care of me? Or if one of them got really sick, could the other one even have the right to visit them in the hospital? My aunt is a lesbian too, and her partner is a great aunt to me. They have been together 27 years, which is a really long time. ... Don't you think that proves they deserve all the rights, benefits, obligations, qualities, or effects that married people get? I sure do. And I would be really disgusted with the legislature if it passes this horrible amendment. Lots of my friends I've talked to about this agree with me. Here's some advice for you that my mom always says to me: "Really think about what you're doing." Please stop trying to do this.

[4:03:52 PM](#)

CINDY BOESSER, after remarking that she is fortunate to be able to be married, and that she is "birthmother" to one child and

stepmother to another, relayed that she would be testifying against HJR 32. She said:

It is blatantly discriminatory against a minority of Alaska residents. [It's] simply unthinkable to put such an amendment in the great Constitution of the State of Alaska, even if 99 percent of the voters shared a prejudice against gays and lesbians. Why would it be wrong? Because we live in a country where equal rights are supposed to be guaranteed for each and every individual of all minority groups, no matter how un-accepting the majority of the voters is at the time.

We learned this in the South, with the white Christian majority righteously denying minority rights just as long as they possibly could. We learned it in Europe, when the Jews, the mentally ill, the gypsies, and the gays and lesbians were murdered by the white, Christian, straight German majority. We learned it in World War II at the expense of our Japanese-American minority friends and neighbors, who were heartlessly interned, with [the] ethnic majority's approval, in the name of god and our country. We learned it in Alaska as the peoples of this great land were laid waste by the aggressive majority's cultural destruction, in many cases led by the missionaries.

It greatly saddens me now to see this effort, by so-called Christian legislators, proposing such a hateful amendment to our [Alaska State] Constitution. The Jesus I know loved and accepted the outcasts of society. And unfortunately, at this point in history in this country, gays and lesbians are still often outcasts. But they're also my friends and my neighbors and my coworkers and my family. I love them. And I see them in long-term, very committed relationships. And I insist that they deserve to receive equal compensation for their work, which means they must receive equal benefits regardless of what you think of as marriage; this is not about marriage - you're trying to put it on there. ... Their rights must be protected, even if only a minority of one speaks up for them.

Don't you dare put [this amendment] before the voters; they have done horrible things in the past, and they

could ... [again]. Please take [a] good hard look at history as you consider this appalling resolution. Don't repeat the mistakes of zealots throughout time, no matter how many of your constituents pressure you. For when we allow the majority to determine the rights of the minorities, none of us will be safe. Thank you.

[4:06:52 PM](#)

BARBARA BELKNAP, after relaying that she is a retired state employee and currently owns her own business, said she would be testifying in opposition to HJR 32 and for equal rights as guaranteed by the Alaska State Constitution. She offered:

This resolution and its companion [resolution] have given Alaskans a forum for debate about fairness, preserving equal rights for all in our [Alaska State] Constitution, and the role of the three separate branches of government. Challenging the [Alaska Supreme] Court's decision has provided an opportunity for some Alaskans to express their visceral condemnation of homosexuality, and for others to speak out for the right of Alaskans in the gay and lesbian community.

I am a 57-year-old white heterosexual woman who has been married to the same man since 1969. We have two adult children we're very proud of and two beautiful grandchildren. As a retired state employee I have health insurance that covers my husband. As a retired Coast Guard officer, he has health insurance that covers me. As children of United States Marines, we have had some form of guaranteed healthcare our entire lives. As children and later as young married adults, we took healthcare for granted. Now we consider health insurance to be one of our most valuable assets.

My sister Kathy is 53 years old. She is the mother of two grown children and the grandmother of two little boys. For many years she owned her own business in the small town of Montello, Wisconsin. She was elected to the school board and served as a parish lector and member of the parish council at St. John the Baptist Catholic Church. When she was 47, she embarked on a different life path. At [the age of]

50, Kathy earned her degree in pastoral ministry at Dominican University in Chicago and is now a social worker with a nonprofit in Connecticut.

MS. BELKNAP continued:

Kathy is also a lesbian; she "came out" in 2002. Kathy and her partner Leslie, who is also a mother and grandmother, have lived lives as married women in the past. They are acutely aware of the legal and social inequities between their previous privileged status and now. While they can be their authentic selves now, they cannot live whole lives because they are reminded on a daily basis, in small and large ways, that they are less than equal. When my sister got married at [the age of] 21 to a cowboy who rode bulls, my first reaction was, "Everybody knows bull riders are trouble"; and he was - and they divorced seven years later.

But when she came out as a lesbian at age 50, my first reaction was fear for her. What must it be like to read articles and letters to the editor almost every day vilifying who you are? I also feared for her personal safety - that year a man was charged with a hate crime for murdering two lesbians on the Appalachian Trail. I've learned a great deal in the past three years. Sara Boesser's book, Silent Lives: How High a Price? is an excellent resource. I know that Kathy's community has lists of safe and welcoming [places] for lesbians to stay on vacation, relatively safe towns to travel to, and states that allow them to be relatively full citizens.

It's taken Kathy two years to find a new church that welcomes her unconditionally. Here is a religious woman with a degree in pastoral ministry who must search for a spiritual home. Straight people have become agnostics for less. Does all this sound familiar? These are humiliations minorities know only too well. Their full citizenship is relative - they face physical danger, even death, because of who they are as people. I firmly believe that institutionalized discrimination against gays and lesbians will be a thing of the past in my lifetime, but prejudices live in people's hearts, and [so] it's up to our government to take the high road.

Civil rights for Alaska Natives, voting rights for blacks, school desegregation, a woman's right to vote, and the American Disabilities Act all came out of the courts and the halls of state legislatures and the Congress. The court decision that generated this resolution is about fairness and healthcare. City governments and private employers all over the country are providing health benefits to same-sex couples and the world continues to rotate on its axis.

The United States of America is the only industrialized country that does not have a universal healthcare system. What outrages me is that uninsured parents have to organize fundraisers to save their sick children's lives, and what shocks me is that medical bills are the number one cause of financial ruin in the world's richest nation. There are states with fewer resources and a lot more people than Alaska considering some kind of statewide health insurance program. It would make me very proud if the energy being expended on this resolution and SJR 20 were channeled into the creation of an all-inclusive health insurance system for Alaska.

MS. BELKNAP concluded:

This morning, the opening prayer in the [Alaska State] House of Representatives called for light and love. This amendment is about neither light nor love. Preserve our constitution's equal protections for Alaskans - please vote no on this resolution. Thank you.

[4:12:08 PM](#)

JAMES GRAY, noting that he is employed by the Anchorage Fire Department, indicated that he would be speaking in opposition to HJR 32 because it is discriminatory in nature and would enshrine that discrimination in the Alaska State Constitution. In the current climate of "religious-rule mentality," he remarked, it may be that this proposed constitutional amendment would be approved by the voters, but 50 years in the future, he predicted, the DOMA and this proposed amendment will clearly be seen as discriminatory and plainly wrong. "It's simply wrong to deny my partner and I the [same] benefits [that are granted] to those ... who are allowed to marry simply on the basis of their

sexuality, and I ask you to table this discriminatory proposal because it makes me a second class citizen and its hurtful to my family," he concluded, and thanked the committee.

[4:13:13 PM](#)

GREG SCHMIDT relayed that he appreciates the opportunity to testify in favor of HJR 32. He suggested that members look at the logic of the Alaska Supreme Court's decision and where it is likely to lead the state. For example, the court first identifies a duty to define the liberty of all, and then states that the express goal of state government is to limit benefits to "truly close" relationships. He opined that this concept throws out the actual wording of the [Alaska State] Constitution and presumes that a person's liberty includes deciding what sort of sexual relationship is most satisfying to him/her and then that decision, by implication, becomes part of that person's identity, thereby engendering a state obligation to fund benefits for the parties in that "close relationship." Under that logic, he surmised, the state would be helpless to limit the extension of benefits to "other living arrangements" such as polygamy or group sexual relationships if the participants declare that they are committed and truly close.

MR. SCHMIDT opined that although this "logic" implicitly accepts the idea that sexual preference is an immutable trait, it is a weak foundation upon which to upend the legislature's and voters' decision to define what marriage is. If the Alaska Supreme Court's ruling is allowed to remain unchallenged by the legislature, he predicted, Alaska could become fertile ground for the overturning of the DOMA - thereby weakening the fabric of marriage - because if the legislature concedes ground regarding same-sex civil unions, benefits, adoption, and other incidents of marriage, the courts may well view it as state policy, which could then be used in attempts to overturn the DOMA.

MR. SCHMIDT said that this is an issue for the ballot box, and clearly affects the stability of the family as well as the very fabric of society; this is an issue of discrimination against a behavior, rather than against what a person is, and merely addresses a demand by a small, vocal minority that taxpayers subsidize a certain lifestyle. Other states have proposed and adopted constitutional amendments protecting marriage and its benefits, and it is time that Alaska do the same, he opined, and concluded with a request that the legislature allow this important issue to go before the voters.

4:17:19 PM

CHARLES L. O'CONNELL, after indicating that he is a married father of five [grown] children, relayed that he would be testifying in opposition to HJR 32 on behalf of all seven of his family members, all of whom are frequent voters. He said:

The first Americans have lived on our continent for at least 30,000 years; Columbus got close in 1492; the pilgrims arrived in 1620; the Declaration of Independence was signed by 56 delegates on July 4, 1776; and our [U.S.] Constitution was ratified by 14 states between 1787 and 1791. Well guess what? Not one single person among the millions alive during this entire period of our nation's early history had a marriage license. I'm sure that the millions who were married during this historical period were recognized as married by their respective contemporaries.

Why oh why is my country so caught up in this marriage debate? It is not a time to further limit the rights and benefits of citizens who share housing without a government marriage license. The marriage license, after all, was originally, and has always been, a tyrannical way to legally oppress minorities. People promoting this amendment are the same ideological purists who want to make some medical decisions between a woman and her doctor illegal, they want certain religious dogma in courthouses and schools, they brazenly interfere with the right to die, and they oppose enlightened scientific research with stem cells.

For me, nothing could be more threatening than this stupid, continued interference in the personal privacy of some of Alaska's citizens with whom some disagree. This entire interference in marriage was created in the first place by government oppression of a consensual relationship between consenting adults of mixed race. And now there are those in elective office who are seriously considering further limiting those constitutional rights and benefits solely based on whom we live with. What the state should do is get out of the privacy of our homes, and provide for our public safety and promote our general welfare.

Tyranny by the majority is extremely dangerous. Remember, we are all minorities in some degree. Racial segregation, striking down "separate but equal," the right to interracial marriage, striking down sodomy laws, and the constitutional right to equal benefits for all are all the result of court decisions. Were it up to the tyranny of the majority, all of these enumerated rights would not exist. Marriage has long been a vehicle used to oppress minority groups.

You can be [a] pawn or you can be a statesman on this issue - the choice is yours. I urge [you] to keep your oath of office and uphold the [Alaska State] Constitution - don't turn your back and vote to limit it - please oppose House Joint Resolution 32.

[4:21:07 PM](#)

RANDY MAGEN, Ph.D., President, Alaska Chapter, National Association of Social Workers (NASW), said he agrees with the sponsor's comment that the issue of marriage was settled in Alaska in 1998. Furthermore, he opined, neither HJR 32 nor the aforementioned Alaska Supreme Court case have anything to do with marriage. That court case was decided on the issue of equal protection, and the first sentence in the conclusion of that case says, "We conclude that the public employers' spousal limitations violate the Alaska Constitution's equal protection clause." He went on to say:

I've heard speakers who've believed it was necessary to begin their testimony by talking about whether they were heterosexual or homosexual, married or single, or how they worship god, all of which I consider private behavior, private behavior which the state has no interest [in] or right to interfere with. And, again, this legislation has nothing to do with sexual orientation, marriage, or religious beliefs - it's about equal protection. So the Alaska chapter of the National Association of Social Workers is opposed to HJR 32 for philosophical and practical reasons.

Philosophically, this legislation conflicts with the core values of the social work profession - the values upon which ... social work's mission is based; this legislation allows for discrimination and unbalanced protections, a stance in conflict with the value of

social justice. This legislation sets a class of people apart and makes them unworthy of benefits, in conflict with the value of respect and the dignity and worth of every person. Pragmatically, the ... [NASW] is opposed because this eliminates domestic partner benefits. Domestic partner benefits are a pragmatic way to deal with the over 100,000 people in Alaska without health insurance.

It would seem to me that the legislature would be interested in covering more people with health insurance, especially at a time when they're struggling to deal with the increased burden of Medicaid. Furthermore, domestic partner benefits are widely used in [the] private and public [sectors] in Alaska as a way to recruit and retain employees. And I fear that if you pass this legislation, the only winners will be lawyers who spend time litigating the constitutionality of this amendment. So our organization urges you to vote no on [HJR 32]. Thank you.

[4:24:27 PM](#)

LIN DAVIS, after relaying that she has taken annual leave from her state job in order to be present to testify and that she has a master's degree in career counseling, said that her life of service is based on the idea that a community is only as strong as its most disadvantaged and low-income members, adding, "We all pay when community members can't succeed economically and don't have safety nets." She went on to say:

For the last [nine years] I've worked out at the ... Juneau Job Center, working for the Department of Labor & Workforce Development. Interestingly, my job is called a Community Development Specialist, and I think probably at heart all of us who do work for the State are community development specialists. Now let's look at House [Joint] Resolution 32, and see if it deserves a community development specialist award: Does it strengthen Alaskan communities? Will it help us create an improved business environment in Alaska? Does it create a level economic playing field for our community members? Is it a model of fair and reasonable government activity? Is it kind? And does it have the highest intentions for the people of Alaska? The answer to all of these is no: it does

not appear to have community or economic value, it harms Alaska's children, it harms Alaska's families, and it prevents equal pay for equal work.

Ten days ago, I attended my union convention, and we represent the largest union of State employees - 7,500 people, more of whom are women - and we voted quite easily a resolution to condemn HJR 32. And I would urge all of you, for so many good reasons that have been put forward, to oppose it as well. ... I liked what President Bush said at Coretta Scott King's funeral; he said her work made us whole. Now the work of [HJR 32] is not going to make us whole; it is mean and divisive. And Tommy Sands, the singer from Ireland, was here in Juneau just a few weeks ago, and he reminded us, he said, "You know, so many democracies are not really very democratic, they're really like three wolves asking two sheep what would they all like to have for dinner tonight." And majority-ism is alive and well; it's alive and well in this resolution that we're discussing today.

And I feel like, because I am a plaintiff in this suit and I'm nine years older than my partner - I'm the one who is working for the state - I would simply like for her to have my death benefits if I die before her; she recently lost her job of 13 years, and I would really like ... to get her on my health insurance. We are stronger in our community when we have that financial safety net. And so, given the health cost crisis in this country, as many other speakers have said, it just doesn't make sense for people to be voted out of having this kind of safety net. Despite good jobs, my life partner and I know that it's easy to be one car accident or one major medical emergency away from a family financial crisis, not to mention, and maybe you folks know about this too, going down the trail of dental work - dental work can take you to the poor house quite quickly.

So not being able to be double covered really ... has a severe financial impact on my little family, and we try to send checks to her mother and her sister, who are both disabled and in wheelchairs, and as much as we can be financially strong we're able to help other family members stay financially stronger. So there's a clear reason why my heterosexual coworkers and [I]

were [yahooin] and crying tears of joy Friday, October 28, when we all got the news about the [Alaska] Supreme Court decision; it affirmed equal pay for equal work. For nine years I've been working alongside my straight coworkers and now I have the chance to receive the same benefit package that they get, and as we all know, the ... benefit compensation is a big chunk of our compensation as State employees. So thank [you] for this opportunity to tell you my story, and I urge you to vote against this.

4:29:40 PM

REPRESENTATIVE GARA acknowledged how difficult it can be to testify on this issue, and pointed out that the most conservative member of the Alaska Supreme Court wrote the opinion that is being discussed. He went on to say:

I know that when a court issues an opinion people don't agree with, they assume that the judge must have different values than they have. ... [But] often, when a judge writes an opinion, it has much more to do with what the law is that they have to follow than what their personal values are. And I suspect that maybe some on the [Alaska] Supreme Court who voted one way might have values that actually go a different way. So I don't think that there were those on the [Alaska] Supreme Court who were trying to impose values through their opinion. Similarly, Representative Coghill and I spend, I think, most of the day agreeing on one thing, and that's that each other is wrong. ...

But the one thing I've gained a respect [for] is that [Representative Coghill] is real well motivated by the things that he does, and I don't think there's an ounce of malice in this bill. It's something we'll fight about, and we've had so many really, really divisive issues in this committee - we get them all - and most folks don't know Representative Coghill the way I do, and I just ... want to assure people that even though he's wrong, ... that there really isn't an ounce of anything other than, really, a value system going on here. And that's what makes the debate really hard, when it's a value issue as opposed to one where there is an easy answer one way or the other.
...

CHAIR McGUIRE noted that she has seen the effect that testimony can have on members' points of view.

REPRESENTATIVE COGHILL, remarking that there are three or four different dimensions to this issue, one being the legal debate and another being the political debate wherein values simply clash, said that he respectfully disagrees with the [Alaska Supreme] Court. Acknowledging that the art of persuasion plays a role in debate, he said he generally tries to take the approach of explaining the principle and then aiming for that. So as people testify, he explained, he has been attempting to discern the legal argument from the value argument, so as to be able to see where he can either agree or disagree, clearly, with the points being made by those who are speaking. In the political arena, legislators display their values, he noted, adding that he will attempt to do so as respectfully yet as forcefully as he can.

CHAIR McGUIRE explained that regardless of her own personal views on the proposed legislation, as committee chair she attempts to consider whether a bill or resolution is legal, and whether it fulfills the mandates of the [Alaska State] Constitution, and whether it will fulfill the sponsor's goals in a legal manner. With regard to HJR 32, she relayed, she would like the committee to focus on whether the [Alaska State] Constitution is the place for expressing the values surrounding the resolution and whether it contains the appropriate language; however, lawmakers should also attempt, in some regard, to see ahead into the future and consider how the legislation will affect the citizens of the state.

REPRESENTATIVE GARA again acknowledged how difficult it can be to discuss an issue that one believes in sincerely, as compared to an issue one has purely a financial interest in.

[4:38:33 PM](#)

SIDNEY HEIDERSDORF said he wholeheartedly supports HJR 32, and believes that it is appropriate for Alaskans to vote on this issue. He opined that it is incredible that people are now revisiting this issue, given the passage of the 1998 constitutional amendment defining marriage, and suggested that everyone had the right to believe at that time that that would be the end of the [debate]. It seemed quite logical, he remarked, to think that if marriage was clearly defined, then all the benefits of marriage would be limited to those who met the requirements of marriage - not so, according to the Alaska

Supreme Court. He offered his belief that it would have been much more logical for the court to have simply stated that the amendment defining marriage was unconstitutional and then state that it would be appropriate for any two individuals living in some kind of close relationship to receive benefits.

MR. HEIDERSDORF offered his belief that it is disingenuous for the court to say that the amendment was constitutional but benefits cannot be limited to those who are married. He said:

Marriage is an institution vital to our society and [the] wellbeing of our society. We recognize it as the place for the begetting and rearing of children. One way of recognizing the importance of marriage, and to promote it, is to give special rights and benefits to those who legally assume the responsibilities of marriage. I've heard arguments against this proposed amendment ... that if the right to benefits is denied same-sex couples, it will simply be the first step in denying rights to other individuals.

I would argue just the opposite, that if this court decision is allowed to stand, there's no telling what relationship the court will approve next in terms of marriage benefits; using the logic of the court, it's difficult to see how they could deny benefits to bigamists or polygamists or any other kind of illegal relationship. We hear [that] arguments ... [against] benefits for same-sex couples is based on discrimination. I do not believe it is discrimination to limit benefits to people who must meet specified qualifications when the state exercises control for the benefit of society.

If we wish to call it discrimination, then we have to acknowledge that there are limits to equal treatment under the law. We live with all kinds of limitations to equal treatment as far as I'm concerned; they're based on age, race, economic status, and residence. We have requirements for driver's licenses, professional licenses, limited entry, subsistence hunting, welfare programs. These requirements are ostensibly for the good of our society, [and] the benefits are limited to those who qualify. There's nothing unusual, then, about limiting marriage benefits to those who are married.

There is reason to fear [that] the formal recognition of same-sex relationships would be harmful to our society; however, I view [HJR 32] as a recognition of the value and importance that marriage and the family has to our society and the need to preserve it as a unique and special institution for a healthy society. So in conclusion I would ask the committee to look favorably upon ... HJR 32, and I hope Alaskans will have the right to vote on this issue. Thank you.

[4:43:09 PM](#)

DIXIE A. HOOD, after noting that she is a licensed marriage and family therapist in private practice, relayed that as a citizen, she is alarmed and offended that "our representative democracy" at the state level, as well as at the national level, is being undermined through political opportunism. She went on to say:

Proposing an amendment to our [Alaska State] Constitution which would further deprive [many] ... Alaskans of their civil rights is unjust and totally contrary to ideals of our democracy. For hundreds of years, women and blacks in the United States were denied equality by laws determined by the majority. I'm old enough to remember World War II and the Germans' condemnation of Jews, gypsies, and homosexuals. I participated in the civil rights movement of the 1960s, [and] I have continued as an advocate for civil rights on behalf of women, the elderly, gays, and persons with disabilities.

Putting civil rights up for a popular vote is shameful. There have been scientifically-valid surveys of public opinion measuring support for the Bill of Rights, [but] ... when these historic statements were not identified as amendments to the U.S. Constitution, the majority of American subjects sampled were opposed to them. Discrimination based on self-interest, ignorance, or righteousness is all too common in this day and age, [but] it has no place in Alaska. I urge you all to stand up for our highest aspirations as a democratic society - stop this proposal to deny rights and benefits based on marital status. Thank you.

[4:45:41 PM](#)

AMY PAIGE said she felt compelled to come [and testify] because she feels that her American citizenship would be damaged terribly if legislation such as HJR 32 is allowed to go before a vote of the people, because it would result in a tyranny of the majority. She opined that it is important to protect minorities in every way possible, and that the full protection of the law is one of the highest features of the constitution - one of the most prominent and best. Furthermore, she said she feels that her fellow Alaskans would be damaged by HJR 32, adding that it would make her so sad to think that she was part of a society that would limit opportunities and rights just on the basis gender and type of relationship.

MS. PAIGE said she doesn't believe that passage of HJR 32 will help strengthen marriage; instead, homosexual families and the whole community would be strengthened by giving [homosexuals] the full rights that they have earned as employees of the State and other entities. Offering her understanding that many employers in the state already do provide benefits for same-sex partners, she urged the committee not to pass HJR 32 on to the voters, adding her belief that it is not something they would want Alaskans to vote on given there are people who would vote away their own rights as evidenced by the aforementioned surveys regarding the Bill of Rights.

[4:48:12 PM](#)

MARY ELIZABETH RIDER said she would be testifying in opposition to HJR 32. She recounted that as a teenager 26 years ago, she'd come up to Alaska to live with a great aunt who took her in during some of her rough days. Ms. Rider, in turn, took care of her great aunt while she died last year. She went on to say:

My great aunt never married, and neither have I. My [Great] Aunt Liz set up libraries anywhere there was a [military] base in this state. She was [the American Military University's (AMU's)] librarian until the libraries were consolidated, she was the librarian in Kodiak, she was a member of the Pioneers of Alaska, she was an active member of the catholic church, and [she] saved her money so she could leave it to charities here, in Alaska. When I read HJR 32, I think that this bill intends to consider unmarried Alaskans such as my great aunt - who homesteaded here before most of you were born - to be less than a woman who married a man. I thought we had fought [that] battle at the turn of the last century.

My great aunt had two homesteading neighbors who are now in their mid-80s; they're still in the mountains, they share a truck - which is a really good thing for all of us - they have known each other for 60-plus years - probably closer to 70 - [and] at this point they live in one cabin instead of two - it's safer. They're both men; they could be targeted under HJR 32 as unmarried people who share an asset. ... And they don't think they're gay; they think they're Episcopalian - and what Episcopalians do is share and ... take care of each other.

I live in Airport Heights, I'm the sole proprietor of a very small business - I don't have employees - but if I were fortunate enough to do so, I would be in the same position as other Alaskan businesses are now - I'd be working very hard to recruit and retain qualified employees. The work environment has changed. Employers that do not anticipate the interests of their employees are going to lose out as baby boomers retire and "GenX" and "GenY" generations emerge as the primary workforce. Legislating against benefits for workers is anti-business; legislating against businesses' incentives to secure clients is anti-business too.

[House Joint Resolution 32] is concerning to me, it's not clear to me how far the author intends to go, but I believe that this proposal not only restricts the equal protection of Alaskans - which is a decidedly un-Alaskan thing to do - but restricts free trade to boot; I believe there are scores of unintended consequences to this. I regularly lunch with a group of women who are mostly working, we all take care of parents or kids, some are married, some are living with a partner, and some are dating and some are not; HJR 32 is a hot topic on Saturday at (Indisc.). Two bankers, a teacher, a therapist, two oil [executives], and I had a hay-day with this; this is a message from the ladies who had lunch: "This is confusing, it's vague, it will surely end up right back in court again."

MS. RIDER concluded:

To my friends and my elders and to me, the [Alaska State] Constitution is just high near sacred. The [Alaska State] Constitution should not be amended lightly, and certainly not to restrict the rights and responsibilities of specific groups. You do not have to like everyone in this state, but you should have respect for them as human beings, and that should be reflected in our [Alaska State] Constitution; it should remain the way it is in our [Alaska State] Constitution. I ask you to please stand firm for keeping government out of the business of discrimination, keep our businesses safe, and protect the personal liberties of Alaskans. Thank you.

[4:52:00 PM](#)

MARINA DAY recalled the slogan, "Alaska: land of the individual and other endangered species." She said:

Individual rights and liberties are the foundation of a free democratic society, and is that not why our military men and women are on foreign soil in Iraq fighting now to preserve our freedom? With all due respect to them, let us preserve our freedom on ... Alaskan soil also. I ask the committee to vote no to limiting the Alaska equal protection clause so that it no longer applies to the unmarried. Alaskans honor their right to privacy as expressed in our [Alaska] State Constitution.

I say, "Government, stay out of the private lives of the people." The very language of HJR 32 is woolly. Freedom-loving people would be fighting this [resolution] for years, (indisc.) the broad and narrow connotations of the [resolution's] (indisc.). I understand that we now have to waste precious time on such an attack against equal protection under the law. Proponents say this [issue] attacks the [sanctity] ... of traditional marriage.

[What] does that really mean? Where's the cryptogram for this translation? How in the world does same compensation for equal work attack the [sanctity] ... of traditional marriage? There is no indication that denying benefits to employees with same-sex domestic partners has any impact on who marries. Granting or denying benefits to employees with same-sex partners

does not (indisc. - teleconference system cutting out) employees [with] opposite-sex domestic partners will alter their decision about whether to marry.

Furthermore, same-sex domestic partners will not seek opposite-sex partners with the intention of marrying them just because being married entitles them to be equally salaried from their employers. The denial of benefits to all employees with same-sex domestic partners is contradictory to the interests of promoting family stability. The social good for family stability in same-sex relationships is just as important and valuable as the social good for stable opposite-sex relationships.

The decision to extend benefits to domestic partnerships is not revolutionary, but the decision to withhold these benefits could be cataclysmic. Healthcare should be expanded, not restricted. The promotion of family stability ... [among] opposite-sex couples but not among same-sex couples is [discriminatory]. The definition of traditional marriage is not under attack; rather the threat is directed at the equal protection clause of our Alaska [State] Constitution. This clause guarantees all Alaskans reward for industry, and requires employment to be based on merit, not marriage.

This resolution would give married workers substantially greater compensation, for the identical work, [than] they give to unmarried workers with ... same-sex or opposite-sex domestic-partner relationships. This is fundamentally against our wonderful [Alaska State] Constitution principles, and furthers no legitimate goal. The government may not favor a class simply because it favors the class, and discrimination is never a legitimate interest.

MS. DAY concluded:

Proponents of this amendment have gone too far. It's all right to define the definition of traditional marriage, but don't take away the rights of individuals who fall outside of these norms. I'd like to incorporate all the testimonies against this ambiguous and [discriminatory] resolution, and I ask

the committee not to pass this on. Thank you for your time.

[4:56:15 PM](#)

JEANNE LAURENCELLE, Social Action Committee, Unitarian Universalist Fellowship of Fairbanks, relayed that Unitarian Universalists affirm the inherent worth and dignity of every person, and have a record of opposing slavery and women's suffrage when those were divisive issues; Unitarian Universalists also supported civil rights when other religious denominations shied away from the topic. She went on to say:

As you know, history bears us out. I'm here today to testify on behalf of all unmarried couples - gay and straight; I think history will bear us out. We absolutely reject the call to, quote, "Let the people decide," unquote, in this matter. We assert that the rights of a minority should never be subject to the vote of a majority. This is a matter of justice. We are proud that our [Alaska State] Constitution guarantees every Alaskan equal rights, opportunities, and protections under the law. This, too, is a matter of justice which should not be undermined by legislation such as the proposed constitutional amendment, an amendment which was crafted with the express intent of depriving a group of Alaskans of rights and benefits.

I am pleased to report that the opinions of Lutherans, Episcopalians, Methodists, Presbyterians are evolving to a greater recognition that gays and lesbians are individuals created and loved by god. A local example: Fairbanks Lutheran Church has adopted a resolution welcoming and valuing all people, regardless of sexual orientation; gays are welcome to fully participate in the life of the congregation. Even Dr. James Dobson of Focus on the Family, who strongly opposes gay marriage and civil unions, is now supporting a benefits bill in Colorado that includes unmarried and same-sex couples.

A February 19th article in The Christian Post quotes Dr. Dobson as calling it, quote, "A fairness bill," unquote. It further states that Focus [on the Family] believes the reciprocal bill they support will address the issue [of] benefits separately from marriage. We

are right there with Dr. Dobson; we, too, believe that this is a matter of fairness, and we, too, believe that benefits can be addressed separately from marriage. If benefits for unmarried couples and gays are morally acceptable to the leader of the "Christian Right" in Colorado, they must therefore be morally acceptable in Alaska too.

MS. LAURENCELLE continued:

As I am sure you know by now, the cost of implementing benefits for state workers is miniscule, [so] this is not a financial issue. Focus on the Family endorses benefits legislation to include unmarried couples and same-sex couples in Colorado, so this cannot be a moral issue. The Alaska Supreme Court found unanimously that the state must provide partner benefits for gay employees, so there is no legal issue.

By process of elimination it seems that this must be an issue simply of discomfort and dislike - that is, prejudice - driving a push to deprive others of rights and benefits. I urge you to oppose HJR 32, an unabashed attempt to discriminate against (indisc.). And I'd like to make one further observation, that if this amendment passes, five children in our congregation will have the safety net of healthcare and other benefits pulled out from under them. Thank you.

[4:59:40 PM](#)

JIM MINNORY, Alaska Family Council, offered his understanding that there are 19 states, including Alaska, that have enshrined language in their constitutions preserving marriage; that in nearly every election, the victory margin was 75 percent or better; and that several more states will be voting on similar language and each is expected to pass with solid majorities. A national consensus is being formed, he opined, and defining just what that consensus means in Alaska is what some are attempting to do now. Marriage as a uniquely privileged relationship is accompanied with certain benefits, but according to the Alaska Supreme Court, the marriage amendment adopted back in 1998 eliminated the right to those benefits by preventing same-sex couples from marrying; the recent Alaska Supreme Court decision effectively ignored the will of nearly 70 percent of Alaskan

[voters], he remarked, because it ruled that state and local governments must provide what he termed, "tax-payer funded" benefits to employees involved in same-sex relationships.

MR. MINNORY opined that this ruling was based on a false contention, and questioned whether currently the civil rights of gays and lesbians really are being denied, particularly given - according to his understanding - that gays and lesbians can easily obtain legal documents establishing hospital visitation rights, medical decision-making rights, inheritance rights, and property ownership rights; be granted power of attorney; have joint bank accounts; and be life insurance beneficiaries. He then offered his belief that in Connecticut, same-sex couples have been granted all the same benefits and protections as married couples, but that even so, the state of Connecticut is currently involved in litigation because some same-sex couples are claiming that they still feel like second-class citizens because they are precluded from marrying.

MR. MINNORY surmised that the reason for such litigation revolves around the issue of public affirmation rather than an issue of being denied benefits or rights. He then offered the following as a quote by Paula Ettelbrick, director of the National Gay and Lesbian Task Force's Family Policy Program: "Being queer means pushing the parameters of sex and family, and, in the process, transforming the very fabric of society." Mr. Minnory went on to say:

One of the more slippery aspects of the ruling will be defining what qualifies as a same-sex relationship. Will it be based on how long the relationship has existed, or simply on whether the couple is living together? Will the couple be required to be sexually active? In order to be qualified for employee health benefits at the University of Florida, same-sex couples must sign an affidavit actually stating they're involved in a, quote, "non-platonic relationship." Do we want our tax dollars to be spent determining who is engaged in sexual relations and who is not?

Once the state is mandated to recognize same-sex couples and provide them with benefits, it becomes very difficult to deny that same right to polygamists or even cohabitating friends or relatives. The homosexual movement has been very purposeful in avoiding any comparisons to polygamy, but that

argument is getting more disingenuous all the time. The ACLU itself has declared its support of the repeal of all laws prohibiting or penalizing the practice of what they call plural marriage. Polygamy advocates today are following, to a "T," the script of the gay rights movement, and TV shows boldly presenting polygamy as an acceptable lifestyle - like the HBO series ... "Big Love" - are paving the way toward acceptance and more lawsuits demanding civil rights and benefits of marriage for polygamy.

Those of us supporting these resolutions believe this language simply clarifies what was central to the 1998 marriage amendment, [that] marriage between one man and one woman serves a public purpose in a way no other relationship can and should be legitimately and uniquely privileged in public policy. It is not about hatred, respect, or gay bashing. It never has been, for most people lifting up the sanctity of marriage; it's not about taking away rights or discriminating against a segment of society, either. It's about unapologetically distinguishing and intentionally lifting up marriage as a treasured institution and valued social bond that distinctively benefits our community.

MR. MINNORY concluded:

The reality is that there's a segment of our population that wants all of society to collectively approve of and legally endorse homosexuality in the same way we validate heterosexuality. Rulings from the Alaska Supreme Court cannot make that happen; neither can an attempt to thwart the will of the people by denying them the right to vote on an issue they've already decided on. I urge you to vote in favor of [allowing] the people of Alaska to vote on HJR 32, and I thank you for the opportunity [to speak] today.

[5:04:46 PM](#)

STEVEN JACQUIER relayed that his partner is a retired University of Alaska Anchorage (UAA) professor and small business owner, and that he is a teacher and owner/operator of a small business. He went on to say:

This is a second relationship for both of us. Doran lost his first partner, Frank, to diabetes after they were together for 27 years. I lost my first partner, Robb, after 13 years. Doran and I have now been together for 4 going on 5 years, and will doubtless remain a couple for the rest of our lives. Between the two of us, we've worked in Alaska for 43 years so far. Our family resides in south Anchorage; our daughter, Kristina, is in high school, and our son, Andrew, is in college. Raising children and putting them through college is indeed expensive, [but] we carry our own weight, [and] are not a burden upon anyone else.

My partner and I have worked long and hard in Alaska and continue to do so now, [and] our payroll contributions have funded the coverage of our married coworkers for decades. My current group health insurance runs out in October; if the [Alaska State] Constitution ... is protected, then [in] October, I will become covered by my partner's insurance. If this bill succeeds, though, then after having paid [in] once already via our payroll deductions, we would be forced to also seek private health coverage, pulling out our wallets a second time to pay at private rates, on top of our labor having subsidized coverage for our coworkers' spouses for 43 years.

MR. JACQUIER added:

We estimate a direct cost to our family of \$11,400 (indisc - microphone picking up room noise) per year, out of pocket, for obtaining equivalent medical insurance at private rates. This is money which could be much better spent on our children's needs and college tuition fees. Bills like this in the South were called "Jim Crow laws"; they marginalized and disenfranchised people of color, forced white folks to be parasites upon the labor of people of color, and were bad for everyone. Jim Crow laws existed because a righteous majority was content to abuse and take advantage of a minority - not an admirable exercise of good Christian values. This is no different. Gay people are just as god created us; we have no more choice about that than our skin color.

Just as women should receive pay equal with that of men for performing equal work, Alaskans in longstanding committed relationships contributing to our community with our labor yet who are prohibited from marriage absolutely do merit treatment equal with that accorded our married coworkers. The Alaska [State] Constitution says so, the highest court in the state says so, and common decency says so. We work just as hard, pay in just as much; we too have children in school and college. We would go to city hall and sign a civil marriage contract if we could, and many of us have certainly been together as committed unmarried couples far longer than most heterosexual married couples.

If the situation were turned around, with this ... [resolution] directly targeting our married coworkers and neighbors - and forcing us to become parasites upon them - then we would not stand for it. This bill turns our married coworkers into parasites. Yes, parasites - parasites benefiting at the expense of others by taking from the labor of coworkers with families who are barred from marriage. Parasites do not make for good coworkers, nor good neighbors, nor a healthy Alaska. Parasites are without any shred of honor or dignity, and people who embrace being parasites should not even think about trying to claim the high moral ground on this issue.

Pandering to prejudice, HJR 32 seeks to pervert the Alaska [State] Constitution by inverting the whole purpose of a constitution, to - rather than protecting equality and citizens' rights - instead strip away equal treatment and unfairly target a specific group - unmarried families - for harm while creating special protections and special privileges for others - married families - thus effectively forcing the latter to be parasites upon their coworkers and neighbors, whether they want that despicable role or not.

[5:09:25 PM](#)

MR. JACQUIER remarked:

Quite likely, some members of this committee actually are listening to testimony with an open mind and a genuine desire to sort out that which will best serve

our community here in Alaska. Unfortunately it is also fairly likely that some of you are so enmeshed in partisan politics that you are merely making a cynical pretense at listening for the sake of form. Whichever group you fall into, I hope that you can recognize that such a divisive, ... fiscally irresponsible, prejudicial [resolution] as this will, like a malignant burden of parasites, bring more and more grief, expense, and suffering the bigger it is allowed to grow. And that harm will be to everyone, yourselves included.

The sponsors and supporters of this bill should feel deeply ashamed of themselves; they are also placing themselves at risk. How would you feel if your family, your children, were attacked? How would you respond to people who are intending to deliberately and knowingly inflict harm upon your family, your children? Those who would target and attack people's families and children should have a care for the situation in which they are placing themselves; they should not assume [that] those whom they delight in demonizing and attacking will indefinitely turn the other cheek to such brutality.

MR. JACQUIER concluded:

Prejudicially targeting and harming families and children is exactly that which HJR 32 does - make no mistake. Please do not become guilty of doing violence to others through supporting this repugnant legislation. Please demonstrate maturity, exercise statecraft, and through your actions be leaders we may feel proud to have serving in our legislature - please defeat this [resolution] ... as well as every other bigoted effort which comes before [you], regardless of whom it targets. Thank you for listening to my family; please feel welcome to contact us if you have any questions.

[5:11:49 PM](#)

FRANCIS MANYOKY, noting that he has also submitted written testimony to the committee, relayed that he is a student at UAA studying business administration, is a homosexual, and is opposed to HJR 32 on the basis that it will deprive both the government and the citizens of Alaska of civil and economic

benefits. Although supporters of HJR 32 say that it is only intended to protect traditional marriage and limit the benefits of marriage to only those that are married, since homosexuals have been denied the right to be married, they are thus also precluded from the same state employee benefits accorded to those that are married. Such being the case, are proponents of HJR 32 suggesting that homosexuals should simply enter into fraudulent heterosexual marriages so as to be able to get healthcare and other benefits? Or are proponents simply attempting to discourage homosexuals from seeking employment with the state?

MR. MANYOKY pointed out that either way, HJR 32 will have a negative civil and economic impact on the state. For if HJR 32 encourages heterosexual marriages among homosexual state employees, it will then mock the very sacredness of marriage that proponents claim to be protecting. And if HJR 32 is meant to discourage homosexuals from seeking state employment, not only would doing so simply be unacceptably discriminatory, but also the state wouldn't be able to benefit from many exceptionally qualified applicants. In conclusion, he asked the committee to defeat HJR 32.

[HJR 32 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 5:15 p.m.