

ALASKA MARRIAGE CODE

TABLE OF CONTENTS

|                                                                | Page |
|----------------------------------------------------------------|------|
| ARTICLE I. REQUIREMENTS FOR MARRIAGE                           |      |
| Sec. 1.01. CIVIL CONTRACT                                      | 1    |
| Sec. 1.02. PROHIBITED MARRIAGES                                | 1    |
| Sec. 1.03. VOIDABLE MARRIAGES                                  | 1    |
| Sec. 1.04. MATTERS INSUFFICIENT TO RENDER MARRIAGE<br>VOIDABLE | 2    |
| Sec. 1.05. EFFECT OF EXISTING FORMER MARRIAGE                  | 2    |
| Sec. 1.06. MARRIAGE WITHOUT LICENSE                            | 3    |
| ARTICLE II. LICENSING OFFICERS                                 |      |
| Sec. 2.01. PERSONS TO ISSUE LICENSE                            | 3    |
| Sec. 2.02. MARRIAGE COMMISSIONERS                              | 3    |
| ARTICLE III. PROCEDURE TO OBTAIN LICENSE                       |      |
| Sec. 3.01. APPLICATION FOR LICENSE                             | 4    |
| Sec. 3.02. PREMARITAL CERTIFICATE                              | 4    |
| Sec. 3.03. ISSUANCE OF LICENSE                                 | 5    |
| Sec. 3.04. MARRIAGE LICENSE                                    | 5    |
| ARTICLE IV. MEDICAL REPORTS                                    |      |
| Sec. 4.01. LABORATORY REPORT OF STANDARD SEROLOGICAL<br>TEST   | 5    |
| Sec. 4.02. LABORATORY RESULTS CONFIDENTIAL                     | 6    |
| Sec. 4.03. TESTS AND LABORATORIES                              | 6    |
| ARTICLE V. SPECIAL CIRCUMSTANCES                               |      |
| Sec. 5.01. WAIVER OF WAITING PERIOD                            | 6    |
| Sec. 5.02. LICENSE TO PARTIES UNDER AGE OF MARRIAGE            | 7    |
| Sec. 5.03. WAIVER ORDER                                        | 7    |

|    |                                                  |    |
|----|--------------------------------------------------|----|
| 1  | ARTICLE VI. FORMS, RECORDS, AND REPORTS          |    |
| 2  | Sec. 6.01. MARRIAGE LICENSE DOCKET               | 8  |
| 3  | Sec. 6.02. NOTES ON DOCKET                       | 8  |
| 4  | Sec. 6.03. REPORTS BY MARRIAGE COMMISSIONER      | 9  |
| 5  | Sec. 6.04. FORMS                                 | 9  |
| 6  | Sec. 6.05. REPORTS OF LICENSES ISSUED            | 9  |
| 7  | Sec. 6.06. FEES                                  | 10 |
| 8  | Sec. 6.07. VITAL STATISTICS ACT                  | 10 |
| 9  | ARTICLE VII. SOLEMNIZATION                       |    |
| 10 | Sec. 7.01. WHO MAY SOLEMNIZE                     | 10 |
| 11 | Sec. 7.02. DUTY OF OFFICIATING PERSON BEFORE     |    |
| 12 | CEREMONY                                         | 10 |
| 13 | Sec. 7.03. MARRIAGE SOLEMNIZED BY UNAUTHORIZED   |    |
| 14 | PERSON                                           | 11 |
| 15 | Sec. 7.04. CIVIL AND RELIGIOUS CEREMONIES        | 11 |
| 16 | Sec. 7.05. FORM OF SOLEMNIZATION                 | 11 |
| 17 | Sec. 7.06. CERTIFICATES                          | 11 |
| 18 | ARTICLE VIII. PENALTIES                          |    |
| 19 | Sec. 8.01. UNLAWFUL ISSUANCE OF LICENSE          | 12 |
| 20 | Sec. 8.02. MISREPRESENTATION AND VIOLATION OF    |    |
| 21 | CONFIDENCE                                       | 12 |
| 22 | Sec. 8.03. VIOLATION CONCERNING MARRIAGE LICENSE |    |
| 23 | DOCKET                                           | 12 |
| 24 | Sec. 8.04. UNLAWFUL SOLEMNIZATION OF MARRIAGE    | 13 |
| 25 | Sec. 8.05. SOLEMNIZATION OF MARRIAGE BY UN-      |    |
| 26 | AUTHORIZED PERSON                                | 13 |
| 27 | ARTICLE IX. DEFINITIONS                          |    |
| 28 | Sec. 9.01. DEFINITIONS                           | 14 |
| 29 | Sec. 9.02. SHORT TITLE                           | 14 |

|    |                            |    |
|----|----------------------------|----|
| 1  | ARTICLE X. REPEAL          |    |
| 2  | Sec. 10.01. REPEAL         | 14 |
| 3  | ARTICLE XI. EFFECTIVE DATE |    |
| 4  | Sec. 11.01. EFFECTIVE DATE | 14 |
| 5  |                            |    |
| 6  |                            |    |
| 7  |                            |    |
| 8  |                            |    |
| 9  |                            |    |
| 10 |                            |    |
| 11 |                            |    |
| 12 |                            |    |
| 13 |                            |    |
| 14 |                            |    |
| 15 |                            |    |
| 16 |                            |    |
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| 18 |                            |    |
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| 20 |                            |    |
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| 22 |                            |    |
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| 24 |                            |    |
| 25 |                            |    |
| 26 |                            |    |
| 27 |                            |    |
| 28 |                            |    |
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1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 339

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide a comprehensive  
7 Marriage Code for the State of Alaska."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 ARTICLE I.

10 REQUIREMENTS FOR MARRIAGE

11 Section 1.01. Civil Contract. Marriage is a civil contract  
12 which may be entered into by a male who is 19 years of age or  
13 older with a female who is 18 years of age or older, who are  
14 otherwise capable. No person may be joined in marriage in this  
15 state until a license has been obtained for that purpose as pro-  
16 vided in this chapter.

17 Sec. 1.02. Prohibited Marriages. Marriage is prohibited  
18 and void if performed when

19 (1) either party to the proposed marriage has a hus-  
20 band or wife living; or

21 (2) the parties to the proposed marriage are more  
22 closely related to each other than the fourth degree of consan-  
23 guinity, whether of the whole or half blood, computed according  
24 to rules of the civil law.

25 Sec. 1.03. Voidable Marriages. When either party to a  
26 marriage is incapable of consenting to it at the time of the  
27 marriage for want of legal age or sufficient understanding, or  
28 when the consent of either party is obtained by force or fraud,  
29 the marriage is voidable but only at the suit of the party

1 laboring under the disability or upon whom the force or fraud is  
2 imposed.

3 Sec. 1.04. Matters Insufficient to Render Marriage Voidable.

4 (a) No marriage is voidable for any of the following reasons if  
5 the marriage is in other respects lawful and is consummated with  
6 the full belief on the part of the persons married, or either of  
7 them, that they have been lawfully joined in marriage:

8 (1) the license has been issued without the consent of  
9 the parents or guardian of a minor;

10 (2) the licensing officer did not have jurisdiction to  
11 issue the license;

12 (3) there was an omission, informality, or irregularity  
13 of form in the application for the license or in the license it-  
14 self;

15 (4) either or both witnesses to the marriage were in-  
16 competent;

17 (5) the marriage was performed after the expiration  
18 date of the license.

19 (b) When a marriage has been contracted as provided in  
20 this chapter and the parties to it have immediately thereafter  
21 assumed the habit and repute of husband and wife and have contin-  
22 ued to behave uninterruptedly as husband and wife for one year or  
23 until the death of either of them, it shall be deemed that a  
24 license was issued.

25 Sec. 1.05. Effect of Existing Former Marriage. If, during  
26 the lifetime of a husband or wife with whom a marriage is still  
27 in force, a person remarries and the parties to the subsequent  
28 marriage live together as husband and wife and one of the parties  
29 to the subsequent marriage believes in good faith that the former

1 husband or wife is dead or that the former marriage has been  
2 annulled or dissolved by a divorce or is without knowledge of  
3 the former marriage, then after the death or divorce of the other  
4 party to the former marriage, if they continue to live together  
5 as husband and wife in good faith on the part of one of them,  
6 they shall have been legally married from the removal of the  
7 impediment, and the issue of the subsequent marriage are the  
8 legitimate issue of both parents, whether born before or after  
9 the removal of the impediment.

10 Sec. 1.06. Marriage without License. All marriages contract-  
11 ed after the effective date of this Act are void unless a license  
12 has first been obtained as provided in this chapter. The parties  
13 to a marriage voided for failure to obtain a license may validate  
14 the marriage by complying with the requirements of this chapter.  
15 The issue of the marriage, if any, thereupon become legitimate.

16 ARTICLE II.

17 LICENSING OFFICERS

18 Sec. 2.01. Persons to Issue License. Licensing officers  
19 are the only officials empowered to issue marriage licenses in  
20 accordance with the provisions of this chapter.

21 Sec. 2.02. Marriage Commissioners. The presiding judge in  
22 each judicial district may, when the public interest requires,  
23 appoint one or more suitable persons as marriage commissioners.  
24 A marriage commissioner may, within his jurisdiction, issue  
25 marriage licenses and solemnize marriages in the same manner as  
26 a Magistrate and may exercise any power necessarily incident to  
27 his duties. The presiding judge shall describe in the order of  
28 appointment of the marriage commissioner his area of jurisdiction.  
29 The clerk of court shall issue to the marriage commissioner a

1 certified copy of the order of appointment, and send a copy of  
2 it to the bureau.

3 ARTICLE III.

4 PROCEDURE TO OBTAIN LICENSE

5 Sec. 3.01. Application for License. One of the contracting  
6 parties to a prospective marriage shall, at least three days be-  
7 fore the time of issuance, file with the licensing officer written,  
8 verbal, or telegraphic application for a license. Before issu-  
9 ance of the license, each contracting party shall file with the  
10 same licensing officer a premarital certificate; and shall make  
11 a statement under oath that the contemplated marriage meets the  
12 requirements of law, giving the names, relationship if any, resi-  
13 dence, occupation, and age of each party; naming guardians of  
14 any party under the legal age for marriage; and describing any  
15 prior marriage or marriages of either party, and the manner of  
16 dissolution of them. This statement may be made and executed  
17 before a notary public who shall certify it to the licensing  
18 officer.

19 Sec. 3.02. Premarital Certificate. Before a licensing  
20 officer issues a marriage license, each party shall file with  
21 him a premarital certificate from a licensed physician or surgeon  
22 stating (1) the name and age of the applicant; (2) that the appli-  
23 cant has been given a physical examination, including a standard  
24 serological test for syphilis; and (3) that in the opinion of  
25 the physician or surgeon the applicant is not infected with  
26 venereal disease, or if infected is not in and will not reach a  
27 state of the disease in which the disease is communicable. No  
28 license shall be issued more than 30 days after the serological  
29 test.

1           Sec. 3.03. Issuance of License. No marriage license shall  
2 be issued unless both of the contracting parties are identified  
3 to the satisfaction of the licensing officer. If all requirements  
4 have been met, and there is no legal objection to the contempla-  
5 ted marriage and neither party is under the influence of intoxi-  
6 cating liquor or otherwise incapable of understanding the serious-  
7 ness of the proceeding, the licensing officer shall issue a  
8 license.

9           Sec. 3.04. Marriage License. The marriage license issued  
10 by any licensing officer in this state authorizes the marriage  
11 ceremony to be performed anywhere in the state. The license shall  
12 be directed "to any person authorized by the laws of this state  
13 to solemnize marriage," and shall authorize him to solemnize  
14 marriage between the parties identified by the license within  
15 three months of the date of the license. If either party is not  
16 of legal age for marriage, his or her age and the fact of the  
17 consent of his or her parents or guardian shall be stated. If  
18 either party has previously been married, the number of previous  
19 marriages shall be stated. The registrar may require other  
20 matter necessary to identify the parties to be included in the  
21 license. The issuance of a license does not remove or dispense  
22 with any legal disability, impediment, or prohibition rendering  
23 marriage between the parties illegal, and a statement to that  
24 effect shall be included in the license.

25                           ARTICLE IV.

26                           MEDICAL REPORTS

27           Sec. 4.01. Laboratory Report of Standard Serological Test.  
28 The person in charge of the laboratory making the serological  
29 test or tests, or some other person authorized to make such

1 reports shall make on the premarital certificate the required  
2 report setting forth the name of the test, the date it was made,  
3 the name and address of the physician or surgeon to whom the re-  
4 port was sent, and the name and address of the person whose blood  
5 was tested, but not stating the result of the test.

6 Sec. 4.02. Laboratory Results Confidential. A detailed  
7 report of the standard serological test or tests on a separate  
8 laboratory report form to be furnished by the department, togeth-  
9 er with the premarital certificate, shall be sent from the lab-  
10 oratory to the physician requesting the report. The physician  
11 shall retain this report as a part of his confidential files.  
12 A duplicate shall be sent by the laboratory to the department  
13 where it shall be held in absolute confidence. The report shall  
14 not be produced for evidence in any court. The reports may be  
15 used in the compilation of aggregate statistics and reports  
16 without disclosing the identities of the persons involved.

17 Sec. 4.03. Tests and Laboratories. For the purposes of  
18 this chapter a standard serological test is a test for syphilis  
19 approved by the department, made at a laboratory or clinic ap-  
20 proved by the department. The department may make regulations  
21 governing the approval of laboratories or clinics for standard  
22 serological tests. The laboratories of the department shall make  
23 required premarital laboratory tests without charge on the request  
24 of any licensed physician or surgeon. In submitting the sample  
25 to the laboratory the physician shall identify it as a premarital  
26 test sample.

27 ARTICLE V.

28 SPECIAL CIRCUMSTANCES

29 Sec. 5.01. Waiver of Waiting Period. If a three-day wait-

1 ing period would result in undue hardship or delay in an indi-  
2 vidual case, the licensing officer may waive the three-day require-  
3 ment.

4 Sec. 5.02. License to Parties Under Age of Marriage. (a)  
5 A license may be issued to a person under the legal age of mar-  
6 raige if he or she has attained the age of consent, which is 18  
7 years of age for males and 16 years of age for females, but only  
8 if the consent of the minor's parents, or guardian, or of the  
9 parent having actual care, custody, and control of the minor is  
10 obtained. Consent shall be given by them under oath, and filed  
11 of record in the office of the licensing officer and entered by  
12 him on the marriage license docket before he issues the license.  
13 If there is no guardian of the minor, or if there is no compe-  
14 tent person having actual care, custody and control of the minor,  
15 then the licensing officer may, in his discretion, make an order  
16 consenting to the marriage of the minor.

17 (b) If either or both of the applicants are under the mar-  
18 riageable age of consent but present the consents required by  
19 (a) of this section, and if the female applicant also presents  
20 a certificate from a licensed physician recommending marriage,  
21 and if the other requirements have been met, the licensing  
22 officer shall issue the marriage license. If there is no li-  
23 censed physician in the area the licensing officer may issue  
24 the certificate recommending marriage.

25 Sec. 5.03. Waiver Order. A licensing officer may, on  
26 joint application by both applicants for a marriage license,  
27 waive the requirements as to physical examinations, laboratory  
28 tests, and premarital certificates if he believes that the public  
29 health and welfare will not be adversely affected and if (1)

1 there is no licensed physician or surgeon to make the physical  
2 examination in the area in which the applicants and the licensing  
3 officer reside; or (2) a delay has been certified by the physician  
4 taking the blood test in a community where no laboratory is  
5 located, the certificate stating that the blood test was sent to  
6 the laboratory at least three days before the certification and  
7 that no return has as yet been received from the laboratory; or  
8 (3) the examination or test is contrary to the tenets or prac-  
9 tices of the religious creed of which the applicant is an ad-  
10 herent. The waiver order shall be filed with the marriage  
11 license docket in lieu of the premarital certificates. No fee  
12 or court costs for the waiver order may be charged.

13 ARTICLE VI.

14 FORMS, RECORDS, AND REPORTS

15 Sec. 6.01. Marriage License Docket. Each licensing offi-  
16 cer shall keep in his office in a book to be provided to him by  
17 the bureau, a marriage license docket, and shall enter a complete  
18 record of the applications for and the issuance of all marriage  
19 licenses, and of all other information he is required by law to  
20 obtain. Marriage commissioners shall keep the marriage license  
21 docket in duplicate. The marriage license docket shall be open  
22 for public inspection or examination during office hours. Docket  
23 sheets and related forms pertaining to applications or licenses  
24 issued under Sec. 5.02(b) shall be removed from the docket and  
25 shall not be open to public inspection.

26 Sec. 6.02. Notes on Docket. When the licensing officer  
27 issues any marriage license he shall indicate on the correspond-  
28 ing marriage license docket sheet that he has on file the pre-  
29 marital certificates of each applicant or a waiver order. He

1 shall enter the dates of the laboratory tests or the waiver order.  
2 The licensing officer shall attach the premarital certificates  
3 or waiver order to the docket sheet.

4       Sec. 6.03. Reports by Marriage Commissioner. Before the  
5 first of each month each marriage commissioner shall forward to  
6 the magistrate acting as recorder for the recording district with-  
7 in which the marriage commissioner has jurisdiction the duplicate  
8 copies of all marriage license docket sheets executed during the  
9 preceding month, the completed original marriage certificates  
10 and duplicate copies for any marriage ceremonies performed by him  
11 during the preceding month, and any fees and reports required by  
12 rule of the supreme court.

13       Sec. 6.04. Forms. (a) Forms for applications, statements,  
14 consent of parents, affidavits, licenses, and other forms neces-  
15 sary to comply with this chapter shall be prescribed by the reg-  
16 istrar and provided at the expense of the state. The registrar  
17 shall furnish all necessary forms to each licensing officer. He  
18 shall provide them with a suitable book in which to keep the  
19 marriage license docket. The forms for the premarital certificate  
20 shall be provided and distributed by the department to approved  
21 laboratories or clinics inside the state. A premarital certifi-  
22 cate which has been approved by the proper authority in any state  
23 or Canadian province requiring premarital examinations for venere-  
24 al disease shall be accepted in Alaska.

25       (b) The registrar shall supervise the record work and re-  
26 quired reporting of the licensing officers. In other respects  
27 the licensing officers are under the supervision of the supreme  
28 court.

29       Sec. 6.05. Reports of Licenses Issued. The registrar may

1 require reports of licenses issued upon forms to be furnished by  
2 him.

3 Sec. 6.06. Fees. The supreme court shall establish mar-  
4 riage license fees and provide for accounting for and disposing  
5 of the fees.

6 Sec. 6.07. Vital Statistics Act. Nothing in this chapter  
7 repeals or abrogates any part of the Vital Statistics Act. The  
8 records and requirements leading up to and including the issuance  
9 of the marriage license are not included in the definition of  
10 "vital statistics" under that Act; however, the registrar shall  
11 supply the necessary forms and instructions for the record work  
12 of the licensing officers.

13 ARTICLE VII.

14 SOLEMNIZATION

15 Sec. 7.01. Who May Solemnize. (a) Marriages may be  
16 solemnized (1) by a minister or priest of any church or congrega-  
17 tion in the state, or by a commissioned officer of the Salvation  
18 Army, or by the principal officer or elder of recognized churches  
19 or congregations which traditionally do not have regular ministers  
20 or priests, anywhere within the state; (2) by a marriage commis-  
21 sioner or judicial officer of the state anywhere within his  
22 jurisdiction; or (3) before or in any religious organization or  
23 congregation according to the established ritual or form commonly  
24 practiced therein.

25 (b) No provision of this section shall be construed to  
26 waive the requirement of obtaining a marriage license.

27 Sec. 7.02. Duty of Officiating Person before Ceremony.  
28 The officiating person shall satisfy himself that the parties  
29 presenting themselves to be married by him are the parties named

1 in the license. If he knows of any legal impediment to the mar-  
2 riage he shall not perform the ceremony.

3 Sec. 7.03. Marriage Solemnized by Unauthorized Person.

4 A marriage solemnized before any person professing to be a min-  
5 ister or priest of any church or congregation in the state or any  
6 judicial officer or marriage commissioner is valid regardless of  
7 a lack of power or authority in the person, if the marriage is  
8 consummated with a belief on the part of the persons so married,  
9 or either of them, that they have been lawfully joined in mar-  
10 riage.

11 Sec. 7.04. Civil and Religious Ceremonies. When a re-  
12 ligious ceremony between two parties follows a civil ceremony  
13 between them, one license is sufficient for both ceremonies.

14 Sec. 7.05. Form of Solemnization. In the solemnization of  
15 marriage no particular form is required except that the parties  
16 shall assent or declare in the presence of each other and the  
17 person solemnizing the marriage, and in the presence of at  
18 least two competent witnesses, that they take each other to be  
19 husband and wife. A competent witness for this purpose is a  
20 person of sound mind capable of understanding the seriousness of  
21 the ceremony. At the time of the ceremony the person solemniz-  
22 ing the marriage shall complete the certification on the original  
23 marriage certificate and he and the two attending witnesses shall  
24 sign the original marriage certificate and the necessary copies.

25 Sec. 7.06. Certificates. The person solemnizing the  
26 marriage shall, on the forms provided by the bureau, complete  
27 two short-form certificates, and after he and the two witnesses  
28 have signed them, give one to each of the parties to the marriage.  
29 Any church or congregation may design and furnish its own form

1 for this purpose, containing as a minimum the items contained  
2 in the form furnished by the bureau. The original marriage certi-  
3 ficate and any required copies shall be filed as required by the  
4 Vital Statistics Act and regulations issued pursuant to it. The  
5 person solemnizing the marriage shall keep the license.

6 ARTICLE VIII.

7 PENALTIES

8 Sec. 8.01. Unlawful Issuance of License. A licensing  
9 officer who knowingly issues a marriage license knowing it to be  
10 in violation of the provisions of this chapter or who willfully  
11 and wrongfully refuses to issue a license is guilty of a misde-  
12 meanor and upon conviction is punishable by imprisonment for not  
13 more than six months, or by a fine of not more than \$500, or by  
14 both.

15 Sec. 8.02. Misrepresentation and Violation of Confidence.  
16 A person who misrepresents any fact required to be stated on the  
17 application for a license or any form related to it; or a licens-  
18 ing officer who issues a marriage license without the required  
19 premarital certificates or waiver order, or who issues a marriage  
20 license having reason to believe that any material facts have been  
21 misrepresented; or a state official or employee who knowingly  
22 and willfully discloses to an unauthorized person any information  
23 from a premarital laboratory report disclosing identity; or any  
24 person who otherwise fails to comply with the provisions of the  
25 premarital examination requirements of this chapter, is guilty  
26 of a misdemeanor and upon conviction is punishable by a fine of  
27 not more than \$300.

28 Sec. 8.03. Violation Concerning Marriage License Docket.  
29 A licensing officer who refuses or neglects to enter upon the

1 marriage license docket before the license has been issued a  
2 complete record of each application and of each marriage license  
3 issued from his office, or who fails to keep the marriage license  
4 docket open for inspection or examination by the public during  
5 office hours, or who permits the inspection of docket sheets  
6 which are specifically excluded from public inspection and examina-  
7 tion by Sec. 5.02(b) and 6.01, is guilty of a misdemeanor and upon  
8 conviction is punishable by a fine of not more than \$50. Each  
9 failure, neglect, or refusal constitutes a separate offense.

10 Sec. 8.04. Unlawful Solemnization of Marriage. Anyone who  
11 solemnizes a marriage without first receiving a proper marriage  
12 license from the parties as provided in this chapter, or without  
13 the parties declaring to take each other as husband and wife, or  
14 without requiring the presence of two competent witnesses, or who  
15 solemnizes a marriage involving a minor without the consent of  
16 the parents or guardian of the minor being stated in the license,  
17 or who solemnizes a marriage knowing of any legal impediment  
18 thereto, or who solemnizes a marriage after the expiration of  
19 the license, or who falsely certifies to the date of a marriage  
20 solemnized by him, is guilty of a misdemeanor and upon conviction  
21 is punishable by imprisonment for not more than six months, or  
22 by a fine of not more than \$500, or by both.

23 Sec. 8.05. Solemnization of Marriage by Unauthorized  
24 Person. A person not authorized by this chapter who willfully  
25 or knowingly undertakes to solemnize a marriage in this state is  
26 guilty of a misdemeanor and upon conviction is punishable by  
27 imprisonment for not more than one year, or by a fine of not more  
28 than \$1,000, or by both.

29 ARTICLE IX.

1 GENERAL PROVISIONS

2 Sec. 9.01. Definitions. As used in this chapter, unless  
3 the context otherwise requires

4 (1) "department" means the Department of Health and  
5 Welfare;

6 (2) "bureau" means the Bureau of Vital Statistics;

7 (3) "registrar" means the State Registrar of Vital  
8 Statistics;

9 (4) "licensing officer" means any district or deputy  
10 magistrate, or a marriage commissioner appointed under Sec. 2.02  
11 of this Act.

12 Sec. 9.02. Short Title. This act may be cited as the  
13 "Alaska Marriage Code."

14 ARTICLE X.

15 REPEAL

16 Sec. 10.01. Repeal. Secs. 21-1-1 through 21-1-5, 21-1-13  
17 through 21-1-18, 21-1-20, 21-1-33, 21-1-42 through 21-1-43, and  
18 21-1-51 through 21-1-54, ACLA 1949; Secs. 21-1-31 through 21-1-32,  
19 21-1-34, 21-1-35, 21-1-41 and 21-1-44, ACLA 1949, am Chap. 28,  
20 SLA 1960; Sec. 21-1-11, ACLA 1949, am Chap. 93, SLA 1955; Sec.  
21 21-1-12, ACLA 1949, am Chap. 65, SLA 1951, am Chap. 37, SLA 1953;  
22 Sec. 21-1-19, ACLA 1949, am Chap. 39, SLA 1953; and Chap. 64,  
23 SLA 1949, am Chap. 63, SLA 1953, are hereby repealed.

24 ARTICLE XI.

25 EFFECTIVE DATE

26 Sec. 11.01. Effective Date. This Act takes effect on the  
27 day after its passage and approval or on the day it becomes law  
28 without such approval.

29