

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 4, 2020

1:09 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Chuck Kopp
Representative Harriet Drummond
Representative Louise Stutes
Representative Gabrielle LeDoux
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 148

"An Act relating to solemnization of marriage."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 148

SHORT TITLE: MARRIAGE WITNESSES

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

04/29/19	(H)	READ THE FIRST TIME - REFERRALS
04/29/19	(H)	STA, JUD
02/20/20	(H)	STA AT 3:00 PM GRUENBERG 120
02/20/20	(H)	Heard & Held
02/20/20	(H)	MINUTE(STA)
02/27/20	(H)	STA AT 3:00 PM GRUENBERG 120
02/27/20	(H)	Moved HB 148 Out of Committee
02/27/20	(H)	MINUTE(STA)
02/28/20	(H)	STA RPT 5DP 1DNP
02/28/20	(H)	DP: HOPKINS, THOMPSON, STORY, FIELDS, KREISS-TOMKINS
02/28/20	(H)	DNP: VANCE
03/02/20	(H)	JUD AT 1:00 PM GRUENBERG 120
03/02/20	(H)	Scheduled but Not Heard
03/04/20	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

SOPHIE JONES, Staff
Representative Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered an explanation on the Sectional Analysis of HB 148, on behalf of Representative Claman, prime sponsor.

JOE CONNOLLY, Photographer
Chugach Peaks Photography
Anchorage, Alaska

POSITION STATEMENT: Offered testimony in support of HB 148.

CIAN MULHERN, Reverend
Celtic Ministries
Wasilla, Alaska

POSITION STATEMENT: Offered testimony in support of HB 148.

ERIN VELANDER, Wedding Planner
Blomma Designs
Anchorage, Alaska

POSITION STATEMENT: Offered testimony in support of HB 148.

ACTION NARRATIVE

[1:09:57 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:09 p.m. Representatives Claman, Drummond, LeDoux, Shaw, and Eastman were present at the call to order. Representatives Kopp, and Stutes arrived as the meeting was in progress.

HB 148-MARRIAGE WITNESSES

[1:10:31 PM](#)

CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 148, "An Act relating to solemnization of marriage."

[1:10:49 PM](#)

CHAIR CLAMAN passed the gavel to Representative Drummond.

1:11:08 PM

CHAIR CLAMAN, as prime sponsor, introduced HB 148. He stated that at present, during the solemnization of marriage, couples must assent to the marriage in the presence of each other, the person solemnizing the marriage, and at least two additional witnesses, and afterwards all parties must sign the marriage certificates. He explained that HB 148 would eliminate the marriage witness requirement for the two additional witnesses at marriage solemnization and the signatures of those two witnesses on marriage certificates. He said that these changes would bring Alaska's ceremonial requirements into the modern age and help support Alaska's destination wedding industry, while preserving the integrity of marriage solemnization.

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[REPRESENTATIVE DRUMMOND passed the gavel to Representative Kopp.]

CHAIR CLAMAN stated that Alaska is one of 20 states that require two wedding witnesses in addition to the person officiating the marriage, and there are 25 states that do not require any wedding witnesses. He said that wedding witnesses played a critical role in past centuries when record keeping was less automated and less accurate. He said that in England prior to the 18th century, legal requirements of marriage were governed by the canon law of the Church of England, and a marriage was considered valid as long as the union was consented to by both parties and celebrated by an Anglican clergyman. He said that this largely informal process, which dictated the validity of marriage, allowed for the proliferation of clandestine marriages. In 1746 a woman laid claim to the recently deceased Captain John Campbell's pension on the basis that she married him in a clandestine ceremony, but a problem arose because another woman claimed that she too was the wife of the captain.

CHAIR CLAMAN said that the confusion that ensued from an inability to verify marriage claims led parliament to pass An Act for the Better Preventing of Clandestine Marriage, know as the Marriage Act of 1753. He explained that the Act formalized the marriage process, requiring that marriages be viewed by witnesses who could later be called on to confirm that the marriage took place; an extra precaution should marriage records be damaged or go missing. He said that the Marriage Act of 1753 is the historical basis for the two-witness requirement.

CHAIR CLAMAN stated that the role of wedding witnesses is ceremonial in modern times. In Alaska, the person solemnizing the ceremony must meet certain criteria; however, the law does not require any form of witness verification, proof of identification, language comprehension, and no address validation. He said that HB 148 would allow Alaska to compete more directly with states such as Hawaii and Florida, which require no wedding witnesses, and lead the nation in destination weddings. He expressed that destination weddings, often on mountaintops and glaciers, are a growing business in Alaska. He said that the requirement of two wedding witnesses makes the state less attractive for many couples who travel from further away and do not want the financial burden of a larger wedding. He explained that couples who come to Alaska without their own witnesses are tasked with finding strangers to witness their wedding, and the burden of supplying these witnesses often falls to those who work in Alaska's wedding industry; who ask friends and family to witness the weddings of their out-of-town clients. He expressed that the additional witness requirement can place an increased financial burden on the couple, in addition to the awkwardness of having strangers witness the wedding. He said that for a wedding in a remote location, such as a glacier accessed by helicopter, a couple must pay extra seating costs to transport the witnesses.

CHAIR CLAMAN stated that at present, destination weddings bring in an estimated \$1 million in revenue to Alaska, in the form of roughly 500 destination weddings a year; this revenue figure does not consider the fact that more than 90 percent of the out-of-state couples who come to Alaska to get married stay for days and weeks to explore the state. He expressed that the resulting benefit to Alaska's tourism industry is substantial, and HB 148 would simplify the wedding process by reducing the number of hurdles a couple must address to get married.

[1:15:24 PM](#)

SOPHIE JONES, Staff, Representative Matt Claman, Alaska State Legislature, offered an explanation on the Sectional Analysis of HB 148 [hard copy included in the committee packet], on behalf of Representative Matt Claman, prime sponsor. She explained that Section 1 of HB 148 would amend AS 25.05.301, by eliminating the requirement of two witnesses at a marriage solemnization. She stated that Section 2 of HB 148 would amend AS 25.05.32, by eliminating the requirement of the signatures of two witnesses on marriage certificates. She said that Section 3

of HB 148 would amend AS 25.05.361, by deleting language to conform with changes made in Section 1 of the proposed legislation. She added that Section 4 of HB 148 would repeal AS 25.05.041(a)(3), and AS 25.05.041(a)(5), to conform with changes made in Section 1 of the proposed legislation.

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REPRESENTATIVE LEDOUX asked for clarification on clandestine marriage.

[1:16:41 PM](#)

CHAIR CLAMAN explained that his understanding is that a clandestine marriage is one which takes place in a private place, with a couple and a priest.

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REPRESENTATIVE EASTMAN commented that he thinks there is a modern equivalent to clandestine marriage in some jurisdictions; there are secret marriage licenses that are not available for public record requests. He said that if there was a probate issue someone could go to vital records and find out if someone was married. He expressed that this was an option in California when he and his wife were looking to get married.

REPRESENTATIVE EASTMAN asked whether the proposed legislation would require the person solemnizing the marriage to take the place of the witnesses, and what the current requirements are for the person solemnizing a marriage.

CHAIR CLAMAN replied that the proposed legislation would not ask the person solemnizing the marriage to take the place of the witnesses, as he/she already must sign the marriage certificate to indicate his/her qualifications to solemnize. He said that those qualifications are set forth in statute. In response to a follow up question from Representative Eastman, he explained that members of the clergy from any denomination, judges, and elected representatives from the State of Alaska are listed in statute as capable of solemnizing a marriage. He added that there are also provisions allowing any individual not listed to attain a three-day permit through the courthouse, or the Vital Statistics Department, that allows him/her to solemnize a marriage.

REPRESENTATIVE EASTMAN asked how far ahead a marriage must be planned, and the paperwork filed, to receive a marriage license in Alaska.

CHAIR CLAMAN answered that his understanding is that the typical couple who comes to Alaska for a destination wedding, of which there are hundreds every year, usually plan the wedding several months in advance. He said that there is a three-day waiting period after applying to acquire a marriage license, which is unrelated to the person solemnizing the marriage. He said that there would be invited testimony from a minister who performs destination weddings and someone like him wouldn't need a special license to perform the ceremony; other times a couple might have a helicopter pilot perform a ceremony, in which case the pilot would have to go to the courthouse within three days of the ceremony to get the certificate allowing him/her to perform the ceremony.

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REPRESENTATIVE KOPP commented that AS 25.05.261 lists the individuals who may solemnize a marriage. He added that he thinks the law was recently amended to include individuals holding an elected office in the state. He said that AS 25.05.271 describes the "duty of officiating person before ceremony," and he noted that if the officiating person knows of a legal impediment to the marriage, he/she may not perform the ceremony.

REPRESENTATIVE KOPP remarked that the historical significance of having two witnesses, whether it be from the Hammurabi code, the Magna Carta, or common law marriage in England, has lent credibility to the solemnity of marriage, and asked whether the proposed legislation would be minimizing the seriousness of marriage.

CHAIR CLAMAN replied that he does not think it would minimize the seriousness of marriage at all. He remarked that the two witness requirement dates from the Marriage Act of 1753, which post dates the Magna Carta by "some centuries," and he explained that England had left matters of controlling marriage to the church, which was performing the ceremonies without keeping records of them. He reiterated that the discrepancy he had mentioned before, regarding Captain John Campbell and his two wives, prompted the parliament to pass laws allowing it to regulate marriage, because leaving it to the church had not worked as well as it had hoped. He said that the two-witness

requirement was more community based in those days, as the marriages were typically taking place in small communities, and the witness requirement was a way to ensure that members of the community, who knew the couple, could vouch for the fact that the wedding had occurred.

CHAIR CLAMAN stated that in Alaska there is a rigorous record keeping requirement maintained by the Vital Statistics Department. He explained that the witness requirement is different from older days, as the witnesses do not have to provide information such as their name or address, and many times the witnesses wouldn't even know where to begin to find the couple getting married, because they are just signing the document without knowing who the couple are. As an example, he said that there are marriages performed in hotels in which hotel housecleaning staff are brought in to attend the marriage as witnesses. He summarized that the marriage witness requirement has changed with the times, because good record keeping can show what occurred, and the requirements for witnesses does not help to find them in the event that you needed to verify the validity of a marriage.

[1:25:43 PM](#)

REPRESENTATIVE KOPP stated that he thinks every state has "unlawful marriage" rules, meaning that an individual can only be legally married to one person. He asked whether getting rid of the witness requirement for marriage, and not having those people to call for verification, would make it harder to uphold marriage laws in criminal or divorce cases. He added that the person solemnizing the marriage could die, and it would be nice to still have people to talk to confirm the marriage had happened.

CHAIR CLAMAN answered that he had experience with an issue like that mentioned by Representative Kopp in his legal career, but not as a criminal matter. He added that he has never seen or heard of any criminal prosecution for "improper marriage," but it was probably an issue in the 1800s when there was concern about Utah entering the union, and the polygamy issues in Utah; although, the church in Utah eventually changed its view on polygamy before entering the union. He said that an issue that he has seen come up more often, is whether there is evidence of divorce. He stated that he was working on a case that involved a death, and a question was raised as to whether the decedent had been lawfully divorced prior to the marriage to the widow who was claiming to be entitled to the estate of the decedent.

He said marriage certificates were found for both marriages, and no one started looking for witnesses, just the marriage certificates. He explained that they did not look for the judge presiding over the divorce case, as judges come and go, but rather looked for the records reflecting the actual divorce. He said that they knew where the divorce had occurred, went to the Vital Records Department in that location, and were able to obtain a copy of the divorce certificate which showed that the first marriage had lawfully ended.

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The committee took a brief at-ease at 1:29 p.m.

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[REPRESENTATIVE KOPP passed the gavel to Representative Stutes.]

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REPRESENTATIVE EASTMAN asked whether there was something special about marriage witness requirements specifically, or whether witness requirements in general should be looked at in statute.

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CHAIR CLAMAN replied that he became interested in the proposed legislation because he was contacted by wedding photographers explaining the impact that the wedding witness requirement was having on them to help people celebrate their marriage. He said that he thinks the wedding photographers would be better able to explain the impact. He said that he thinks there may be other instances in the law that Representative Eastman might want to look into, in which the witness requirements might not be essential, but this was the only issue he had looked at for purposes of HB 148.

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REPRESENTATIVE STUTES returned the gavel to Chair Claman.

[1:31:28 PM](#)

The committee took a brief at-ease at 1:31 p.m.

[1:31:55 PM](#)

CHAIR CLAMAN opened public testimony on HB 148.

1:32:27 PM

JOE CONNOLLY, Photographer, Chugach Peaks Photography, offered testimony in support of HB 148. He said that the proposed legislation is not an attack on marriage or designed to undermine it in any way. He expressed that it would encourage more people to get married and make it an easier process for people coming from out-of-state. He stated that there are 30 states that do not require marriage witnesses, including Democrat and Republican dominated states. He expressed that the economic impact of weddings in Alaska is more significant than might be expected. He said that requiring two witnesses to be present is an unfair burden, and awkward intrusion, into what these people intended as a private and personal event. He said that the very act of eloping is to "get away from it all," and have no family present at a small, simple, and affordable wedding. He stated that when people come to Alaska for a destination wedding, they are looking for solitude and something more intimate and personal, not a large wedding.

MR. CONNOLLY stated that as mentioned by Representative Claman previously, hundreds of people come from around the world every year to get married in Alaska. He said he had just photographed a wedding the week before for a couple from Australia, and they had to deal with the witness issue at that time, which was problematic. He said that these couples come to Alaska by themselves with no friends or family, they do not live in Alaska or know anyone in Alaska, but they still must find two witnesses. He said that social media, an increase in tourism infrastructure, and marketing by the state have all increased the number of people wanting to come to Alaska to get married on glaciers, rocky beaches next to the ocean, waterfalls in rainforests, flowery meadows, and other peaceful settings within Alaska's scenery; all without strangers intruding. He expressed that at no point has he had anyone say to him, "We'd really like it if you could bring a couple of strangers to our wedding, we'd really like it if you guys could go find two random people on the side of the road and have them come watch us get married."

MR. CONNOLLY stated that there are often times where he does have to bring strangers to weddings to be witnesses, and there is no requirement by the state to provide a driver's license or verification, all the witness has to do is write a name on a piece of paper, which is not a reliable system. He said that a lot of people want to get married on a glacier, but they often

have to pay extra money to bring the two witnesses, which makes couples less inclined to have the marriage performed on a glacier, so helicopter companies make less money. He said that some couples might be turned away and go to other states that do not require witnesses, such as Montana, to have a destination wedding performed. He emphasized that the economic impact these destinations bring to Alaska is substantial; the couples are not only getting married, they are staying in hotels, renting cars, eating at restaurants, buying food at the grocery stores, going on whale watching tours, going bear viewing at remote wilderness lodges, and many other activities. He expressed that attracting more people to Alaska is great for the economy, businesses, and people who rely on tourism. He said that a lot of the cruise ship passengers visiting Alaska spend most of their money with the cruise ship companies, such as Princess, Carnival, and Holland America, and if smaller locally owned businesses were better able to benefit from travel, he thinks it would be a good thing for everyone living in Alaska.

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MR. CONNOLLY summarized that HB 148 would put Alaska into a more competitive place within the destination wedding market, which is dominated by states like Hawaii, Nevada, and Florida that do not have witness requirements. He said that the proposed legislation would attract more people to Alaska by removing regulatory burdens, like requiring two strangers to be present at a private event and would create economic growth all over the state in the tourism industry. He reiterated that the proposed legislation is not a partisan issue, as both Republican and Democrat states do not have witness requirements, and those states do not have increased rates of divorce or issues verifying the validity of marriages.

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CIAN MULHERN, Reverend, Celtic Ministries, offered testimony in support of HB 148. He stated that he has been an ordained minister performing weddings for approximately 21 years, and has traveled to many other states, including Montana and Texas, to perform weddings where no witnesses are required. He said that Alaska's destination wedding numbers are growing every year, and he thinks that HB 148 would help to grow the destination wedding industry considerably. He said that he performs approximately 150 weddings a year, and around 90 percent of those are destination weddings for couples traveling from all over the world.

REV. MULHERN said that he was the officiant for the Australian couple's wedding mentioned earlier by Mr. Connolly, and he had to bring a witness for them. He expressed that the result of that was a stranger standing there, while the couple had an intimate ceremony and spoke their vows. He expressed that most couples do not know anyone when they come to Alaska, and it can be difficult to find witnesses. He explained that he has had couples who have had to go to a parking lot and ask random travelers if they would be their witnesses, and most couples are not thrilled with having strangers watching their wedding, as it is somewhat intrusive. He said that he performs weddings for the service men and women of Fort Wainwright and Joint Base Elmendorf-Richardson (JBER), and many of these couples are new to Alaska and have not had a chance to make friends or get to know neighbors, which puts the burden back on the wedding officiant. He said that witnesses are not being used to verify the identities of couples or the validity of marriages and, in fact, that is what the Vital Statistics Department does when the couple applies for the marriage license.

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REPRESENTATIVE STUTES expressed that she was "curious as to what Celtic Ministry is."

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REV. MULHERN replied that it means he is a wedding officiant and is ordained as clergy by the Baptist church.

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ERIN VELANDER, Wedding Planner, Blomma Designs, offered testimony in support of HB 148. She stated that all her business in the summer is from couples coming to Alaska to elope in an adventurous manner. She said that she plans a lot of helicopter excursions and hikes. She expressed that she thinks the proposed legislation would be great for the tourism economy in Alaska, would benefit small business owners in Alaska, open the industry up, and make it easier for couples to have destination weddings. She stated that most couples who book with her spend anywhere from 10 days to several months in Alaska, and they are engage in many fun activities that feed the economy and small businesses.

MS. VELANDER expressed that she has been a part of hundreds of wedding ceremonies, and there is a difference between a wedding ceremony with hundreds of people in a church, and a wedding ceremony on the side of a mountain with "just two people, and the person marrying you." She said that she doesn't think that an argument can be made as to which type of ceremony is more valid. She stated that if two people want to get married in Alaska currently, they can walk to the Vital Statistics Department or the courthouse, say three sentences, sign some paperwork, and be legally married. She said that she does not think that having two witnesses validates, or invalidates, the process in any way, and she thinks it makes for a less personal experience for couples choosing to get married in an intimate setting.

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CHAIR CLAMAN, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 148.

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REPRESENTATIVE EASTMAN expressed that he would be curious to find out if there was any evidence available on whether witnesses have been used in a positive informal capacity in the past for "error checking."

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CHAIR CLAMAN replied that he had heard no stories pertaining to that while looking into the proposed legislation; the most frequent scenario he had encountered was from couples getting married in large group settings, who had not figured out witnesses ahead of time and had to look for two people to sign the marriage certificate at the reception after the ceremony.

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CHAIR CLAMAN announced that HB 148 would be held over for further review.

[1:47:00 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:47 p.m.