

SJR

42

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 30, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/4/98

The FINANCE Committee considered:

CSSJR 42(FIN)

CS FOR SENATE JOINT RESOLUTION NO. 42(FIN)

CONSTITUTIONAL AMENDMENT RE MARRIAGE

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

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) Gov, 3/10/98

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Craig Theriault</i> Theriault	x			
<i>Mark Hanley</i> Hanley	x			
<i>Alan Mulder</i> Mulder	x			
<i>Terrence Martin</i> Martin	x			
<i>Henry J. Davis</i> Davis	x			
<i>P. W. Kelly</i> Kelly	✓			

CHAIR'S SIGNATURE *Craig Theriault* *Mark Hanley*

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SJR42

Revision Date (Note if correction) _____ Dept. Affected Office of the Governor
 Title Const. Amend: Relating to marriage BRU Elective Operations
 Component General and Primary
 Sponsor Senate HESS Committee
 Requester Senate Judiciary Committee Component Serial No. #22

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	3.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	3.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	3.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	3.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figures includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$56.0.

Prepared by Gail Fenwick
 Division Division of Elections
 Approved by C Lt. Governor Fran Ulmer
 Agency Office of the Lieutenant Governor

Phone 465-3935
 Date 3/6/98
 Date 3/6/98

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Carol Hedlin
P.O. Box 211284
Anchorage, AK 99521
Voter Number: 1284987

Carol Hedlin
May 4, 1998

Testimony In Opposition To SJR-42:

"Proposing an amendment to the Constitution of the State of Alaska relating to marriage.
Be it resolved by the legislature of the state of Alaska:

Section 15: Marriage Contract. Each marriage contract in this State may be entered into only by one man and one woman. The legislature may, by law, enact additional requirements relating to marriage."

Thank you for the opportunity to testify before this committee. I am speaking in opposition to Senate Joint Resolution 42. I believe we would be making a grave error in amending the Alaska State Constitution to specifically remove the fundamental rights of ANY group and, in effect, to disallow the choice of a spouse. This bill is apparently in response to a recent Alaska Superior Court decision. The decision has been appealed, and continues to be considered by the courts. I believe that is an appropriate venue for a civil rights issue such as this and that serious harm to families and youth as well as a general 'divisiveness' throughout the state will be the result of the decision to put this question on a statewide ballot.

The Alaska Constitution consistently reflects the value Alaskans place on allowing individuals to make their own decisions regarding their personal lives. It generally provides for individual differences without direct attack from those with an opposing perspective. I believe it would be folly to attempt to specify who has which rights and who doesn't in a country where equal rights for all citizens is a cornerstone we have built upon for over 200 years.

The choice of a life partner can only be made by the individuals involved; it is fundamentally a personal choice whether to marry and whom to marry. In addition, there are economic and legal benefits associated with marriage which should not be denied to couples of the same sex who make the decision to marry each other.

There is certainly no shortage of law governing marriage. Whether a man and a woman marry, or couples of the same sex marry they are all entitled to both the personal or religious ceremonies expressing their commitment to each other, and the legal rights and responsibilities those laws provide.

Thank you.

05/04/98
09:20:48

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)
TCN:80808 SCHEDULED FOR:05/04/98 08:00 TO 10:30
PUBLIC HEARING HOUSE FINANCE

LTN1150
BY:JNU
FOR:ALL

LOCATION: ANCHORAGE

SJR 42	MR	TOM	RACHAL	TESTIFY
SJR 42	MR	AL	INCONTRO	TESTIFY
SJR 42	MS	PATRICIA	MARK	TESTIFY
SJR 42	MS	JENNIFER	RUDINGER	TESTIFY
SJR 42	MS	ALLISON	MENDEL	TESTIFY
SJR 42	MR	FREDERICK	HILLMAN	TESTIFY
SJR 42	MR	ELLIOTT	DENNIS	TESTIFY
SJR 42	MR	NORMAN	SCHLITTLER	TESTIFY
SJR 42		CONNIE	FAIPEAS	TESTIFY

LOCATION: FAIRBANKS

SJR 42	MS.	NANCY	KAILING	TESTIFY
SJR 42	MS.	MARI	GALEREAVE	TESTIFY
SJR 42	MR.	PATRICK	MARLOW	TESTIFY
SJR 42	MR.	RICHARD	COLLINS	TESTIFY
SJR 42	MS.	WILLA	FREY	TESTIFY
SJR 42	MS.	JANET	ROBERTS	TESTIFY
SJR 42	MR.	RICHARD	KEMNITZ	TESTIFY
SJR 42	MS.	CHRISTINE	MCGARVIN	TESTIFY
SJR 42	MS.	PATTY	KEARON	TESTIFY
SJR 42	MR.	ROWENA	GROSS	TESTIFY
SJR 42	MS.	ELAINE	WILLIAMSON	TESTIFY
SJR 42	MS.	MARINA	DAY	TESTIFY

LOCATION: MATSU

SJR 42	MR	HOWARD	BESS	TESTIFY
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Teshman of
Kirsten Bamega
5/14/98 Sen F

STR 42 ~~and this~~

I am here to urge you to stop ~~this attempt to change our constitution.~~

~~You don't have to decide to discard the issue forever - you simply do not have to fling yourself headlong into creating an atmosphere of ugliness at this time.~~

Because I am a lawyer, I am very disturbed at the disregard and disrespect that is being shown for our state's judiciary by attempting to short-circuit the court's review

And Because I am a citizen ~~desperately~~ seeking good leadership, I will also ask each of you to consider your individual role as a leader in this state, and to reflect upon the damage you can do when you make leadership decisions ~~without due~~ *in haste* deliberation.

First of all, There is no need to proceed with this kind of haste

To make a change to our state's constitution,

basic governing document

~~This is the document that embodies the most fundamental principles by which we operate our state.~~

The court's ~~intermediate~~ *preliminary* decision ~~only~~ *addressed only a part of the case and* came out at the end of February

Within a few days of the news, this constitutional amendment was thrown together

As if with the jerk of a knee
without time for examination and reflection
without weighing alternatives and allowing for extended public debate
without even allowing the court the courtesy of completing the case

The legislature ~~is speeding headlong into a constitutional amendment without allowing the court to reach a final decision in this case~~

even though after the lower court's final decision,

There would not suddenly be gay marriages - there would then be an appeal to the Supreme Court - an appeal process that will likely take another year or two *or three*

This is not a subject that has been generally discussed for more than a decade; this is not a subject that has long been considered an option for constitutional amendment for more than five years, such as *like subsistence* subsistence.

This court case has been a topic of discussion for barely a dozen weeks *dozen years*

Once the public has received a widespread hearing and education on an issue, over a course of years - as it has on subsistence, then it should be considered for our constitution.

This is not an issue that has been duly deliberated

I have not been able to find any other constitution that bears such language
This is not constitutional language - our constitution forms a baseline for protecting rights

It is not language that protects rights, but is designed to limit them.

But
And it is the nature of this upcoming campaign that I want to ask you to ~~take~~ *think about*
smile This will result in an intense hate-filled campaign

Even though you may not want to believe that it will happen -
one need only look at the other communities in which an attempts are made to
limit the rights of homosexuals - ~~to make certain that gay people are not to be~~
~~considered equals with others~~ - to see the damage it has caused to the peace of the
community

I have a very particular experience
I have come to examine the role of leaders and leadership in a very particular
way in the past year because of my experiences in a ver^y troubled part of the
world, in the newly formed country of Bosnia y Herzigovina. I was ~~honored~~ *privileged* to
be selected by the State Department as one of the American representatives to
travel to Bosnia last fall to serve as an elections supervisor to monitor the
process to assure that free democratic elections took place. My first trip was
for country-wide elections; the second trip was for elections in the Serb
Republic part of the country.

Anyone who has ever traveled through the former Yugoslavia would barely
recognize the place today, especially in the heart of Bosnia, where the fighting of
neighbor against neighbor took place. Cities divided; small communities of houses,
three or five of a group of eight houses shelled and destroyed. And many lives
destroyed.

~~I spoke with people when I could - about their experiences, their lives~~
I read and studied to get an understanding of how this could happen to a country, a
people.

I had to conclude that the main fault was with the leadership
they had poor leadership
though that seems too weak a term - they had horrible leadership

*to resolving
the
differences
on the
USSR*

In Yugoslavia, leaders played to religious and ethnic differences -
played to the hostile and negative segment of their constitutions
and led their people into death, hostility, and economic ruin
Your actions can either lead legitimay to hostility towards
gay people ~~or~~ - or can (2) encourage a harsh approach

What is it that people need from their leaders?

They need thoughtfulness and deliberation - ~~they need their leaders to tell the truth~~

But most of all, in order to thrive, ~~(people need leaders who will help differing interests in their communities find a path to reconciliation)~~

They need leaders who will help people see their common interests

To help people work together to make a community work for the common good

Those are the traits of good leaders

When people have bad leaders, those leaders promote a focus on peoples' differences

They exploit the differences amongst those in their communities and create divisiveness

they promote agendas of discrimination and hatred

Slobodan Milosevic went to Kosovo and saw a political opportunity *in the early 90s*

By siding with an angry, hostile crowd, against another group of that country's citizens,

he saw a way to advance his own political future, and his country was torn apart

Yes, many people admire Milosevic, even as he drives Serbia into economic ruin

Yes, many people in the south admired George Wallace as he blocked the attempts of school children ~~to attend school.~~

But is that the kind of leader you want to be? *you are someone who admires the actions of these men* If it is, then you aren't really going to hear my appeal anyway, so I'm not really talking to you

But, for the rest of you, I know that you know

Good leadership does not create a platform for feeding divisiveness

It does not fan flames of hatred or fears based on ignorance

For you, as Alaska's leaders, to be promoting this divisiveness - and so *no matter if there is an extremist constituency out there.* unnecessarily - given the years you have ahead of you to address this issue - is an example of poor leadership

at least, for now, I will call it "poor leadership"

until - a friend or loved one of mine is hurt or killed in the ensuing *habe* campaign

or any Alaskan or person visiting Alaska is injured in a hate crime

And then it should appropriately be called **horrible** leadership

Because you all know - you have plenty of time to debate and educate and deliberate on this issue

It will be years before the courts will be done with it
If you, instead, choose to promote divisiveness -
and an agenda of discrimination and hatred
Then be ready to accept the full responsibility for what you create
Because you will be setting it in motion
And, no, you will not be able to control the outcome

(If you read the Juneau Empire yesterday, even Radovan Karadic is now trying to use the excuse that he "lost control of the Bosnian Serb army" when the troops massacred the people of Srebrenica.)

So please pay heed - this is an issue you can afford to set aside for now
It should be part of a lengthy and informed public debate - not subject to a hasty knee-jerk reaction

And let the courts carry out their deliberations

easily
~~with your undertake to educate~~
~~the public~~

May 27
April 27, 1998

I'm Sara Boesser of Juneau, with Committee for Equality. I believe it's far too early to consider amending the Constitution's basic privacy rights just to match some people's religious views, because, gratefully, other religious people clearly DO support us. There's no need to interfere with the constitution (especially for implied religious reasons) before the courts are through with a case.

Despite Senator Leman's coaching people to be polite, it's been awful, sitting through these hearings. They prove this ballot campaign would declare open season on us and our families. For example, at Senate Finance recently a pastor declared "the Bible says homosexuals should be stoned to death." As an out lesbian, his words make me afraid. Because if that's not a call to violence, I don't know what is. Of course the Bible says many others "deserve death" too (like bankers, people who eat shellfish, men who shave their beards-- but he didn't go into that).

other Bible quotes were against women's vote, disabled rights, etc.
Religious beliefs differ. In America, at least, constitutions are supposed to protect us from exactly the kind of religious persecution that this ballot campaign would impose.

I'd like to put "marriage" aside, for a moment; because the real issue here is that this bill is premature. Why? Because the lower court decision has a long way to go to resolve at state and possible federal court appeals. There's no need to put Alaska through this ugly, potentially unnecessary campaign, now. By voting "no" you can save us from this premature and possibly unnecessary tear in our social fabric.

Speaking of social fabric, your "no" vote can prevent pain within families, too. Speaking for myself, I have two young nieces who would hear so many untrue hateful things about me and people like me if this went to the ballot. Why should they have to endure that grief? And, more at risk of permanent damage, are those young people my nieces' ages who are just now, in junior high and high school, first realizing they themselves are lesbian or gay. Think of the pressures this ballot measure would place on them; what intense fear they'd feel; what despair they'd suffer, listening to this bombardment of rejection at their vulnerable ages. These youth and their families will suffer more than you can imagine if this premature bill goes to the ballot.

SJR-42 should die in committee. The constitutional debate should stay in the courts; the religious debate should stay in the churches. These hearings are a mild microcosm of the pain-packed fury ahead for the entire state if you proceed. So please -- vote no on this bill.

Sara Boesser

Does the state have the right to define who
to recognize in marriage?

Freedom to Marry & the Pursuit of Happiness

by Roger Winters
© 1997, Roger Winters

Marriage is *the* paramount adult relationship in our world. It is considered so fundamental and intimate it has primacy over citizenship. For example, in most states, you cannot be compelled to testify against your spouse. Thus, the relationship between mates is more important than the relationship of a citizen to government or society.

Hardly anyone argues that people *must* be married. Few today support compelled or arranged marriages. Marriage is nevertheless encouraged by every means of persuasion society has.

It is easy to enter legal marriage. Marriage has no substantial qualifications. There is no test of competence as partner or parent, no requirement that there be sex, no penalty for failing to have children, no proof that love be present. Marrying persons must be of opposite sexes, able to complete the applications, take required blood tests, competent to make a contract, and not too closely related by blood.

Criminals, prisoners, child molesters, serial batterers, the infertile, and asexual are able to get legally married. Even gay and lesbian people are allowed to marry legally ... provided they marry the opposite sex.

Marriage is *the* ticket of admission to true adulthood. There are many responsibilities and protections of law in marriage. To be free to choose to marry gives you material access to much that is important in life, especially at life's most difficult moments: the crisis of divorce, illness, or death.

Resistance to *legal* same-sex marriage is at root an effort, conscious or not, to keep lesbians and gay men a fringe, less-than-grownup class, not allowed to be full partners in adult society. One simply cannot be an adult without *freedom to marry* (legally). Another key example: same-sex couples do not get to choose their next of kin. Their kinship is determined solely by blood, whether relatives are supportive and loving or hostile and punitive.

That many same-sex couples are involved in long-term relationships indicates people are able to be *really* married, though considered legal strangers. That many churches hold ceremonies and since friends and neighbors attend these "weddings" shows same-sex "marriages" today often are socially and religiously affirmed and supported. Many same-sex couples wear traditional signs of marriage, such as rings on the wedding ring finger, and have the same surnames (by hyphen or by law).

Freedom to marry is a huge part of the pursuit of happiness. It is *wrong* to deprive people of this fundamental American value based solely on their sex.

Employee benefits, anti-discrimination policies, abolition of sodomy laws, and other equality issues should be easier to achieve once gay men and lesbians are acknowledged as real persons, grownups with rights, responsibilities, and real life issues. This comes when all, including same-sex couples, are free to choose whether and, if so, whom to marry.

Submitted to the record by Mary Graham
Juneau, Alaska

*Testimony: House Finance Committee
Monday, May 04, 1998*

My name is Kim Poole and I speak today in opposition to SJR 42 the proposed ballot initiative to define marriage as a contract between one man and one woman.

On June 1st of this year I begin my 20th year of ordained ministry in my denomination. During those 20 years I have conducted numerous weddings. Most of the weddings have been traditional church weddings and some have been as unconventional as a horseback wedding in the Texas Panhandle and a ceremony on top of one of the glaciers here in Juneau. Some of these couples have endured the trials and tribulations that come with a committed relationship and some have not. The ones that have endured have several qualities in their pre-marriage and post marriage lives. Qualities such as the ability to communicate with each other their needs and their dreams, the desire to make things work rather than to walk away, and the commitment that only the bond of love brings between two people. Those are qualities that cannot be legislated.

"I believe God has created us with a variety of possibilities in life. Marriage between a man and a woman is one of them, the dominant and normative one in our culture. However, many have found it is not the exclusive one, that a happy and positive relationship can be had between people of the same sex. Some of these people are members of churches. If we find these to be good relationships, then, there might well be some ritual that blesses and confirms those relationships in order to help make them whole."

There are many of my friends sitting behind me today who would like to have their long term relationships of love recognized by the church and the state. Some have been together longer than the 20 years I have been ordained. I would love to be able to conduct their ceremonies of marriage and commitment.

It has been said that recognizing same-sex marriage will lead next to recognizing a marriage relationship between a father and a mother, or a brother and sister. We are not talking about incestuous relationships. There is no love in incest. We are talking about two consenting adults who desire to spend the rest of their lives together, something we should value for the stability of society.

During these hearings we have heard that if this resolution is passed and placed on the ballot the rhetoric around this issue will grow heated and probably unkind. The head of the Christian Coalition here even suggested that we could find ways to debate this issue civilly. In the past week I have found that perhaps the prediction is more true that this will breed hate language. Since last Monday's testimony before the House Judiciary committee I have started receiving anonymous phone calls, untraceable by caller-ID. I have been called a "fag lover" and even a "queer". At 2:00 in the morning they are rather disturbing calls. I do not have the option, professionally of "turning off" my telephone to avoid the calls.

I am and always have been single. I hope some day to fall in love and marry. When I do, no matter who it is I love – a man, a woman, or a purple people eater from Mars – if someone tries to tell me I cannot marry the love of my heart, I hope someone will sit in this chair and defend my right to marry. Only I hope their phones don't ring in the middle of the night for doing so.

Please vote "No". Thank you.

Kim Poole, Douglas Alaska

Good morning. My name is Mark Boesser. I have been a resident of Alaska since 1959. I have served as an Episcopal priest for 46 years, 37 of them in Alaska. My wife, Mildred, and I have 4 grown daughters, 4 grandchildren, and we are coming up on our 50th wedding anniversary in December.

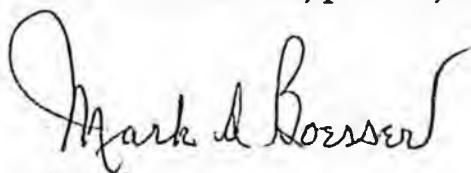
I appeal to you. Do not pass Senate Joint Resolution 42. In my opinion it is divisive, hurtful, alienating and discriminatory.

This very morning members of the House will be receiving a letter from the Episcopal Bishop of Alaska stating the Episcopal Church's stand nationally and in Alaska - expressing the conviction that homosexual persons are entitled to equal protection of the laws with all other citizens and calling upon our society to see that such protection is provided in actuality.

This proposed legislation would plainly deny equal rights and equal protection to a number of the citizens of this State.

And may I call your attention to the little discussed section giving the legislature permission to enact additional requirements related to marriage. Where, I ask you, might this start or end? Any ~~5 of us~~ ^{number of persons} in this room could come up with a downright frightening array of possible restrictions on marriage - or divorce, for that matter - including ones with "who-knows-what" price tags attached to them.. Think about it.

In the name of compassion, respect, justice, and love, not to mention common sense, please, do not pass this resolution.



Thank you.

Mark Boesser
17585 Lena Loop Road
Juneau, Alaska 99801

Phone & Fax (907) 789-1445

Testimony on Senate Joint Resolution No 42 (SJR-42)
House Finance

This coming December my husband and I celebrate our 50th year of marriage. I am a mother of 4, grandmother of 4, all being raised in Alaska and I have been a voting resident of Alaska since 1959. I am also a clergy wife of 50 years. We came to Alaska as missionaries for the Episcopal Church. You may be thinking that given who I am, I speak for SJR42.

But, I am here today because I oppose any attempt to change the Constitution of this State to disallow same-sex marriage. Whatever you feel about gay and lesbian persons is not the issue here. The issue is about changing the Constitution to make sure that some of our citizens are forever denied equal treatment. . It's about writing into our Constitution that it's all right to discriminate.

If we do this, it opens the door to future possibilities which chill my blood. Who will we choose to discriminate against next time? Have we forgotten the incredible injustice done to so many innocent people by the infamous McCarthy witch hunts in the 30s, not to mention the unspeakable horror of the persecution of the Jews in the Holocaust AND during that same time the execution of homosexual persons, a fact not often mentioned in connection with the holocaust? Make no mistake, any time a government condones the marginalization of a group of its citizens, the door is opened to unbelievable hatred and violence which are sure to follow.

Mildred P. Boesser
17585 Lena Loop
Juneau, Alaska 99801
Phone and FAX 789-1445

TESTIMONY ON SJR 42

BY

CHARLES NORTHRIP
2810 Fritz Cove Rd.
Juneau, AK 99801
789-3554

I've testified before many legislative committees over the years: for over 20 years on telecommunications matters; for the last five years on various economic development subjects. I must tell you not one of those occasions was as important to me as this one; because...one of my children is gay.

I am a born-again Christian, an ordained Deacon, and Elder. I have directed choirs, taught Sunday school and been a member of Christian churches for 46 years. I continue to be, though, earlier this year, my wife, daughter and I had to leave the church we've attended for many years, because...a member of our family is gay.

I urge you to stop the progress of SJR 42...today. My urging is due to my respect and admiration for our Alaska Constitution, for its guarantees of privacy and freedom from discrimination, but, most of all, because one of my children is gay.

My 35 years in Alaska have taught me many valuable lessons. I'd like to share one with you. I was born and raised in Florida in the 40's and 50's. I knew the white race was superior. Segregation a way of life. Schools, churches and families all reinforced my convictions. Then, when I was a high school freshman, the U. S. Supreme Court handed down the decision that ended segregation.

That decision convulsed our society. Statements were made in public and private that the Courts were running roughshod over traditional values; that the courts were obviously out of step with the will of the people. Bills and resolutions were proposed...some were passed...to try to turn back the decision or find a way around it. I determined I would become the attorney who successfully led the fight to reverse that decision!

I did go to college, but I didn't study law. My university experience brought me the intellectual understanding that my life-long convictions about race might just need some adjustment. After graduation, I landed my first job in Fairbanks, Alaska. What a surprise, as a Southern Baptist, to find that the church I joined in Fairbanks had Black and Alaska Native members! But, you know, it was all right. My world did not collapse. I found that my fellow church members were fine people. Later, when I was ordained as a deacon, the individuals who came and laid their hands on me were just that, individuals, and I accepted them each as God's special creation. Because Alaska had an accepting attitude, I learned to have one, too. Alaska helped me put into practice concepts I had grown to intellectually accept, but had had no opportunity to experience.

SJR 42 is clearly a reaction to a court decision...a very Alaskan decision, made in the spirit of Alaska's strong protection of individual rights. I have learned that the courts can be right, even when an apparent majority feels they are wrong. SJR 42 is a knee jerk, and perhaps understandable reaction, but I urge you to take a longer and more thoughtful look.

I have a wonderful marriage. The life commitment service that my wife and our other children helped our son and his partner celebrate over two years ago does not diminish our marriage in the slightest. I find nothing wrong or evil in caring, love and commitment, wherever it can be found in this day and age.

Let the appeals process work. We have a good constitution and we can and should take pride in its protection of our rights as individuals. I am willing to live with the ultimate court decision. I hope you are, as well. Please stop SJR 42 here, today. A Statewide ballot on this issue will bring to our public and private forums an ugliness that I can remember from another context and time. Please don't take the route I witnessed in my youth. Let the courts do their job. I urge this action because I believe it is the right one, but, most of all, because one of my children, and, if you'll think about all those in your circle of acquaintance, at least one you know and love is or has a child who is, gay.

Report of the
Secretary's Task
Force on
**Youth
Suicide**

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service
Alcohol, Drug Abuse, and Mental Health Administration

sences and sometimes academic failure. Remafedi reports 28 percent of his subjects were forced to drop out because of conflicts about their sexual orientation (5). Gay youth are the only group of adolescents with no peer group to identify with or receive support from. Many report extreme isolation and the loss of close friends.

Gay youth also face discrimination in contacts with the juvenile justice system and foster and group home placements.* Many families and group homes refuse to accept or keep an adolescent if they know he or she is gay. A report by the San Francisco Juvenile Justice Commission found that gay youth stay in detention longer than other youth awaiting placement because of a lack of appropriate program resources (11). Many programs are unable to address the concerns or affirm the identity of a gay adolescent. They can be subjected to verbal, physical, and even sexual abuse with little recourse. Even sympathetic staff often don't know how to relate to a gay youth or support them in conflicts with other residents. They frequently become isolated, ignored by youth and staff who feel uncomfortable with them. They are easy targets for being blamed and scapegoated as the "source" of the problem in efforts to force them to leave.

The result of this rejection and abuse in all areas of their lives is devastating for lesbian and gay youth and perhaps the most serious problems they face are emotional ones. When you have been told that you are sick, bad, and wrong for being who you are, you begin to believe it. Gay youth have frequently internalized a negative image of themselves. Those who hide their identity are surrounded by homophobic attitudes and remarks, often by unknowing family members and peers, that have a profound impact on them. Hank Wilson, founder of the Gay and Lesbian Teachers Coalition in San Fran-

*It is my observation that youth are experiencing more frequent contact with the juvenile court due to 1) increased conflicts in their home communities because of their sexual orientation which require intervention and removal from the home and 2) being open about their sexual identity at an earlier age than before.

cisco, believes these youth constitute a large group who are silently scapegoated, especially vulnerable to being stigmatized, and who develop poor self esteem (12). Gay youth become fearful and withdrawn. More than other adolescents, they feel totally alone often suffering from chronic depression, despairing of life that will always be as painful and hard as the present one.

In response to these overwhelming pressures, gay youth will often use two coping mechanisms which only tend to make their situation worse: substance use and professional help. Lesbian and gay male youth belong to two groups at high risk for substance abuse: homosexuals and adolescents. Rofes found, in a review of the literature, that:

Lesbians and gay men are at much higher risk than the heterosexual population for alcohol abuse. Approximately 30 percent of both the lesbian and gay male populations have problems with alcoholism (13).

Substance use often begins in early adolescence when youth first experience conflicts around their sexual orientation. It initially serves the functional purposes of (1) reducing the pain and anxiety of external conflicts and (2) reducing the internal inhibitions of homosexual feelings and behavior. Prolonged substance abuse, however, only contributes to the youth's problems and magnifies suicidal feelings.

Several studies have found that a majority of gay youth received professional help for conflicts usually related to their sexual identity (5,6). These interventions often worsen conditions for these youth because the therapist or social worker is unwilling to acknowledge or support an adolescent's homosexual identity. Many gay and lesbian youth are still encouraged to "change" their identities while being forced into therapy and mental hospitals under the guise of "treatment."

Those who seek help while hiding their identity often find the source of their conflicts is never resolved because the therapist is un-

Alaska State Legislature

Senator Gary Wilken, Chairman
Senator Loren Leman, Vice Chairman
Senator Lyda Green
Senator Jerry Ward
Senator Johnny Ellis



State Capitol
Room 510
Juneau, Alaska 99801
(907) 465-3762

Senate Committee on Health, Education and Social Services

Sponsor Statement – Senate Joint Resolution 42

Senate Joint Resolution 42 proposes an amendment to the state constitution that defines marriage as a union between one man and one woman. When approved by voters, SJR 42 will protect the definition of marriage in current statute. That statute was declared to be potentially unconstitutional by Superior Court Judge Peter Michalski in a Feb. 27 ruling in the case of *Brause and Dugan vs. State of Alaska*. In a decision rich with ironies, Judge Michalski concluded that the state's "failure... to provide public recognition" of a person's homosexual relationship is contrary to the state constitution's right to privacy [emphasis added]. Michalski's ruling applies the "strict scrutiny test" to the state's law, meaning that the state cannot deny marriage licenses to same-sex couples unless it can prove a "compelling governmental interest." The compelling interest test is an exceedingly difficult legal burden.

The court's ruling ignores the clear public policy statement made by the Legislature in 1996 when it passed Senate Bill 303 by overwhelming margins. Introduced by the Senate HESS Committee, SB 308 reaffirmed the "one man, one woman" definition of marriage that has been operative in Alaska since statehood and also under the territorial government. The laws of all 50 states currently limit marriage to individuals of opposite sex. If the court orders the state to recognize homosexual marriages, thousands of same-sex couples can be expected to travel to Alaska and obtain marriage licenses. Many of these couples will then return to their home states and seek to have their unions recognized under the "full faith and credit clause" of the U.S. Constitution, which generally provides that rights acquired under the public acts or judicial proceedings of one state must be held valid in other states. This will precipitate multiple constitutional crises across the country as dozens of state governments are forced to confront the issue.

If a court orders recognition of homosexual marriages, it will place Alaska in conflict with federal law in incredibly diverse ways. In 1996 the U.S. Congress approved and President Clinton signed into law H.R. 3396, now Public Law 104-199. Known as the "Defense of Marriage Act," this law specifies that marriage under federal law means a union *only* of one man and one woman. According to the U.S. House Judiciary Committee, the word "marriage" appears in more than 800 sections of federal statutes and regulations, and the word "spouse" appears 3,100 times. In the administration and enforcement of these laws, the federal government defines marriage as a union of "one man and one woman" – regardless of what Alaska law states. The I.R.S. will probably not recognize joint tax returns filed by homosexual "married" couples, nor will these couples be eligible for the leave benefits provided by the Family & Medical Leave Act of 1993. Hundreds of other programs and benefits are also implicated, and an explosion of litigation can be expected to result.

Because recognition of same-sex marriages raises the most profound cultural and legal issues, it is only appropriate that the issue be decided by voters, as SJR 42 will allow. It is not appropriate for one unelected and unaccountable judge to set social policy for the entire state of Alaska.

Prepared by Mike Pauley, Staff Aide to Senator Loren Leman, Vice-Chair Senate HESS Committee (465-3841)
Last Update: March 9, 1998

Contact: **Robert H. Wagstaff**, lead counsel
907 277-8611 office

Jay Brause or Gene Dugan, plaintiffs
907 568-1663 voice mail

Same-Sex Marriage Legal Action Filed in Alaska

(August 4, 1995) In Anchorage Superior Court today, two men filed legal action against the Bureau of Vital Statistics, Alaska Department of Health & Social Services, for denying their application for a marriage license one year ago on August 4, 1994.

The two men, Jay Brause and Gene Dugan, are 16-year life-partners, who, with their attorneys, Robert Wagstaff and Erik LeRoy, assert that prohibiting Dugan and Brause's marriage was unconstitutional under Alaska's constitutional equal protection and right to privacy provisions.

Today's action was taken to overturn an administrative memorandum issued by the Anchorage Superior Court presiding judge in 1993 which stated in part that, ". . . I have concluded that marriage between persons of the same sex is not contemplated by our statutory scheme. Therefore, a marriage license shall not be issued for the purpose of marrying two persons of the same sex."

The action by Dugan and Brause follows the 1993 decision by the Hawai'i Supreme Court that the State of Hawai'i must show a "compelling interest" in denying an application for marriage from persons of the same sex, as based on its interpretation of the Hawai'i Constitution's equal protection provisions. Alaska's Constitution contains an almost unique provision specifically guaranteeing its citizens privacy. Dugan and Brause's claim focuses on this provision of Alaska's Constitution.

• • •

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,)
)
 Plaintiffs,) CASE NO. _____
)
 vs.)
)
 BUREAU OF VITAL STATISTICS,)
 ALASKA DEPARTMENT OF HEALTH &)
 SOCIAL SERVICES, and the STATE)
 OF ALASKA.)
 _____ Defendants.)

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. Plaintiff Jay Brause, a thirty-five year Alaskan, and plaintiff Gene Dugan, a seventeen year Alaskan, at all material times have been and are residents of the Municipality of Anchorage, State of Alaska. They bring this lawsuit in the public interest.

2. Defendants are empowered by law to issue marriage licenses in the State of Alaska.

3. On or about August 4, 1994, plaintiffs Jay Brause and Gene Dugan personally appeared at the Bureau of Vital Statistics in the State of Alaska Courthouse in Anchorage before an agent of defendant authorized to issue marriage licenses and filed with said agent an application for a marriage license pursuant to A.S. § 25.05.091.

4. Mr. Brause's and Mr. Dugan's application for a marriage license was denied by defendant's agent solely for the reason that Mr. Brause and Mr. Dugan are of the same sex, as directed in a memorandum dated May 17, 1993, a true copy of which is attached as Exhibit 1 to this complaint. Upon information and belief,

1 - Complaint for Injunctive
and Declaratory Relief

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defendants adhere to the construction of the Alaska Marriage Code set forth in Exhibit 1.

5. Plaintiffs have complied with all marriage license requirements under Alaska Statute §§ 25.05.091-25.05.171, and any other applicable provision of Title 25 of the Alaska Statutes on marriage.

6. Plaintiffs are otherwise eligible to secure a license to marry from a licensing officer of the State of Alaska absent the construction of Alaska Statute § 25.05 et seq. excluding couples of the same sex from securing licenses to marry.

7. The construction and application of AS § 25.05 et seq. to deny a couple of the same sex from securing a license to marry unconstitutionally violates plaintiffs' rights to privacy under § 22 of Article I of the Alaska Constitution.

8. The construction and application of AS § 25.05 et seq. to deny plaintiffs' application for licenses to marry unconstitutionally deny plaintiffs equal protection and due process of the law under Article I, §§ 1 and 7, respectively, of the Alaska Constitution.

9. The construction and application of AS § 25.05 et seq. to deny plaintiffs' application for licenses to marry unconstitutionally deny plaintiffs due process of law under Article I, § 3 of the Alaska Constitution.

10. The acts and omissions of defendants, including its agents and employees acting in their official capacities, were under color of State law and have deprived plaintiffs of their

2 - Complaint for Injunctive
and Declaratory Relief

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constitutional rights under the Alaska Constitution as described in this complaint.

11. Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs alleged in this complaint. Plaintiffs are now suffering and will continue to suffer irreparable injury from defendant's acts, policies, and practices unless plaintiffs are granted the relief prayed for in this complaint.

WHEREFORE, Plaintiffs pray that this Court:

A. Declare the construction and application of AS § 25.05 et seq. to deny an application for a license to marry because the applicant couple is of the same sex is unconstitutional;

B. Enter a permanent injunction against defendants and his agents, prohibiting the construction and application of AS 25.05 et seq. to deny an application for a marriage license solely because the applicant couple is of the same sex;

C. Award costs and attorneys fees to plaintiffs as public interest litigants; and

D. Award such further relief as may be just and proper.

DATED this 2nd day of August, 1995.

Robert H. Wagstaff
425 G Street, Suite 610
Anchorage, Alaska 99501
(907) 277-8611


Erik LaRoy, P.C.
1016 W. 6th Avenue, Suite 420
Anchorage, Alaska 99501
(907) 277-2006
Attorneys for Plaintiffs

3 - Complaint for Injunctive
and Declaratory Relief

Memorandum

Alaska Court System

To: Vital Statistics

FROM: Karl S. Johnstone 
Presiding Judge

DATE: May 17, 1993

SUBJECT: Application for Marriage License by Two Persons of the Same Sex

Recently we had an application for a marriage license by two persons of the same sex. I have reviewed the statutory provisions relating to marriage and considered the historical foundations for this institution in our society, and I have concluded that marriage between two persons of the same sex is not contemplated by our statutory scheme.

Therefore, a marriage license shall not be issued for the purpose of marrying two persons of the same sex.

KSJ:ln

MARRIAGE LICENSE DOCKET

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
BUREAU OF VITAL SERVICES
ANCHORAGE, ALASKA 99504

941842

CITY OR TOWN

IN THE MATTER OF A MARRIAGE LICENSE

AND

APPLICATION

APPLICATION

APPLICATION MADE BY:

DATE OF APPLICATION

MARRIAGE ADDRESS OF APPLICANT

08-04-94

IDENTIFYING STATEMENT (To be given before the Marriage License is issued)

IDENTIFYING STATEMENT

NAME	LAST	NAME	LAST
GENE	DUGAN	JAY	KARL BRAUSE
RESIDENCE CITY, STATE		RESIDENCE CITY, STATE	
ANCHORAGE ALASKA		ANCHORAGE ALASKA	
DATE OF BIRTH		DATE OF BIRTH	
DECEMBER 10, 1951		JANUARY 6, 1954	
PLACE OF BIRTH		PLACE OF BIRTH	
BROOKLYN, NEW YORK		BRIMMER, MINN	

IMPORTANT IF MARRIED PREVIOUSLY, REVERSE SIDE MUST BE COMPLETED

RELATIONSHIP TO APPLICANT (Any blood relationship between bride and groom) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	RELATIONSHIP TO APPLICANT (Any blood relationship between bride and groom) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
ANY LEGAL REASON WHY MARRIAGE SHOULD NOT BE SOLICITED? NO	ANY LEGAL REASON WHY MARRIAGE SHOULD NOT BE SOLICITED? NO

BOTH PARTIES SIGN HERE

I do solemnly swear that the information given above is true and correct to the best of my knowledge and belief.
[Signature]

I do solemnly swear that the information given above is true and correct to the best of my knowledge and belief.
[Signature]

MAYOR OR COMMISSIONER

Subscribed and sworn to before me on _____ 19____

8-11-94
W. Charlene Davis
M R

Subscribed and sworn to before me on _____ 19____

CONSENT (Bride)

CONSENT

Primary & only wife is YES NO

MARRIAGE LICENSE NO.

Primary & only wife is YES NO

DATE ISSUED

Do NOT ISSUE WITHOUT WRITTEN AUTHORIZATION OF PRESIDING JUDGE
[Signature]

NUMBER OF THIS MARRIAGE (Specify First, Second, etc.)	IF PREVIOUSLY MARRIED, LAST MARRIAGE DISSOLVED BY	NUMBER OF THIS MARRIAGE (Specify First, Second, etc.)	IF PREVIOUSLY MARRIED, LAST MARRIAGE DISSOLVED BY
1 st	Death <input type="checkbox"/> Divorce <input type="checkbox"/>	First	Death <input type="checkbox"/> Divorce <input type="checkbox"/>

48 FORM 307 10-1983 REVISED

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,)	
)	
Plaintiffs,)	CASE NO. _____
)	
vs.)	
)	
BUREAU OF VITAL STATISTICS,)	
ALASKA DEPARTMENT OF HEALTH &)	
SOCIAL SERVICES, and the STATE)	
OF ALASKA.)	
)	
Defendants.)	

AFFIDAVIT OF JAY BRAUSE

STATE OF ALASKA)	
)	ss.
THIRD JUDICIAL DISTRICT)	

JAY BRAUSE, being first duly sworn, states as follows:

1. I am a plaintiff in this case. I make this affidavit upon personal knowledge and belief.

2. I have lived in Alaska and in the Municipality of Anchorage since 1959. In 1978, I met my co-plaintiff Gene Dugan. Since 1979, we have shared our lives as a couple.

3. On August 4, 1994, Gene and I went to the Vital Statistics office in the Alaska State Courthouse in Anchorage. We submitted for filing an application for a marriage license. We were told by the person who accepted the application for filing that it was denied because we were of the same sex. We were given a memorandum from the Presiding Judge of the Superior Court, a true copy of which is Exhibit 1 to the complaint in this case. We were not given any other reason for the denial of our application for a marriage license.

1 - Affidavit of Jay Brause

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ROBERT H. WAGSTAFF
 First National Bank Building
 425 G Street, Suite 610 • Anchorage, Alaska 99501
 Telephone (907) 277-8611 • Facsimile (907) 256-7129

4. My date of birth is June 3, 1954. I do not have a husband or wife now living. I am not related to Gene by the fourth degree of consanguinity or closer, whether of the whole or half blood, computed according to the rules of the civil law.

5. The application we submitted for filing was completed and our signatures affirmed before D. Charlene Doris, deputy clerk, according to law. At the time of filing, we identified ourselves to the satisfaction of the licensing officer, and neither of us was under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding.

DATED AT ANCHORAGE, ALASKA this ____ day of _____,
1995.

JAY BRAUSE

SUBSCRIBED and sworn to before me this ____ day of _____, 1995.

Notary Public in and for Alaska
My Commission expires: _____

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First National Bank Building
125 G Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 277-8611 • Facsimile (907) 258-7329

2 - Affidavit of Jay Brause

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,)
)
 Plaintiffs,) CASE NO. _____
)
 vs.)
)
 BUREAU OF VITAL STATISTICS,)
 ALASKA DEPARTMENT OF HEALTH &)
 SOCIAL SERVICES, and the STATE)
 OF ALASKA.)
)
 Defendants.)

AFFIDAVIT OF GENE DUGAN

STATE OF ALASKA)
)
) ss.
 THIRD JUDICIAL DISTRICT)

GENE DUGAN, being first duly sworn, states as follows:

1. I am a plaintiff in this case. I make this affidavit upon personal knowledge and belief.

2. I have lived in Alaska and in the Municipality of Anchorage since 1978. In that year, I met my co-plaintiff Jay Brause. Since 1979, we have shared our lives as a couple.

1. On August 4, 1994, Jay and I went to the Vital Statistics office in the Alaska State Courthouse in Anchorage. We submitted for filing an application for a marriage license. We were told by the person who accepted the application for filing that it was denied because we were of the same sex. We were given a memorandum from the Presiding Judge of the Superior Court, a true copy of which is Exhibit 1 to the complaint in this case. We were not given any other reason for the denial of our application for a marriage license.

1 - Affidavit of Gene Dugan

Law Offices of
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First National Bank Building
625 G Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 377-6611 • Facsimile (907) 358-7129

4. My date of birth is December 10, 1951. I do not have a husband or wife now living. I am not related to Jay by the fourth degree of consanguinity or closer, whether of the whole or half blood, computed according to the rules of the civil law.

5. The application we submitted for filing was completed and our signatures affirmed before D. Darlene Doris, deputy clerk, according to law. At the time of filing, we identified ourselves to the satisfaction of the licensing officer, and neither of us was under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding.

DATED AT ANCHORAGE, ALASKA this ___ day of _____,
1995.

GENE DUGAN

SUBSCRIBED and sworn to before me this ___ day of _____, 1995.

Notary Public in and for Alaska
My Commission expires: _____

Law Offices of
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First National Bank Building
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Telephone (907) 277-8411 • Facsimile (907) 258-7329

2 - Affidavit of Gene Dugan

BACKGROUND: The Attorneys

Robert H. Wagstaff (lead counsel) was born in Kansas City, Missouri and graduated from Dartmouth College and the University of Kansas School of Law. He was admitted to the Alaska Bar in 1968. Mr. Wagstaff has personally argued over 50 cases before the Supreme Court of the State of Alaska including the landmark privacy case of Ravin v. State of Alaska which decriminalized the private possession and use of marijuana by adults. He has personally argued two cases before the United States Supreme Court: Davis v. Alaska (1974) involving the right of the defendant to cross-examination when accused by a juvenile witness and Hicklin v. Orbeck (1978) in which the United States Supreme Court held that the Alaska Hire law requiring oil and gas employers to first hire and last fire Alaska residents violated the privilege and immunities clause of the federal constitution. Mr. Wagstaff is a former member of the National Board of Directors of the American Civil Liberties Union in New York and was president of the Alaska Bar Association in 1988.

Erik LeRoy (cooperating counsel) graduated from the Evergreen State College and the University of Wisconsin Law School. He has practiced commercial and bankruptcy law in Alaska since 1983. He has climbed extensively in Alaska and the Western United States. He is an avid amateur cabinetmaker and boatbuilder. He has been married for 13 years and he and his wife have two children and live in Anchorage.

STATEMENT: Jay Brause and Gene Dugan, the plaintiffs

WE BELIEVE that the denial of legal recognition of same-sex couples by the State of Alaska is illegally discriminatory, unconstitutionally limiting marriage benefits to opposite-sex couples, while depriving a whole class of persons those important benefits. Our Constitution was designed specifically to protect such civil rights.

If opposite-sex couples who planned to be married were denied the right to marry by the state, they would speak out against such injustice. So must we.

ONE.

WE BELIEVE that love, economic partnership, and commitment are the bedrock of marriage—not the sex of the partners or their potential to procreate.

WE BELIEVE the proof of our relationship of 16 years and that of many other same-sex couples secures our demand for marriage as rightful and legitimate.

WE BELIEVE that with the rights accrued with marriage there are corresponding responsibilities. We recognize that we are first responsible for our partner's physical and emotional health, financial welfare, and relationship to family, friends, and community. In fact, it is these responsibilities that keep many people—heterosexual and homosexual—from forming committed (married) relationships. We claim the right to become responsible marriage partners in our society.

TWO.

WE BELIEVE that the legacy of prohibiting same-sex marriage has been destructive to same-sex partnering in our society and that the double-standard of commending heterosexual marriage while condemning homosexual marriage must give way to equal treatment and support for both forms of relationships.

WE BELIEVE we are part of a larger movement in history working toward full recognition and integration of gay and lesbian persons into a society that supports these individuals becoming the best persons they may become.

THREE.

WE BELIEVE that religious and cultural justification for depriving law-abiding adults of equal treatment in the law to be abhorrent to the democratic exercise of liberty and equality.

WE BELIEVE there must be a formal recognition of two separate constructs in recognizing marriage in our society: that of legal rights and responsibilities bestowed by the state and that of the moral imperative bestowed by religion. To confuse these two distinct and legally separate constructs is a consistent fallacy of those who believe a state-approved marriage is necessarily tied to a religious one.

LAST.

WE BELIEVE that marriage, while difficult, is still the best tool society has in assisting the stable, harmonious conduct of human sexual, emotional, and economic needs. Alternatives to marriage may exist, but these alternatives are untested as to whether they will work as well or better for the majority of people.

This said, we support the examination of other forms of relationships, while we more fully support marriage; that, in fact, is why we have brought this action for ourselves, our gay and lesbian friends and our entire community.

STATEMENT: Robert Wagstaff, lead counsel for lawsuit

I am participating in this lawsuit because I believe more than anything else that all persons are created equal under law. Our Constitution prohibits the government from denying rights and benefits because of (un)popularity. The benefits and privileges given some must be extended to all regardless of who they are. Jay Brause and Gene Dugan's relationship is one of choice, one of validity, and is legitimate. They are entitled to the same benefits of others similarly situated.

BACKGROUND: The Plaintiffs

JAY BRAUSE and **GENE DUGAN** are life-partners of 16 years, who first met in the Alaska Gay Community Center in Anchorage in September, 1978. Like many other people who fall in love, they decided to recognize their relationship in a religious ceremony. That ceremony was co-celebrated by Jay's father, the Rev. Floyd Brause, a Lutheran minister, on August 4, 1979. It was understood that this ceremony was not a state-recognized marriage. In 1986, Brause and Dugan began their effort to become legally married in the State of Alaska.

Dugan and Brause are employed in Anchorage by Out North as artistic director and managing director, respectively.. They are non-profit administrators as well as community activists who are best known for building a professional contemporary arts organization with an international reputation for works that speak to the experiences of diverse communities.

Gene Dugan, an Alaskan since 1978, was born in Brooklyn, New York on December 10, 1951, and raised on Long Island. He received his Masters degree in drama from the University of Essex in England, and was a cultural worker in England before being employed by Alaska Repertory Theatre, Arts Alaska, Alaska State Theatre Association, and Rural Alaska Community Action Program. He received a national award from the Department of Defense for his work as a stage director at Fort Richardson, Alaska. The founder of Out North, he has directed Alaska premieres of new plays such as My Children! My Africa! and Reckless, and the West Coast premieres of Keely and Du and Slavs! Last December he spoke to the annual conference of the National Performance Network on the challenges of presenting openly gay and lesbian performance artists in a conservative environment.

Jay Brause, an Alaskan resident since 1959, was born in Brainerd, Minnesota on June 3, 1954, and raised in Anchorage. He studied music at the University of Alaska Fairbanks, and political science at the University of Alaska Anchorage. He worked for the Center for the Arts in Purchase, New York, Alaska Repertory Theatre, the Center for Alcohol and Addiction Studies UAA, and the U. S. Census. He has been a human service administrator and is the editor and co-author of several public policy studies and research papers; most importantly, the first state-wide evaluation of Alaska's Lesbian and Gay population in 1985 as well as a Municipality of Anchorage sponsored study of sexual orientation discrimination patterns in housing and employment in 1989. He served on the national board of the American Civil Liberties Union, and most recently participated on an international panel on the economic effects of censorship at playRites'95 in Calgary, Alberta, Canada.

They are also known nationally for their stand on artistic censorship. In 1993 Dugan and Brause received an award at the Museum of Modern Art in New York from the Robert Sterling Clark Foundation, the Nathan Cummings Foundation, the Joyce Mertz-Gilmore Foundation, the Rockefeller Foundation, and the Andy Warhol Foundation for their "contribution to upholding the principle of freedom of expression in American life."

BACKGROUND: Affidavits Summary

Jay Brause and Gene Dugan have lived in Alaska 35 and 17 years, respectively, and have shared their lives as a couple since 1979.

On August 4, 1994, Jay Brause and Gene Dugan went to the Vital Statistics office of the Alaska State Courthouse in Anchorage and applied for a marriage license. That license was denied by an agent of the State of Alaska solely on the basis of their being of the same sex.

The birthdates of Jay Brause and Gene Dugan are June 3, 1954 and December 10, 1951, respectively, and each is not otherwise legally barred from being married under the laws of the State of Alaska. The application was witnessed by Jay's brother, Corey Brause; sister-in-law, JoAnne Brause; and mother and father, Lucille and Floyd Brause.

The clerk affirmed the applicants' signatures and filed their marriage license application for no future action.

Because of this denial, the applicants undertook finding legal representation to bring suit against the State of Alaska in order to secure their desired right to marry.

BACKGROUND: Lawsuit Summary

The plaintiffs are Jay Brause, 35 year resident of Alaska, and Gene Dugan, 17 year resident of Alaska. They bring the lawsuit in the public interest.

The defendant is the Bureau of Vital Statistics, Department of Health and Social Services, in the State of Alaska.

On August 4, 1994, Messrs. Dugan and Brause's application for marriage was denied by defendant's agent solely on the grounds that the plaintiffs were of the same sex. The plaintiffs otherwise qualify for marriage under the laws of Alaska.

The claim is made that such denial of marriage license is unconstitutional in Alaska law because it violates the Alaska Constitution's provisions for right to privacy (§ 22, Article I), equal protection and the due process of law (§ 1, 3 and 7, respectively, Article I).

Plaintiffs have no adequate or complete remedy to redress the wrongs stated in this complaint and ask:

1. to declare the denial to marry because the applicant couple is of the same sex unconstitutional;
2. to prohibit the defendant and his agents the ability to deny application for a marriage license solely because the applicant couple is of the same sex;
3. to award costs and attorney fees to plaintiffs as public interest litigants;
4. to award such further relief as may be just and proper.

STATEMENT OF SUPPORT: Floyd and Lucille Brause, parents of Jay Brause

Exactly a year ago we accompanied Jay and Gene in their attempt to obtain a Marriage License and be legally declared a married couple. As an ordained Lutheran pastor and father of Jay, I have always abhorred the discrimination directed against minorities and I have waged private and public battles against those who would limit the rights of fellow human beings. We, as parents, have seen and experienced Jay's and Gene's love and commitment to each other, and in our eyes their long and compatible union should be legally validated. The injustice of the discrimination against homosexuals is a travesty which must be dealt with in the legal system of our free land. All human beings deserve to be treated equally whether they are homosexual or heterosexual.

STATEMENT OF SUPPORT: Alaskans for Marriage, Melissa Green, President 566-1663

Alaskans for Marriage fully supports Gene and Jay in their laudable effort to remove discriminatory limitations on marriage and its benefits. We formed this organization to ensure that costs of the lawsuit will get paid during what will likely be a lengthy legal process. Gene and Jay are in this for the long haul; Alaskans for Marriage will be behind them all the way.

STATEMENT OF SUPPORT: Alaska Civil Liberties Union, Rachel King, Exec. Dir.

(attached)

CIVIL LIBERTIES UNION/FOUNDATION

An Affiliate of the American Civil Liberties Union

P. O. Box 201844 Anchorage, AK 99520-1844

Phone: 1-907-258-0044 Fax: 1-907-258-0288

Contact: Rachel King
Executive Director
258-0044

ALASKA CIVIL LIBERTIES UNION SUPPORTS SAME SEX MARRIAGE

The Alaska Civil Liberties Union supports the legal action taken by Jay Brause and Gene Dugan to secure marriage rights in recognition of their long-term relationship. The Alaska Civil Liberties Union, an affiliate of the American Civil Liberties Union, believes that discrimination based on sexual orientation, like that based on race, alienage, age, national origin, political persuasion, religion, disability or gender, denies individuals equal protection of the laws. The AkCLU also believes that an individual's right to privacy includes private sexual behavior between consenting adults.

The AkCLU supports legal recognition of lesbian and gay relationships, including the right to marry. Such recognition is imperative for the complete legal equality of lesbian and gay individuals. Rights or benefits available to married couples such as insurance benefits, should be extended to those lesbian and gay couples who are similarly situated to married couples, except for their marital status. Rights or benefits available to unmarried heterosexual couples should of course be extended to lesbian and gay couples.

"We fully support Jay and Gene's action and are behind them 100%," said Rachel King, Executive Director of the AkCLU. "Jay and Gene are taking a courageous first step to securing the right to marry for gay and lesbian couples.

Discrimination against gays, lesbians and bisexuals continues in all facets of life in Alaska and will only change when their relationships are given the same legal recognition as heterosexuals."

The ACLU has supported same sex marriage cases in other parts of the country, most recently filing an *amicus curiae* brief in support of the Hawaii case, *Baehr v. Lewin*.

END

Some of the Rights that come with Marriage in Alaska

The State of Alaska attaches legal significance to the marriage relationship. State and federal laws award spouses numerous rights simply because of their status as a party to a marriage. The following is a list of some of those rights.

1. Right to file wrongful death action AS 9 55.580
2. Right to notice and consent in adoption proceeding AS 25.23.050
3. Spouse's right of intestate succession AS 13.11.010
4. Intestate succession to Alaska Native Corporation stock AS 13.16.705; 13.11.012
5. Right to authorize anatomical gifts AS 13.50.010
6. Right to revocation of will with marriage annulment AS 13.11.185
7. Surviving spouse's homestead allowance AS 13.11.125
8. Surviving spouse's elective share of estate AS 13.11.070
9. Surviving, omitted spouse's rights AS 13.11.110
10. Applicability of Uniform Disposition of Community Property rights at death AS 13.41.005
11. Surviving spouse's exemptions AS 13.11.130
12. Surviving spouse's family allowance AS 13.11.135
13. Right of notice of guardianship proceedings AS 13.26.135
14. Right to appointment as guardian AS 13.26.145
15. Child custody AS 25.24.150
16. Residency of spouse determining right to Permanent Fund Dividend AS 43.23.015
17. Actions between spouses respecting property AS 25.15.020
18. Authority to act as attorney in fact AS 25 15.040
19. Right to adopt AS 25.023.020
20. Violation of bigamy statute AS 11.51.140
21. Both spouses join in conveyance of family home AS 34.15.010
22. Spouse's services excluded from definition of employee AS 23.30.525
23. Right of first refusal under gasoline product leasing act AS 45.50.825
24. Right to effectuate insurance upon spouse AS 21.42.090
25. Criminal nonsupport rights AS 11.51.120
26. Worker Compensation rights upon spouse's death AS 23.30.215
27. Spouse's right to compensation for permanent partial disability AS 23.30.195
28. Spouse's interest in public employee retirement system AS 39.35.455
29. Spouse's interest in qualified domestic relation orders and retirement plans AS 39.35.455
30. Old age survivor insurance AS 39.30.20
31. Beneficiary public employee group health and life insurance AS 39.30.090
32. Public employee family leave AS 39.20.305; 23.10.500
33. Public employee leave of absence AS 39.20.310
34. Payments due to deceased public employees AS 39.20.360
35. Spouse's interest in supplemental employee benefits AS 39.30.160
36. Spouse's interest in public employee special hazard insurance AS 39.30.130
37. Spouse's interest in public employee's deferred compensation program AS 39.45.010
38. Federal income tax applications
39. Nondischargeability in bankruptcy of spousal support 11 U.S.C. §523 (a) (5)
40. Right to consent to adoption AS 25.23.040

Important Legal Documents Attached:
Brause & Dugan v. State of Alaska

(Action against the State because a Marriage License was denied to same-sex applicants. ~~29~~ pages follow.)

18

FAX 258-2916

Dear MIA :

(REP. ROBERT WAGSTAFF)

We'll be filing this complaint at 10am on Friday, August 4 at the office of the Clerk of the Court in Anchorage.

If you want to talk with us or with our attorney, that will be a good time to do it.

— Gene & Jay, plaintiffs 566-1663

Robert H. Wagstaff, lead counsel 277-8611

This information is not to be released in any form before Noon, August 4, 1995. Thank-you.

presented, it is useful to first review the basic role of the state in marriage.

The state issues marriage licenses, solemnizes marriages and keeps a docket of applications for marriage licenses available for public review. The state also distributes basic information to applicants about the effects alcohol, drugs and battering can have upon a fetus. Other than that, the state does not become involved, except to require that the applicants be at least 18 years of age or, if minors, have the proper consents or be on active duty with the armed services. (The Marriage Code now specifically prohibits same-sex marriage, bigamy and marrying anyone closer than one's first cousin.) Applicants for marriage are under a duty to swear that the contemplated marriage meets the requirements of the law, give their names, relationship, occupations, ages (and, where appropriate, guardians), and give descriptions of any prior marriages and their dissolutions. The issuing officer has a duty to issue the license if "all requirements are met and there is no legal objection to the contemplated marriage, and neither party is under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding . . ." A.S. 25.05.111. The license is to issue after a three day waiting period and is good for three months thereafter. A.S. 25.05.091; A.S. 25.05.121.

This description of the state's role in marriage focuses on the establishment of the marriage itself and is not inclusive, nor is it intended to be, of the many rights and consequences

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IN THE SUPREME COURT FOR THE STATE OF ALASKA

BUREAU OF VITAL STATISTICS,)	
ALASKA DEPARTMENT OF HEALTH &)	
SOCIAL SERVICES, the STATE)	
OF ALASKA, and the ALASKA)	
COURT SYSTEM,)	
)	
)	
Petitioners,)	
)	
vs.)	
)	
JAY BRAUSE and GENE DUGAN,)	
)	
Respondents.)	Supreme Court No. S-
)	Super. Ct. No. 3AN-95-6562 CI

PETITION FOR REVIEW

This petition seeks review of an order of the superior court at Anchorage, Hon. Peter Michalski, in a case challenging the constitutionality of Alaska's statutory prohibition on same-sex marriage. The court, in the instant order (attached to this petition as Exhibit A), denied the defendants' motion for summary judgment on the constitutional question, and ordered a hearing at which the defendants will have to show a compelling state interest in the prohibition in order to sustain it.

FACTS

The facts of this case, as set out in the superior court's opinion, are simple and undisputed. Plaintiffs Jay Brause

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1 and Gene Dugan are two male residents of Anchorage who sought a
2 license to be married. Based on a memorandum from former
3 Presiding Judge Karl Johnstone which concluded that the Alaska
4 statutes did not authorize same-sex marriage, the court clerk
5 denied their application. Other than their sex, Brause and Dugan
6 met the other qualifications for issuance of a marriage license.
7

8
9 Brause and Dugan brought suit in Anchorage superior
10 court, contending that the statutory prohibition on same-sex
11 marriage is unconstitutional. Their claims rested primarily on
12 the privacy section of the Alaska constitution, art. I, sec. 22,
13 and the civil rights section, art. I, sec. 3. They subsequently
14 moved for partial summary judgment, seeking a ruling that the
15 Alaska constitution implicates the right to same-sex marriage, and
16 that that prohibition must fail unless the state can show a
17 compelling state interest in it. The defendants cross-moved,
18 arguing that the Alaska constitution does not implicate a right to
19 same-sex marriage, and that, even if it does, the prohibition is
20 constitutional because of the basic biological differences between
21 same-sex couples and opposite-sex couples.
22

23
24 In his order, entered on February 27, 1998, Judge
25 Michalski granted the plaintiffs' motion and denied the
26 defendants' cross-motion, and ordered the parties "to set

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1 necessary further hearings to determine whether a compelling state
2 interest can be shown for the ban on same-sex marriage found in
3 the Alaska Marriage Code." Exhibit A, at 13.
4

5 STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

6 Whether the superior court erred in ruling that there is
7 a fundamental right under the Alaska constitution to "choose one's
8 life partner and have a recognized nontraditional family" [Exhibit
9 A, at 11], which in effect constitutes a right to same-sex
10 marriage.
11

12 Whether the superior court erred in denying the
13 defendants' motion for summary judgment and in not dismissing the
14 plaintiffs' action.
15

16 WHY REVIEW SHOULD NOT BE POSTPONED

17 Immediate review of the superior court's decision is
18 warranted under Appellate Rule 402(b)(2). The court's decision
19 clearly "involves an important question of law on which there is
20 substantial ground for difference of opinion," and immediate
21 review will both "materially advance the ultimate termination of
22 the litigation" and "advance an important public interest which
23 might be compromised if the petition is not granted."
24
25

26 Substantial ground for difference of opinion. The
superior court's decision in this case, holding in effect that

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1 there is a fundamental right to same-sex marriage, departed from
2 every American decision of which the defendants are aware. See,
3 e.g., Storrs v. Holcomb, 645 N.Y.S.2d 286 (Sup. Ct. 1996); Baehr
4 v. Lewin, 852 P.2d 44 (Hawaii 1993); Dean v. District of Columbia,
5 653 A.2d 307 (D.C. 1992); Adams v. Howerton, 673 F.2d 1036 (9th
6 Cir.), cert. denied, 458 U.S. 1111 (1982); Singer v. Hara, 522
7 P.2d 1187 (Wash. App. 1974); Baker v. Nelson, 191 N.W.2d 185
8 (Minn. 1971), appeal dismissed, 409 U.S. 810 (1972). In addition,
9 the court's ruling that a trial on the plaintiffs' claims is
10 required is inconsistent with every decision of which the
11 defendants are aware, except for the Baehr decision. Thus the
12 substantial ground for difference of opinion is clear.

13
14
15
16 Advancing an important public interest. In recent
17 years - since the Hawaii Supreme Court's 1993 decision in Baehr v.
18 Lewin - same-sex marriage has become one of the "hot button"
19 social issues in the United States. Its "hot button" status in
20 Alaska is reflected in the Alaska legislature's response to the
21 Baehr litigation, the enactment of a so-called "defense of
22 marriage" act, and in the proceedings surrounding the enactment of
23 that act. AS 25.05.013, enacted by ch. 21, SLA 1996, provides
24 that same-sex marriages will not be recognized in Alaska, even if
25 they are legal under the law of the jurisdiction where there

1 marriage takes place.¹ The legislative history of the bill that
2 became chapter 21 illustrates the inflammatory passions that this
3 subject unleashes.²
4

5 Thus the principal reason why this court should grant
6 immediate review of the superior court's decision is that the
7 trial which that court has ordered is certain to be extremely
8 contentious, and has the potential of stirring up widespread
9 animosity and prejudice. Clearly the avoidance of such a trial,
10 if it is not necessary, is strongly in the public interest. And
11 if the defendants' arguments before the superior court were
12 correct, such a trial would not be necessary, and summary judgment
13 for the defendants would be the proper course.
14
15
16
17

18 ¹ Chapter 21 also amended AS 25.05.011, so that it now states
19 explicitly that marriage is limited to one man and one woman.
20 This amendment was made even though no one, including the
21 plaintiffs in this action, contended that the old sex-neutral
22 language of AS 25.05.011 authorized same-sex marriage.

22 ² For instance, the minutes of the House State Affairs
23 Committee on the bill (found on the BASIS database) show one
24 witness before the committee calling homosexuals "perverted" and
25 homosexuality "an abomination"; another saying that the bill would
26 prevent the "immorality of the few," an obvious reference to
homosexuals, from being imposed on the majority; and a third
referring to "the average homosexual [who] had over 500 partners
in a lifetime which did nothing more than spread sexually
transmitted diseases." Even a legislator said that "homosexual
relationships were not the will of God according to the Bible."

1 Material advancement of the ultimate termination of the
2
3 litigation. If the superior court erred, and the defendants'
4 contentions are correct, then the trial which the Superior court
5 has ordered will be unnecessary. Review of that court's ruling
6 now, rather than after a trial, will obviously advance the
7 termination of this litigation.
8

9 **WHY THE DECISION BELOW IS ERRONEOUS³**

10 "The Founding Fathers did not establish the United
11 States as a democratic republic so that elected officials would
12 decide trivia, while all great questions would be decided by the
13 judiciary." Compassion in Dying v. State of Washington, 79 F.3d
14 790, 858 (9th Cir. 1996) (en banc) (Kleinfeld, J., dissenting),
15 reversed, ___ U.S. ___, 138 L.Ed.2d 772 (1997).
16

17 Whether or not there should be same-sex marriage in
18 Alaska is indeed a great question, as was the question of assisted
19 suicide at issue in Compassion in Dying. The same-sex marriage
20 question is also a question that the legislature, and not the
21
22

23 ³ The 15-page limit on petitions for review precludes the
24 petitioners from discussing in detail why the superior court's
25 decision was erroneous. The petitioners have appended to this
26 petition as Exhibit B a copy of their memorandum in opposition to
the plaintiffs' motion for partial summary judgment and in support
of their own cross-motion for summary judgment, which sets out
their arguments in detail.

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1 judiciary, should decide (and, as noted above, one that the
2 legislature has already decided). The superior court's intrusion
3 here into the province of the legislature was its most fundamental
4 error.
5

6 The superior court failed to recognize that the
7 provisions of the Alaska constitution invoked by the plaintiffs do
8 not even implicate the right to same-sex marriage. This court has
9 repeatedly held that the Alaska constitution should be construed
10 consistently with the intent of the framers. See Arco Alaska,
11 Inc. v. State, 824 P.2d 708, 710 (Alaska 1992); Kochutin v. State,
12 739 P.2d 170, 171 (Alaska 1987); Hammond v. Hoffbeck, 627 P.2d
13 1052, 1056 n.7 (Alaska 1981). Thus, unless there is evidence
14 indicating intent by the framers that a constitutional provision
15 be construed to provide for rights inconsistent with long-standing
16 law at the time of its adoption, a provision should not be
17 construed to provide for such inconsistent rights. Cf. Hootch v.
18 Alaska State-Operated School System, 536 P.2d 793, 800 (Alaska
19 1975) ("an historical perspective is essential to an enlightened
20 contemporary interpretation of our constitution").⁴ Here, there
21
22
23
24

25 ⁴ See also Moore v. City of East Cleveland, 431 U.S. 494, 502
26 (1977) (plurality opinion) (footnote omitted; emphasis in original):

1 is no such evidence, and Judge Michalski totally ignored the
2 absence of any such evidence.⁵
3

4 In 1955 and 1956, when the Alaska constitution was
5 drafted and adopted by the constitutional convention and ratified
6 by the people, the idea of same-sex marriage had been basically
7 unheard of in the Western world for centuries.⁶ The statutes of
8

9
10 There are risks when the judicial branch gives
11 enhanced protection to certain substantive
12 liberties without the guidance of the more
13 specific provisions of the Bill of Rights. As the
14 history of the *Lochner* era demonstrates, there is
15 reason for concern lest the only limits to such
16 judicial intervention become the predilections of
17 those who happen at the time to be Members of this
18 Court. That history counsels caution and
19 restraint.
20

21 The answer, according to the Court plurality: "Appropriate limits
22 on substantive due process come not from drawing arbitrary lines
23 but rather from careful 'respect for the teachings of history
24 [and] solid recognition of the basic values that underlie our
25 society.'" Id. at 503 (internal quote and bracketed word in
26 original).

⁵ The plaintiffs also essentially ignored the defendants'
arguments on history and framers' intent, responding to them in
the plaintiffs' summary judgment reply memorandum with the comment
that the relevant constitutional provisions are of a "forward
looking nature."

⁶ See W. Eskridge, Jr., *A History of Same-Sex Marriage*, 79 Va.
L. Rev. 1419 (1993). Professor Eskridge shows that same-sex
marriage has existed historically, especially in non-Western
cultures. However, he states that in the West (i.e., in Europe)
attitudes turned against same-sex marriage in the 13th century.
Id. at 1469. (Continued)

1 the Territory of Alaska had, since before their first codification
2 in 1913, provided that a marriage must be between a man and a
3 woman. CLA 1913, § 431; CLA 1933, § 1181; ACLA 1949, § 21-1-1.
4 There is no reference in the minutes of the Constitutional
5 Convention to same-sex marriage. Thus it cannot be said that the
6 framers, in adopting the constitution, intended to confer a right
7 to same-sex marriage, or intended that the proposed constitution
8 in any way alter existing law on the subject of marriage.
9

10
11 By 1972, when art. I, sec. 22 was adopted and art. I,
12 sec. 3 was amended to add its reference to sex, litigation seeking
13 the right to same-sex marriage had begun in the Lower 48.
14 However, none of this litigation had been successful, and none had
15 taken place in Alaska. Thus again it cannot be said that the
16 legislature and the electorate, in proposing and adopting these
17 two constitutional changes, intended to confer a right to same-sex
18 marriage or to alter the existing marriage law.
19

20
21 In fact, the limited amount of history behind these two
22 changes that is now available suggests no such intentions. The
23

24 In a recent newspaper article, a sociology professor noted
25 that in the 1950s and 1960s articles in a major gay publication
26 discussed the pros and cons of same-sex marriage. P. Nardi,
Saying "I Do" to Broadening the Debate, L.A. Times, Feb. 5, 1996,
at B5. This article does not indicate that any such articles
appeared in the "mainstream" press during this period.

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1 privacy amendment was apparently enacted to address specific
2 concerns about access to criminal justice information, a subject
3 obviously having nothing whatsoever to do with any right to marry.
4 G. Harrison, Alaska's Constitution - A Citizen's Guide, at 44-45
5 (3rd ed. 1992). The amendment to art. I, sec. 3 was apparently
6 intended to give the state constitution a counterpart to the
7 proposed federal Equal Rights Amendment then undergoing the
8 ratification process before the legislatures of the states (and
9 which the Alaska legislature had ratified quickly during its 1972
10 session). But the framers and proponents of the federal ERA
11 specifically denied that that amendment would confer a right to
12 same-sex marriage.⁷ Thus there is no reason to give a different
13 construction to the Alaska ERA.
14

15
16
17 The superior court erred in ruling that the plaintiffs
18 have a fundamental right to be married. As noted above, the
19 superior court's conclusion that the same-sex plaintiffs had a
20 fundamental right to "choose [their] life partner and have a
21 recognized nontraditional family" (i.e., to be married) departs
22

23
24 ⁷ See 118 Cong. Rec. 4389 (1972) (statement of Sen. Bayh, an
25 ERA sponsor, that the ERA would not require the states to
26 recognize same-sex marriage); Note, The Legality of Homosexual
Marriage, 82 Yale L.J. 573, 584 n.50 (1973) (quoting a similar
view by one of the legal scholars who originally drafted and
propounded the federal ERA, Yale Professor Thomas Emerson).

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1 from every other court decision to ever consider the matter.
2
3 Judge Michalski ignored the correct analysis in Baehr (also
4 reflected in other cases), where the court stated that "we do not
5 believe that a right to same-sex marriage is so rooted in the
6 traditions and collective conscience of our people that failure to
7 recognize it would violate the fundamental principles of liberty
8 and justice that lie at the base of all our civil and political
9 institutions." 852 P.2d at 57. The judge ignored the fact that
10 Alaska has a test virtually identical to that of Hawaii for
11 determining when "constitutional rights and privileges" should be
12 "develop[ed]" under the Alaska constitution: when the courts "find
13 such fundamental rights and privileges to be within the intention
14 and spirit of our local constitutional language and to be
15 necessary for the kind of civilized life and ordered liberty which
16 is at the core of our constitutional heritage." Baker v. City of
17 Fairbanks, 471 P.2d 386, 402 (Alaska 1970) (footnote omitted).
18 Instead Judge Michalski improperly recharacterized the question as
19 whether there is a basic right "to choose one's life partner,"
20 Exhibit A, at 8, then found that there was such a right.

21
22
23
24
25 In reaching this conclusion, the judge relied primarily
26 on Breese v. Smith, 501 P.2d 159 (Alaska 1972). Breese, in which
this court invalidated hair length rules of the Fairbanks school

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1 system, is the first of the major Alaska privacy cases, even
2 though it predated the adoption of art. I, sec. 22. But there is
3 a huge and controlling difference between this case and Breese.

4
5 Breese involved an outright prohibition against conduct
6 - the wearing of long hair in the schools. By contrast, the
7 marriage laws at issue here do not outlaw conduct. They do not
8 prohibit same-sex couples from taking wedding vows in a ceremony,
9 from living together as a couple, from holding themselves out to
10 the world as wed. They simply deny formal legal recognition of
11 that relationship as a marriage. As one of the leading scholars
12 on same-sex marriage has written, in comparing state marriage laws
13 to sodomy laws (which Alaska no longer has), "[T]here is a legally
14 recognized and profound difference between the state not punishing
15 private homosexual behavior between consenting adults and the
16 state endorsing or recognizing a public right to engage in such
17 behavior." Lynn D. Wardle, A Critical Analysis of Constitutional
18 Claims for Same-Sex Marriage, 1996 Brigham Young U.L.R. 1, 40.
19 Professor Wardle's analysis is equally applicable for comparing
20 Breese with the case at bar.

21
22 The superior court here ignored the basic holding of
23 Breese - that the right to privacy is essentially the right to be
24 let alone. 501 P.2d at 168. As just discussed, the state

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1 marriage laws do let Brause and Dugan alone - they simply deny
2 official recognition of a private decision.
3

4 The superior court also erred in giving a very expansive
5 reading to the early privacy cases - Breese and Ravin v. State,
6 537 P.2d 494 (Alaska 1974) - when subsequent Alaska cases have
7 indicated that those cases should not be read so expansively. See
8 Hilbers v. Municipality of Anchorage, 611 P.2d 31, 41-42 (Alaska
9 1980); Friedman v. District Court, 611 P.2d 77 (Alaska 1980);
10 McKenzie v. Municipality of Anchorage, 631 P.2d 514, 518 (Alaska
11 App. 1981). It is especially difficult to square the superior
12 court's reading of Breese with Friedman, a decision which upheld
13 the right of the state district court to require that an attorney
14 appearing before it wear a coat and a tie, and which rejected the
15 attorney's Breese-based argument.
16
17

18 Professor Wardle, in the article cited above, observed
19 that "[a]sking the judiciary to impose a radical redefinition of
20 marriage upon the American people is a very troubling
21 proposition." L. Wardle, supra, at 5. It is especially troubling
22 when the people, speaking through their elected representatives,
23 have so recently rejected the radical redefinition. By finding a
24 fundamental right in the case at bar, the superior court went a
25
26

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1 long way toward this radical redefinition.⁸ The court erred in so
2 doing.
3

4 The superior court erred in ruling that the prohibition
5 on same-sex marriage constitutes sex discrimination. In an
6 alternate holding, the superior court ruled that the prohibition
7 on same-sex marriage constitutes sex discrimination banned by
8 art. I, sec. 3 of the Alaska constitution.⁹ The court offered
9 only a very brief discussion on this issue and did not even cite
10 to Baehr. Despite the divergence of judicial and academic views
11 on this question, Judge Michalski opined that "[s]ex-based
12 classification can hardly be more obvious."
13
14

15 With due respect to the judge, the petitioners must
16 strongly disagree. The same-sex prohibition is in fact sex-
17 neutral: both men and women may marry members of the opposite sex,
18

19
20 ⁸ It is of course extremely difficult for the state ever to
21 meet the compelling state interest test under Alaska
22 constitutional analysis. The State of Hawaii, on remand from the
23 Baehr decision, was unable to do so to the satisfaction of the
24 Hawaii circuit court. Baehr v. Miike, Civ. No. 91-1394 (Findings
of Fact and Conclusions of Law, entered Dec. 3, 1996). That court
ruling is currently on appeal to the Hawaii Supreme Court.

25 ⁹ This was an alternate holding because the court had already
26 found that, in light of its holding about a fundamental right to
choose one's own life partner, the state must show a compelling
interest to have the same-sex marriage prohibition upheld under
the general equal protection clause, art. I, sec. 1.

1 but may not marry members of their own sex. The better analysis
2 on this issue is found not in the superior court's opinion or in
3 Baehr, but in the opinion in Singer v. Hara, 522 P.2d at 1190-91.

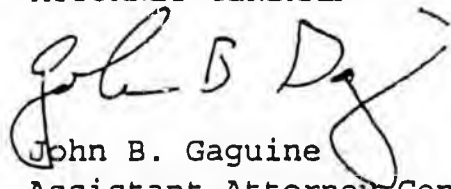
4
5 PRECISE RELIEF SOUGHT

6 The petitioners ultimately seek from this court an order
7 that reverses the superior court's grant of partial summary
8 judgment to the plaintiffs and its denial of complete summary
9 judgment to the defendants, and that orders the superior court to
10 dismiss the action with prejudice. However, because of the
11 complexity and importance of the issues that this petition
12 presents, the petitioners are not seeking such an order based on
13 this petition and any opposition to it that may be filed. Rather
14 the petitioners seek only an order accepting the petition and
15 ordering full briefing.
16
17

18 DATED this 9th day of March, 1998, at Juneau, Alaska.

19
20 BRUCE M. BOTELHO
21 ATTORNEY GENERAL

22 By:

23 
24 John B. Gaguine
25 Assistant Attorney General
26

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**Marriage Amendment
Research**

March 1998

Prepared for:

Brena, Bell and Clarkson

Alaska Opinion Research

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Methodology 1

Findings 2 - 3

Crosstabulations

METHODOLOGY

METHODOLOGY

During the period March 12 through March 23, 1998, five hundred fifty-eight (n=558) Alaskans over the age of 18, located in 64 communities were personally contacted via telephone by professional interviewing employees of the Dittman Research Corporation of Alaska. The views and opinions of the Alaska residents were recorded on a strictly confidential basis.

Research Design

A random sample design was featured which provided that all households listed in the most current telephone directory for each community had essentially an equal chance of being interviewed.

Sample Selection

Individual respondents were randomly selected from current telephone subscribers listed in the most current directory for each community.

Processing the Data

Dittman Research employees completed coding, editing, data entry and verification, while data processing was completed through the in-house Dittman Research Corporation computer system featuring the Statistical Package for the Social Sciences (SPSS/PC+) program. The SPSS program is one of the most sophisticated research-oriented data processing and analytical systems available, and is designed specifically for the processing and analysis of survey research data.

Measurement History

Citizen opinion measurements by the Dittman Research Corporation, utilizing the previously described methodology, analytical procedures and data processing systems, have proven to be virtually perfect predictors of political election results in Alaska for the past twenty-five years.

FINDINGS

FINDINGS

Nearly two-out-of-three respondents (65%) "disapprove" of legalizing homosexual marriages...

QUESTION:

"Here in Alaska and in some other states, there has been some discussion regarding whether or not marriages between homosexuals should be legalized. Do you approve or disapprove of legalizing homosexual marriages?"

RESPONSE:

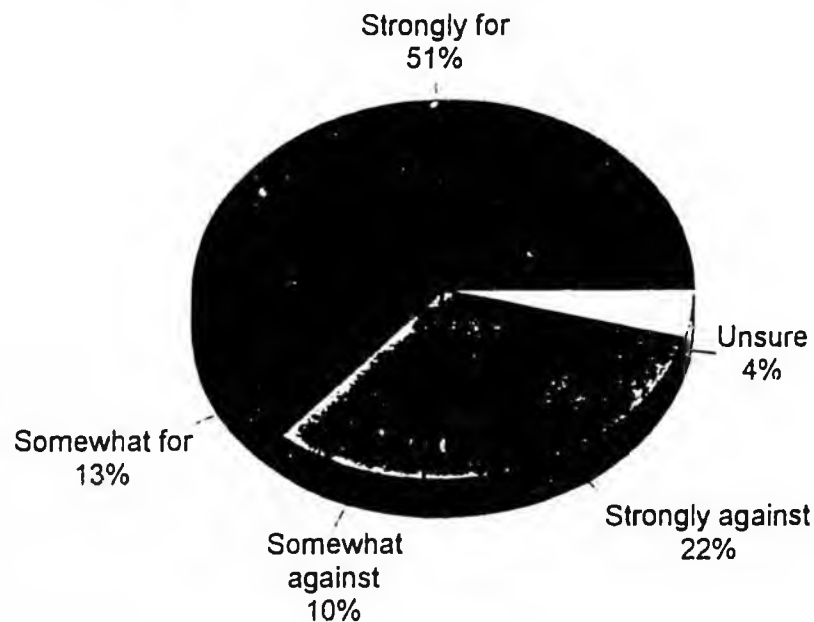
	15%	Strongly approve
	15%	Somewhat approve
65%	12%	Somewhat disapprove
	53%	Strongly disapprove
	5%	Unsure

...and if a constitutional amendment were proposed which stated "to be valid or recognized in this state, a marriage may exist only between one man and one woman", again, nearly two thirds of respondents (64%) would vote "for" that amendment...

QUESTION:

"If there were a proposed amendment to Alaska's constitution on the ballot in November's General Election which stated 'to be valid or recognized in this state, a marriage may exist only between one man and one woman' -- do you think you would vote for or against that constitutional amendment?"

RESPONSE:



CROSSTABULATIONS

HERE IN ALASKA AND IN SOME OTHER STATES, THERE HAS BEEN SOME DISCUSSION
REGARDING WHETHER OR NOT MARRIAGES BETWEEN HOMOSEXUALS SHOULD BE LEGALIZED.
DO YOU APPROVE OR DISAPPROVE OF LEGALIZING HOMOSEXUAL MARRIAGES?

DEMOGRAPHICS	UNSURE	STRONGLY APPROVE	SOMEWHAT APPROVE	SOMEWHAT DISAPPROVE	STRONGLY DISAPPROVE	BASE
TOTAL.....	5%	15%	15%	12%	53%	100.0%
LOCATION						
RURAL.....	7%	7%	20%	11%	56%	10.9%
CENTRAL.....	5%	16%	9%	14%	56%	13.8%
SOUTHCENTRAL.....	5%	8%	11%	13%	62%	17.6%
ANCHORAGE.....	5%	19%	16%	11%	49%	46.1%
SOUTHEAST.....	3%	18%	17%	14%	48%	11.6%
TIME IN COMMUNITY						
0 - 4 YRS.....	2%	19%	25%	15%	40%	9.5%
5 - 9 YRS.....	9%	20%	11%	11%	49%	12.5%
10 - 14 YRS.....	7%	20%	9%	8%	57%	10.8%
15+ YRS.....	4%	13%	15%	13%	55%	67.2%
EMPLOYER						
FEDERAL.....	2%	14%	11%	16%	57%	7.9%
STATE.....	0%	17%	19%	15%	50%	9.7%
LOCAL.....	6%	21%	17%	19%	38%	8.6%
PRIVATE COMPANY..	6%	17%	15%	11%	51%	52.9%
NOT IN WORKFORCE.	3%	9%	15%	9%	63%	21.0%
GENDER						
MALE.....	5%	13%	11%	13%	58%	51.6%
FEMALE.....	5%	18%	19%	11%	47%	48.4%
AGE						
18-29 YEARS.....	4%	22%	17%	13%	43%	13.6%
30-44 YEARS.....	5%	15%	18%	12%	50%	38.0%
45-59 YEARS.....	6%	17%	14%	12%	51%	34.8%
60+ YEARS.....	3%	4%	5%	11%	78%	13.6%
REGISTRATION						
DEMOCRAT.....	6%	22%	20%	6%	45%	17.6%
REPUBLICAN.....	5%	3%	9%	10%	74%	26.7%
NON-PARTISAN.....	4%	21%	15%	14%	46%	45.5%
OTHER.....	7%	14%	21%	17%	41%	5.2%
NOT REGISTERED...	4%	7%	21%	21%	46%	5.0%

IF THERE WERE A PROPOSED AMENDMENT TO ALASKA'S CONSTITUTION ON THE BALLOT IN NOVEMBER'S GENERAL ELECTION WHICH STATED 'TO BE VALID OR RECOGNIZED IN THIS STATE, A MARRIAGE MAY EXIST ONLY BETWEEN ONE MAN AND ONE WOMAN' -- DO YOU THINK YOU WOULD VOTE FOR OR AGAINST THAT CONSTITUTIONAL AMENDMENT?

DEMOGRAPHICS	UNSURE	STRONGLY FOR	SOMEWHAT FOR	SOMEWHAT AGAINST	STRONGLY AGAINST	BASE
TOTAL.....	4%	51%	13%	10%	22%	100.0%
LOCATION						
RURAL.....	5%	44%	25%	15%	11%	10.9%
CENTRAL.....	3%	60%	10%	10%	17%	13.8%
SOUTHCENTRAL.....	6%	63%	5%	11%	14%	17.6%
ANCHORAGE.....	4%	47%	14%	9%	27%	46.1%
SOUTHEAST.....	5%	43%	14%	11%	28%	11.6%
TIME IN COMMUNITY						
0 - 4 YRS.....	6%	38%	19%	11%	26%	9.5%
5 - 9 YRS.....	1%	51%	19%	9%	20%	12.5%
10 - 14 YRS.....	3%	48%	15%	12%	22%	10.8%
15+ YRS.....	5%	53%	11%	10%	21%	67.2%
EMPLOYER						
FEDERAL.....	0%	55%	20%	5%	20%	7.9%
STATE.....	2%	46%	13%	9%	30%	9.7%
LOCAL.....	0%	35%	19%	15%	31%	6.0%
PRIVATE COMPANY..	6%	51%	11%	11%	21%	52.9%
NOT IN WORKFORCE..	4%	56%	14%	9%	16%	21.0%
GENDER						
MALE.....	3%	56%	13%	9%	18%	51.6%
FEMALE.....	5%	45%	14%	11%	25%	48.4%
AGE						
18-29 YEARS.....	4%	43%	16%	13%	24%	13.6%
30-44 YEARS.....	4%	49%	13%	12%	22%	38.0%
45-59 YEARS.....	4%	47%	13%	10%	26%	34.8%
60+ YEARS.....	5%	72%	11%	4%	8%	13.6%
REGISTRATION						
DEMOCRAT.....	1%	41%	12%	15%	31%	17.6%
REPUBLICAN.....	5%	69%	10%	6%	9%	26.7%
NON-PARTISAN.....	4%	45%	14%	10%	27%	45.5%
OTHER.....	7%	38%	21%	14%	21%	5.2%
NOT REGISTERED...	7%	50%	21%	14%	7%	5.0%

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,)
)
Plaintiffs,)
)
vs.)
)
BUREAU OF VITAL STATISTICS,)
ALASKA DEPARTMENT OF HEALTH)
& SOCIAL SERVICES, and the)
ALASKA COURT SYSTEM,)
)
Defendants.)

Case No. 3AN-95-6562 CI

MEMORANDUM AND ORDER

Plaintiffs Jay Brause and Gene Dugan are men who sought and have been denied a license to marry each other by the State of Alaska. They subsequently filed a complaint against the Bureau of Vital Statistics, the Alaska Department of Health and Social Services, and the Alaska Court System. Plaintiffs' action seeks a declaration establishing that the relevant statutes prohibiting same-gender marriage violate Alaska's Constitution, and an injunction that prevents the state from applying or enforcing the statutes. The parties both move for summary judgment. The plaintiffs seek a ruling on the level of scrutiny to be applied in review of the Marriage Code; the defendants move for complete summary judgment. The parties agree that the decisions before the court are purely issues of law.

The plaintiffs' present motion for summary judgment seeks a decision that the Code's prohibition implicates the privacy and equal protection provisions of the Alaska Constitution, thus

UNITED STATES PUBLIC LAWS
104TH CONGRESS--SECOND SESSION

PUBLIC LAW 104-199 [H.R. 3396]
SEPTEMBER 21, 1996
DEFENSE OF MARRIAGE ACT

An Act

To define and protect the institution of marriage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[*1] SECTION 1. <1 USC 1 note> SHORT TITLE.

This Act may be cited as the "Defense of Marriage Act".

[*2] SEC. 2. POWERS RESERVED TO THE STATES.

(a) In General.--Chapter 115 of title 28, United States Code, is amended by adding after section 1738B the following:

[*1738C] "Sec. 1738C. Certain acts, records, and proceedings and the effect thereof

"No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship."

(b) Clerical Amendment.--The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738B the following new item:

"1738C. Certain acts, records, and proceedings and the effect thereof."

[*3] Sec. 3. DEFINITION OF MARRIAGE.

(a) In General.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

7 "Sec. 7. Definition of 'marriage' and 'spouse'

"In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife."

[**2420] (b) Clerical Amendment.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:

"7. Definition of 'marriage' and 'spouse'."

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

**WRITTEN STATEMENT OF PROFESSOR LYNN D. WARDLE
IN SUPPORT OF S.J.R. No. 42 and S.C.R. No. 25**

Submitted for Alaska Senate Judiciary Committee Hearing on Monday, March 9, 1998

Mr. Chairman and distinguished members of the Senate Judiciary Committee:

I am honored to present this written statement in support of S.J.R. No. 42 and S.C.R. No. 25. By way of introduction, I am a professor of law.¹ Family Law is my primary area of scholarship; I have taught courses in Family Law, Children and the Law, Origins of the Constitution, Conflicts of Law and Comparative Family Law for twenty years.² These proposed Resolutions happen to touch on all of those fields. I also have authored or co-authored a multivolume treatise on family law, two other law books, and more than thirty articles or chapters dealing with family law subjects. Additionally, I am active in both national and international scholarly and law reform organizations dealing with family law and related areas.³

I am familiar with the *Brause v. Bureau of Vital Statistics* case, I have read the memoranda filed in the court, read the decision, and have been consulted about it. Thus, I have been invited to give my professional comment and analysis regarding S.J.R. No. 42 and S.C.R. No. 25. Of course, the opinions I express are my own professional views; I do not speak for any of the institutions or organizations with which I am associated.

I will discuss legal three points. First, I will explain about the legal status of same-sex marriage today. Second, I will clarify why S.J.R. No. 42 and S.C.R. No. 25. are reasonable, responsible, and necessary. Third, I will explain why I believe that they are constitutional under federal constitutional standards.

I. Status of Same-Sex Marriage in the World Today

I begin with a little background. No nation of the world permits same-sex marriage today. None. A few jurisdictions allow some form of same-sex domestic partnership. To date, all are in Europe (and arguably Hawaii). According to the International Gay and Lesbian Association, only

¹Currently I teach at Brigham Young University Law School. I also have taught at Howard University School of Law in Washington, D.C., at Sophia University Faculty of Law in Japan, and at the University of Aberdeen in Scotland.

²I have written or co-authored several books and several dozen law review articles or chapters in books about family law. Two of my most recent publications (published this year) are law review articles examining constitutional arguments for same-sex marriage, Lynn D. Wardle, *A Critical Analysis of Constitutional Claims for Same-Sex Marriage*, 1996 B.Y.U.L.Rev. 1-101, and the rules and practices regarding international recognition of marriages, Lynn D. Wardle, *International Marriage and Divorce Regulation and Recognition: A Survey*, Family Law Quarterly, vol. 29, pp. 497-517 (Fall 1995).

³Presently I am the Secretary-General of the International Society of Family Law, an international learned society of 550 scholars and judges from 56 different nations devoted to the study of family law, and I am an active member of the American Law Institute consultative group that is working on a "Family Law Project."

six (of forty-nine listed European jurisdictions) permit some sort of legal domestic partnership.⁴ Since 1989, Denmark,⁵ Norway,⁶ Sweden,⁷ Iceland,⁸ and the Netherlands,⁹ have each enacted legislation authorizing the formal registration of same-sex "domestic partnerships" and extending to such relationships most of the economic and many of the noneconomic legal incidents of marriage.¹⁰ Also, after a decision by the national supreme court, the legislature in Hungary legalized common-law same-sex live-in companionship for purposes of recognizing their mutually-owned purchases and acquisitions.¹¹ But none of these jurisdictions allow same-sex marriage. Even the most liberal of these domestic partnership laws clearly distinguishes domestic partnership from marriage, denies same-sex domestic partnerships significant marital benefits (especially pertaining to assisted procreation, adoption, and the official celebration, status, and dignity of marriage) and imposes significant restrictions not applicable to marriage. No jurisdiction on the face of the earth today recognizes same-sex marriage, and it appears safe to say

⁴ILGA publishes this and other information on the internet at:
<http://inet.uni2.dk/~steff/survey.htm> (search March 7, 1998).

⁵Danish Registered Partnership Act, No. 372 (June 7, 1989). See generally Linda Nielsen, *Family Rights and the 'Registered Partnership' In Denmark*, 4 INT'L J. L & FAM. 297 (1990); Marianne H. Pedersen, *Denmark: Homosexual Marriages and New Rules Regarding Separation and Divorce*, 30 J. FAM. L. 289 (1991-92).

⁶The Norwegian Act on Registered Partnership for Homosexual Couples, Act No. 40 of 30 April 1993.

⁷Law Regarding Registered Partnership of 23 June 1994 (Bert Andersen, trans. 1995). See also Deborah M. Henson, *A Comparative Analysis of Same-Sex Partnership Protections: Recommendations for American Reform*, 7 Int'l J. L. & Fam. 283, 287-288 (1993).

⁸Law on approved cohabitation, articles 1-9 (June 12, 1996)(Kristjan Matiesen trans. 1996); see generally *Iceland gives gay marriages legal stamp*, Reuters World Service, June 27, 1996 (Icelandic legislature has legalized "gay marriage" following Denmark, Norway & Swedish precedents).

⁹Joanne von Alroth, *Gay Couples' Registry Backed in Oak Park*, Chi. Trib. July 26, 1997 at 3. See further Rex Wockner, *supra* note 30; Steffen Jensen, *Partnership Law in the Netherlands*, ILGA, Euroletter 51 (July 1997).

¹⁰Certain restrictions commonly are imposed on same-sex domestic partnerships do not apply to heterosexual marriages, such as the requirement that at least one of the partners be a citizen or resident national of the country, and limitations re: joint custody, adoption, artificial insemination, state-church weddings, and exemption from marital status under international treaties, are common. See generally Nielsen, *supra* note 5, at 300.

¹¹Year of 1996, XLII Law §§ 1-3 (May 21, 1996) (Stuart Schulte transla. 1996). See also *Hungary's gays welcome law on rights as first step*, Reuters World Service, May 22, 1996.

that no nation in history ever has allowed same-sex legal marriage (though some have tolerated widespread homosexual practices or conferred some social or legal status on some kinds of homosexual partners).

The overall global picture shows overwhelming support for exclusively heterosexual marriage. No legislature of any jurisdiction in the world has ever approved of same-sex marriage. Many jurisdictions (including most of the American states and Congress) have recently enacted laws denying legal recognition to same-sex marriage from other jurisdictions.¹² Likewise, in the past twenty-five years, dozens of lawsuits have been filed in the USA seeking judicial legalization of same-sex marriage, and all of these, unanimously, rejected the claim that there is a fundamental right to same-sex marriage.¹³ Even the highly criticized *Baehr* case in Hawaii rejected, like all American trial and appellate courts before it, the claim that there is a fundamental right to marry someone of the same sex. Moreover, virtually all international conventions that describe marriage have defined it as the union of a man and a woman.¹⁴ Polls have repeatedly found that the people in America strongly oppose legalizing same-sex marriage.¹⁵

¹²In the past three years, Congress and the legislatures of more than half of the American states have enacted legislation forbidding recognition of same-sex marriage. *See generally* Marriage Law Project, *Bills Concerning Same-Sex Marriage, 1997 Legislative Update*, June 16, 1997 (available at <http://www.pono.net>).

¹³*See Constitutional Claims, supra* note 2 at 9-10, nn. 22-26, and *id.* at 56-57 nn. 252, 253 (identifying more than a dozen different lawsuits seeking marital status for same-sex unions). *See also* *Storrs v. Holcomb*, 1996 WL 379613 (N.Y. Sup.Ct. 1996).

¹⁴*See* Universal Declaration of Human Rights, Article 16 ("Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family."); [European] Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force on 21 September 1970, 20 December 1971 and 1 January 1990 respectively Article 12 ("Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."); American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123 entered into force July 18, 1978, reprinted in *Basic Documents Pertaining to Human Rights in the Inter-American System*, OEA/Ser.L.V./II.82 doc.6 rev.1 at 25 (1992) Article 17 ("the right of men and women of marriageable age to marry and to raise a family shall be recognized"); Habitat II Conference, Istanbul, Turkey, 3-14 June 1996, *The Habitat Agenda* (<http://www.undp.org/un/habitat/agenda/ch-2.html>) ("Marriage must be entered into with the free consent of the intending spouses, and husband and wife should be equal partners. The rights, capabilities and responsibilities of family members must be respected."). *See also* Hong Kong Bill of Rights Ordinance, 30 I.L.M. 1310, *1318 (Effective June 8, 1991) ("The right of men and women of marriageable age to marry and to found a family shall be recognized.").

¹⁵*Portland Oregonian*, April 19, 1997, at A01 (1997 WL 4165366) (March 1996 Gallup poll shows Americans oppose same-sex marriage 68-to-27); *Associated Press*, Aug. 19, 1996 (Lou Harris Poll reports 63-64% of Americans oppose legalizing same-sex marriage; 10-11% favor); *supra* note 28 (70 percent of Hawaiians oppose legalizing same-sex marriage); *Fresno Bee*

December, 1996, a trial court in Hawaii ruled that the state had no compelling reason to deny marriage licenses to same-sex couples, and ordered the state to issue marriage licenses to same-sex couples who apply for them.¹⁶ That ruling has been appealed to the state supreme court, and the order has been stayed pending appeal. Just months after that ruling, the Hawaii legislature passed an amendment to the state constitution which, if ratified by the people of Hawaii in November 1998, will effectively overturn the basis for the court's ruling that the denial of same-sex marriage constitutes constitutionally impermissible sex discrimination.¹⁷ The people of Hawaii overwhelmingly and consistently oppose legalizing same-sex marriage,¹⁸ but they could be forced by their state courts to issue marriage licenses for same-sex marriages, at least temporarily.¹⁹ There are movements to legalize same-sex marriage in a few European countries, but historically and to this day, same-sex marriage is legal in no jurisdiction.

II. *Why S.J.R. No. 42 and S.C.R. No. 25 are Necessary and Prudent*

The constitutional crisis that has led to these proposed resolutions today is about a radical judicial redefinition of marriage. That is what this whole controversy is all about.

May 25, 1997 at E6 (1997 WL 3904007) (1996 Los Angeles Times poll found Californians oppose legalizing same-sex marriage 60-to-31); *but see* Irish Times, Aug. 10, 1996, at 10 (1996 WL 11037747) (Germans favor legalizing same-sex marriage 48-to-42).

¹⁶*Baehr v. Miike*, No. 91 Civ. 1394 (Haw. Cir. Ct. Dec. 3, 1996), 23 FAM. L. REP. (BNA) 2001 (Dec. 3, 1996).

¹⁷Hawaii H.B. 117 (1997).

¹⁸Voters strongly oppose gay unions, Honolulu Star-Bulletin, Feb. 24, 1997, at 1 (currently 70% of those polled oppose legalizing same-sex marriage; 20% favor it; opposition has grown about 12% and support fallen 12% during four years).

¹⁹In *Baehr v. Lewin*, 852 P.2d 44 (1993), the Hawaii Supreme Court rejected the claim that the "right to marry" protected by the Hawaii Constitution extends to same-sex couples and held that there is no "fundamental constitutional right to same-sex marriage" because such relationship is not "rooted in tradition" or "at the base of all our civil and political institutions." *Id.* at 55, 57. However, a plurality concluded that Hawaii's marriage license law facially "discriminates based on sex against the applicant [same-sex] couples" or account of gender, in apparent violation of the state constitutional provisions protecting equality. *Id.* at 57-62. The December, 1996 ruling in *Baehr v. Miike* was on remand from this decision. If the Hawaii Supreme Court affirms the trial court decision in *Miike* before November 1998, same-sex marriage could be legalized before the people get to vote on the constitutional amendment. While the amendment, if passed, could effectively undo the supreme court decision, the same-sex couples who married in the interim could pose a significant political and legal dilemma. For a discussion of the *Baehr* case, see Lynn D. Warde, *A Critical Analysis of Constitutional Claims for Same-Sex Marriage*, 1996 B.Y.U. L. Rev. 1.

Last month, in *Brause v. Bureau of Vital Statistics*,²⁰ Alaska Superior Court Judge Michalski held that the privacy provision of the Alaska Constitution protects as a fundamental right the right of two persons of the same sex to marry, and that the denial of marriage licenses to same-sex couples constitutes sex discrimination, and that denial of same-sex marriage may only be upheld if it is justified under the very strict "compelling state interest" test. While that ruling is not a final ruling, it establishes a legal standard and principle as a matter of Alaskan constitutional law that seriously jeopardize Alaskan marriages, constitutional integrity, state legislative authority, interstate marriage recognition, and national harmony. It creates an enormous quagmire that needs to be promptly corrected.

A. *The Importance of Exclusively Heterosexual Marriage*

Marriage between a man and a woman is the foundation of our society. You can have marriage without society, but you cannot long have society without protecting and preserving the institution of marriage. The Supreme Court of the United States has repeatedly recognized this reality. Nearly 120 years ago, the Supreme Court said of marriage: "Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal."²¹ More than a century ago the Court both glorified the legal status of marriage and the affirmed importance of legislative control of it when he noted that "[m]arriage, as creating the most important relation in life, [has] more to do with the morals and civilization of a people than any other institution, has always been subject to the control of the legislature."²² In 1923, in *Meyer v. Nebraska*,²³ the Court acknowledged that "without doubt" among the liberties protected by the fourteenth amendment was the right "to marry, to establish a home" In 1942, in *Skinner v. Oklahoma*,²⁴ the Court declared that "[m]arriage and procreation are fundamental to the very existence and survival of the race." Twenty-three years later, the Court repeated this viewpoint with even greater emphasis in *Griswold v. Connecticut*.²⁵

We deal with a right of privacy older than the Bill of Rights--older than our political parties, older than our school system. Marriage is the coming together for better or worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony of living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

In 1967, the Court struck down a Virginia anti-miscegenation statute in *Loving v. Virginia*, noting: "Marriage is one of the "basic civil rights of man," fundamental to our very existence and survival. ... To deny this fundamental freedom on so unsupportable a basis as the

²⁰Civil No. 3AN-95-6562-CI (Anchorage Super. Ct., Feb. 27, 1998).

²¹*Reynolds v. United States*, 98 U.S. 145, 165 (1878).

²²*Maynard v. Hill*, 125 U.S. 190, 205-6 (1888).

²³262 U.S. 390, 393 (1923).

²⁴316 U.S. 535, 541 (1942).

²⁵381 U.S. 479, 486 (1965).

racial classification embodied in these statutes ... is surely to deprive all the State's citizens of liberty without due process of law."²⁶ Four years later, in *Boddie v. Connecticut*,²⁷ the Court emphasized that "marriage involves interests of basic importance in our society." In 1977, in *Zablocki v. Redhail*,²⁸ the Court invalidated a state law restricting marriage of indigent support-obligated father of child receiving public assistance "reaffirming the fundamental character of the right to marry." In numerous other cases in recent years, the Court has reiterated and enhanced the fundamental importance and preferred status of marriage.²⁹

Three things are undeniable from this long line of decisions of the U.S. Supreme Court. First, it is clear that for a long time the Court has been absolutely convinced, and it remains convinced, that marriage is of fundamental, critical importance to our society. Second, it is clear that the Court agrees that protecting marriage is essential to our constitutional form of government. Third, it is absolutely certain that the relationship that the Court was talking about as marriage in all of these cases was the exclusively heterosexual marriage relationship of a man and a woman.

B. Heterosexual Marriage Is Uniquely Beneficial to Society

Marriage is unique and uniquely beneficially to society and its members. Marriage is unique because the relationship between a man and a woman is different than the relationship between two persons of the same gender. Men and women are different, and thereby the relationship of two persons of opposite gender (in marriage) is different from other kinds of relations including same-sex relations that seek to imitate marital status.

Advocates of same-sex marriage are "trapped in a Kelsean dream,"³⁰ where they erroneously believe that they can create social order out of moral chaos by merely enacting positive laws. They embrace "the myth about the 'law-maker' and the 'legal system'" that is based upon an erroneous "impression of the origin, content and structure of law. . . . It hides the fact that the central elements of a legal order cannot be 'invented' by a law-maker, but must be rooted in a normative practice."³¹ Shared normative values are "the basic element in what we call

²⁶388 U.S. 1, 12 (1967).

²⁷401 U.S. 371, 376 (1971) (invalidating requirement that indigent parties pay divorce filing fees).

²⁸434 U.S. 374, 383-386 (1978). *See also* *Turner v. Saffley*, 482 U.S. 578 (1987) (invalidating a state prison regulation permitting marriage by inmate only in case of pregnancy or child born out of wedlock).

²⁹*See, e.g.*, *Moore v. City of East Cleveland*, 431 U.S. 494, 499 (1977); *Paul v. Davis*, 424 U.S. 693, 713 (1976); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639-40 (1974); *United States v. Kras*, 409 U.S. 434, 444, 446 (1973);

³⁰Anna Christensen, *Polycentricity and Normative Patterns*, in *LEGAL POLYCENTRICITY: CONSEQUENCES OF PLURALISM IN LAW* 235, 239 (Hanne Petersen & Henrik Zahle eds. 1995).

³¹*Id.* at 236.

society,"³² and what we call law.

Advocates of same-sex marriage fallaciously believe that if they can get the label of "marriage" for their gay and lesbian relationships, they will magically acquire the socially and individually beneficial characteristics associated with marriage for millennia. That is very strange thinking.³³ Abraham Lincoln once lampooned the flaw of this thinking with a homespun story: He asked how many legs a dog would have if you counted a tail as a leg. To the response "five legs," Lincoln said, "No; calling a tail a leg doesn't make it a leg."³⁴

The relationship between two persons of the same sex is fundamentally different from heterosexual "marriage" because men and women are fundamentally different. Marriage is unique. No other companionate relationship provides the same great potential for benefitting individuals and society as the life-time covenant union of a man and a woman. That is why only certain committed heterosexual unions are given the legal status of marriage. It is not the marriage certificate, label, or legal status that makes the heterosexual marital relationship uniquely beneficial to individuals and society, but it the nature of the relationships itself that is so valuable, and that is why such unions are given the preferred legal status (and label) of *marriage*. Pluralistic arguments for same-sex marriage are simply self-alienating.³⁵ Their thesis of relational equivalence is a simplistic notion that fails to recognize that "something more complex is going on than can be explained" by saying "my sexual preference is as good as your sexual preference."³⁶

Same-sex unions do not match the contributions to society that are made by heterosexual marriages. The public purposes for which marriage has been created are best achieved by cross-gender unions; same-sex unions fail to promote those social interests in any comparable degree. Let me mention just a few examples. Heterosexual marriage provides, *inter alia*, (1) the best setting for the safest and most beneficial expression of sexual intimacy; (2) the best environment into which children can be born and reared (the profound benefits of dual-gender parenting to model intergender relations and show children how to relate to persons of their own and the opposite gender are lost in same-sex unions); (3) the best security for the status of women (who take the greatest risks and invest the greatest personal effort in maintaining families); (4) the strongest and most stable companionate unit of society (and thus the most secure setting for intergenerational transmission of social knowledge and skills); (5) a functional and historic social

³²*Id.*

³³It is ironic that gay and lesbian critics who often chide their opponents for trying to "legislate morality" seek to radically transform the essential normative characteristics of their relationships by have the legislature (or judiciary) label them "marriages."

³⁴See generally J. Bartlett, *The Shorter Bartlett's Familiar Quotations* 218d (1961) cited in Stephen A. Newman, *Baby Doe, Congress and the States: Challenging the Federal Treatment Standard for Impaired Infants*, 15 Am. J. L. and Med. 1, *15 (1989).

³⁵Jeremy Waldron, Review Essay, *On the Objectivity of Morals: Thoughts on Gilbert's Democratic Individuality*, 80 CALIF. L. REV. 1361, 1376 (1992) (Moral relativism is self-alienating; a moral relativist is "a person who could not take his own side in an argument.").

³⁶See generally *id.* at 1381.

stability that same-sex marriage would undermine; and (6) the best seedground for democracy and the most important schoolroom for self-government. From the perspective of these social interests underlying marriage, same-sex unions are not equivalent to heterosexual marriages.

C. *The Opinion in Brause is Seriously Flawed and Dangerously Radical*

Judge Michalski's opinion in *Brause* is very interesting and even thought-provoking. I think he writes well. But there are at least three serious flaws in Judge Michalski's opinion. First, the opinion is very radical, extremely out of the mainstream of law and experience. Never before has any court held that same-sex marriage is protected by a fundamental constitutional right. Even the Hawaii courts in their controversial *Baehr* opinions unanimously rejected that claim, as has every other court (now dozens total) to consider similar claims. Nor has any court so abruptly and summarily concluded that equal protection is implicated by the historic limitation of marriage to opposite-sex couples.

Second, the opinion seems to overlook some very fundamental points. One point overlooked is precedent. Judge Michalski's offers none of the kinds of support or evidence for his dramatic conclusions that are considered elementary and essential in the legal profession. For instance, the opinion cites no textual or historical support for the conclusion that there is a fundamental right to same-sex marriage. It does not cite anything in the record of the drafting or the debates of the privacy provision to support that radical conclusion. There is no evidence cited in the opinion to show that the people of Alaska intended to create or protect a fundamental right to same-sex marriage when they adopted Article 1, Section 22 (the right to privacy). The reason no evidence is cited is because none exists. I can find absolutely nothing in the Alaska Constitution or history or cases interpreting it that supports the notion that the people of Alaska intended to create a fundamental right to marry persons of the same gender, or anything to suggest that they believed that limiting marriage to opposite-sex couples implicates gender discrimination.

Another flaw is the superficiality of the analysis. For example, the opinion overlooks a subtle but significant distinction between public toleration of private choices and private claims to public preferences. The right to privacy of the Alaska Constitution protects certain private conduct from public penalty, but never before has any court anywhere held that a right to privacy compels the public to confer benefits, privilege and public preferences on private choices. Judge Michalski's opinion erases the critical distinction between public and private.

In *Breese v. Smith*,³⁷ and *Ravin v. State*,³⁸ the two cases cited heavily by Judge Michalski, the Alaska Supreme Court recognized that the public could not reach out and penalize certain private choices (how long a student grows his hair and private possession of marijuana for personal use by an adult in a private home). Applying that principle to same-sex relations might support an argument that the state should not penalize some private sexual choices among consenting adults. However, that is very different than saying that the state must affirmatively confer a public status and valuable legal benefit like marriage upon mere private preferences. Judge Michalski's conclusion that the privacy provision requires Alaska to confer public legal status of marriage on same-sex couples is like saying that Alaska constitutionally must provide

³⁷501 P.2d 159 (Alaska 1972).

³⁸537 P.2d 494 (Alaska 1974).

free Rogaine or tax deductions for Rogaine expenses because individuals have a private right to grow their hair as long as they want, or that Alaska must provide crop subsidies and tax breaks for persons who want to exercise their private right to grow and possess marijuana.

Moreover, the opinion announces a radical right of "choice of life partner" but does not announce any principled boundaries of that right. If the Alaska Constitution's right to privacy really confers a broad right to marry on two adults of the same sex, logically it would also protect the right to marry of two adults who are closely related (incest), or three adults (polygamy). Those private relations may be as meaningful and loving as homosexual relations. Thus, under the *Brause* decision laws forbidding incest and polygamy also would infringe upon this broad fundamental right to marry.

The analysis of the right to privacy also seems to confuse tolerance and preference. Relations and conduct may be legally categorized in at least three different ways -- as "prohibited," "tolerated" or "preferred."³⁹ Marriage is the classic example of a *preferred* relationship. It is one of the most highly-preferred, historically-favored relations in the law. Thus, the claim for same-sex marriage is not a claim for mere tolerance, but for special preference. The principle of tolerance or privacy does not justify legalization of same-sex marriage because marriage is much more than a *tolerated private* relation, it is a legally a *preferred public* status.

Similarly, the gender equality analysis in the opinion ignores the fact that there is a critical distinction between sexual differences and sexual discrimination. It does not violate gender equality for the government to provide pregnancy services only to women, or prostate cancer treatment only to men because only women can become pregnant, and only men can get prostate cancer. Likewise, it does not violate gender equality for the government to give marital status only to male-female couples, because only male-female couples can constitute a cross-gender union that is the essence of marriage. "[T]he Equal Protection Clause does not mean that the physiological differences between men and women must be disregarded... The Constitution surely does not require a State to pretend that demonstrable differences between men and women do not really exist."⁴⁰ Judge Michalski's opinion, moreover, overlooks the fact that heterosexual marriage is the oldest gender-equality institution in the law. The requirement that marriage consist of both a man and a woman emphasizes the absolute equality and equal necessity of both sexes for the most fundamental unit of society. It recognizes the indispensable and equal contribution of both genders to the basic institution of our society.⁴¹

D. *Legalizing Same-Sex Marriage Would Create A National Crisis*

The matter at issue in *Brause* is not only about how Alaska treats same-sex unions, but it is also about how Alaska treats other states and the federal government. Any resolution of the same-sex marriage debate in Alaska must take into account the effect that Alaska's action will

³⁹Bruce C. Hafen, *The Constitutional Status of Marriage, Kinship, and Social Privacy - Balancing the Individual and Society Interests*, 81 MICH. L. REV. 463, 546-547 (1983); Bruce C. Hafen & Jonathan D. Hafen, *Individual Autonomy, Student Rights, and the U.N. Convention on Rights of the Child* "DeJure vs. De Facto Autonomy for Children" 69 ST. JOHN'S L. REV. 601, 653-656 (1995).

⁴⁰450 U.S. at 481 (Stewart, J., concurring).

⁴¹See *Constitutional Claims*, *supra* note 2, at 83-88.

have on the 49 other states and the federal union. In many ways, possibly including operation of the Full Faith and Credit clause, Alaska's legalization of same-sex marriage will be manipulated in an effort to override other states' and Congress' strong marriage policies. Legalizing same-sex marriage would prompt a constitutional crisis as other states and the federal government seek to avoid having same-sex marriage imposed in those other jurisdictions. Alaska has a compelling state interest in not drastically redefining marriage in a way that imperils the interjurisdictional recognition of some Alaskan marriages, that produce divisive, coercive pressures on the other states that may severely strain its relations with sister states, and which could precipitate a constitutional crisis.

If Alaska were to legalize same-sex marriage, it would create a major deviation from the concept and definition of marriage accepted in all forty-nine of the other states. The disruption, conflicts and disharmonies that would arise between Alaska and the other states in the union are potentially devastating. Marriage and marital status play a role in literally *hundreds* of government laws and programs in each separate jurisdiction -- both state and federal.⁴² "When the State defines a spouse it has the effect of pushing the first domino in a parade of dominos."⁴³

The threat of being forced to recognize same-sex marriage is not a speculative or trifling concern. The other states have reacted with unusual alacrity to the situation. The seriousness of this potential crisis is underscored by legislation and executive decrees enacted last years. In the past three years, *Congress and more than half of the states have enacted laws barring recognition of same-sex marriage.*⁴⁴ The Defense of Marriage Act passed both houses of Congress by overwhelming, bi-partisan majorities, and was signed by President Clinton. Alaska has joined the majority of the states by enacting a similar state law refusing to recognize same-sex marriages.⁴⁵ Yet *Brause* raises the very specter of a serious national marriage recognition crisis that that Alaska legislation and that DOMA are designed to avoid.

Marriages valid in the state where performed that have been denied recognition by another

⁴²Congress identified more than 800 federal statutory provisions incorporate the terms "marriage," and over 3000 use "husband," "wife," "spouse," and the like. H. Rep. 104-664, 104th Cong. 2d Sess, on Defense of Marriage Act, July 9, 1996, at 10.

⁴³Report of the Commission on Sexual Orientation and the Law in Hawaii (Dec. 8, 1995) at 6.

⁴⁴Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (Sep. 21, 1996) (defining marriage for purpose of federal law as exclusively heterosexual, thus barring federal court or agency recognition of same-sex marriage in federal law, and expressly providing that each state may choose whether or not it will recognize same-sex marriages from other states); See generally Marriage Law Project, *Bills Concerning Same-Sex Marriage, 1997 Legislative Update*, June 16, 1997 (available at <http://www.pono.net>).

⁴⁵1996 Alaska Sess. Laws 21 ("A marriage entered into by persons of the same sex, either under common law or under statute, that is recognized by another state or foreign jurisdiction is void in this state, and contractual rights granted by virtue of the marriage, including its termination, are unenforceable in this state.").

state when they are incompatible with a strong public policy of the second state are legion.⁴⁶ As another court recently noted, "no state is bound by comity to give effect in its courts to the marriage laws of another state, repugnant to its own laws and policy."⁴⁷ Thus, *Brause* jeopardizes the rights and interests of many Alaska citizens, and create years of costly, confusing litigation for both the people and for the state. Individuals rights to property interests, alimony, child support, custody, visitation, insurance benefits, inheritance, succession, public benefits would be insecure for years to come. Alaska's compelling interest in "minimizing the susceptibility of its own" marriages to nonrecognition in other states provides ample justification for immediate passage of S.J.R. No. 42. *Sosna v. Iowa*, 419 U.S. 393, 407 (1975).

Internationally, the position of nearly all nations appears to be that it would violate their strong public policy to recognize same-sex marriage, and in some nations that opposition to same-sex marriage could be so strong that same-sex marriages from Alaska could impair relations between the jurisdictions.⁴⁸ No nation in the world recognizes same-sex marriage. Even the nations that have allowed same-sex domestic partnership do not expect those domestic partnerships to be recognized abroad.⁴⁹ Same-sex marriage would be found incompatible with public policy in most of the nations of the world.⁵⁰ Marriages that "are incompatible with the public policy" of a country . . . not be recognized in that country, even if the marriage is deemed valid under the law of the state where celebrated or by the law of the parties' nationality or

⁴⁶*See, e.g.*, *Metropolitan Life Insurance Co. v. Chase*, 294 F.2d 500 (3d Cir. 1961); *In re Estate of Levie*, 123 Cal. Rptr. 445, 447 (Cal. App. 1975); *Catalano v. Catalano*, 170 A.2d 726, 728-729 (Conn. 1961); *Laikola v. Engineered Concrete*, 277 N.W.2d 653, 656 (Minn. 1979); *Nelson v. Marshall*, 869 S.W.2d 132 (Mo. App. 1993); *Stein v. Stein*, 641 S.W. 2d 856, 858 (Mo. App. 1982); *Randall v. Randall*, 345 N.W. 2d 319, 322 (Neb. 1984); *Bucca v. New Jersey*, 128 A.2d 506, 511 (N.J. Superior Court 1957); *Rhodes v. McAfee*, 457 S.W.2d 522, 524 (Tenn. 1970); *Seth v. Setl*, 694 S.W. 2d 459 (Tex. Ct. App. 1985); *Farah v. Farah*, 429 S.E.2d 626, 334-335 (Va. App. 1993); *see generally* Restatement (Second) Conflict of Laws § 283, Reporter's Note, comments j-k.

⁴⁷*Hager v. Hager*, 3 Va. App. 415, 349 S.E.2d 908, 909 (1986), *citing* *Toler v. Oakwood Smokeless Coal Corp.*, 173 Va. 425, 430, 4 S.E.2d 364, 366 (1939)); *State v. Austin*, 234 S.E.2d 657, 663 (W. Va. 1977). *See generally* *Rhodes v. McAfee*, 224 Tenn. 495, 457 S.W.2d 522 (1970); *Seth v. Seth*, 694 S.W.2d 459 Ct. App. Texas, 1985); *Godt v. Godt*, 1990 WL 123047 (Del. Super., Aug. 7, 1990); *see further* *In re Estate of Jenkins*, 133 Misc.2d 420, 506 N.Y.S.2d 1009 (1986); *Anderson v. Anderson*, 27 Conn.Supp. 342, 238 A.2d 45 (1967); *Farah v. Farah*, 429 S.E.2d 626 (Va. App. 1993).

⁴⁸*See generally* Lynn D. Wardle, *International Marriage and Divorce Regulation and Recognition: A Survey*, 29 Family L. Q. 497-517 (Fall 1995).

⁴⁹Marrienne Hojgarrd Pedersen, *Denmark: Homosexual Marriages and New Rules Regarding Separation and Divorce*, 30 J. Fam. L. 289, 290 (1991-92).

⁵⁰Lynn D. Wardle, *International Marriage and Divorce Regulation and Recognition: A Survey*, Family Law Quarterly, vol. 29, pp. 497-517 (Fall 1995).

domicile.⁵¹ Thus, parties to Alaskan same-sex marriages would expect, but be denied rights based upon marital status in foreign nations, including property, succession, inheritance, insurance, employment benefits, pensions, etc., in other nations. Other Alaskan marriages might also would be viewed with suspicion as well, resulting in disadvantages for many Alaskans seeking benefits in other countries.

Alaska has a valid interest in not becoming the "Reno" of same-sex marriages. The potential detriment to the local economy (the public costs could easily overwhelm any minor increase in revenues), as well as the potential impact on Alaskan culture and on the environment in which to raise families are legitimate and substantial concerns.

Moreover, *Brause* compounds an already serious national constitutional crisis. Advocates of same-sex marriage argue that under the Full Faith and Credit Clause of the Constitution, art. IV, sec. 1, all states are obligated to give "full faith and credit" to public acts and records of sister states, and that includes marriages.⁵² On the other side, opponents of same-sex marriage and supporters of the DOMA argue that the Supreme Court of the United States has never held that marriages must be given full faith and credit, but traditionally states have been permitted to decline to recognize marriages from other states that violate strong local public policy,⁵³ and that DOMA is constitutional under the last sentence of the Full Faith and Credit clause which specifically provides that "Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof."⁵⁴

The point is not *which* position will ultimately be proven correct. Rather, the point is that a *serious* constitutional confrontation involving states, Congress, which overwhelmingly passed the Defense of Marriage Act, and the American judiciary is inevitable if Alaska legalizes same-sex marriage. In the confrontation, the judiciary will be asked to force states to recognize same-sex marriage over their own objections, and over the emphatic opposition of Congress. The only way to win that kind of confrontation is to avoid it.

Finally, Judge Michalski's February 27th opinion in *Brause* is not the end of the case.

⁵¹ See Lennart Palsson, *Marriage in Comparative Conflict of Laws: Substantive Conditions* 3 (Martinus Nijhoff Publishers 1981); see also Lennart Palsson, *Chapter 16, Marriage and Divorce*, in Vol. III, *Private International Law, International Encyclopedia of Comparative Law* 59 (1978).[^]

⁵² See Hearing Before the Subcomm. on the Constitution of the Committee on the Judiciary, U.S. House of Representatives, 104 Cong., 2d Sess., on H.R. 3396, May 15, 1996 (Serial No. 69) at 202 (Rabbi David Sapperstein); Hearing Before the Committee on the Judiciary, United States Senate, 104 Cong., 2d Sess., on S. 1740, July 11, 1996 (S. Hrg. 104-553) at 42-47 (Prof. Cass R. Sunstein).

⁵³ See generally, Restatement (Second) Conflict of Laws § 283(2) (1981); Robert A. Leflar, *American Conflicts Law* § 221 (4th ed. 1986); 1 Lynn D. Wardle, Christopher L. Blakesley, & Jacqueline Y. Parker, *Contemporary Family Laws* § 2:03 (1988).

⁵⁴ Hearings Before the Subcommittee on the Constitution of the Judiciary Committee of the House of Representatives, May 15, 1996, at 158-180 (Prof. Lynn D. Wardle); Rep. Tom Campbell, *Perspective on Same-Sex Marriages*, L.A. Times, July 12, 1996, at B9.

Certainly I believe that the state has several very compelling justifications for not permitting same-sex marriage, and a court might (and I believe should) so rule. Thus, some might argue that the legislature should take no action until both the trial court and Alaska Supreme Court have rendered their final judgments. There are three deficiencies of that argument. First, as a practical matter, the *Brause* ruling casts an immediate and serious cloud on the issue of same-sex marriages and on other laws passed by the Alaska legislature. It will have precedential influence on other cases in Alaska (and, indirectly, elsewhere). It seriously implicates what the Alaska legislature is doing, what it should do, in passing new legislation, amending old laws, etc. The legislature need not wait another year or two to determine if laws it is now passing are unconstitutional. Second, *Brause* immediately sends a dramatic and terribly mistaken message about how marriage is understood in the Alaska Constitution. The legislature has responsibility for the state constitution as well as the court. As the people's representatives, the legislators have a duty to guard the values and policies that the people have embodied in the Constitution of Alaska. You need not wait to correct such a seriously flawed misreading of the will of the people of Alaska. The people deserve to be heard on this issue now. Third, if the legislature delays, it could be like waiting to close the barn door until after the animals have gotten out. If the legislature waits to begin the process of letting the people clarify their understanding of marriage, and the *Brause* decision is affirmed and same-sex marriage is legalized in Alaska by judicial interpretation of the state constitution, several months, possibly years, could pass before the process of constitutional amendment is completed and the same-sex marriage interpretation is overturned. During that time, same-sex couples will be marrying, and filing suits, demanding benefits, moving to other states and other countries, etc. After a few weeks, months or years of that, even a constitutional amendment rejecting same-sex marriage will not practically remedy all the confusion generated in the interim.

III. Proposed Resolutions Nos. 25 and 42 Are Constitutional

Undoubtedly opponents of these Resolutions will claim that they are unconstitutional under the U.S. Constitution. However, that is simply political jawboning. I will focus on S.J.R. No. 42, because it is the operative Resolution, but the analysis is equally applicable to S.C.R. 25.

One argument that might be asserted against these Resolutions is the claim that it violates federal equal protection for Alaska to deny same-sex marriage. But every court that has addressed this claim has rejected it.⁵⁵ Again, the reason is simple. Heterosexual marriage is a unique relationship, that makes unique contributions to society, and equal protection law does not require treating things are equal that are different. Is denial of same-sex marriage like denial of interracial marriage that was declared unconstitutional in *Loving v. Virginia*? No, it is not. Prohibiting marriage because of race is different that prohibiting homosexual marriage. Race is different than sexual preference. Race is immutable and passive; sexual relationship is active and a matter of decision and choice. As General Colin Powell put it: "Skin color is a benign non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral

⁵⁵See Wardle, *Constitutional Claims*, *supra* note 2, at 74-95.

characteristics. Comparison of the two is a convenient but invalid argument."⁵⁶ I agree totally with the judgment of the Supreme Court in *Loving* that racial classifications are totally irrelevant to any legitimate policy the state may have relating to marriage regulation, whereas sexual-behavior choices are of legitimate social concern, especially regarding marriage.

Another argument that might be raised is that S.J.R. No. 42 is unconstitutional under *Romer v. Evans*. Two years ago, the Supreme Court of the United States struck down Amendment 2 to the Colorado Constitution in *Romer*. That amendment was intended to generally prohibit the enactment of laws giving special preferences to persons on the basis of homosexual behavior. But it was drafted very broadly and the Supreme Court struck down the amendment. But it did so on grounds and logic that clearly distinguish S.J.R. No. 42. First, the Colorado amendment classified and discriminated in law on the basis of "homosexual, lesbian or bisexual orientation," and not solely on the basis of conduct, behavior or relationship. How someone feels or thinks or believes, including one's feelings or beliefs regarding sexual attraction, interest, or orientation, is not a permissible basis for legal discrimination; to legally classify persons on the basis of their "orientation" status is constitutionally forbidden.⁵⁷ By contrast, S.J.R. No. 42 does not discriminate on the basis of any "orientation" but it is conduct (marriage) and action (actual same-sex relationships) that are the permissible basis for distinguishing heterosexual marriage from same-sex unions.

Second, Colorado Amendment Two did not merely deny legal preference to persons with homosexual orientation, but it denied them basic protections of the law. The Supreme Court held that the Colorado amendment did not merely "put[] gays and lesbians in the same position as all other persons,"⁵⁸ as the supporters said they intended, but it arguably stripped them from even basic civil rights protections. The Colorado amendment arguably forbade specific protection of any kind for gays and lesbians,⁵⁹ and the Court noted that it could be construed to "deprive[] gays and lesbians even of protection of general laws."⁶⁰ Thus, police protection, fire protection, access to public libraries, and other basic protections arguably might have been denied gays and lesbians.

⁵⁶See Gen. Colin L. Powell, Letter to Representative Patricia Schroeder, May 8, 1992, in David F. Burrelli, *HOMOSEXUALS AND U.S. MILITARY PERSONNEL POLICY*, Jan. 14, 1993, at 25-26; see also *Gays in the Military, Hearing of the Military Forces and Personnel Subcomm. of the House Armed Serv. Comm.* (Statement by Joint Chiefs of Staff Chairman Colin Powell), FED. NEWS SERV. July 21, 1993, at 26. See also *Baker v. Nelson*, 191 N.W.2d 185, 197 (Minn. 1971) ("[I]n commonsense and in a constitutional sense, there is a clear distinction between a marital restriction based merely upon race and one based upon the fundamental difference in sex."). A *Wall Street Journal* article recently observed that "many African-Americans and Hispanics rejected the argument that gays are another minority group just like themselves, struggling for equal rights." Dennis Farney, *Shaky Ground*, WALL ST. J., Oct. 7, 1994, at A1, A6.

⁵⁷116 S.Ct. at 1623.

⁵⁸*Id.* at 1624.

⁵⁹*Id.* at 1626.

⁶⁰*Id.*

There is a tremendous and constitutionally significant difference between depriving persons of potentially all protection of the laws, as Colorado Amendment Two apparently did, and merely refusing to extend one specific, unique legal status (marriage) to same-sex relations, as S.J.R. No. 42 does.

Third, similarly, the form of the Colorado amendment was open-ended. It did not focus solely on the specific areas of abuse that the voters had been concerned about. It was an "across the board" prohibition of legal protection.⁶¹ The "sweeping and comprehensive" Colorado rule singled out gays and lesbians, and no others, for comprehensive non-protection status.⁶² While the amendment's alleged purpose to prevent certain special advantages for gays and lesbians was not improper, "[t]he breadth of the Amendment is so far removed from these particular justifications that we find it impossible to credit them."⁶³ S.J.R. No. 42, by contrast, focuses specifically upon one particular legal relationship and on that relationship only. It is precise, specific, and exact as to the subject and kind of legal protection that is set aside for exclusive protection.

Fourth, the Supreme Court said that Colorado Amendment did not survive mere rational basis scrutiny. Despite the intention of its backers, the Court stated that: "We cannot say that Amendment 2 is directed to any identifiable legitimate purpose or discrete objective."⁶⁴ By contrast, protecting the institution of heterosexual marriage has repeatedly been recognized not merely as a legitimate purpose of legislation, but an essential and important duty of the legislature. In light of the history of the unique legal and social importance of heterosexual marriage, it would require extraordinary intolerance to argue that S.J.R. No. 42's purpose to preserve the unique legal status of heterosexual marriage is irrational.

Fifth, the Supreme Court emphasized that the Colorado amendment was really motivated by "animus" against gays, lesbians and bisexuals. In other words, it was invidious in its motive as well as its potential effect.⁶⁵ S.J.R. No. 42, by contrast, avoids any negative language or intent. It does not degrade or denigrate any class. It is positive and emphasizes the contributions and importance of conventional marriage to society, without condemning or punishing any class of alternative relationships.

Finally, the same day the Supreme Court announced the *Romer* decision, it also rendered another decision that underscored how important it is to protect each state's ability to decide important legal policy issues for itself without having other states impose their policies extraterritorially upon co-equal sovereign states. In *BMW of North America, Inc. v. Gore*,⁶⁶ the Court discussed whether Alabama courts could impose punitive damages upon a defendant for

⁶¹*Id.* at 1628.

⁶²*Id.* at 1625.

⁶³116 S.Ct. at 1628.

⁶⁴116 S.Ct. at 1628.

⁶⁵*Id.* at 1627-1628.

⁶⁶*BMW, Inc. v. Gore*, 116 S.Ct. 1589 (1996). This case is discussed *supra*.

doing something in other states that was legal in those states but illegal in Alabama.⁶⁷ It is impermissible, wrote Justice Stevens for the Court, for one state to "impose its own policy choice on neighboring States. See *Bonaparte v. Tax Court*, 104 U.S. 592, 594, 26 L.Ed. 845 (1881) (No State can legislate except with reference to its own jurisdiction.... Each State is independent of all the others in this particular')." ⁶⁸ The court emphasize the need for each state "to respect the interests of other States . . ." ⁶⁹ The Court emphasized that "*these principles of state sovereignty and comity*" forbid one state giving its laws and legal policy extraterritorial effect that "*infring[es] on the policy choices of other States,*" because the Constitution requires each state "[t]o avoid such encroachment." ⁷⁰

One of the reasons for enacting S.J.R. No. 42 is to avoid interstate conflict over recognition of same-sex marriages from Alaska. If protection of state sovereignty is required for mere state economic regulations, it is even more important that one state not legislate a radical redefinition of marriage and then impose it on the other states. Since the very day the Court decided *Romer* it also validated one of the core principle upon which S.J.R. No. 42 is based - the importance of protecting state sovereignty in setting its own legal policies from extraterritorialism of other state's contradictory laws - I do believe that S.J.R. No. 42 is valid under *Romer*.

Conclusion

I believe that S.J.R. No. 42 and S.C.R. No. 25 are generally well-considered and well-crafted. I believe that they are necessary and prudent. While some fine-tuning may be appropriate, some careful amendment may be considered, the thrust and focus of these Resolutions are important and timely. I recommend that this committee, this chamber, and this legislature enact S.J.R. No. 42 and S.C.R. No. 25 and submit the proposed Amendment of S.J.R. No. 42 to the people forthwith.

⁶⁷BMW had repainted parts of a new car that had suffered some paint damage while being transported from Germany to the United States, and then sold the car as a new car in Alabama without disclosing that it had been partially repainted at a cost of \$601.37. That was lawful in other states, but a recent Alabama case made it improper there. The plaintiff introduced evidence that that lowered the resale price of the car about 10% and the jury awarded the buyer \$4,000 in compensatory damages (10% of the car's price). BMW had sold about 1,000 such repainted cars in the United States, including 14 cars in Alabama. The jury mathematically awarded \$4,000,000 in punitive damages, reduced on appeal to \$2,000,000. The Supreme Court reversed and remanded, 5-4, noting that the award was so grossly excessive as to violate due process, in part because the award appeared to be based on out-of-state conduct that was lawful where it occurred and had no impact in Alabama.

⁶⁸116 S.Ct. at 1596-97.

⁶⁹*Id.* at 1597 (citing *Healy v. Beer Institute*, 491 U.S. 324, 335-336 (1989); *Edgar v. MITE Corp.*, 457 U.S. 624, 643 (1982)).

⁷⁰*Id.* at 1597-98 (emphasis added).

DEFENSE OF MARRIAGE ACT

JULY 9, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CANADY, from the Committee on the Judiciary, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3396]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3396) to define and protect the institution of marriage, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 3396, the Defense of Marriage Act, has two primary purposes. The first is to defend the institution of traditional heterosexual marriage. The second is to protect the right of the States to formulate their own public policy regarding the legal recognition of same-sex unions, free from any federal constitutional implications that might attend the recognition by one State of the right for homosexual couples to acquire marriage licenses.

To achieve these purposes, H.R. 3396 has two operative provisions. Section 2, entitled "Powers Reserved to the States," provides that no State shall be required to accord full faith and credit to a marriage license issued by another State if it relates to a relationship between persons of the same sex. And Section 3 defines the terms "marriage" and "spouse," for purposes of federal law only, to reaffirm that they refer exclusively to relationships between persons of the opposite sex.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3396 is a response to a very particular development in the State of Hawaii. As will be explained in greater detail below, the state courts in Hawaii appear to be on the verge of requiring that State to issue marriage licenses to same-sex couples. The prospect of permitting homosexual couples to "marry" in Hawaii threatens to have very real consequences both on federal law and on the laws (especially the marriage laws) of the various States.

More specifically, if Hawaii (or some other State) recognizes same-sex "marriages," other States that do not permit homosexuals to marry would be confronted with the complicated issue of whether they are nonetheless obligated under the Full Faith and Credit Clause of the United States Constitution to give binding legal effect to such unions. With regard to federal law, a decision by one State to authorize same-sex "marriage" would raise the issue of whether such couples are entitled to federal benefits that depend on marital status. H.R. 3396 anticipates these complicated questions by laying down clear rules to guide their resolution, and it does so in a manner that preserves each State's ability to decide the underlying policy issue however it chooses.

I. THE LEGAL CAMPAIGN FOR SAME-SEX "MARRIAGE"

Before discussing the Hawaiian lawsuit, the Committee believes it is important to place that development in its larger context. In particular, it is critical to understand the nature of the orchestrated legal assault being waged against traditional heterosexual

marriage by gay rights groups and their lawyers. Only then can the Committee's concerns that motivated H.R. 3396 be fully explained and understood.

The determination of who may marry in the United States is uniquely a function of state law. That has always been the rule, and H.R. 3396 in no way changes that fact. And while state laws may differ in some particulars—for example, with regard to minimum age requirements, the degree of consanguinity, and the like—the uniform and unbroken rule has been that only opposite-sex couples can marry. No State now or at any time in American history has permitted same-sex couples to enter into the institution of marriage.¹

Some in our society, however, are not satisfied that marriage should be an exclusively heterosexual institution. In particular, same-sex "marriage" has been an explicit goal of many in the gay rights movement for at least twenty-five years. In 1972, for example, the National Coalition of Gay Organizations called for the "[r]epeal of all legislative provisions that restrict the sex or number of persons entering into a marriage unit and extension of legal benefits of marriage to all persons who cohabit regardless of sex or numbers."² This campaign, which has also included mass "wed-ins," has been waged on religious, cultural, and legal fronts.³

Beginning in the early 1970s, gay rights advocates periodically filed lawsuits seeking to win the right to same-sex "marriage." According to one commentator, "[o]ver the past twenty-five years, same-sex marriage advocates have mounted over a dozen substantial litigation campaigns seeking judicial legalization of same-sex marriages or judicial recognition of same-sex unions for purposes of qualifying for certain marital benefits."⁴ Prior to the Hawaii case, none of these legal challenges succeeded.

In addition to lack of success in the courts, these efforts faced other difficulties. The most important of these has been a persistent reluctance by some within the gay and lesbian movement to embrace the objective of same-sex "marriage."⁵ Initially, the major

¹ In this, the United States is hardly unique; indeed, one authority on family law recently conducted an international survey of marriage laws and concluded that "[a]ll nations permit only heterosexual marriage. At present, same-sex marriage is allowed in no country or state in the world. . . ." See Lynn D. Wardle, "International Marriage and Divorce Regulation and Recognition: A Survey," 29 Family L.Q. 497, 500 (Fall 1995).

² Quoted in William N. Eskridge, Jr., "The Case for Same-Sex Marriage" 54 (Free Press 1996). More recently, the Platform of the 1993 "March on Washington" called for the "legalization of same-sex marriage." Quoted in Mark Blasius, "Gay and Lesbian Politics: Sexuality and the Emergence of a New Ethic" 175-78 (Temple Univ. Press 1994).

³ See generally, Suzanne Sherman (ed.), "Lesbian and Gay Marriage: Private Commitments, Public Ceremonies" (Temple Univ. Press 1992. see also Eskridge, "The Case for Same-Sex Marriage" at 44-62.

⁴ See Lynn D. Wardle, "A Critical Analysis of Constitutional Claims for Same-Sex Marriage," 1996 B.Y.U. L. Rev. 1, 9. Among the leading cases are: *Baker v. Nelson*, 191 N.W.2d 185, 186 (Minn. 1971) (state law limiting marriage to heterosexual unions does not violate Ninth or Fourteenth Amendment to the U.S. Constitution), *Jones v. Hallahan*, 501 S.W.2d 588, 590 (Ky. Ct. App. 1973) (refusal to grant marriage license to lesbian couple does not violate constitutional right to marry, to associate freely, or to the free exercise of religion); *Singer v. Hara*, 522 P.2d 1187, 1195 (Wash. Ct. App. 1974) (traditional marriage law does not violate either state or federal constitution); *De Santo v. Barnsley*, 476 A.2d 952, 954 (Pa. Super. Ct. 1984) (declining to recognize right to common law same-sex marriage); and *Dean v. District of Columbia*, 653 A.2d 307 (D.C. 1995) (D.C. Court of Appeals rejected statutory and federal due process and equal protection challenges to traditional marriage law).

⁵ Notwithstanding the advances gay rights legal groups have made, the debate within the homosexual community continues, as prominent advocates of same-sex "marriage" still find it necessary to seek to persuade other homosexual activists to support their efforts. See, e.g., Eskridge,

Continued

national gay rights organizations—including the Lambda Legal Defense and Education Fund, a gay and lesbian legal group founded in 1973, and the American Civil Liberties Union, which launched a Lesbian and Gay Rights Project in 1984—were unwilling to make same-sex “marriage” a priority.⁶

But when a lawsuit filed by local gay activists in Hawaii began to show signs of promise, Lambda, the ACLU, and eventually the nation as a whole began to pay attention.⁷

II. THE HAWAII LAWSUIT: *BAEHR V. LEWIN*

The legal assault against traditional heterosexual marriage laws achieved its greatest breakthrough in the State of Hawaii in 1993. Because H.R. 3396 was motivated by the Hawaiian lawsuit, the Committee thinks it is important to discuss that situation in some detail.

In December 1990, three homosexual couples—two lesbian and one gay men—filed applications for marriage with the Hawaiian Department of Health (“DOH”), the agency responsible for administering the State’s marriage laws.⁸ The State denied the applications on the ground that its marriage laws did not permit same-sex couples to marry. In 1991, the three couples filed suit in state court challenging the denial of the marriage licenses as a violation of the Hawaii Constitution.

After the state trial court granted the State’s motion for judgment on the pleadings, the plaintiffs appealed to the Hawaii Supreme Court. In May 1993, a highly-fractured five justice Court issued an opinion that has already had profound implications—in Hawaii, to be sure, but also in the other States and, with the introduction of H.R. 3396, in the United States Congress.

Three of the five justices who heard oral arguments in the case before the Hawaii Supreme Court held that the trial court’s dismissal on the pleadings had to be reversed.⁹ In an opinion for himself and Acting Chief Justice Moon, Justice Levinson held that the denial of marriage licenses to same-sex couples constitutes discrimination on the basis of sex.¹⁰ The two-judge plurality also held that sex is a “suspect category” under the Equal Protection Clause of the Hawaii Constitution, and so ruled that the marriage statute (Haw. Rev. Stat. § 572-1) could be upheld only if the State could satisfy the strict scrutiny test. As Judge Levinson summarized:

“The Case for Same-Sex Marriage,” Chapter 3 (entitled “The Debate Within the Lesbian and Gay Community”), and Evan Wolfson, “Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique,” 21 N.Y.U. Rev. L. & Soc. Change 567 (1994-95).

⁶ See generally Patricia A. Cain, “Litigating for Lesbian and Gay Rights,” 79 Va. L. Rev. 1551, 1586 (1993) (noting that “[t]ogether with the ACLU, Lambda has helped to shape gay rights litigation across the country.”).

⁷ See Paul M. Barrett, “I Do/No You Don’t: How Hawaii Became Ground Zero in Battle Over Gay Marriages,” *Wall Street Journal*, June 17, 1996, at A1 (describing reluctance of major gay rights legal organizations to support lawsuit seeking to win right of same-sex “marriage”). Despite this initial caution, Lambda has now signed on as co-counsel for the homosexual plaintiffs in the Hawaiian case, *id.*, and, as explained below, has emerged as the leading strategist in seeking to maximize the impact that case might have.

⁸ Because Hawaii does not authorize common law marriages, see Haw. Rev. Stat. § 572-1 (1985), the only way to get legally married in that state is to obtain a marriage license from the DOH.

⁹ *Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993).

¹⁰ *Id.* at 60.

On remand, in accordance with the "strict scrutiny" standard, the burden will rest on [the State] to overcome the presumption that IRS § 572-1 is unconstitutional by demonstrating that it furthers compelling state interests and is narrowly drawn to avoid unnecessary abridgements of constitutional rights.¹¹

A third justice joined the plurality in voting to reverse the trial court's dismissal,¹² and one justice filed a dissenting opinion.¹³

Following the Supreme Court's ruling in *Baehr*, then, the State confronts a situation whereby their existing heterosexual-only marriage law is "presumed to be unconstitutional,"¹⁴ and the case has been sent back to the trial court to see whether the State can satisfy the very demanding strict scrutiny test. The trial date has been set for September 1996, and there is a strong possibility that the Hawaii courts will ultimately require the State to issue marriage licenses to same-sex couples.

It is, of course, no business of Congress how the Hawaiian Supreme Court interprets the Hawaiian Constitution, and the Committee expresses no opinion on the propriety of the ruling in *Baehr*. But the Committee does think it significant that the threat to traditional marriage laws in Hawaii and elsewhere has come about because two judges of one state Supreme Court have given credence to a legal theory being advanced by gay rights lawyers. As Hawaiian State Representative Terrance Tom, Chairman of the House Judiciary Committee, testified at a hearing on H.R. 3396:

Same-sex marriage was not an issue that arose by submission of proposed legislation to the people's representatives. Instead, it arose because in May of 1993, two members of our state Supreme Court issued an opinion unprecedented in the history of jurisprudence.¹⁵

¹¹*Id.* at 68, 74.

¹²The third justice to vote for reversal, Justice Burns, concurred only in the result reached in Justice Levinson's opinion. Justice Burns ruled that the "case involves genuine issues of material fact"—namely, whether or not homosexuality is "biologically fated"—that warranted further proceedings by the trial court. *Id.* at 70.

¹³Justice Heen—who, like Justice Burns, was sitting by designation to fill temporary vacancies on the Supreme Court—rejected the plurality's conclusion that heterosexual-only marriage laws constitute sex discrimination because, he wrote, "all males and females are treated alike. . . . Neither sex is being *granted* a right or benefit the other does not have, and neither sex is being *denied* a right or benefit that the other has." *Id.* at 71 (emphasis in original). Accordingly, Justice Heen believed that the marriage law had only to pass the rational basis test; he would have held that it "is clearly designed to promote the legislative purpose of fostering and protecting the propagation of the human race through heterosexual marriage and bears a reasonable relationship to that purpose." *Id.* at 74. Finally, he noted that, to the extent the plaintiffs were complaining about the inability to receive certain statutory benefits associated with marriage, "redress of those deprivations is a matter for the legislature. . . . Those benefits can be conferred without rooting out the very essence of a legal marriage." *Id.* at 74.

Justice Heen's dissent indicates that the fifth Justice, Retired Justice Hayashi, whose temporary appointment to the Court expired prior to the filing of the opinion, would have joined the dissent. *Id.* at 48. However, after the initial opinion was issued, the State filed a motion for reconsideration or clarification; by the time the Court ruled on that motion, a new Justice—Justice Nakayama—had joined the Court, and Justice Nakayama joined in Justice Levinson's clarification of the mandate. *Id.* at 74-75. Accordingly, it appears that the final disposition was three justices forming a majority, with Justice Burns concurring in the result only, and Justice Heen dissenting.

¹⁴*Id.* at 67.

¹⁵Prepared Statement of Terrance Tom, Member and Chairman of Judiciary Committee, Hawaii House of Representatives ("Tom Prepared Statement"), at Hearing on H.R. 3396, the Defense of Marriage Act, before the Subcommittee on the Constitution of the House Committee on the Judiciary, 104th Cong., 2d Sess. (May 15, 1996) ("Subcommittee Hearing").

Rep. Tom also testified that the Supreme Court's ruling has been met with strong resistance on the part of the Hawaiian public and their elected representatives:

In response to this judicial activism, the 1994 Hawaii Legislature, Democrat and Republican alike, overwhelmingly voted to reject this clearly erroneous interpretation of our State Constitution, and amended our marriage statutes to make clear that a legal marriage in our State can be entered into only by a man and a woman.¹⁶

This decision by the Legislature followed extensive public hearings throughout the Islands. Thousands of Hawaii citizens have submitted testimony to the state legislature over the last three years. *It was clear then, and it is clear now, that the people of Hawaii do not want the State to issue marriage licenses to couples of the same-sex.*

This Committee should understand that the people of Hawaii are not speaking out of ignorance or uncertainty. Both of our daily newspapers are strong supporters of same-sex marriage and have editorialized repeatedly in favor of issuing marriage licenses to couples of the same sex.

Yet polls commissioned by the newspapers themselves show that *opposition to same-sex marriages has grown as the trial on this issue nears.*

The most recent poll taken in February shows that 71% of the Hawaii public believe that marriage licenses should be issued only to male-female couples. Only 18% believe the state should license same-sex marriages.¹⁷

Just as it appears that judges in Hawaii are prepared to foist the newly-coined institution of homosexual "marriage" upon an unwilling Hawaiian public, the Hawaii lawsuit also presents the possibility that other States could, through the protracted and complex process of litigation, be forced to follow suit. The Defense of Marriage Act is an effort by Congress to clarify the extremely complicated situation that may result from one State's recognition of same-sex "marriage." The Committee turns now to a brief description of the implications of *Baehr v. Lewin* for other States and the federal government.¹⁸

III. INTERSTATE IMPLICATIONS OF *BAEHR V. LEWIN*: THE FULL FAITH AND CREDIT CLAUSE

H.R. 3936 is inspired, again, not by the effect of *Baehr v. Lewin* inside Hawaii, but rather by the implications that lawsuit threat-

¹⁶ Here, Rep. Tom is referring to the Legislature's enactment of a 1994 law which amended the marriage law to make it unmistakably clear that the Legislature intended to permit marriage only between one man and one woman. The Legislature also asserted that the marriage statute was "intended to foster and protect the propagation of the human race through male-female marriages." 1994 Haw. Sess. Laws 217.

¹⁷ Tom Prepared Statement at 2.

¹⁸ It has been suggested by some opponents of this Act that the legislation is premature on the ground that no State currently recognizes same-sex "marriage." Of course, to argue that this bill is premature concedes that such a measure at the right time might be appropriate. The Committee believes the right time is now. *Baehr v. Lewin* is poised for a final resolution, and the Committee believes it would be profoundly unwise—and even irresponsible—to permit the attendant uncertainty to stand.

ens to have on the other States and on federal law. The Committee will briefly explain here the interstate implications that the Hawaiian homosexual marriage case might have.

Simply stated, the gay rights organizations and lawyers driving the Hawaiian lawsuit have made plain that they consider Hawaii to be only the first step in a national effort to win by judicial fiat the right to same-sex "marriage." And the primary mechanism for nationalizing their break-through in Hawaii will be the Full Faith and Credit Clause of the U.S. Constitution.

In a memorandum entitled "Winning and Keeping Equal Marriage Rights: What Will Follow Victory in *Baehr v. Lewin*?" Evan Wolfson, Director of the Marriage Project for the Lambda Legal Defense and Education Fund, Inc. ("Lambda"), sets forth the organization's strategy for seeking to extend their impending victory in Hawaii nationwide.¹⁹ The memorandum is noteworthy both for what it reveals about the strategy the gay rights groups intend to pursue, and because it shows how plausible that strategy is.

First, as indicated by the title of the memorandum, Lambda is clearly optimistic that they will ultimately prevail in Hawaii. Second, the gay rights groups and gay men and lesbians across the country are preparing to take advantage of the Hawaii victory. As the Lambda memorandum states:

Many same-sex couples in and out of Hawaii are likely to take advantage of what would be a landmark victory. The great majority of those who travel to Hawaii to marry will return to their homes in the rest of the country expecting full legal recognition of their unions.²⁰

Third, Lambda and other gay rights legal organizations are standing ready to assist same-sex couples who travel to Hawaii to obtain a marriage license to win full legal recognition of their newly-acquired status in their home State.²¹

¹⁹This March 20, 1996, memorandum ("Lambda Memorandum"), is included in the report of the May 15, 1996 hearing before the House Judiciary Subcommittee on the Constitution.

²⁰Lambda Memorandum at 2. In addition to Lambda's expectations, there have been numerous media reports that gays and lesbians throughout the United States are eagerly awaiting the opportunity to "marry" in Hawaii. See, e.g., Dunlap, "Fearing a Toehold for Gay Marriages, Conservatives Rush to Bar the Door," *New York Times*, March 6, 1996, at A13 (quoting one lesbian activist as stating that "California is going to have literally thousands of couples who are going to come back from Hawaii expecting their marriage to be treated with the respect and dignity given every other marriage.")

²¹In the abstract, it is difficult to know precisely what consequences would result if a same-sex couple from, say, Ohio, flew to Hawaii, got "married," returned to Ohio, and demanded that the State or one of its agencies give effect to their Hawaiian "marriage" license. As we discuss below, a state or federal court confronting such a claim would probably be justified in declining to give effect to the Hawaiian license. But assuming (as it seems reasonable to do) that gay rights groups will find a judge somewhere in Ohio to accept their arguments, what would the result be? In general, the Committee believes that at least two things would occur.

First, the State law regarding marriage would be thrown into disarray, thereby frustrating the legislative choices made by that State that support limiting the institution of marriage to male-female unions. Upholding traditional morality, encouraging procreation in the context of families, encouraging heterosexuality—these and other important legitimate governmental purposes would be undermined by forcing another State to recognize same-sex unions. Second, in a more pragmatic sense, homosexual couples would presumably become eligible to receive a range of government marital benefits. For example, in *Baehr v. Lewin*, the court listed fourteen specific "rights and benefits" that are available only to married couples. 852 P.2d at 59 (listing benefits relating to income tax; public assistance; community property; dower, courtesy, and inheritance; probate; child custody and support payments; spousal support; premarital agreements; name changes; nonsupport actions; post-divorce rights; evidentiary privileges; and others). The Committee would add that recognizing same-sex "marriages" would almost certainly have implications on the ability of homosexuals to adopt children as well.

Of course, in the likely event Hawaii ultimately is forced by its courts to issue marriage licenses to same-sex couples, it will be the only State in the country to do so. Accordingly, when homosexual couples from other States travel to Hawaii, obtain a marriage license, and return home demanding recognition of their license, an important and complex legal situation will be presented. At bottom, the issue reduces to a choice-of-law question: Which law governs—Hawaii's, as represented by the "marriage" license, or the law of the forum state, which does not recognize same-sex "marriage"? That is, must a sister State adopt Hawaii's policy, or may it follow its own?

Lambda phrases the issue slightly differently: "Will these [same-sex couples] validly-contracted [Hawaiian] marriages be recognized by their home states and the federal government, and will the benefits and responsibilities that marriage entails be available and enforceable in other jurisdictions?" Their response—"We at Lambda believe that the correct answer to these questions is 'Yes.'"²²—is not without support.

The general rule for determining the validity of a marriage is *lex celebrationis*—that is, a marriage is valid if it is valid according to the law of the place where it was celebrated.²³ States observing that rule would, of course, presumptively recognize as valid a same-sex "marriage" license from Hawaii. There is, however, an important exception to the general rule, well captured by the relevant section of the Restatement of Conflicts:

A marriage which satisfies the requirements of the state where the marriage was contracted will everywhere be recognized as valid unless it violates the strong public policy of another state which had the most significant relationship to the spouses and the marriage at the time of the marriage.²⁴

It is thus possible that a State, confronted with a resident same-sex couple possessing a "marriage" license from Hawaii, could decline to recognize that "marriage" on the grounds that to do so would offend that State's "strong public policy."

Because no State in the United States has ever recognized same-sex "marriages," it would seem that courts in other States would be justified in invoking this exception. The matter is somewhat more complicated, however, as the U.S. Constitution speaks to this issue. The first sentence of the Full Faith and Credit Clause provides: "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."²⁵ Lambda believes, quite sensibly, that this clause provides

²² Lambda Memorandum at 2. The memorandum then proceeds to survey "the legal grounds for gaining nationwide recognition of the marriages same-sex couples contract in Hawaii. These grounds include the U.S. Constitution, the common law, and statutory law." *Id.* at 2-3.

²³ For example, the Uniform Marriage and Divorce Act, which has been adopted by twenty-three States, provides that "[a]ll marriages contracted . . . outside this State, that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted . . . are valid in this State." Unif. Marriage and Divorce Act §210, 9A U.L.A. 147.

²⁴ Restatement (Second) of Conflicts of Law §283(2) (1971).

²⁵ U.S. Const. art. IV, §1. The second sentence of the Full Faith and Credit Clause states: "And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." The Committee will discuss this provision in detail below.

both their strongest and most advantageous argument for forcing other States to recognize same-sex "marriage" licenses issued by Hawaii.²⁶

Notwithstanding the seemingly mandatory terms of the Full Faith and Credit Clause, the U.S. Supreme Court has recognized a public policy exception that, in certain circumstances, would permit a State to decline to give effect to another State's laws.²⁷ Indeed, despite the presumption created by *lex celebrationis* and reinforced by the Full Faith and Credit Clause, the Committee believes that a court conscientiously applying the relevant legal principles would be amply justified in refusing to give effect to a same-sex "marriage" license from another State.²⁸

But even as the Committee believes that States currently possess the ability to avoid recognizing a same-sex "marriage" license from another State, it recognizes that that conclusion is far from certain. For example, there is a burgeoning body of legal scholarship—some of it inspired directly by the Hawaiian lawsuit—to the effect that the Full Faith and Credit Clause does mandate extraterritorial recognition of "marriage" licenses given to homosexual couples.²⁹ More significantly, Lambda agrees with that analysis, and clearly intends to press that argument in the course of its post-Hawaii, state-by-state litigation to nationalize same-sex "marriage."³⁰

Most important of all, however, is the evident disquiet in the various States created by the Hawaii situation. The Committee is struck by the fact that so many States have been moved by the uncertain interstate implications of the Hawaii litigation to attempt to bolster their own public policy regarding traditional, heterosexual-only marriage laws. As of July 1, 1996, the Committee is informed that 14 States have enacted new laws designed to protect

²⁶ Lambda Memorandum at 3-4 ("Successfully establishing that the Full Faith and Credit Clause requires all states to recognize a marriage legally contracted in another State would yield the most sweeping possible outcome, and, as a constitutional holding, the one most immune from legislative tampering. We believe that full faith and credit recognition is mandated by the plain meaning of the Full Faith and Credit Clause, and by basic federalist imperatives that unite this into one country and permit us to travel, work, and live in America as we have come to today. Simply put, all Americans, gay and non-gay alike, would be best served by assuring full faith and credit for marriages validly contracted in any U.S. state.") (emphasis added); see also, e.g., Douglas Laycock, "Equal Citizens of Equal and Territorial States: The Constitutional Foundations of Choice of Law," 92 Col. L. Rev. 249, 296 (1992) ("[T]he Clause is most plausibly read as requiring each state to give the law of every other state the same faith and credit it gives its own law—to treat the law of sister states as equal in authority to its own").

²⁷ See, e.g., *Nevada v. Hall*, 440 U.S. 410, 424 (1979) ("the Full Faith and Credit Clause does not require a State to apply another State's law in violation of its own legitimate public policy."); *Alaska Packers Ass'n v. Industrial Accident Comm'n*, 294 U.S. 532, 547 (1935) ("A rigid and literal enforcement of the full faith and credit clause, without regard to the statute of the forum [State], would lead to the absurd result that, whenever conflict arises, the statute of each state must be enforced in the courts of the other, but cannot be in its own").

²⁸ The Committee endorses, therefore, the conclusion of Professor Lynn Wardle, who testified before the Subcommittee on the Constitution that, in his professional opinion, "it would not violate the full faith and credit clause . . . for a second state to refuse to recognize a same-sex marriage legalized in Hawaii when the second state has a strong public policy against same-sex marriage and when the same-sex couple lives in or has some other significant contact with the second state." See Prepared Statement of Lynn Wardle, Professor of Law, Brigham Young University ("Wardle Prepared Statement"), Subcommittee hearing.

²⁹ For a partial list of such articles, see Wardle, 1996 B.Y.U. L. Rev. at 17, n.65.

³⁰ See Lambda Memorandum at 9 ("[W]hen state acts, records, or judicial proceedings have been applied to the facts of a particular case to determine the rights, obligations, or status of specific parties, the other states must give those acts, records, or proceedings the same effect they would have at home. . . . Since a marriage . . . falls into the category of such adjudications or creations, there can be no policy balancing regarding their recognition.") (Emphasis in original) That is to say, Lambda will argue that there can be no "public policy" exception to the claim that other States must give effect to the Hawaiian "marriage" licenses.

against an impending assault on their marriage laws.³¹ In addition, legislation has been defeated, withdrawn, or vetoed in 16 States, and is pending in 7 States.³²

The fact that these States are sufficiently concerned about their ability to defend their marriage laws against the threat posed by the Hawaii situation is enough to persuade the Committee that federal legislation is warranted. The States, after all, are best-positioned to assess the legal situation within their own State; that so many of them are not content to rely on the amorphous "public policy" exception reveals that congressional clarification and assistance is both necessary and appropriate.³³ Section 2 of H.R. 3396 responds to this need.

IV. IMPLICATIONS OF *BAEHR V. LEWIN* ON FEDERAL LAW

Recognition of same-sex "marriages" in Hawaii could also have profound implications for federal law as well. The word "marriage" appears in more than 800 sections of federal statutes and regulations, and the word "spouse" appears more than 3,100 times. With very limited exceptions,³⁴ these terms are not defined in federal law.

With regard to the issue of same-sex "marriages," federal reliance on state law definitions has not, of course, been at all problematic. Until the Hawaii situation, there was never any reason to make explicit what has always been implicit—namely, that only heterosexual couples could get married. And the Committee believes it can be stated with certainty that none of the federal statutes or regulations that use the words "marriage" or "spouse" were thought by even a single Member of Congress to refer to same-sex couples.³⁵

But if Hawaii does ultimately permit homosexuals to "marry," that development could have profound practical implications for federal law.³⁶ For to the extent that federal law has simply accepted state law determinations of who is married, a redefinition of marriage in Hawaii to include homosexual couples could make such couples eligible for a whole range of federal rights and benefits. While there are literally hundreds of examples that would illus-

³¹The States are: Alaska, Arizona, Delaware, Georgia, Idaho, Illinois, Kansas, Michigan, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, and Utah.

³²The Committee heard testimony from two state legislators regarding their efforts to enact legislation that would strengthen their State's public policy against same-sex "marriage." See Prepared Statement of Marilyn Musgrave, Member, Colorado State House of Representatives ("Musgrave Prepared Statement"), Subcommittee Hearing; Prepared Statement of Deborah Whyman, Member, Michigan State House of Representatives, Subcommittee Hearing.

³³Such assistance seems particularly appropriate in situations like Colorado. The Colorado Legislature passed legislation clarifying that their marriage laws restricted marriage to unions between one man and one woman, and would have declared that same-sex "marriage" offends the public policy of the States. Governor Romer, however, vetoed the bill. Accordingly, Colorado now stands particularly exposed to an argument—sure to be made by gay rights groups—that its laws currently do not evince a public policy sufficiently strong to ward off a Hawaiian same-sex "marriage" license. See Musgrave Prepared Statement at 2.

³⁴See, e.g., 29 U.S.C. 2611(13) (1965) (provision of the Family and Medical Leave Act defining "spouse" as "a husband or wife, as the case may be.").

³⁵Wardle Prepared Statement at 9 ("[I]t is beyond question that Congress has never actually intended to include same-sex unions when it used the terms 'marriage' and 'spouse.'").

³⁶See *id.* ("Since the differences in state marriage laws (though numerous) were relatively minor, and since no state allowed such radical reconstruction of marriage as same-sex marriage, the passive presumption of adoption of state law has worked quite well. If some state legalized same-sex marriage, that would radically alter a basic premise upon which the presumption of adoption of state domestic relations law was based—namely, the essential fungibility of the concepts of marriage from one state to another.").

trate this point, the Committee will recount two that relate to events that have actually occurred.

In the 1970s, Richard Baker, a male, demanded increased veterans' educational benefits because he claimed James McConnell, another male, as his dependent spouse. When the Veterans Administration turned down his request, Baker filed suit. The outcome turned on the federal statute (38 U.S.C. § 103(c)) that made eligibility for the benefits contingent on his State's (Minnesota's) definition of "spouse" and "marriage." The federal courts rejected the claim for additional benefits on the ground that the Minnesota Supreme Court has already determined that marriage (which it defined as "the state of union between persons of the opposite sex") was not available to persons of the same sex.³⁷

In a similar fashion, the Family and Medical Leave Act of 1993, Pub. L. 103-3, 107 Stat. 6, requires that employees be given unpaid leave to care for a "spouse" who is ill. Shortly before passage of the Act in the Senate, Senator Nickles attached an amendment defining "spouse" as "a husband or wife, as the case may be."³⁸ The amendment proved essential when the regulations were written.

When the Secretary of Labor published the proposed implementing regulations, he noted that a "considerable number of comments" were received urging that the definition of "spouse" "be broadened to include domestic partners in committed relationships, including same-sex relationships." The Nickles amendment, however, precluded such an expansive redefinition of "spouse." The Secretary quoted Sen. Nickles' floor statement on the amendment:

This is the same definition [of "spouse"] that appears in Title 10 of the United States Code [10 U.S.C. § 101]. Under this amendment, an employer would be required to give an eligible female employee unpaid leave to care for her husband and an eligible male employee unpaid leave to care for his wife. No employer would be required to grant an eligible employee unpaid leave to care for an unmarried domestic partner. This simple definition will spare us a great deal of costly and unnecessary litigation. Without this amendment, the bill would invite lawsuits by workers who unsuccessfully seek leave on the basis of illness of their unmarried adult companions.

"Accordingly," the Secretary continued, "given this legislative history, the recommendations that the definition of spouse be broadened cannot be adopted."³⁹

These two episodes highlight the potential impact that a change in Hawaiian marriage law could have on federal law.⁴⁰ Section 3 of H.R. 3396 responds to these considerations.

³⁷ See *McConnell v. Nooner*, 547 F.2d 54 (8th Cir. 1976) (relying on *Baker v. Nelson*, 191 N.W.2d 185 (Minn. 1971)).

³⁸ 29 U.S.C. § 2611(13)(1995).

³⁹ 60 Fed. Reg. 2180, 2191-92 (Jan. 6, 1995).

⁴⁰ For some other examples, see Wardle Prepared Statement at 10-14.

V. THE GOVERNMENTAL INTERESTS ADVANCED BY H.R. 3396

Of course, the foregoing discussion would hardly support—much less necessitate—congressional action if the Committee were supportive of (or even indifferent to) the notion of same-sex “marriage.” But the Committee does not believe that passivity is an appropriate or responsible reaction to the orchestrated legal campaign by homosexual groups to redefine the institution of marriage through the judicial process. H.R. 3396 is a modest effort to combat that strategy.

In this section of the Report, the Committee briefly discusses four of the governmental interests advanced by this legislation: (1) defending and nurturing the institution of traditional, heterosexual marriage; (2) defending traditional notions of morality; (3) protecting state sovereignty and democratic self-governance; and (4) preserving scarce government resources.

A. H.R. 3396 ADVANCES THE GOVERNMENT’S INTEREST IN DEFENDING AND NURTURING THE INSTITUTION OF TRADITIONAL, HETEROSEXUAL MARRIAGE

Certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth, fit to take rank as one of the co-ordinate States of the Union, than that which seeks to establish it on *the basis of the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy state of matrimony*; the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.⁴¹

When Justice Scalia recently quoted this passage in his dissenting opinion in *Romer v. Evans*, he wrote: “I would not myself indulge in such official praise for heterosexual monogamy, because I think it is no business of the courts (*as opposed to the political branches*) to take sides in this culture war.”⁴² Congress, of course, is one of the “political branches,” and the Committee believes that it is both appropriate and necessary for Congress to do what it can to defend the institution of traditional heterosexual marriage.

H.R. 3396, is appropriately entitled the “Defense of Marriage Act.” The effort to redefine “marriage” to extend to homosexual couples is a truly radical proposal that would fundamentally alter the institution of marriage.⁴³ To understand why marriage should be preserved in its current form, one need only ask why it is that society recognizes the institution of marriage and grants married persons preferred legal status.⁴⁴ Is it, as many advocates of same-sex

⁴¹ *Murphy v. Ramsey*, 114 U.S. 15, 45 (1885) (emphasis added) (rejecting constitutional challenge to a federal statute that denied the right to vote in federal territories to persons involved in polygamous relationships).

⁴² *Romer v. Evans*, 116 S. Ct. 1620, slip op. at 18 (1996) (Scalia, dissenting) (emphasis added).

⁴³ See, e.g., William J. Bennett, “But Not a Very Good Idea, Either,” *The Washington Post*, May 21, 1996, at A19 (“Recognizing the legal union of gay and lesbian couples would represent a profound change in the meaning and definition of marriage. Indeed, it would be the most radical step ever taken in the deconstruction of society’s most important institution.”).

⁴⁴ See, e.g., *Baehr*, 852 P.2d at 59 (providing partial list of marital benefits provided under Hawaiian law).

"marriage" claim, to grant public recognition to the love between persons?⁴⁵ We know it is not the mere presence of love that explains marriage, for as Professor Hadley Arkes testified:

There are relations of deep, abiding love between brothers and sisters, parents and children, grandparents and grandchildren. In the nature of things, those loves cannot be diminished as loves because they are not . . . expressed in marriage.⁴⁶

No, as Professor Arkes continued:

The question of what is suitable for marriage is quite separate from the matter of love, though of course it cannot be detached from love. The love of marriage is directed to a different end, or it is woven into a different meaning, rooted in the character and ends of marriage.⁴⁷

And to discover the "ends of marriage," we need only reflect on this central, unimpeachable lesson of human nature:

We are, each of us, born a man or a woman. The committee needs no testimony from an expert witness to decode this point: Our engendered existence, as men and women, offers the most unmistakable, natural signs of the meaning and purpose of sexuality. And that is the function and purpose of begetting. At its core, *it is hard to detach marriage from what may be called the "natural teleology of the body": namely, the inescapable fact that only two people, not three, only a man and a woman, can beget a child.*⁴⁸

At bottom, civil society has an interest in maintaining and protecting the institution of heterosexual marriage because it has a deep and abiding interest in encouraging responsible procreation and child-rearing. Simply put, government has an interest in marriage because it has an interest in children.

Recently, the Council on Families in America, a distinguished group of scholars and analysts from a diversity of disciplines and perspectives, issued a report on the status of marriage in America. In the report, the Council notes the connection between marriage and children:

The enormous importance of marriage for civilized society is perhaps best understood by looking comparatively at human civilizations throughout history. Why is marriage our most universal social institution, found prominently in

⁴⁵ See, e.g., Prepared Statement of Andrew Sullivan ("Sullivan Prepared Statement") at 2, Subcommittee hearing (gay advocate of same-sex "marriage" stating: "People ask us why we want marriage, but the answer is obvious. It is the same reason that anyone would want marriage. After the crushes and passions of adolescence, some of us are lucky enough to meet the person we truly love. And we want to commit to that person in front of our family and country for the rest of our lives. It's the most natural, the most simple, the most human instinct in the world.") (emphasis added).

⁴⁶ Prepared Statement of Hadley Arkes, Ney Professor of Jurisprudence and America Institutions, Amherst College ("Arkes Prepared Statement") at 11, Subcommittee Hearing.

⁴⁷ *Id.*

⁴⁸ *Id.* at 11-12 (emphasis added); see also Bennett, *The Washington Post*, May 21, 1996, at A19 ("'Marriage' is not an arbitrary construct; it is an 'honorable estate' based on the different, complementary nature of men and women—and how they refine, support, encourage, and complete one another.").

virtually every known society? Much of the answer lies in the irreplaceable role that marriage plays in childrearing and in generational continuity.⁴⁹

And from this nexus between marriage and children springs the true source of society's interest in safeguarding the institution of marriage:

Simply defined, marriage is a relationship within which the community socially approves and encourages sexual intercourse and the birth of children. It is society's way of signaling to would-be parents that their long-term relationship is socially important—a public concern, not simply a private affair.⁵⁰

That, then, is why we have marriage laws. Were it not for the possibility of begetting children inherent in heterosexual unions, society would have no particular interest in encouraging citizens to come together in a committed relationship. But because America, like nearly every known human society, is concerned about its children, our government has a special obligation to ensure that we preserve and protect the institution of marriage.

There are two standard attacks on this rationale for opposing a redefinition of marriage to include homosexual unions. First, it is noted that society permits heterosexual couples to marry regardless of whether they intend or are even able to have children.⁵¹ But this is not a serious argument. Surely no one would propose requiring couples intending to marry to submit to a medical examination to determine whether they can reproduce, or to sign a pledge indicating that they intend to do so. Such steps would be both offensive and unworkable. Rather, society has made the eminently sensible judgment to permit heterosexuals to marry, notwithstanding the fact that some couples cannot or simply choose not to have children.

Second, it will be objected that there are greater threats to marriage and families than the one posed by same-sex "marriage," the most prominent of which is divorce. There is great force in this argument—as the Council on Families has noted:

The divorce revolution—the steady displacement of a marriage culture by a culture of divorce and unwed par-

⁴⁹ "Marriage in America: A Report to the Nation" 10 (Council on Families in America 1995), reprinted in David Popenoe, et al., eds., "Promises To Keep: Decline and Renewal of Marriage in America" 303 (Rowman & Littlefield 1996).

⁵⁰ *Id.*; see also Arkes Prepared Statement at 12 ("We do not need a marriage to mark the presence of love, but a marriage marks something matchless in a framework for the begetting and nurturance of children. It means that a child enters the world in a framework of lawfulness, with parents who are committed to her care and nurturance for the same reason that they are committed to each other."); Barbara Dafoe Whitehead, "The War Between the Sexes," *The American Enterprise* 26 (May/June 1996) ("Marriage is the central cultural resource for reconciling men and women's separate natures and different reproductive strategies. Indeed, the most important purpose of marriage is to unite men and women in a formal partnership that will last through the prolonged period of dependency of a human child."); Hillary Rodham Clinton, "It Takes a Village" 50 (Simon & Schuster 1995) ("Although the nuclear family, consisting of an adult mother and father and the children to whom they are biologically related, has proven the most durable and effective means of meeting children's needs over time, it is not the only form that has worked in the past or the present.")

⁵¹ See, e.g. Sullivan Prepared Statement at 4 ("You will be told that marriage is only about the rearing of children. But we know that isn't true. We know that our society grants marriage licenses to people who choose not to have children, or who, for some reason, are unable to have children.")

enthood—has failed. It has created terrible hardships for children, incurred insupportable social costs, and failed to deliver on its promise of greater adult happiness. The time has come to shift the focus of national attention from divorce to marriage and to rebuild a family culture based on enduring marital relationships.

But the fact that marriage is embattled is surely no argument for opening a new front in the war. Indeed, it is precisely now, when marriage and the family are most in need of nurturing and care, that we should be most wary of conducting new experiments with the institution. As William Bennett, commenting on same-sex "marriage," has observed:

The institution of marriage is already reeling because of the effects of the sexual revolution, no-fault divorce and out-of-wedlock births. We have reaped the consequences of its devaluation. It is exceedingly imprudent to conduct a radical, untested and inherently flawed social experiment on an institution that is the keystone in the arch of civilization.⁵²

In short, government has an interest in defending and nurturing the institution of traditional marriage, and H.R. 3396 advances that interest.⁵³

B. H.R. 3396 ADVANCES THE GOVERNMENT'S INTEREST IN DEFENDING TRADITIONAL NOTIONS OF MORALITY

There are, then, significant practical reasons why government affords preferential status to the institution of heterosexual marriage. These reasons—procreation and child-rearing—are in accord with nature and hence have a moral component. But they are not—or at least are not necessarily—moral or religious in nature.

For many Americans, there is to this issue of marriage an overtly moral or religious aspect that cannot be divorced from the practicalities. It is true, of course, that the civil act of marriage is separate from the recognition and blessing of that act by a religious institution. But the fact that there are distinct religious and civil components of marriage does not mean that the two do not intersect. Civil laws that permit only heterosexual marriage reflect and honor a collective moral judgment about human sexuality. This

⁵² Bennett, *The Washington Post*, May 21, 1996, at A19.

⁵³ Closely related to this interest in protecting traditional marriage is a corresponding interest in promoting heterosexuality. While there is controversy concerning how sexual "orientation" is determined, "there is good reason to think that a very substantial number of people are born with the potential to live either gay or straight lives." E.L. Pattullo, "Straight Talk About Gays," *Commentary* 21 (December 1992). "[R]eason suggest[s] that we guard against doing anything which might mislead wavering children into perceiving society as indifferent to the sexual orientation they develop." *Id.* at 22; see also Bennett, *The Washington Post* A19 (May 21, 1996) ("Societal indifference about heterosexuality and homosexuality would cause a lot of confusion."); Deneen L. Brown, "Teens Ponder: Gay, Bi, Straight? Social Climate Fosters Openness, Experimentation," *The Washington Post* A1 (July 15, 1993) (recounting interviews with dozens of teenagers, school counselors, and parents regarding increased "sexual identity confusion" apparently reflecting increasing social acceptance of homosexuality). Maintaining a preferred societal status of heterosexual marriage thus will also serve to encourage heterosexuality, for as Dr. Pattullo notes, "to the extent that society has an interest both in reproducing itself and in strengthening the institution of the family . . . there is warrant for resisting the movement to abolish all societal distinctions between homosexual and heterosexual." Pattullo, *Commentary* at 23.

judgment entails both moral disapproval of homosexuality,⁵⁴ and a moral conviction that heterosexuality better comports with traditional (especially Judeo-Christian) morality. As Representative Henry Hyde, the Chairman of the Judiciary Committee, stated during the Subcommittee markup of H.R. 3396: "[S]ame-sex marriage, if sanctified by the law, if approved by the law, legitimates a public union, a legal status that most people . . . feel ought to be illegitimate. . . . And in so doing it trivializes the legitimate status of marriage and demeans it by putting a stamp of approval . . . on a union that many people . . . think is immoral."⁵⁵

It is both inevitable and entirely appropriate that the law should reflect such moral judgments. H.R. 3396 serves the government's legitimate interest in protecting the traditional moral teachings reflected in heterosexual-only marriage laws.

C. H.R. 3396 ADVANCES THE GOVERNMENT'S INTEREST IN PROTECTING STATE SOVEREIGNTY AND DEMOCRATIC SELF-GOVERNANCE

The Committee is struck by the fact that this entire issue of same-sex "marriage," like so much of the debate related to matters of sexual morality, is being driven by the courts. Of course, by declaring the right to an abortion to be constitutionally protected, the federal courts have largely assumed control over the course of abortion law in this country. And whether one agrees or disagrees with the Court's jurisprudence in that area, all must concede that as the degree of court involvement increases, to that extent democratic self-governance over such matters is diminished.

In some contexts, of course, it is legitimate for courts to take precedence over decision-making by the representative branches of government. But what is most troubling in a representative democracy is the tendency of the courts to involve themselves far beyond any plausible constitutionally-assigned or authorized role. As Professor Arkes testified before the Subcommittee on the Constitution, in the area of sexual morality, "we have a campaign [being] waged to transform the culture through the law, or through the control of the courts." He suggests, further, that this "program of cultural change cannot be accompanied through legislatures and elections."

No voting public in this country has ever voted to install abortion on demand at every stage of pregnancy, and it is hard to imagine a scheme of same-sex marriage voted in

⁵⁴ See, e.g., *Bowers v. Hardwick* 478 U.S. 186, 196 (1986) (rejecting constitutional challenge to Georgia law criminalizing homosexual sodomy and holding that the law served the rational purpose of embodying "the presumed belief of a majority of the electorate in Georgia that homosexual sodomy is immoral and unacceptable."); "The Homosexual Movement; A Response by the Ramsey Colloquium," *First Things* 15 (March 1994) (noting that "the Jewish and Christian traditions have, in a clear and sustained manner, judged homosexual behavior to be morally wrong").

⁵⁵ "Markup Session: H.R. 3396, the Defense of Marriage Act," Committee on the Judiciary, Subcommittee on the Constitution, 104th Cong., 2d Sess. 87 (May 30, 1996) (Statement of Chairman Hyde); see also Remarks by President Bill Clinton at the National Prayer Breakfast, 32 Weekly Comp. Pres. Doc. 135 (Feb. 5, 1996) (emphasis added).

[We know that ultimately this is an affair of the heart—an affair of the heart that has enormous economic and political and social implications for America, but, most importantly, has moral implications, because families are ordained by God as a way of giving children and their parents the chance to live up to the fullest of their God-given capacities. And when we save them and strengthen them, we overcome the notion that self-gratification is more important than our obligations to others; we overcome the notion that is so prevalent in our culture that life is just a series of response to impulses, and instead is a whole pattern, with a fabric that should be pleasing to God.]

by the public in a referendum. These things must be imposed by the courts, if they are to be imposed at all, and that concert to impose them has been evident, on gay rights, over the past few years.⁵⁶

The Defense of Marriage Act is motivated in part by a desire to protect the ability of elected officials to decide matters related to homosexuality, Again, Professor Arkes captures the point:

Against the concert of judges, remodeling on their own laws on marriage and the family, the Congress weighs in to supply another understanding, and a rival doctrine. But it happens, at the same time, to be an ancient understanding and a traditional doctrine. The Congress would proclaim it again now, and suggest that the courts take their bearing anew from this doctrine, state anew, brought back and affirmed by officers elected by the people.⁵⁷

By taking the Full Faith and Credit Clause out of the legal equation surrounding the Hawaiian situation, Congress will to that extent protect the ability of the elected officials in each State to deliberate on this important policy issue free from the threat of federal constitutional compulsion.

The Committee was favorably impressed by Rep. Tom's testimony on this point of democratic self-governance:

. . . I do know this: No single individual, no matter how wise or learned in the law, should be invested with the power to overturn fundamental social policies against the will of the people.

If this Congress can act to preserve the will of the people as expressed through their elected representatives, it has the duty to do so. If inaction by the Congress runs the risk that a single judge in Hawaii may re-define the scope of federal legislation, as well as legislation throughout the other forty-nine states, *failure to act is a dereliction of the responsibility you were invested with by the voters.*⁵⁸

And again:

Changes to public policies are matters reserved to legislative bodies, and not to the judiciary. It would indeed be a fundamental shift away from democracy and representative government should a single justice in Hawaii be given the power and authority to rewrite the legislative will of this Congress and of the several states, based upon a fun-

⁵⁶ Arkes Prepared Statement at 18. Professor Arkes' statement was prepared before the Supreme Court issued its decision in *Romer v. Evans*, 116 S. Ct. 1620 (1996), a decision that must serve as Exhibit A is supported of the phenomenon he describes. See *infra* "A Short Note on *Romer v. Evans*"; see also *Romer*, slip op. at 1 (Scalia, J., dissenting) ("The Court has mistaken a Kulturkampf for a fit of spite."); *id.* at 2 ("Since the Constitution of the United States says nothing about this subject, it is left to be resolved by normal democratic means, including the democratic adoption of provisions in state constitutions. This Court has no business imposing upon all Americans the resolution favored by the elite class from which the Members of this institution are elected, pronouncing that 'animosity' toward homosexuality is evil.")

⁵⁷ Arkes Prepared Statement at 25; see also *id.* at 26 ("The Congress, with this move, brings this issue back into a public arena of deliberation; it makes this a subject of discussion on the part of citizens, and not merely of judges and lawyers.")

⁵⁸ Tom Prepared Statement at 3 (emphasis added).

damentally flawed interpretation of the Hawaii State Constitution.

Federal legislation to prevent this result is both necessary and appropriate.⁵⁹

The Committee fully endorses the views expressed by Rep. Tom. It is surely a legitimate purpose of government to take steps to protect the right of the people, acting through their state legislatures, to retain democratic control over the manner in which the States will define the institution of marriage. H.R. 3396 advances this most important government interest.

D. H.R. 3396 ADVANCES THE GOVERNMENT'S INTEREST IN PRESERVING SCARCE GOVERNMENT RESOURCES

Government currently provides an array of material and other benefits to married couples in an effort to promote, protect, and prefer the institution of marriage. While the Committee has not undertaken an exhaustive examination of those benefits, it is clear that they do impose certain fiscal obligations on the federal government.⁶⁰ For example, survivorship benefits paid to the surviving spouse of a veteran of the Armed Services plainly cost the federal government money.

If Hawaii (or some other State) were to permit homosexuals to "marry," these marital benefits would, absent some legislative response, presumably have to be made available to homosexual couples and surviving spouses of homosexual "marriages" on the same terms as they are now available to opposite-sex married couples and spouses. To deny federal recognition to same-sex "marriages" will thus preserve scarce government resources, surely a legitimate government purpose.

HEARINGS

The Committee's Subcommittee on the Constitution held one day of hearings on H.R. 3396 on May 15, 1996. Testimony was received from thirteen witnesses: Honorable Terrance W.H. Tom, Hawaii State House of Representatives; Honorable Edward Fallon, Iowa State House of Representatives; Honorable Marilyn Musgrave, Colorado State House of Representatives; Honorable Ernest Chambers, Nebraska State Senate; Honorable Deborah Whyman, Michigan State House of Representatives; Hadley Arkes, Ney Professor of Jurisprudence and American Institutions, Amherst College; Andrew Sullivan, Editor, *The New Republic*; Dennis Prager, Author and Radio Talk Show Commentator, KABC/Los Angeles; Nancy McDonald, Tulsa, Oklahoma; Lynn Wardle, Professor of Law, Brigham Young University Law School; Elizabeth Birch, Executive Director, Human Rights Campaign; Rabbi David Saperstein, Director, Religious Action Center, Union of American Hebrew Congregations; Jay Alan Sekulow, Chief Counsel, American Center For Law and Justice; with additional material submitted by Maurice Holland, Professor of Law, University of Oregon School of Law.

⁵⁹ Tom Prepared Statement at 4.

⁶⁰ For a partial list of federal government programs that might be affected by state recognition of same-sex "marriage," see "Compilation and Overview of Selected Federal Laws and Regulations Concerning Spouses," American Law Division, Congressional Research Service to the Honorable Tom DeLay, June 20, 1996.

COMMITTEE CONSIDERATION

On May 30, 1996, the Subcommittee on the Constitution met in open session and ordered reported the bill H.R. 3396, by a vote of 8 to 4, a quorum being present. On June 11 and 12, 1996, the Committee met in open session and ordered reported favorably the bill H.R. 3396 without amendment by a vote of 20 to 10, a quorum being present.

VOTE OF THE COMMITTEE

The committee then considered the following amendments, none of which was adopted.

1. An amendment by Mr. Frank to strike the definition of "marriage" and "spouse" (Section 3) from the bill. The amendment was defeated by a 13-19 rollcall vote.

ROLLCALL VOTE NO. 1

AYES

Mr. Flanagan
Mr. Conyers
Mrs. Schroeder
Mr. Frank
Mr. Berman
Mr. Reed
Mr. Nadler
Mr. Scott
Mr. Watt
Mr. Becerra
Ms. Lofgren
Ms. Jackson-Lee
Ms. Waters

NAYS

Mr. Hyde
Mr. Moorhead
Mr. Sensenbrenner
Mr. McCollum
Mr. Gekas
Mr. Coble
Mr. Smith (TX)
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Barr
Mr. Boucher

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March 8, 1995

MEMORANDUM

TO: Representative Norman Rokeberg

FROM: Carol R. Vandor
Legislative Analyst

RE: **Legislative History of AS 25.05.011 (Requirements for Marriage)**
Research Request 95.152

You asked for a legislative history of AS 25.05.011 which addresses marriage requirements. Alaska Statute 25.05.011 states that marriage is a civil contract requiring a license and solemnization which may be entered into by a person who is 18 years of age or older; those who qualify for a license under section 171¹; or a member of the armed forces of the U.S. while on active duty.

This provision has been simplified over the years. Initially, it established a minimum age for a *male* as 21 years and for a *female* as 18 years. In 1970 the minimum age of a male was lowered to 19. In 1974 the legislature amended the law again to specify that a *person*, rather than a male or female, be at least 19 years of age. A year later the minimum age was lowered to 18, and members of the armed forces on active duty were included.

Alaska Statute 25.05.011 traces its origin to a territorial law (§ 21-1-1) which read

Marriage is a civil contract, which may be entered into by males of the age of twenty-one years, and females of the age of eighteen years who are otherwise capable; provided, however, that no person shall be joined in marriage in this Territory until a license shall have been obtained for that purpose from a duly appointed and qualified United States Commissioner, or Marriage Commissioner as provided by Section 1211, Compiled Laws of Alaska, 1933 [§ 21-1-31 herein]. That nothing in Section 1189, Compiled Laws of Alaska, 1933, as amended [§ 21-1-11 herein], shall prevent a Marriage Commissioner from issuing a marriage license.

¹AS 25.05.171 addresses persons capable of consenting to marriage, minimum ages, and consent of parents or guardian.

After statehood, the legislature began to adopt territorial¹ laws as Alaska statutes. The territorial law was revised somewhat and formally adopted as a state law by Chapter 1 SLA 1963. It was renumbered as AS 25.05.010 which read

Marriage is a civil contract, which may be entered into by males of the age of 21 years, and females of the age of 18 years who are otherwise capable. However, no person shall be joined in marriage in the state until he obtains a license from a person authorized by law to issue marriage licenses.

Section 1, Chapter 58 SLA 1963, repealed AS 25.05.010 and enacted AS 25.05.011 as follows:

- (a) Marriage is a civil contract requiring both a license and solemnization which may be entered into by
 - (1) a male who is 21 years of age or older with a female who is 18 years of age or older, who are otherwise capable, or
 - (2) those who qualify for a license under sec. 171 of this chapter.
- (b) No person may be joined in marriage in this state until a license has been obtained for that purpose as provided in this chapter. No marriage performed in this state is valid without solemnization as provided in this chapter.

Section 9, Chapter 245 SLA 1970 amended AS 25.05.011(a)(1) to read (emphasis added):

- (a) Marriage is a civil contract requiring both a license and solemnization which may be entered into by
 - (1) **a male who is 19 years of age or older with a female who is 18 years of age or older, who are otherwise capable, or**
 - (2) those who qualify for a license under § 171 of this chapter.
- (b) No person may be joined in marriage in this state until a license has been obtained for that purpose as provided in this chapter. No marriage performed in this state is valid without solemnization as provided in this chapter.

Section 92, Chapter 127 SLA 1974 amended AS 25.05.011(a)(1) to read (emphasis added):

- (a) Marriage is a civil contract requiring both a license and solemnization which may be entered into by
 - (1) **a person who is 19 years of age or older, who is otherwise capable, or**
 - (2) those who qualify for a license under § 171 of this chapter.
- (b) No person may be joined in marriage in this state until a license has been obtained for that purpose as provided in this chapter. No marriage performed in this state is valid without solemnization as provided in this chapter.

Representative Rokeberg

March 8, 1995

Page 3

Section 1, Chapter 28 SLA 1975 amended AS 25.05.011(a) to read (emphasis added):

(a) Marriage is a civil contract requiring both a license and solemnization which may be entered into by

(1) **a person who is 18 years of age or older, who is otherwise capable, or**

(2) those who qualify for a license under § 171 of this chapter, or

(3) **a member of the armed forces of the United States while on active duty.**

(b) No person may be joined in marriage in this state until a license has been obtained for that purpose as provided in this chapter. No marriage performed in this state is valid without solemnization as provided in this chapter.

Minor revisions were made in the law after 1977. Alaska Statute 25.05.011 currently reads (emphasis added):

(a) Marriage is a civil contract requiring both a license and solemnization that may be entered into by

(1) a person who is 18 years of age or older, who is otherwise capable,

(2) those who qualify for a license under AS 25.05.171, or

(3) a member of the armed forces of the United States while on active duty.

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

Copies of the session laws and the replacement statutes are attached. We hope this information is useful to you. If we may be of further assistance, please contact this office.

Attachments

JUNEAU EMPIRE

Alaska should ban same-sex marriages

While Hawaii argues its case in court against issuing marriage licenses to same sex-couples and California flirts with the issue by setting up "domestic partner registries," legislators here have been considering a bill that would outlaw such marriages in Alaska.

On Thursday, the Senate approved the legislation, Senate Bill 308, by a 16-3 margin.

Juneau Democrat and Senate Minority Leader Jim Duncan, who opposes same-sex marriages, voted against the bill because, he said, such marriages already are prohibited by state law.

"We're really correcting a nonproblem," he said. "I really think this causes a controversy that doesn't need to be caused."

But proponents argue the bill is necessary because it extends the prohibition to include marriages in other states.

Anchorage Sen. Loren Leman, who supports the measure, said, "It's important that be clearly stated as Alaska public policy."

Similar legislation is being considered in 15 other states because of the Hawaii court case that could legalize same-sex marriages. Three already have passed such laws.

Opponents claim the bill is an anti-gay proposal, while supporters say it reaffirms the moral value of traditional marriages - those entered into by one man and one woman - and provides protection against lawsuits like the one in Hawaii.

Daniel Collison of the Southeast Alaska Gay and Lesbian Alliance said the measure was an attempt to legislate sexual preference.

"Does Senator Leman think that I and every other gay man and lesbian are going to go back into the closet and maintain the front of a heterosexual relationship?" Collison said. "The reality is more gay men and lesbians are coming out of the closet."

Every adult individual has a right to express his or her own sexual preference within certain limits. It is the matter of a state-sanctioned practice with which we have a concern.

The Juneau Empire supports this bill. For more than 200 years, this country's marriage laws have undergirded traditional one man-one woman marriages. In the 19th century, adherents to the Mormon faith practiced polygamy; that practice, however, was contrary to American tradition and laws were written to ban it. Even today, polygamy persists in other religions and cultures, but it remains banned in the United States. While religious freedom is an American tenet, courts and the Congress have limited certain practices when they are not deemed to be in the best interest of the family or society in general.

Likewise, the tradition of one man-one woman marriages is a strongly held one in this country. National polls have indicated nearly two-thirds of the American public opposes same-sex marriages. While others may differ from our views, we are not obligated to embrace their beliefs and practices, or make them a part of our legal system. Tradition is an integral part of our body of laws; those laws reflect the majority culture and the state has a right - no, an obligation - to write legislation that undergirds and protects it.

Alaska should continue to protect and reinforce the tradition of one man-one woman marriage; it is in the best interest of the larger culture. We urge the House to follow the Senate's example and pass this bill.

they were not entitled to two-step merit increases after they received outstanding evaluations. Although the employees' union contract provided only for one-step increases, the employees contend that they should have received two-step increases because the Personnel Rules allow two-step increases. Briefing in this appeal should be complete by June. AAG David Jones represents the state in this matter.

National Guard Employment Case Dismissed

We successfully moved to dismiss George Carpenter's case filed against the Department of Military and Veteran's Affairs. Mr. Carpenter claimed that DMVA failed to follow federal regulations on promotion of National Guard Members. Mr. Carpenter claimed that he was wrongfully denied promotion in the Guard and therefore retired at a lower grade than he should have attained, and received a smaller pension that he should have received. We filed a comprehensive motion to dismiss raising defenses relating to jurisdiction, justiciability, military immunity, and failure to exhaust administrative remedies. On January 16, 1998, Judge Sen Tan granted our motion to dismiss, in part. The court agreed that Mr. Carpenter had failed to exhaust his administrative remedies available from the Army Board for the Correction of Military Records. Judge Tan dismissed the case without prejudice so that Mr. Carpenter could pursue his administrative remedies in proceedings before the ABCMR. As the prevailing party we have filed a motion for costs and attorney's fees using the DOLaw "market rate" standard for attorney's fees. This case was handled by AAG Sarah Felix.



Court Rules Right to Choose Marriage Partner is Fundamental

In the case challenging the constitutionality of the statutory prohibition on same-sex marriage, the superior court in Anchorage rendered a major ruling in favor of the plaintiffs. The court held in essence that the same-sex plaintiffs had a basic right to be married, and that the prohibition would fall unless the state could show a

compelling interest in it. Under constitutional analysis, the requirement to show a compelling interest is extremely difficult." In ruling as it did, the court ignored the state's arguments that the history of the Alaska Constitution and marriage in Alaska established that the constitution should not be interpreted as granting any right to same-sex marriage.

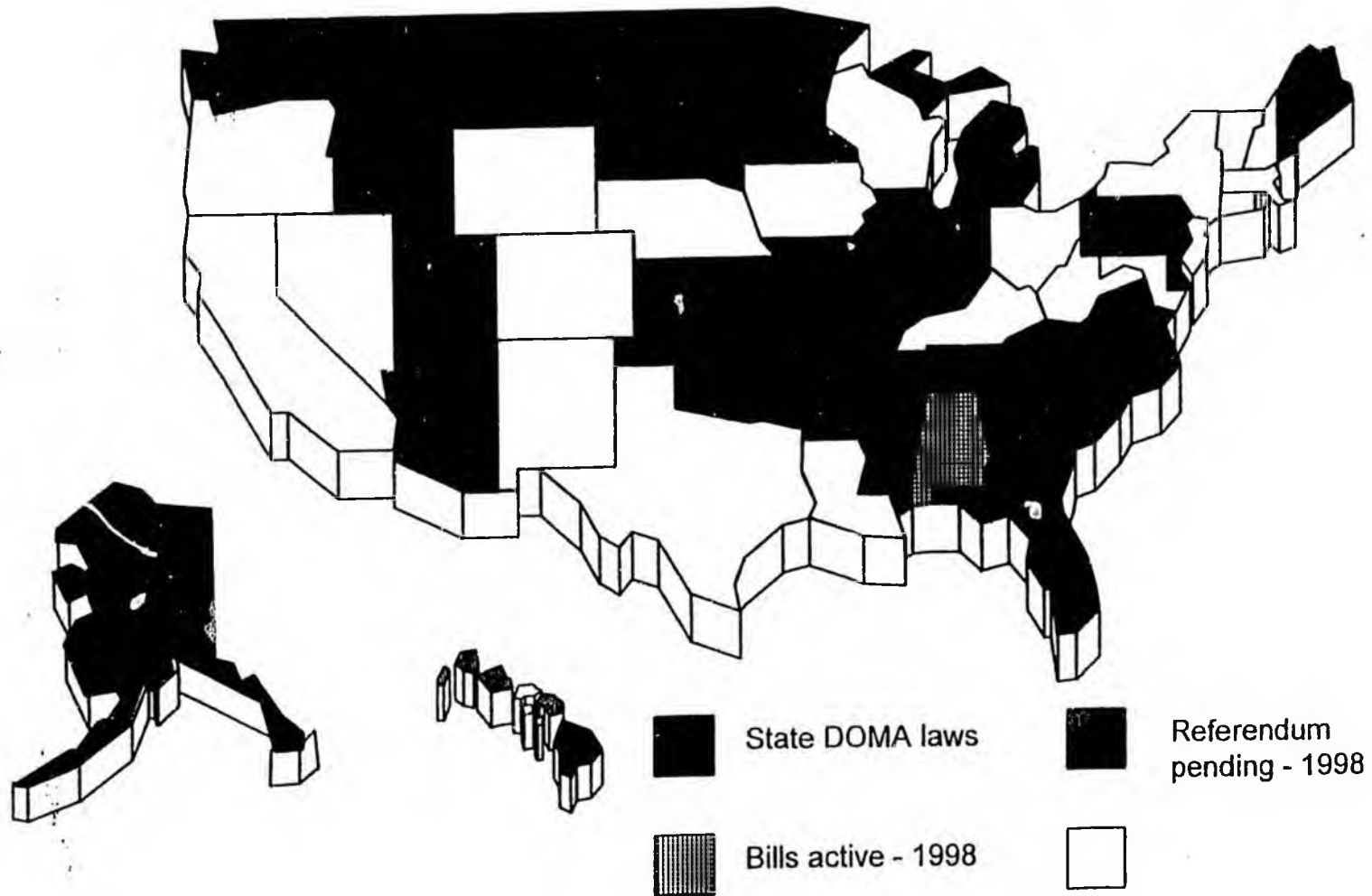
The state has filed a petition for review with the Alaska Supreme Court, asking the court to review the superior court's ruling on compelling state interest prior to the trial that the superior court ordered. In addition, the legislature, in response to the superior court's ruling, is moving on a constitutional amendment, to appear on the November general election ballot, that would place a prohibition on same-sex marriage in the Alaska Constitution. If that amendment passes the legislature and is approved by the electorate, it would bring this case to an end. This case is being handled by AAG John Gaguine

Human Services Section

Fairbanks Human Services Completes Termination Trials

The Fairbanks' office continues to be very busy with numerous court hearings and trials. AAG McKinney, after completing a relatively short termination trial in Barrow, returned to a six-day termination trial in Fairbanks. AAG Taylor-Welsh also just completed a ten-day termination trial. While all three trials involved long-term substance abuse by the parents and a history of incarceration of a least one of the parents, Ms. McKinney's second termination trial presented an interesting issue — whether the state was moving too quickly to termination. That case involved two infants, an eighteen month old who had been in custody since he was eight months old and his eight month old brother who had been in custody since birth. The parents argued, in essence, that the termination petition should be

State Defense of Marriage (DOMA)



Senate Floor Statement in Support of SJR 42

Senator Loren Lemman (R-Anchorage)

Thursday, April 16, 1998

Juneau, Alaska

Mr. President, Senate Joint Resolution 42 will give Alaska voters the opportunity to decide the definition of the institution of marriage, and protect it in our constitution.

Why are we here today? I think all of us are aware that less than seven weeks ago, in the case of *Brause & Dugan vs. State of Alaska*, Superior Court Judge Peter Michalski discovered in the state constitution a right to "choose a life partner." In a decision rich with ironies, he concluded that the state's "failure... to provide *public* recognition" of a person's homosexual relationship is contrary to the state constitution's right to *privacy*.

The Senator from downtown Anchorage [Johnny Ellis] talked about what he calls the "premature action" of this body in considering this resolution. Let me remind the members that the state of Hawaii has dealt with this for the past four years, in litigation going back and forth between its superior court and its supreme court. And it is just this year that its legislature is placing on the ballot, for a vote this fall, the very same issue. The same will hold true in Alaska – this could be tied up for years in litigation, along with all the costs associated with it.

Judge Michalski's decision set in motion a chain of events that could result in Alaska becoming the first and only political jurisdiction in the world to recognize marriage between homosexuals. No other state in the country recognizes homosexual marriage.

The federal government, in a bill signed by President Clinton, defines marriage as being a union that can exist only between one man and one woman. And I note this definition is controlling on more than 3,900 sections of federal statutes and regulations.

Marriage is a cultural institution with profound importance. Our existing definition, or one similar to it, is one that has served us through more than 6,000 years of recorded history. I recognize that there have been aberrations from this, even in our country. For a short time, in one territory, there was an experiment with polygamy. But over time, especially in the Western world, this has been the tradition.

Redefining the institution of marriage – even if that were possible – raises probably hundreds of cultural and legal questions. And I believe decisions of this magnitude should

be made either by the representatives of the people of Alaska, or the people of Alaska, not by unelected judges.

Some have suggested that the motivation behind this resolution, and also Senate Bill 308 that we had before us two years ago, is to discriminate against homosexuals, to deny them rights and protections they deserve under the law. That is just not true.

A plain reading of the amendment shows that it offers constitutional protection to the marriage statute that this Legislature approved by overwhelming margins. Senate Joint Resolution 42 protects the statute we enacted in 1996 – nothing more, and nothing less. And any other interpretation of the motives behind the amendment is simply not true.

The marriage relationship has enjoyed preferred status in the Western legal tradition because of the unique social benefits it offers. William Bennett, well-known author of the *Book of Virtues*, which perhaps many of you have read or are aware of, recently wrote that

“Marriage is not an arbitrary construct; it is an ‘honorable estate’ based on the different, complementary nature of men and women – and how they refine, support, encourage, and complete one another.”

He further stated that the recognition of homosexual marriages “would be the most radical step ever taken in the deconstruction of society’s most important institution.”

Mr. President, I submit that Judge Michalski is attempting to redefine something that really is impervious to redefinition. We can no more redefine marriage than we can redefine gender. I accept that reality. Judge Michalski does not. And that is why we are here today.

Some critics have said that if this amendment is sent to Alaska’s voters for ratification, it will lead to a long, divisive debate with a lot of hateful rhetoric. I respectfully disagree – it doesn’t need to be that way.

In the last month, I’ve had the opportunity to participate in statewide debates on this subject. One of them was on television, and one yesterday was on radio. I debated a [homosexual] activist, an attorney from Anchorage who is a very intelligent woman, and we were able to conduct a debate that was civil. And for the most part, the questions from people who called in were the same, even when people had strong beliefs on the issue.

We’ve seen that people can get very emotional about issues before the Legislature. But that’s not a reason for not taking on an issue. In fact, I believe that this issue has probably generated more messages, more calls, more interest than anything else that we have before the Legislature today.

The issue of marriage is clearly important to many Alaskans. The people of Alaska deserve a chance to discuss and debate this issue – and I believe that it can and must be done with civility, and with respect for the dignity of all people.

Mr. President, I thought about this, and thought about digressing into some personal observations. It's not always easy to do that, because sometimes that strikes really close to home. But in light of the messages that I've received, and suggestions by some that I don't understand their lifestyle, that somehow I'm motivated by hate or fear, I just want to share something from my own past, from my own family.

I recognize that this can be, for some, a difficult issue. Although it's a difficult issue to take on, I support it, as do many people in this body [the Senate]. But I do it because I believe in it. I believe this is one of the most important actions that we can take in this Legislature.

I've been troubled by accusations from some critics who question my motives. I have received hateful messages. I've received very, very perverse messages, some that I wouldn't even share with my own staff, they were so bad. I don't attribute that to the people who are in the gallery today who are watching this, or perhaps the people who are watching on TV. I believe that is the result of a very few people, and I also recognize that there are people who are supporters of this who are capable of doing the same thing. I don't condone that, I don't encourage it, and I hope that it doesn't happen.

I have a few relatives – members of my extended family – who are homosexuals. My distant cousin is not an enemy. We love him. He's a member of what we call "Agrafena's children." That's the name we've given to our extended family. It comes from our Alutiq ancestor – our "great-great-great-great grandmother" who was married in Kodiak 200 years ago. And now our extended family not only is all around Alaska, but it's in other parts of the world.

I have another cousin who was a homosexual, and he recently died. And as I reflect on my adult life, I can think back in recent years to three men who were friends of mine who were homosexuals. And unfortunately, all three of them are dead today. Two of them died of AIDS, tragically.

In the past decade, I've made the acquaintance of another man who formerly was a homosexual, but he abandoned that lifestyle. Sadly, he too is dying of AIDS.

I mention these things, because I believe it's important for the public – and for us – to understand that we don't operate in a vacuum or debate these issues in a vacuum. I doubt there is a single member of this Senate who doesn't have a friend or relative who is a

homosexual. But even when we disagree with the moral choices another person makes, our relationship can still be rooted in love.

However, it is a false compassion to suggest that tolerance requires us to publicly recognize and sanction and confer special benefits on homosexual relationships.

I know there is an article in this morning's Anchorage paper about poll results. Recent polls tell us that 70 percent of Alaskans believe marriage should be limited to a union of one man and one woman.

I believe it is not appropriate for one superior court judge, and perhaps as few as three Supreme Court judges, all unelected, to redefine the institution of marriage and force it upon the 70 percent of Alaskans who don't want it redefined.

I'll close by reflecting on the words of Judge Andrew Kleinfeld on the Ninth Circuit Court of Appeals. I believe I shared this quote with the Senate earlier this year. In a dissenting opinion last year, he said:

"The Founding Fathers did not establish the United States as a democratic republic so that elected officials would decide trivia, while all great questions would be decided by the judiciary."

Mr. President, the definition of marriage is indeed one of the great questions of our time. It deserves to be resolved by the people and their elected representatives. SJR 42 will allow that process to happen. I encourage all my colleagues to support it.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,

Plaintiffs,

vs.

BUREAU OF VITAL STATISTICS,
ALASKA DEPARTMENT OF HEALTH
& SOCIAL SERVICES, and the
ALASKA COURT SYSTEM,

Defendants.

Case No. 3AN-95-6562 CI

RECEIVED

FEB 02 1998

Attorney General's Office
Juneau

MEMORANDUM AND ORDER

Plaintiffs Jay Brause and Gene Dugan are men who sought and have been denied a license to marry each other by the State of Alaska. They subsequently filed a complaint against the Bureau of Vital Statistics, the Alaska Department of Health and Social Services, and the Alaska Court System. Plaintiffs' action seeks a declaration establishing that the relevant statutes prohibiting same-gender marriage violate Alaska's Constitution, and an injunction that prevents the state from applying or enforcing the statutes. The parties both move for summary judgment. The plaintiffs seek a ruling on the level of scrutiny to be applied in review of the Marriage Code; the defendants move for complete summary judgment. The parties agree that the decisions before the court are purely issues of law.

The plaintiffs' present motion for summary judgment seeks a decision that the Code's prohibition implicates the privacy and equal protection provisions of the Alaska Constitution, thus

requiring a showing of a compelling state interest to withstand plaintiffs' claim that the Code's ban on same-sex marriage is unconstitutional.

The court finds that marriage, i.e., the recognition of one's choice of a life partner, is a fundamental right. The state must therefore have a compelling interest that supports its decision to refuse to recognize the exercise of this fundamental right by those who choose same-sex partners rather than opposite-sex partners.

STATEMENT OF FACTS

On August 4, 1994, Mr. Brause and Mr. Dugan completed and filed an application for a marriage license. The Office of Vital Statistics denied the application. Presiding Judge Karl Johnstone had previously issued a policy directive stating that "a marriage license shall not be issued for the purpose of marrying two persons of the same sex" since "marriage between two persons of the same sex is not contemplated by our statutory scheme." The parties agree that the directive correctly interpreted the Marriage Code as it existed at the time and that it is consistent with recent amendment of the Code.

Except for being of the same sex, plaintiffs have met all statutory requirements for obtaining a marriage license.

DISCUSSION

The current provision of the Alaska Marriage Code, A.S. 25.05.011(a), states: "Marriage is a civil contract entered into

by one man and one woman that requires both a license and a solemnization." A.S. 25.05.013 adds:

(a) A marriage entered into by persons of the same sex, either under common law or under statute, that is recognized by another state or foreign jurisdiction is void in this state, and contractual rights granted by virtue of the marriage, including its termination, are unenforceable in this state.

(b) A same-sex relationship may not be recognized by the state as being entitled to the benefits of marriage.

Brause and Dugan argue that the statutory ban on same-sex marriage violates the Alaska Constitution's guarantee of the right to privacy and equal protection.

The plaintiffs' motion challenges the very definition of marriage found in the Code. Though that definition contains notions with which many are familiar, for example, that marriage means the union of one man and one woman, that is not the end of the inquiry. Indeed, it is the definition of marriage itself which the court must test as a result of plaintiffs' challenge. It is not enough to say that "marriage is marriage" and accept without any scrutiny the law before the court. It is the duty of the court to do more than merely assume that marriage is only, and must only be, what most are familiar with. In some parts of our nation mere acceptance of the familiar would have left segregation in place. In light of Brause and Dugan's challenge to the constitutionality of the relevant statutes, this court cannot defer to the legislature or familiar notions when addressing this issue.

Before addressing the privacy and equal protection claims

presented, it is useful to first review the basic role of the state in marriage.

The state issues marriage licenses, solemnizes marriages and keeps a docket of applications for marriage licenses available for public review. The state also distributes basic information to applicants about the effects alcohol, drugs and battering can have upon a fetus. Other than that, the state does not become involved, except to require that the applicants be at least 18 years of age or, if minors, have the proper consents or be on active duty with the armed services. The Marriage Code now specifically prohibits same-sex marriage, bigamy and marrying anyone closer than one's first cousin. Applicants for marriage are under a duty to swear that the contemplated marriage meets the requirements of the law, give their names, relationship, occupations, ages (and, where appropriate, guardians), and give descriptions of any prior marriages and their dissolutions. The issuing officer has a duty to issue the license if "all requirements are met and there is no legal objection to the contemplated marriage, and neither party is under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding . . ." A.S. 25.05.111. The license is to issue after a three day waiting period and is good for three months thereafter. A.S. 25.05.091; A.S. 25.05.121.

This description of the state's role in marriage focuses on the establishment of the marriage itself and is not inclusive, nor is it intended to be, of the many rights and consequences

established by the state on behalf of those who are married. Once married, the state provides benefits and imposes duties that are significant and valuable to society as well as to the individual members of the marriage. For a list of statutory benefits of marriage, see the appendix to plaintiffs' reply brief identified as "Revised Exhibit 4." Further evidence of the importance of marriage and the issuance of marriage licenses is found in A.S. 25.05.331 which makes it a misdemeanor to willfully and wrongfully refuse to issue a license.

Once the role of the state in creating and acknowledging marriages is recognized, the next step is to determine whether the state is infringing constitutionally protected rights in the way it exercises its power over marriage. The court must now test the legal definition of marriage to determine whether the definition itself, a definition that excludes persons of the same sex who want to marry, is constitutional. As further discussed below, the same principle that requires the state to have a compelling purpose before it can dictate choices related to personal appearance, requires the state to have a compelling purpose before it can define marriage to exclude partners of the same sex.

A. Right to Privacy

Alaska amended its Constitution in 1972 to explicitly guarantee the right to privacy. Article I, Section 22 reads in part: "The right of the people to privacy is recognized and shall not be infringed." Brause and Dugan contend that, insofar as the

above cited statutes prevent same-sex marriage, they violate Alaska's guarantee of the right to privacy.

Brause and Dugan cite two primary cases for their argument that a prohibition of same-sex marriage implicates an Alaskan's constitutional right to privacy. In Breese v. Smith, 501 P.2d 159 (Alaska 1972), the Alaska Supreme Court invalidated a high school hair length limitation and stated that the core of the concept of liberty is the right to control one's personal appearance or, more broadly, the right to be let alone. 501 P.2d at 166-67. Because the hair length requirement implicated such an important right, the Supreme Court required the school to show a compelling interest for its existence. When the school was unable to do so, the limitation was struck down.

Secondly, Brause and Dugan cite Ravin v. State, 537 P.2d 494 (Alaska 1974). The court in Ravin recognized a fundamental right to privacy in one's home and declared unconstitutional a state statute that prohibited marijuana possession by an adult for personal use in the home.

The plaintiffs' contention that their privacy is violated by a refusal of the State of Alaska to recognize and allow their marriage may not instinctively conform to common connotations of privacy, since, after all, they seek public recognition of a same-sex marriage. Privacy is commonly understood to mean seclusion, secrecy, or being left to one's personal affairs. These connotations of privacy may seem to make plaintiffs' claim of violation of privacy self-defeating, as the making public of a

relationship is not what one thinks of as the right to be let alone. Here Brause and Dugan claim a right to state recognition of their relationship. What they seek is clearly a public act and important for its public nature as much as for the other legal consequences which attend it.

Griswold v. Connecticut, 381 U.S. 479 (1965), demonstrates how government regulation can intrude improperly into the personal zone of intimacy protected by privacy. There the Supreme Court found that the state's prohibition of the distribution of information regarding contraceptives interfered with the right of marital partners to make intimate personal decisions about conceiving children and practicing birth control. The Court struck down the law for being an impermissible encroachment on the right to privacy. However, in Alaska, the history of the cases interpreting the right to privacy demonstrate that very public conduct may also be protected by the right to privacy, and that the right to privacy reaches beyond simple protection from government intrusion into one's intimate affairs.

Breese is an example of how government regulation improperly encroached on the exercise of the right to privacy and the public ramifications of that right. The Court held that hair length requirements of a public school interfered with the fundamental right of the student to determine his own personal appearance. According to the Court, the government could not interfere with the fundamental right to determine one's personal appearance - a right protected by privacy - without demonstrating a compelling state

interest. Though how one looks is a very public act, the decision about one's personal appearance is personal, and therefore protected by the right to privacy.

At stake here is whether same-sex marriage can be denied by the state without violating fundamental rights, including the fundamental right to privacy. It is undisputed that marriage between persons of opposite gender is a fundamental right. See, e.g., Griswold; Loving v. Virginia, 388 U.S. 1 (1967). The question presented by this case is whether the personal decision by those who choose a mate of the same gender will be recognized as the same fundamental right. Clearly, the right to choose one's life partner is quintessentially the kind of decision which our culture recognizes as personal and important. Though the choice of a partner is not left to the individual in some cultures, in ours it is no one else's to make. Indeed, the marriage license and the marriage ceremony themselves make clear that this must be a choice freely made by the individual. Certainly the choice of a life partner is as important and personal as the choices involved in determining one's personal appearance.

When the Supreme Court of Hawaii in Baehr v. Lewin, 852 P.2d 44 (Hawaii 1993), addressed same-sex marriage, it noted that:

[W]e do not believe that a right to same sex marriage is so rooted in the traditions and collective conscience of our people that failure to recognize it would violate the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions . . .

852 P.2d at 57.

The Hawaii court could reach such a conclusion because of the question it chose to ask. It is self-evident that same-sex marriage is not "accepted" or "rooted in the traditions and collective conscience" of the people. Were this not the case, Brause and Dugan and the plaintiffs in Baehr would not have had to file complaints seeking precisely this right. The relevant question is not whether same-sex marriage is so rooted in our traditions that it is a fundamental right, but whether the freedom to choose one's own life partner is so rooted in our traditions.

Here the court finds that the choice of a life partner is personal, intimate, and subject to the protection of the right to privacy. Failure of the state to provide public recognition of that private choice, whether it is the choice of a life partner of the opposite sex or of the same sex, is analogous to the unwillingness of the school in Breese to allow the presence of a student who made a personal choice to wear long hair.

Government intrusion into the choice of a life partner encroaches on the intimate personal decisions of the individual. This the Constitution does not allow unless the state can show a compelling interest "necessitating the abridgment of the . . . constitutionally protected right." Breese at 501 P.2d at 170.

B. Equal Protection

Brause and Dugan also assert that the relevant statutes deny them their rights as Alaskans to equal protection under the laws. Article I, Section 1 of the Alaska Constitution provides:

Inherent Rights. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal right, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Article I, Section 3 goes on to prohibit the denial of civil rights on the basis of certain classifications:

Civil Rights. No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex or national origin.

Whether a law violates the equal protection guarantees of the Alaska Constitution is determined by using the "sliding scale" test explained in State Dep't of Revenue v. Cosio, 858 P.2d 621, 629 (Alaska 1993):

[W]e apply a sliding scale under which the applicable standard of review for a given case is to be determined by the importance of the individual right asserted and by the degree of suspicion with which we view the resultant classification scheme. As the right asserted becomes more fundamental or the classification scheme employed becomes more constitutionally suspect, the challenged law is subjected to more rigorous scrutiny at a more elevated position on our sliding scale.

[Citations omitted].

Braune and Dugan argue that the statutes prohibiting same-sex marriage should be at the highest end of the sliding scale, and therefore require the most rigorous scrutiny, because they implicate the fundamental right to marry and because the classification scheme is based on sex.

1. The Fundamental Right to Choose One's Life Partner

There is no dispute that the right to marry is recognized as fundamental. Today the court has recognized that the personal choice of a life partner is fundamental and that such a choice may include persons of the same sex. When the United States Supreme Court first characterized the right to marry as fundamental in Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942), it linked the right to marry to the right to procreate, being faced, as it was, with a case involving the sterilization of prisoners. Similarly, in Zablocki v. Redhail, 434 U.S. 374 (1977), the court was faced with a law that required a marriage applicant to prove he was up to date on his child support for children of his previous marriage before he could obtain a marriage license. The court focused on the decision to marry and have children as deserving of at least the protection allowed a woman in deciding whether to seek an abortion or to raise a child in illegitimacy:

Surely, a decision to marry and raise a child in a traditional family setting must receive equivalent protection.

434 U.S. at 385.

The court thus recognizes that procreation has been an important part of the U.S. Supreme Court's decisions that have found the right to marry fundamental. However, just as the "decision to marry and raise a child in a traditional family setting" is constitutionally protected as a fundamental right, so too should the decision to choose one's life partner and have a recognized nontraditional family be constitutionally protected.

It is the decision itself that is fundamental, whether the decision results in a traditional choice or the nontraditional choice Brause and Dugan seek to have recognized. The same constitution protects both.

Thus, today's decision finds a person's choice of life partner to be a fundamental right. The consequence of this decision is that any limitations on this right are subject to the strict scrutiny standard established by the Alaska Supreme Court.

2. Classification Based on Sex

The court, having found the decision to choose one's life partner to be a fundamental right, has concluded that the strict scrutiny test applicable to fundamental rights applies to its review of the State's prohibition of same-sex marriages.

Were the right to choose one's life partner not fundamental, the court would need to determine whether the Code raised classification issues. Were this issue not moot, the court would find that the specific prohibition of same-sex marriage does implicate the Constitution's prohibition of classifications based on sex or gender, and the state would then be required to meet the intermediate level of scrutiny generally applied to such classifications. That this is a sex-based classification can readily be demonstrated: if twins, one male and one female, both wished to marry a woman and otherwise met all of the Code's requirements, only gender prevents the twin sister from marrying under the present law. Sex-based classification can hardly be more obvious.

CONCLUSION

Having found that the Marriage Code implicates constitutional provisions, the court grants the plaintiffs' motion for summary judgment. The state's motion for summary judgment is denied.

The parties are directed to set necessary further hearings to determine whether a compelling state interest can be shown for the ban on same-sex marriage found in the Alaska Marriage Code.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 27th day of February, 1998.

Peter A. Michalski

PETER A. MICHALSKI
Superior Court Judge

I certify that on:

2-27-98

a copy of the above was mailed to each of the following at their addresses of record.

M. Newby
Secretary/Clerk

R. Wagstaff
E. Lohay
AG-Caroline

SJR 42 TESTIMONY
HOUSE FINANCE COMMITTEE
May, 1998

My name is Marsha Buck and I am here to ask you to OPPOSE SJR 42. I am the co-chair of PFLAG Juneau. PFLAG stands for Parents, Families, and Friends of Lesbians and Gays. There are four active and growing PFLAG chapters here in Alaska. I am involved in PFLAG because I have a very wonderful, very bright bisexual daughter.

My daughter, Lys, is a foods microbiologist. She graduated from Chugiak High School up in Eagle River as salutatorian of her class. She met her partner, Liz, when she was at Oklahoma State finishing her masters degree. We could not have wished for a better spouse for our daughter. Liz is also bright and talented. She is a plant geneticist, a musician, and she makes gorgeous quilts. Lys and Liz are responsible women, active church members -- your ideal citizens.

Lys and Liz have done nothing to deserve hateful name calling. They have done nothing to warrant the possibility that they could lose their jobs without recourse to the law. They have done nothing to deserve the fact that neither of them can get health benefits from their jobs that cover them both. They have done nothing to deserve all the legal hassle and IRS hassle they are going through right now simply because they are buying their first home together. They have done nothing to deserve removal of their basic rights under the constitution, such as SJR 42 proposes.

Alaskans don't need to support same sex marriage to be able to see discrimination when it stares us in the face. Alaskans don't need to support same sex marriage to be able to understand that Lys and Liz will be hurt by the divisiveness and hateful rhetoric that will occur in our great state if SJR 42 ends up as a ballot measure. My wonderful daughter doesn't deserve what you are doing to her if you pass this resolution along. And to be honest, I don't think you don't need or want all the heated debate this resolution is going to continue to cause you if it is not stopped. Please do not send SJR 42 out of this committee.

Marsha Buck
8445 Kimberly St.
Juneau, AK 99801

I'm dismayed that
some people support
SYR42 as a "Christian
stance" - my faith was
based on
love & love
for all -
but how
could I
judge not
that I
be not
judged
by
you
myself
as yourself

SYR42 as a "Christian
stance" - my faith was
based on
love & love
for all -
but how
could I
judge not
that I
be not
judged
by
you
myself
as yourself

Pam Stathis

I was fortunate to move to Alaska
with my parents the year of statehood.
We immediately became part of the community
& the Chapel by the Lake. Over the years
I married, served the church as
a deacon and Stephen Minister, directed
the choir, taught 25 years in
the public schools, and raised
three wonderful children.

Three wonderful, individual children.
Each arrived with their own abilities,
personalities, gifts. They have been Boy
Scouts, paper boys, equestrians, debaters,
Merit Scholars, Young Soldier.

They are a lawyer, a banker, and a
high school student. They are married
& single. They attend church, volunteer
at homeless shelters, raise children. One
is gay.

I love them all. Which of them
should have fewer rights under the law?
I worry for them all. And I especially
fear for one. Our society laughs at gay
jokes. Gay bashing & subtle bigotry
are complicatedly endorsed. And the
state I love & that church personal

by
Pam

freedom is on the verge of an action
that will create extreme divisiveness.
The rhetoric will be ugly + hurtful.
My fears for all my children increase
at the prospect of a state vote on SJR 42.

This committee is in a position to
detect that danger. There are many issues
before the state that need the vote of
the people. This is not one of them.
It is the duty of the electorate + the
legislature to protect the rights of all
our citizens, of all our children.

None is less equal, less deserving,
or less loved by me or God.

4/12/98

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks, AK p①

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<i>Rose Pagh</i>	Rose Pagh	640 Gradwell Falls	475-3335	
<i>Anne-Natasha Pinney</i>	ANNE-NATASHA Pinney	510 Vnk Rd # 86215 Fbks	979-0073	Kalav76@hotmail.com
<i>Brian A Lawrence</i>	Brian A Lawrence	5618 S Lawrence St ^{Fairbanks} _{WA 98409}	475-8546	Blawrence@earthway.com
<i>Ilena Ifframet</i>	ILENA IFFRAMET	Box 81289 FBKX 99708	479-2136	liff@PCLNET.CC
<i>Wendy Buckholz</i>	Wendy Buckholz	Box 99707	356-1382	Stacks-23@Yahoo.com
<i>Mark Vaccari</i>	MARK VACCARI	PO Box 11 Siler AK 99775	474-8829	mday@palmer.ak.gov
<i>David R Buse</i>	David R Buse	5618 S. Lawrence ST Tacoma, WA 98409	475-8546	dbuse@northstar.net dlawrence@conleywy.com
<i>Jeffery D Walters</i>	Jeffery D Walters	P.O. Box 82708, Fbks. AK 99708	457-3876	wjhfdw@northstarak2.ak.us
<i>Crystal Miles</i>	Crystal Miles	3414 Shank Fbks AK 99709		
<i>Pat Cahill</i>	PAT CAHILL	P.O. Box 10003 Fbks AK 99706	478-7180	Ked@athleta.net
<i>Jose Guzman</i>	Jose Guzman	P.O. Box 70221 Fbks AK		
<i>Rolando A. Palu III</i>	ROLANDO A. PALU III	4347 9th St. #1 Ft. Wainwright		rpalu@msq.com.ak
<i>Banda Palu</i>	Banda Palu	4347 9th St. #1 Ft. Wainwright		
<i>Debbie Drong-Bork</i>	DEBBY DRONG-BORK	Box 333 ESTER AK 99729	479-3479	debb@northstar.ak.us
<i>Matthew Stevenson</i>	Matthew Stevenson	785 Wilcox Ave Fbks 99709	455-4567	
<i>Joseph A Dets</i>	Joseph A Dets	"	479-4569	
<i>John E Dubs</i>	John E Dubs	302 Condes + P.B. 99701	456-2048	

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 Fairbanks should save a copy and return to one of the following people or place: Rich Collins, Jeff Walters, Pete Pinney, Mark Schuber, Lisa Stanton, Nancy Killion, Mark Collins

4/12/98

Fairbanks, AK p(2)

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Coert OLMSTED</i>	COERT OLMSTED	PO 83716 99707		
<i>JANE ZEMER</i>	JANE ZEMER	PO Box 84223 99708		
<i>Lisa Sawyer</i>	Lisa Sawyer	PO Box 51236 FBX AK 99708		
<i>JENNIFER</i>	JENNIFER F. MARRS	PO BOX 70746 FBX AK 99707		
<i>Mark Schubauer</i>	Mark Schubauer	PO Box 87 Ester AK 99725		
<i>Heidi K. Benson</i>	Heidi K. Benson	PO Box 82774 FBX AK 99708		
<i>Laurie Aaronson</i>	Laurie Aaronson	PO Box 84564 FBX AK 99708		
<i>TYCHAN KEXFORD L.</i>	TYCHAN KEXFORD L.	510 YAKED 8507 FBX AK 99709		
<i>CAROL CUMMINGS</i>	CAROL CUMMINGS	305 Wedarwood Dr #A27 99701		
<i>Anita M. Lehr</i>	Anita M. Lehr	PO Box 84067 FBX AK 99708		
<i>BONNIE H. VAVIA</i>	BONNIE H. VAVIA	1101 O'CONNOR 99701	947-2167	
<i>Michael Solomon</i>	Michael Solomon	1721 University Hwy C-14		
<i>Paul Sumi</i>	Paul Sumi	196 Hilton Ave		
<i>Malika Hapen</i>	Malika Hapen	107 11th Ave FBX FBX	947-1163	
<i>TIMOTHY GREST</i>	TIMOTHY GREST	PO Box 8294 FBX AK 99708		TAG764503
<i>TACSHA MCGILMURY</i>	TACSHA MCGILMURY	1994 Badger		
<i>MARY EICHMAN</i>	MARY EICHMAN	1420 ACEY ST #3 FBX		eichman@pelame.com
<i>Robert Messer</i>	Robert Messer	P.O. Box 76234 FBX AK 99707	4526908	

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4/12/98

Fairbanks, AK p(3)

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	Cristina S. Norell	P.O. Box 81197 Fairbanks, AK 99708	458-7079	<i>[E-mail]</i>
<i>[Signature]</i>	Phil Caterer	837 9th Ave Fairbanks, AK 99701	457-2191	<i>[E-mail]</i>
<i>[Signature]</i>	Vladimir Reid	P.O. Box 75115 Fairbanks, AK 99775	456-4369	FFWAE@UAF.EDU
<i>[Signature]</i>	Mardi Medin	PO Box 82882 Fairbanks 99708	479.3427	fsm163@uaf.edu
<i>[Signature]</i>	Isaac Waldin	" "	"	fsw@uaf.edu
<i>[Signature]</i>	BARBARA H. PRESCOTT	835 7th Ave Fairbanks 99701	457-2923	bh@mosquitos.net.com
<i>[Signature]</i>	Leah Montezuma	P.O. Box 74368 Fairbanks 99707		AKCOLA@alaska.net
<i>[Signature]</i>	Lenora Epperson	PO Box 71834 Fairbanks AK 99701	458-0293	FEW@UAF.EDU
<i>[Signature]</i>	Carol L. Sullivan	1237 7th Ave Fairbanks 99701	457-7246	
<i>[Signature]</i>	A. Ruth Evers	P.O. Box 82156 Fairbanks 99708	474-5207	EWARE@uaf.edu
<i>[Signature]</i>	Jeffrey Wagner	731 Craig Ave Fairbanks 99701	907-474-8051	
<i>[Signature]</i>	Richard Kemnitz	P.O. Box 84784 Fairbanks 99708	457-9009	rkemnitz@polar.net.com
<i>[Signature]</i>	Stephen Stumacher	PO Box 82156 Fairbanks AK 99708	474-0088	STRSIC@uaf.edu
<i>[Signature]</i>	MARK TAYLOR	# 83711 Fairbanks, 99708		
<i>[Signature]</i>	Kathleen S. Kowalski	Box 551		
<i>[Signature]</i>	Andrew M. Koberg	PO Box 31350 Fairbanks AK 99708	479-0770	FSHME@UAF.EDU
<i>[Signature]</i>	Jonathan Kuckman	PO Box 82156 Fairbanks AK 99708		JKuckman@uaf.edu
<i>[Signature]</i>	Lissa Rebecca Kosen	2250 C Street Fairbanks, AK 99701	452-3444	Lissa.Kosen@uaf.edu

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 479-4900

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

4/12/98

Fairbanks AK p. 4

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Handwritten Signature]</i>	LISA SLAYTON	Box 85315 Fairbanks AK 99707	452-2727	lslayton@alaska.gov
<i>[Handwritten Signature]</i>	DEBORAH VILLERS	PO Box 165 DENALI AK 99708		
<i>[Handwritten Signature]</i>	LYNN STANLEY COE	P.O. Box 10813 Fairbanks, AK 99710	471-3003	
<i>[Handwritten Signature]</i>	LIVY WICKERT	P.O. Box 11284 Fairbanks, AK 99711	478-7511	
<i>[Handwritten Signature]</i>	JENNIFER ROYSTER	P.O. Box 71200 Fairbanks, AK 99707	452-1615	
<i>[Handwritten Signature]</i>	WILSON J. JOHNSON	1892 PARK DR FAIRBANKS AK 99709	(907) 474-1788	
<i>[Handwritten Signature]</i>	MELI KRAHMER	413 BANK ST FAIRBANKS AK 99701	474-4827	
<i>[Handwritten Signature]</i>	WENDY J. COLLINS	P.O. Box 87134 Fairbanks, AK 99708	478-5300	wjcollins@alaska.gov
<i>[Handwritten Signature]</i>	MELINDA LEWIS	P.O. Box 3434 Fairbanks, AK 99703	452-5366	lewis@alaska.gov
<i>[Handwritten Signature]</i>	AZURA KRAXBERGER	P.O. Box 750275 Fairbanks, AK 99775	478-6886	kraxber@alaska.gov
<i>[Handwritten Signature]</i>	PATRICIA M. MACK	412 BARONET FAIRBANKS AK 99701	452-4924	
<i>[Handwritten Signature]</i>	ANDREW D. BIRKLEY	102 10th St Fairbanks AK 99701	476-7460	abirkley@alaska.gov
<i>[Handwritten Signature]</i>	CHRISTOPHER J. SILLER	5112 ALDEN ST FAIRBANKS AK 99701	456-1827	csiller@alaska.gov
<i>[Handwritten Signature]</i>	BALDWIN HADLEY	P.O. Box 43 Fairbanks AK 99701	457-4600	Baldwin@alaska.gov
<i>[Handwritten Signature]</i>	TINA D. HAYS	101 WILSON ST FAIRBANKS AK 99703	456-1020	thays@alaska.gov
<i>[Handwritten Signature]</i>	KENITA STEWART	P.O. Box 58439 Fairbanks, AK 99711	488-9231	
<i>[Handwritten Signature]</i>	VERONICA BELTON	P.O. Box 58439 Fairbanks, AK 99711	488-9231	
<i>[Handwritten Signature]</i>	NICOLE L. SUZUKI	1144 Sunset Drive Fairbanks AK 99709	452-4113	Nicole@msc.gunet.com

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4/12/98

Fairbanks, AK p. (5)

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
Margaret Willett				
Margaret Willett	Margaret Willett	959 Reindeer Drive 99709	455-1032	
Pete Bowens	Peter Bowens	959 Reindeer Dr. Fairbanks, AK 99709	" "	pbowens@pubex.alaska.net
Arthur L. Bruhn	Arthur L. Bruhn	1191 Bruhn Rd. Fbx AK 99709		
Lisa Pinney	LISA PINNEY	2231 LINDA LANE FAIRBANKS AK 99709	479-6888	
Richard C. Thomas Jr.	Richard Thomas Jr.	POB 72407 Fairbanks AK 99707	476-1418	RTThomas@yahoo.com
Sarah McClellan	Sarah McClellan	494 Oakleaf Way Fairbanks AK 99709	452-2577	ffs@uak.edu
Dede Tracy	Dede M. Tracy	PO Box 83117 Fairbanks AK 99708	474-4349	fdtracy@education.ak.edu
Bridget D. Snow	Bridget D. Snow	Box 51911, Fbx AK	479-6790	fsb@uak.edu
John D. Hoch	John D. Hoch	2526 LINDA LANE FAIRBANKS AK 99709	479-8368	jhoch@northstar.k2.ak.edu
Lori Robinson	Lori Robinson	3536 LINDA LN FAIRBANKS AK 99709	479-5368	lrobin@uak.edu
Susan Galercane	Susan Galercane	P.O. Box 212 Ester AK 99725	479-8811	fgalerc@uak.edu
Patricia Lynn Saifer	Patricia Lynn Saifer	P.O. Box 10935, Fairbanks AK 99709	457-6981	psaifer@uak.edu
William Bradley	William Bradley	1301 Alameda Lane 99712	457-8552	
Marysue O'Neil	Marysue O'Neil	PO Box 85335 99708	452-5949	mbo2@pt.alaska.net
Dana L. Richter	Dana L. Richter	501 Summer Ave Fairbanks AK 99702	457-3924	
Scarlett Hutchinson	Scarlett Hutchinson	P.O. Box 8909 Fairbanks, AK 99708	456-4125	scarlett@uak.edu
Rich Hutzman	Rich Hutzman	1916 W. 15th Fairbanks AK 99701	456-4125	hutch@uak.edu

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 Fairbanks should save a copy and return to one of the following people or place: Rich Collins, Jeff Walters, Pete Pinney, Mark Schubauer, Lisa Slayton, Nancy Kailling, Mari Galercane, or Into the Woods Bookstore

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4/12/98

Fairbanks, AK P. 6

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Barbara Braley</i>	Barbara Braley	1301 Maya Lane Fairbanks, AK 99712	457-9957	hbraley@northstar.k12.ak.us
<i>Genevieve Smith</i>	Genevieve Smith	PO Box 35223 FWA 99707	455-7611	N/A
<i>Teresa Summs</i>	Teresa Summs	POB 72404 FLS AK 99707	496-1418	+ seamus@alaska.gov
<i>Teresa P. Blomquist</i>	Teresa P. Blomquist	2831 Linda Lane FWA 99707	474-6920	teresa.blomquist@alaska.gov
<i>Jane M. Williams</i>	JANE M. WILLIAMS	1098 NORRIS LAY FAIRBANKS 99712	457-4979	
<i>Christine McGarvin</i>	Christine McGarvin	PO Box 82162 FLS AK 99708	474-3766	
<i>Russell Gould</i>	RUSSELL GOULD	PO Box 82962 FAIRBANKS, AK 99708	474-3766	rgould@infosights.com
<i>Lauzel McLaughlin</i>	Lauzel McLaughlin	Box 70019 FLKS AK 99707	452-5234	
<i>Suzanne H. Johnson</i>	Suzanne H. Johnson	852 6th Ave FLS AK 99701	452-6056	
<i>Kristina Marie</i>	Kristina Marie	3254 Kosiw Creek Rd FLS AK 99709	477-3808	(907) 477-3808
<i>Karl S. Marsh</i>	Karl S. Marsh	3254 Kosiw Creek Rd. FLS AK 99709	477-3808	
<i>Helen Anne Myers</i>	Helen Anne Myers	1325 Summit Dr. FLS AK 99712	457-1676	
<i>Leif Johansen</i>	Leif Johansen	3191 AMPER AVE FLS AK 99709	451-7670	
<i>Mary Leanne Hatch</i>	Mary Leanne Hatch	PO Box 70292 FLS AK 99707	451-7670	
<i>Richard Seibert</i>	RICHARD SEIBERT	PO Box 10935 FLS AK 99710	474-7201	FRDS@UNF.EDU
<i>Laura Pierce</i>	Laura Pierce	420 W. G. Road FLS AK 99712	457-5057	
<i>Laura Pierce</i>	Laura Pierce	820 Billie Rd, FLS AK 99712	457-5057	lpierce@unf.edu
<i>Kimberly Rogers</i>	Kimberly Rogers	930 Shiver Bow Rd 99712	474-8603	

This petition will become a part of the public record. Please fax completed petitions to (907) 586-4226. Mail originals to Committee for Equality, PO Box 34202, Juneau, AK 99803

Fairbanks should call a press conference to discuss this issue. Contact: Dick Collins, Jeff Walters, Pat Pliner, Mark Schuchman, etc.

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

4/12/98

Fairbanks, AK p. (7)

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Nancy Kailing</i>	Nancy Kailing	PO Box 84680, Fairbanks, AK 99708	(907) 479-4944	kailing@mosquitonet.com
<i>S.H. Kailing</i>	Stephen H Kailing	POB 84680, Fairbanks AK 99708	479-4944	kailing@mosquitonet.com
<i>Julie Doorack</i>	Julie Doorack	POB 750443 " " 99775	474-6666 x3289	ftied@uaf.edu
<i>Gerald V. Moulton</i>	GERALD V. MOULTON	1625 BROWN WAY, FBKS 99709	474-6411	ftied@uaf.edu <small>ftied@uaf.edu</small>
<i>Kelly Hazel</i>	Kelly Hazel	PO Box 83534 Fbks 99708	474-6961	ftklh@uaf.edu
<i>Mark Lomax</i>	MARK LOMAX	PO Box 72401 ERKS 99707	456-6919	fsmlk2@UAF.EDU
<i>Janet A. Moulton</i>	Janet A. Moulton	PO Box 83215 Fbks 99708	458-9033	fsmlk2@uaf.edu
<i>Kate Linn</i>	LETTIE LINN	1777 11th St N.F.	457-7091	FTLINN@UAF.EDU
<i>Lara Hensley</i>	Lara Hensley	P.O. Box 750105 Fairbanks AK 99775	458-0697	l-hensl@UAF.EDU
<i>Faye L. Stock</i>	Faye L. Stock	4450 Dartmouth Dr. Fbks 99709	455-4597	ftfls@uaf.edu
<i>Phillip P. Shelton</i>	Phillip P. Shelton	1242 Munoz Court, Fort Wainwright, AK 99763	353-2268	ftpps@uaf.edu
<i>Timothy E. Galvez</i>	Timothy E. Galvez	1235 Balaiano Rd. FBKS. 99709	455-4069	
<i>Melie Wardman</i>	Melie Wardman	1440 Lacey Street FBKS 99701-0208	457-1207	-
<i>Rich Collins</i>	RICHARD COLLINS	BOX 83683 Fbks 99708	458-0913	
<i>Pete Pinney</i>	PETE PINNEY	P.O. Box 5050 Fairbanks AK 99708	887-3582	picard@mosquitonet.com

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Fairbanks, AK p. 8

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Jane Franklin-Stedakis</i>	JANE FRANKLIN-STEADAKIS	3140 Parkside Ln, Fairbanks, AK 99707	479-5826	
<i>Zoe Young</i>	Zoe Young	741 Echo Acres, Fbx, 99712	458-9122	
<i>Lavinia Eidermiller</i>	LAVINIA EIDERMILLER	1263 Komar St. Fairbanks AK 99709	456-0434	
<i>Phaedra Cornell</i>	Phaedra Cornell	1941 Bucks Rd Fairbanks AK 99709	453-6917	
<i>Dana Pittman</i>	Dana Pittman	POB 8186 7 Fairbanks, AK 99708	474-8355	
<i>Karen M. Olson</i>	KAREN M OLSON	1941 Bucks Rd Fairbanks AK 99709	453-6917	
<i>Jean Trinner</i>	Jean Trinner	Box 82284 Fairbanks AK 99708	N/A	
<i>George P. Jelen</i>	George P. Jelen	Po Box 64 Ester 99705	-	
<i>Ann F. G. Kerin</i>	Ann F. G. Kerin	2676 Aksela Ct 99709	457-6602	
<i>Jennine Williamson</i>	Jennine Williamson	2454 Killarney Way, 99709	479-8242	
<i>Martina R. Clark</i>	Martina R. Clark	4444 Martin Luther Dr. 99709	478-0714	
<i>Diana Sparacino</i>	Diana Sparacino	P.O. Box 355 Ester, Alaska 99705	-	
<i>William A. Underik</i>	William A Underik	2055 14th Ave, Fbks AK 99709	474-0941	
<i>Ann T. Wellman</i>	Ann T. WELLMAN	P.O. Box 80654 Fbks AK 99709	479-2855	
<i>Terrie Suckle</i>	Terrie Suckle	PO Box 83547 Fairbanks, AK 99708	-	
<i>Judith C. Plucinski</i>	Judith C. PLUCINSKI	1093 PARK DR FAI 99709	-	
<i>Sandra L. Early</i>	Sandra L. Early	768 Miners Court Fbks 99712	459-1020	
<i>Beverly J. McCee</i>	Beverly J McCee	790 Bard Ct Fbks	452-2220	

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479-4941

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Fairbanks, AK p. 9

Signature	Printed Name	Mailing Address	Phone	E-mail address
Patricia Keaton	Patricia Keaton	PO Box 72262 Fairbanks AK 99707	451-2132	Codyrat2mol@net.net
SUSAN WIREN	SUSAN WIREN	PO Box 751044 FBK 99775	459-9350	
Linda M. Casassa	LINDA M. CASASSA	P.O. Box 81921 FBK AK 99708	457-8132	Blm@alaska.net
Barbara Moore	BARBARA MOORE	PA 7322 FBK AK 99707	451-2132	
Robert Winn	Robert Winn	724 College Road FBKs AK 99701	451-6501	
E. Andaloro	Elaine Andaloro	PO 72885 FBK AK 99707	457-2480	androbba@palmett.com
Julia Quist	JULIA QUIST	P.O. BOX 72813 FBKs AK 99707	474-9035	fsiq@ual.edu
Phil Crabtree	PHIL CRABTREE	508 CRAIG AVE. FBKS AK 99701	451-6501	PHILMAN@MOSQUITTO.NET
Athena Papathanasopoulos	ATHENA PAPATHANASOPOULOS	PO P O BOX 72813 FBKS 99707	479-2064	— none —
Lena Sexton	Lena Sexton	p.o. Box 73407, Fairbanks 99707	479-5639	None
Marci Trevisan	MARCI TRIVISAN	Box 72263 FBKS 99707	479-5975	
Victoria Andrews	VICTORIA ANDREWS	P.O. Box 73481 Fairbanks 99707	454-8154	
Sue Shorley	Sue Shorley	PO Box 92608 Fairbanks AK 99708	488-5558	
Gregory Nelson	Gregory Nelson	154 Deuce St Fairbanks AK 99707	455-9865	greg@mesa.com
Nancy Hoyt	Nancy Hoyt	1119 Northwood Fairbanks, AK 99712	457-7182	
Jacki Rasmussen	Jacki Rasmussen	227 Woodridge #9 FBKS	479-5758	
Cathy Rasmussen	Cathy Rasmussen	227 Woodridge #9 FBKS	479-5758	

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Fairbanks, AK p(10)

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Beth Schumacher</i>	BETH Schumacher	1148 Ivy Dr	457-8114	beth@...net
<i>Yachera Harrison</i>	Yachera Harrison	1148 Ivy Dr	458-8104	
<i>Laura A. Lancaster</i>	Laura A. Lancaster	P.O. Box 71515	455-7910	lancastrep@...net
<i>LINA IVEY</i>	LINA IVEY	P.O. Box 801604 FBK 99708	456-2471	livi@mosquitos.net
<i>Wendy Whitt</i>	Wendy Whitt	506 Wickeisham St	451-7597	
<i>Erica Lopez</i>	Erica Lopez	P.O. Box 751039 FBK 99708	457-9055	
<i>Kelly Anderson</i>	Kelly Anderson	P.O. Box 21515 FBK 99707	455-7910	
<i>Janis M. Coyle</i>	Janis M. Coyle	Box 22708 Fairbancs AK 99708	457-3576	Janis@...net
<i>Beth Anne</i>	Beth Anne	1789 Gilmore Trail FBK AK 99712	457-2425	Bethanne@...net
<i>Mary Grayson Gillespie</i>	Mary Grayson Gillespie	P.O. Box 80080 Fairbancs AK 99708	457-4054	fmgray@alaska.edu
<i>Kathleen Ralston</i>	Kathleen Ralston	2284 Cordes Way Fairbancs AK 99707	457-5283	ksk@...net
<i>Kathryn Carlson-Tait</i>	Kathryn Carlson-Tait	P.O. Box 75357 FBK 99708	-99708	
<i>Linda J Bode</i>	LINDA J BODE	P.O. Box 325 Estee, AK 99708	4770302	bode@polarnet.com
<i>Elizabeth Schaffhaus</i>	Elizabeth Schaffhaus	RR 10872 Box 99710	457-2085	
<i>Nancy E. Winford</i>	Nancy E. Winford	P.O. Box 50202 FBK 99708	455-6611	winford@...net
<i>Teresa J Reed</i>	Teresa J Reed	1399 Rich. Berry Dr. FBK 99709	458-8549	fsjr@alaska.edu
<i>IAN WRIGHT</i>	IAN WRIGHT	1387 Hill FBK 99709	458-8549	iwright@...net
<i>Ruth Olsen</i>	RUTH OLSEN	Box 82619 FAIRBANCS AK 99708	456-7877	OLSEN@...net

This petition will become a part of the public record. Please fax completed petitions to (907) 586-4220. Mail originals to Committee for Equality, PO Box 34202, Juneau, AK 99803
 Fairbanks should save a copy and return to one of the following people or place: Rich Collins, Jeff Walters, Pete Pinney, Mark Schubauer, Lisa Slayton, Nancy Kalling, Mari Galereave, or into the Alaska Statehouse

Fairbanks, AK p. 11
 Please Sign!

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Beth E. Caissie</i>	BETH E. CAISSIE	PO BOX 57066 TAPS 99708	458-9068	bec79@alaska.com
<i>Heather J. Hamley</i>	Heather J. Hamley	P.O. Box 81490 Fairbanks AK 99708	474-3694	
<i>Kari Gustafson</i>	Kari Gustafson	PO 35202 Fairbanks, AK 99702	455-6937	kgustaf@alaska.com
<i>Tara Bradley</i>	Tara Bradley	PO Box 81161 Fairbanks, AK 99708	457-3152	tbradley@alaska.com
<i>Melodi Anderson</i>	Melodi Anderson	Box 750356 Fairbanks AK 99775		cmw@alaska.com
<i>Rubi Yan Rawles</i>	Rubi Yan Rawles	SIC-YAK Rd #E6213 FBKS 99707	479-0093	ZSR4R@UAF.edu
<i>Mari Calbreath</i>	MARI CALBREATH	PO BOX 212 E-75R 99775	479-3911	
<i>Daniel Elsberg</i>	Daniel Elsberg	PO Box 75025 Fairbanks AK 99775	458-7923	delsberg@alaska.com
<i>Leanne Tjese</i>	Leanne Tjese	1112 Woodlawn Rd Fairbanks AK 99701	455-4770	
<i>Elaine R. Williamson</i>	Elaine R. Williamson	PO Box 54811 Fairbanks AK 99708		
<i>Scott V. Allen</i>	SCOTT V. ALLEN	PO BOX 391 Fairbanks AK 99702	456-3580	
<i>William A. Sullivan</i>	William A. Sullivan	PO Box 81144 Fairbanks AK 99708	479-9753	
<i>Julia McCarthy</i>	Julia McCarthy	P.O. Box 58142 Fairbanks AK 99711	458-8149	jsmcc@alaska.com
<i>Michael Sanford</i>	Michael Sanford	PO BOX 81493 Fairbanks AK 99708	451-0619	msanford@alaska.com

This petition will become a part of the public record. Please fax completed petitions to (907) 586-4226. Mail originals to Committee for Equality, PO Box 34202, Juneau, AK 99803. Fairbanks should save a copy and return to one of the following people or place: Rich Collins, Jeff Walters, Pete Pinney, Mark Schubaer, Lisa Skilton, Susan Patton, Street 11

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks, AK p(15)

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>John C. Peirson Jr</i>	John C. Peirson Jr	820 Kille Rd, Fairbanks 99712	488-8552	jpeirson@alaska.net
<i>Carol J. Garrison</i>	CAROL J. GARRISON	PO Box 214 Ester AK 99725	479-3068	cgarrison@alaska.net
<i>Janice Johnson</i>	JANICE JOHNSON	P.O. Box 83613 Fairbanks AK 99708	488-6140	
<i>Judith G. Anderson</i>	JUDITH G. ANDERSON	PO Box 214, Ester ALASKA 99725	479-3068	cgarrison@alaska.net
<i>Markus E. K. Schneider</i>	Markus E. K. Schneider	P.O. Box 80863 College AK 99708	479-3466	enmeski@ciur.mn.us:edu
<i>Jeffer Back</i>	JEFFER BACK	PO Box 725-33 FRES AK 99707	488-8156	
<i>Elaine The Mission Minist</i>	ELAINE THE MISSION MINIST	3386 WHITE HORSE LIP 99705	488-9102	
<i>Pamela S. Piers</i>	PAMELA S. PIERS	514 S. ... AK 99709	479-4514	

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The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Alison Cuccaro</i>	Alison Cuccaro	PO BOX 81396 FBKS AK 9970	457-2406	
<i>Aurora Lewis</i>	Aurora Lewis	320 GLORIA FBKS AK 99701	456-5775	
<i>Angeline Simon</i>	Angeline Simon	P.O. BOX 171501 FBKS AK 99701	456-9722	
<i>Charler Lewis</i>	Charler Lewis	326 GLORIA Ave FBKS AK 99701	455-4497	
<i>Michelle Miller</i>	Michelle Miller	1136 IUY Dr FBKS AK 99709		
<i>Carla J. Mock</i>	Carla J. Mock	2531 RUBY AVE FBKS AK 99709	414-3094	
<i>James L. Mock</i>	JAMES L. Mock	2531 RUBY AVE FBKS AK		
<i>Beverly H. Allen</i>	Beverly H. Allen	17 Trinidad Drive FBKS AK 99709		
<i>Tom D. Donnell</i>	Tom D. Donnell	PO Box 74807 Fairbanks AK	4523200	
<i>Mary Callcott</i>	Mary Callcott	8325 SEANEW ST ANCHORAGE ALASKA		
<i>Mary Waller</i>	Mary Waller	1060 Aspen Street	452-1502	
<i>Robert C. Oshander</i>	Robert C. Oshander	PO Box 56325 North Pole AK 99705		
<i>Marcus B. Brulee</i>	Marcus B. Brulee	PO Box 82252 Fairbanks AK 99705		
<i>Pat Horn</i>	PAT HORN	1309 28th St FBKS AK 99701		
<i>Michelle R. Wozniak</i>	Michelle R. Wozniak	2510 Daspain Ln FBKS AK 99709	456-3153	
<i>Emricka Wagner</i>	Emricka Wagner	8416 Lake Dr Anchorage AK 99505	344-0094	
<i>Jayne A. Kerlin</i>	Jayne A. Kerlin	HC 30 5374 A Wasilla AK 99607	376-0318	
<i>Polly Peterman</i>	POLLY PETERMAN	HC 30 5374 A	" "	" "

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Participants should save a copy and return to one of the following people or place: Rick Collins, Jeff Walters, Pete Plunoy, Mark Schubert, Lisa Clayton, Nancy Keating, Mari Glerave, or into the Woods Bookshop.

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

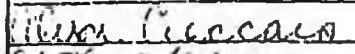
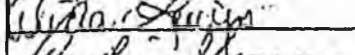
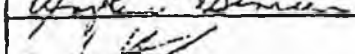

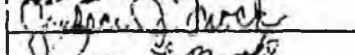
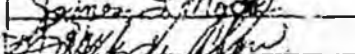
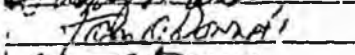

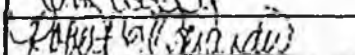
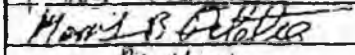
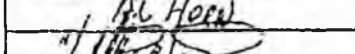
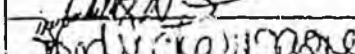
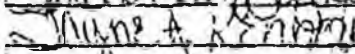
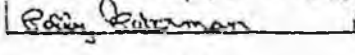
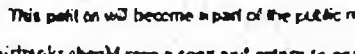



Fairbanks. p(16)

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>John E Davis</i>	JOHN E. DAVIS	302 Cowles St. Fairbanks, AK 99701	457-4193	
<i>Alaudia Cruders</i>	ALAUDIA CRUDERS	P.O. Box 74837, FAIRBANKS AK 99797	457-4196	
<i>ES&L</i>	ES&L	PO Box 364 Ester AK 99725		
<i>Thomas Niclean</i>	THOMAS NICLEAN	P.O. Box 82192 Fairbanks AK 99708	488-6729	thniclean@alaska.com
<i>Mary E. Liston</i>	MARY E. LISTON	PO. Box 74152 Fairbanks AK 99708	488-4481	
<i>Amy Ash</i>	AMY ASH	P.O. BOX 3410 ESTER AK 99725	451-2136	
<i>William Styer</i>	WILLIAM STYER	1002 Provensh Dr. Fairbanks AK 99701	457-4491	
<i>Michael A. Carloni</i>	MICHAEL A. CARLONI	Box 84345 Fairbanks AK 99708	477-8754	

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Fairbanks P  AK

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Signature	Printed Name	Mailing Address	Phone	E-mail address
	Alison McCarron	PO Box 81396 Fairbanks AK 99708	457-2400	
	Alison Lewis	3202 GLORIA FAIRBANKS AK 99701	456-5725	
	Angelina Simon	P.O. BOX 71501 FAIRBANKS AK 99707	456-9320	
	Charles Lewis	320 GLORIA RD FAIRBANKS AK 99701	455-4997	
	Michelle Miller	1136 IUDY DR FAIRBANKS AK 99709		
	CAROL J. MACK	3537 RUBY AVE FAIRBANKS AK 99709	414-3094	
	JAMES L. MACK	3537 RUBY AVE FAIRBANKS AK		
	Deborah K. Allen	17 Trinidad Drive FAIRBANKS AK 99701		
	T. Bruce Donnell	PO Box 74707 Fairbanks AK	4523200	
	Maria Conroy	8325 SEAVIEW ST FAIRBANKS AK 99709		
	Jimmy Walling	1060 73rd St	452-1502	
	Keith B. Strander	PO Box 56305 North Pole AK 99705		
	Marcus B. Bortel	PO Box 82252 Fairbanks AK 99708		
	72 HORN	1309 25th St FAIRBANKS AK 99701		
	Michelle R. Wapner	2570 Despain Ln FAIRBANKS AK 99709	456-3853	
	Erin K. Warner	8416 Lake Otis Anchorage AK 99507	344-0684	
	LAURE A. KERN	1130 35th St FAIRBANKS AK 99701	570-0993	
	MILLIE PETERMAN	4030 33rd St FAIRBANKS AK 99709		

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amendments would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks, AK p1

Signature	Printed Name	Mailng Address	Phone	E-mail address
<i>[Signature]</i>	Lesette K Rees	1967 Hilltop Ave. Fairb. AK	452-4112	Rees @ alaska.net
<i>[Signature]</i>	Rose High	640 Gardiner St.	475-5357	
<i>[Signature]</i>	Alex-Nashua Park	510 York Rd. Box 8025 Fairb.	477-0033	Kela.Tie@chickmail.com
<i>[Signature]</i>	Ronan P. Lawrence	546 S Lawrence St. Fairb.	475-0646	Blaungrace @ comcast.com
<i>[Signature]</i>	WENA REZEMER	Box 21289 Fairb. AK	1179-2136	WENA@FLORIANE.COM
<i>[Signature]</i>	Wendy Brakke	Rm E1 4610 1/2 St. #9222	356-1342	Stark@alaska.net
<i>[Signature]</i>	MADINE	PO Box 10000 Fairb. AK	474-8800	Madine @ alaska.net
<i>[Signature]</i>	David R. Brown	546 S Lawrence St. Fairb. AK	477-9500	blawrence @ alaska.net
<i>[Signature]</i>	Kentory D. Walters	PO Box 9270 Fairb. AK	477-3876	waltk@alaska.net
<i>[Signature]</i>	Crystal Milk	3475 Steady Fairb. AK	99719	waltk@alaska.net
<i>[Signature]</i>	PAT CARLI	P.O. Box 10000 Fairb. AK	477-7500	Kelra@alaska.net
<i>[Signature]</i>	David Brown	P.O. Box 10221 Fairb. AK		
<i>[Signature]</i>	Ronan P. Lawrence	4877 1/2 St. #1 Fairb. AK		ronan@alaska.net
<i>[Signature]</i>	Randy Ellis	4347 1/2 St. #1 Fairb. AK		ronan@alaska.net
<i>[Signature]</i>	Darryl Droug-Rial	Box 333 Fairb. AK	477-9500	dr@alaska.net
<i>[Signature]</i>	Martha Stokes	785 Wilcox Ave Fairb. AK	475-4563	
<i>[Signature]</i>	Johanna Allie		477-4564	
<i>[Signature]</i>	W. B. Davis	Box 10000 Fairb. AK	477-7500	

This petition will become a part of the public record. Please fax completed petition to (907) 465-4286. Mail return to Committee for Growth, PO Box 3-0222, Juneau, AK 99801.

Signatures should have a copy and return to one of the following people or places: Kati Collins, Jeff Walker, Peter Finney, Mark Schindler, Lisa Skyring, Nancy Kallberg, Heidi Colburn, or care of the Women's Bureau.

4/12/98

copy

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit race recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendments would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks, AK p2

Signature	Printed Name	Mailng Address	Phone	E-mail address
<i>[Signature]</i>	COURT OLMSTED	PO 83716 Fairb. AK	99703	
<i>[Signature]</i>	DIANE TEND	PO Box 84223 Fairb. AK	99708	
<i>[Signature]</i>	Lisa Sawyer	PO Box 81236 Fairb. AK	99703	
<i>[Signature]</i>	SPENCER P. MAYS	PO Box 70740 Fairb. AK	00007	
<i>[Signature]</i>	Mark Schindler	PO Box 87 Ester AK	99725	
<i>[Signature]</i>	Heidi K. Benson	PO Box 82774 Fairb. AK	99708	
<i>[Signature]</i>	Laura K. Schindler	PO Box 84544 Fairb. AK	99708	
<i>[Signature]</i>	Thomas Lawrence	30 Ymed 2570 Fairb. AK	99707	
<i>[Signature]</i>	Casey Connelly	305 W. Lawrence Dr. Fairb. AK	99701	
<i>[Signature]</i>	Janice M. Lohr	PO Box 84544 Fairb. AK	99708	
<i>[Signature]</i>	EMILIE HUWIS	1101 McQuinn	99701	475-2679
<i>[Signature]</i>	M. Carol Schindler	1721 University Hill	C. 14	
<i>[Signature]</i>	Paul Sumi	1164 Hilltop Ave		
<i>[Signature]</i>	Volika Vardan	PO Box 82004 Fairb. AK	99704	477-1157
<i>[Signature]</i>	THOMAS LAWRENCE	PO Box 82004 Fairb. AK	99704	TR666@alaska.net
<i>[Signature]</i>	Tasha M. Schindler	1999 Babcock		
<i>[Signature]</i>	W. B. Davis	14220 05th St. Fairb. AK		WENNA@FLORIANE.COM
<i>[Signature]</i>	Robert Messer	PO Box 70740 Fairb. AK	99707	477-7500

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Signatures should have a copy and return to one of the following people or places: Kati Collins, Jeff Walker, Peter Finney, Mark Schindler, Lisa Skyring, Nancy Kallberg, Heidi Colburn, or care of the Women's Bureau.

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7/12/98
Fairbanks, AK f(3)

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	Colleen S. Jones	P.O. Box 81197 Fairbanks, AK 99705	452-7074	
<i>[Signature]</i>	Paul [unclear]	137 [unclear] Fairbanks, AK 99701	771-2111	
<i>[Signature]</i>	Wendy Reed	P.O. Box 75115 Fairbanks, AK 99705	341-4444	FVANCEVANCEW
<i>[Signature]</i>	Mardi Medina	P.O. Box 81552 Fairbanks, AK 99705	479-3427	PSM103@uaf.edu
<i>[Signature]</i>	Tsara Medina	"	"	tsiwa@uaf.edu
<i>[Signature]</i>	Arden [unclear]	315 9th Ave Fairbanks, AK 99701	457-5823	ARDEN@uaf.edu
<i>[Signature]</i>	Leah [unclear]	P.O. Box 75067 Fairbanks, AK 99707		LEAH@uaf.edu
<i>[Signature]</i>	Lenna Epperson	P.O. Box 71834 Fairbanks, AK 99701	452-0222	LENN@uaf.edu
<i>[Signature]</i>	Carol L. Falkner	1257 7th Ave Fairbanks, AK 99701	457-7116	
<i>[Signature]</i>	A. Ruth Evers	P.O. Box 32156 Fairbanks, AK 99704	457-2527	CARE@uaf.edu
<i>[Signature]</i>	J. [unclear]	291 [unclear] Fairbanks, AK 99701	457-4424	
<i>[Signature]</i>	Ronald Kemnitz	P.O. Box 89741 Fairbanks, AK 99708	451-4000	rkemnitz@uaf.edu
<i>[Signature]</i>	Lucas Stenhouse	6400 40th St Fairbanks, AK 99705	474-4008	STENHOUSE@uaf.edu
<i>[Signature]</i>	Mae [unclear]	4374 Fairbanks, AK 99705		
<i>[Signature]</i>	Erin [unclear]	6051		
<i>[Signature]</i>	Paula G. Berg	P.O. Box 31557 Fairbanks, AK 99705	473-0770	PSA@uaf.edu
<i>[Signature]</i>	Simon [unclear]	P.O. Box 31557 Fairbanks, AK 99705		SSIMON@uaf.edu
<i>[Signature]</i>	7133a Box [unclear]	3250 Easy St Fairbanks, AK 99701	452-3444	TSI@uaf.edu

This petition will become a part of the public record. Please fax completed petition to (907) 457-4226. Mail original to Commission for Equality, PO Box 34282, Anchorage, AK 99503. Fairbanks should send a copy and return to one of the following people or places: Rick Collins, Jeff Walker, Fred Finney, Mark Schellman, Lisa Stoyan, Nancy Kitting, Mari Cullman, or Lisa De Wette Bunkoff.

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

4/12/98
Fairbanks, AK p.4

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	Lisa Stoyan	Box 85315 Fairbanks, AK 99705	452-2222	LSLOYAN@uaf.edu
<i>[Signature]</i>	Deborah [unclear]	P.O. Box 165 Fairbanks, AK 99705		
<i>[Signature]</i>	Linda Starnes	P.O. Box 10813 Fairbanks, AK 99701	474-3083	
<i>[Signature]</i>	Loak [unclear]	P.O. Box 110954 Fairbanks, AK 99705	479-7514	
<i>[Signature]</i>	Jessie [unclear]	P.O. Box 71274 Fairbanks, AK 99707	457-1615	
<i>[Signature]</i>	Wendy [unclear]	1892 Fairbanks Dr Fairbanks, AK 99709	467-7744	
<i>[Signature]</i>	Vicki Krahn	412 2nd St Fairbanks, AK 99701	474-4037	
<i>[Signature]</i>	Verna [unclear]	P.O. Box 85457 Fairbanks, AK 99705	476-7720	
<i>[Signature]</i>	Melinda Lyons	P.O. Box 84474 Fairbanks, AK 99705	452-5346	
<i>[Signature]</i>	Arden [unclear]	P.O. Box 75023 Fairbanks, AK 99705	457-4885	
<i>[Signature]</i>	P. [unclear]	412 Broad Fairbanks, AK 99701	452-4724	
<i>[Signature]</i>	ANGEL D NIKOLET	102 10th Ave Fairbanks, AK 99701	474-7466	
<i>[Signature]</i>	Tim [unclear]	3112 Simpson St Fairbanks, AK 99701	474-7871	
<i>[Signature]</i>	Buddwin [unclear]	6 E. [unclear] Fairbanks, AK 99701	474-7460	
<i>[Signature]</i>	Ther [unclear]	1001 Garmouth St Fairbanks, AK 99703	456-1122	
<i>[Signature]</i>	Kerita [unclear]	P.O. Box 53439 Fairbanks, AK 99701	458-9231	
<i>[Signature]</i>	Veronica [unclear]	P.O. Box 52435 Fairbanks, AK 99701	452-2211	
<i>[Signature]</i>	Nicole [unclear]	11446 Senter Ave Fairbanks, AK 99705	457-4113	

This petition will become a part of the public record. Please fax completed petition to (907) 457-4226. Mail original to Commission for Equality, PO Box 34282, Anchorage, AK 99503. Fairbanks should send a copy and return to one of the following people or places: Rick Collins, Jeff Walker, Fred Finney, Mark Schellman, Lisa Stoyan, Nancy Kitting, Mari Cullman, or Lisa De Wette Bunkoff.

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

4/12/98

Fairbanks, AK

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Signature	Printed Name	Mailing Address	Phone	Email Address
<i>Margaret Willott</i>	Margaret Willott	959 Reindeer Drive 99709	455-1628	
<i>Peter Bowers</i>	Peter Bowers	959 Reindeer Dr Fairb., AK 99709	" "	pbowers@volvox.alaska.net
<i>Arthur L. Bruhn</i>	Arthur L. Bruhn	1191 Bruhn Rd., Fbx AK 99709		
<i>IMPERY POCOSAN</i>	IMPERY POCOSAN	2531 LINNEN CMT LANE 99709	471-1927	
<i>Richard Thomas Jr</i>	Richard Thomas Jr	Box 72401 Fairb. AK 99707	478-1419	rtthomas@valvol.com
<i>Sarah McMillan</i>	Sarah McMillan	499 Ozerik Way Fairb. AK 99709	452-2571	ssm@comcast.net
<i>Dede H. Tracy</i>	Dede H. Tracy	PO Box 82117 Fairbanks AK 99708	474-4344	tracyd@alumna.ak.edu
<i>Bradley J. Sizer</i>	Bradley J. Sizer	Box 91711 Fbx AK	478-6790	bsizer@uak.edu
<i>John D. Hoch</i>	John D. Hoch	2626 WINDYLAND FAIRBANKS AK 99709	478-8368	jhoch@alaska.edu
<i>Lee Brown</i>	Lee Brown	2536 LINDA LN FAIRBANKS AK 99709	478-3568	fbrown@ak.edu
<i>Susan Galbreath</i>	Susan Galbreath	P.O. Box 212 Ester AK 99725	478-3111	sgalbreath@ak.edu
<i>Patricia Wessifort</i>	Patricia Wessifort	P.O. Box 10935, Fairbanks, AK 99709	451-6000	pwessifort@ak.edu
<i>Willie Ruby</i>	Willie Ruby	1201 Maple Lane Fairb., AK	452-5552	
<i>Markus Olin</i>	Markus Olin	PO Box 85335 Fairb., AK 99708	452-5949	mbo2@alaska.edu
<i>Dana R. Richter</i>	Dana R. Richter	501 SUMNER AVE. FAIRBANKS AK 99709	457-3924	
<i>Scott H. Hurlburt</i>	Scott H. Hurlburt	P.O. Box 94495 Fairbanks AK 99708	456-4155	shhurlburt@alaska.edu
<i>Kenneth H. Hanson</i>	Kenneth H. Hanson	1515 LEXINGTON FAIRBANKS AK 99709	478-4121	khanson@alaska.edu

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4/12/98

Fairbanks, AK

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Signature	Printed Name	Mailing Address	Phone	Email Address
<i>Brian Brule</i>	Brian Brule	1301 Maple Lane Fairbanks, AK	478-0007	llbrule@alaska.edu
<i>Gwendolyn Smith</i>	Gwendolyn Smith	PO Box 35223 FLIA 99708	455-7611	N/A
<i>Teresa Samson</i>	Teresa Samson	PO Box 71401 Fairb. AK 99707	478-1410	tsamson@alaska.edu
<i>Tara A. Hilday</i>	Tara A. Hilday	2511 Linda Lane Fairb. AK 99709	478-6422	thilday@alaska.edu
<i>James H. Khavats</i>	James H. Khavats	1098 NO2205 LANE FAIRBANKS AK 99709	457-4970	
<i>Christine Thomas</i>	Christine Thomas	PO Box 88672 Fairb. AK 99708	478-3766	
<i>Russell Gault</i>	Russell Gault	P.O. Box 82962 FAIRBANKS, AK 99708	474-5766	rgault@info.alaska.edu
<i>Leon M. Lamblich</i>	Leon M. Lamblich	Box 20819 Fairb. AK 99707	452-5526	
<i>Suzanne L. Johnson</i>	Suzanne L. Johnson	252 C.H. Lane Fairb. AK 99709	452-5076	
<i>Kathleen Dyer</i>	Kathleen Dyer	5274 KOSCIUSKO AVE. FAIRBANKS AK 99709	478-2707	kdyer@alaska.edu
<i>Rod S. Marsh</i>	Rod S. Marsh	3254 KOSCIUSKO AVE. FAIRBANKS AK 99709	478-2808	
<i>Helen Anne Myrnes</i>	Helen Anne Myrnes	1329 SUMMIT DR FAIRBANKS AK 99709	457-1676	
<i>Leif Johansen</i>	Leif Johansen	3151 21ST AVE FAIRBANKS AK 99709	451-3170	
<i>Margaret Helle</i>	Margaret Helle	PO Box 70702 Fairb. AK 99707	478-7670	
<i>Richard S. Sider</i>	Richard S. Sider	PO Box 257095 Fairb. AK 99710	478-7529	rsider@alaska.edu
<i>Christine Gault</i>	Christine Gault	100 Union St. Fairb. AK 99709	457-3177	
<i>Lisa Pierce</i>	Lisa Pierce	P.O. Box 10101 Fairb. AK 99709	468-8822	lpierce@alaska.edu
<i>Kathy Rouse</i>	Kathy Rouse	1950 Shasta Ave 2d FAIRBANKS AK 99709	478-6003	

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Fairbanks, AK p. 7

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Nancy Keillog</i>	Nancy Keillog	PO Box 84222 Fairbanks AK 99708	457-4104	keillog@alaska.net
<i>Stephen H. Keillog</i>	Stephen H. Keillog	PO Box 84222 Fairbanks AK 99708	457-4104	keillog@alaska.net
<i>Wife Deenack</i>	Wife Deenack	POB 75045	457-4104	Wife@alaska.net
<i>Gregory M. Merrill</i>	Gregory M. Merrill	1625 New Way FSB's 99702	457-4104	GregMerrill@alaska.net
<i>Keith Howard</i>	Keith Howard	PO Box 83524 Fairbanks AK 99708	457-4104	Keith@alaska.net
<i>Mark Larson</i>	Mark Larson	PO Box 72401 Fairbanks AK 99707	457-4104	MarkL@alaska.net
<i>Jennifer Abbott</i>	Jennifer Abbott	PO Box 83215 Fairbanks AK 99709	457-4104	Jennifer@alaska.net
<i>LETTIE LYNN</i>	LETTIE LYNN	1725 N. 1st St. Fairbanks AK 99701	457-4104	LETTIE@alaska.net
<i>Lara Hershey</i>	Lara Hershey	P.O. Box 75010 Fairbanks AK 99707	457-4104	Lara@alaska.net
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<i>Timothy F. Givins</i>	Timothy F. Givins	1225 S. Fairbanks Rd. Fairbanks AK 99709	457-4104	Timothy@alaska.net
<i>M. K. Wilson</i>	M. K. Wilson	1440 Lake Street Fairbanks AK 99709	457-4104	MKW@alaska.net
<i>Richard Collins</i>	Richard Collins	Box 83215 Fairbanks AK 99709	457-4104	Richard@alaska.net
<i>Tom Paine</i>	Tom Paine	P.O. Box 84222 Fairbanks AK 99708	457-4104	Tom@alaska.net

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Fairbanks, AK p. 8

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Ryan H. Stephens</i>	Ryan H. Stephens	3140 Parkside Dr. Fairbanks AK 99709	457-5926	Ryan@alaska.net
<i>Zoe Yawley</i>	Zoe Yawley	701 E. Fairbanks Ave. Fairbanks AK 99701	457-4104	Zoe@alaska.net
<i>Laura V. Engelhardt</i>	Laura V. Engelhardt	1405 Kanan St. Fairbanks AK 99707	457-4104	Laura@alaska.net
<i>Charles Powell</i>	Charles Powell	PO Box 71 Fairbanks AK 99707	457-4104	Charles@alaska.net
<i>Devin Pittman</i>	Devin Pittman	POB 81817 Fairbanks, AK 99708	457-4104	Devin@alaska.net
<i>Karen A. Olson</i>	Karen A. Olson	174 S. 1st St. Fairbanks AK 99701	457-4104	Karen@alaska.net
<i>Jan Truitt</i>	Jan Truitt	Box 5224 Fairbanks AK 99708	457-4104	Jan@alaska.net
<i>George A. Pelen</i>	George A. Pelen	PO Box 64 Fairbanks AK 99705	457-4104	George@alaska.net
<i>Frank E. G. Gierke</i>	Frank E. G. Gierke	2676 Alaska Ct Fairbanks AK 99709	457-4104	Frank@alaska.net
<i>Kenneth Williamson</i>	Kenneth Williamson	2474 Killarney Ln. Fairbanks AK 99709	457-4104	Kenneth@alaska.net
<i>Martha R. Clark</i>	Martha R. Clark	4444 Deatman Ln Dr. Fairbanks AK 99709	457-4104	Martha@alaska.net
<i>Diana Sparacino</i>	Diana Sparacino	P.O. Box 355 Ester, Alaska 99725	457-4104	Diana@alaska.net
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<i>Tom Weir</i>	Tom Weir	P.O. Box 20654 Fairbanks AK 99704	457-4104	Tom@alaska.net
<i>Toni Soble</i>	Toni Soble	PO Box 83547 Fairbanks AK 99708	457-4104	Toni@alaska.net
<i>Janette Pluanski</i>	Janette Pluanski	1093 Park Dr. Fairbanks AK 99709	457-4104	Janette@alaska.net
<i>Sandra L. Early</i>	Sandra L. Early	763 Minors Court Fairbanks AK 99702	459-1020	Sandra@alaska.net
<i>Beverly J. Moore</i>	Beverly J. Moore	790 S. 1st St. Fairbanks AK 99701	457-4104	Beverly@alaska.net

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Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Patricia Keaton</i>	Patricia Keaton	P.O. Box 73162 Fairbanks, AK 99707	451-1732	Patricia.Keaton@alaska.gov
<i>SAN WILSEN</i>	SUSAN WILSEN	P.O. Box 751044 Fairbanks, AK 99707	451-9956	
<i>W.M. Casson</i>	LINDA M. CASSETTA	P.O. Box 91921 Fairbanks, AK 99701	451-1192	linda.cassetta@alaska.gov
<i>John</i>	ROBERTA MINE	P.O. Box 73201 Fairbanks, AK 99707	451-2055	
<i>John</i>	Robert Wynn	724 Conner Road Fairbanks, AK 99701	451-6341	
<i>Andaloro</i>	Elaine Andaloro	P.O. Box 7485 Fairbanks, AK 99707	452-2986	
<i>Julia Hunt</i>	JULIA QUIST	P.O. Box 70813 Fairbanks, AK 99707	451-9035	
<i>DKL</i>	DKL CRABTREE	508 2nd St. Fairbanks, AK 99701	451-6501	dklcrabtree@alaska.gov
<i>Anna</i>	ANNA CRABTREE	P.O. Box 73213 Fairbanks, AK 99707	451-2054	
<i>Ken</i>	Ken Sexton	P.O. Box 73497 Fairbanks, AK 99707	451-6674	
<i>Mark</i>	MARK JENSEN	P.O. Box 73263 Fairbanks, AK 99707	451-3725	
<i>Wesley</i>	Wesley Andrews	P.O. Box 73497 Fairbanks, AK 99707	451-6674	
<i>Cheryl</i>	Cheryl Wright	P.O. Box 32168 Fairbanks, AK 99707	451-5558	
<i>Alison</i>	Alison Allen	154 Deves St. Fairbanks, AK 99707	451-1114	
<i>Nancy Hoyt</i>	Nancy Hoyt	1119 Northwood Fairbanks, AK 99707	451-1112	
<i>Dark</i>	Dark Rasmussen	227 Woodbridge #9 Fairbanks, AK 99707	474-4715	
<i>Patricia</i>	Patricia Rasmussen	227 Woodbridge #9 Fairbanks, AK 99707	474-4715	

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Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Bob</i>	Bob Schuchert	1107 19th St Fairbanks, AK 99707	451-1114	Bob.Schuchert@alaska.gov
<i>John</i>	John Schuchert	1107 19th St Fairbanks, AK 99707	451-1114	
<i>John</i>	Laura Alvarado	P.O. Box 71515 Fairbanks, AK 99707	451-7110	
<i>John</i>	John West	P.O. Box 70813 Fairbanks, AK 99707	451-9035	
<i>Wendy</i>	Wendy White	5010 11th St Fairbanks, AK 99707	451-1735	
<i>Patricia</i>	Patricia Loren	P.O. Box 751039 Fairbanks, AK 99707	451-9956	
<i>John</i>	Kelly Anderson	P.O. Box 71515 Fairbanks, AK 99707	451-7110	
<i>John</i>	John West	P.O. Box 70813 Fairbanks, AK 99707	451-9035	
<i>John</i>	John West	1799 Gilman Trail Fairbanks, AK 99707	451-2424	
<i>John</i>	Mary Graham Gillogly	P.O. Box 20080 Fairbanks, AK 99707	451-1114	
<i>John</i>	Kathleen Ralston	2289 Cordes Way Fairbanks, AK 99707	451-5253	
<i>Kate</i>	Katherine Coe	P.O. Box 75357 Fairbanks, AK 99707	451-9956	
<i>John</i>	John West	P.O. Box 325 Fairbanks, AK 99707	451-1114	
<i>John</i>	Flora Schuchert	908 10th St Fairbanks, AK 99707	451-1114	
<i>John</i>	Nancy E. Winkler	P.O. Box 70813 Fairbanks, AK 99707	451-9035	
<i>John</i>	John West	1799 Gilman Trail Fairbanks, AK 99707	451-2424	
<i>John</i>	John West	1799 Gilman Trail Fairbanks, AK 99707	451-2424	
<i>John</i>	Ruth Olson	Box 82617 Fairbanks, AK 99707	451-7077	

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Fairbanks p-14

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Signature	Printing Name	Address	Phone	E-mail address
<i>Gaila C. Hukie</i>	Gaila C. Hukie	PO Box 750553 Fairbanks AK 99707	907-451-2654	gailah@alaska.net
<i>Shirley E. Long</i>	Shirley E. Long	Box 162406 Fairbanks, AK 99716		shirley@alaska.net
<i>Sharon Hughes</i>	Sharon Hughes	PO Box 25500 Fairbanks Alaska 99701		sharon@alaska.net
<i>Eugene E. Fox</i>	Eugene E. Fox	2718 Venetian Dr Fairbanks AK 99707		
<i>Lois C. Anderson</i>	Lois C. Anderson	PO Box 90175 Fairbanks AK 99707		
<i>Lisa Brooks</i>	Lisa Brooks	PO Box 35053 Fairbanks AK 99707	479-0521	lbrooks@alaska.net
<i>Kathleen Wilson</i>	Kathleen Wilson	2019 Seward Fairbanks AK 99707	479-0521	kathleen@alaska.net
BERNADETTE BURAS	Bernadette Buras	636 DePaulo Fairbanks AK 99707	479-5801	
<i>Christina DeWitt</i>	Christina DeWitt	717 Delta Terminal Fairbanks AK 99707	479-0521	
<i>Bernadette Buras</i>	Bernadette Buras	PO Box 70002 Fairbanks AK 99707	479-5801	
<i>Christina DeWitt</i>	Christina DeWitt	PO Box 70002 Fairbanks AK 99707	479-5801	
<i>L.S. Williams</i>	L.S. Williams	PO Box 70002 Fairbanks AK 99707	479-5801	lswilliams@alaska.net

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Fairbanks p-15

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Signature	Printing Name	Address	Phone	E-mail address
<i>Lois C. Anderson</i>	Lois C. Anderson	PO Box 90175 Fairbanks AK 99707	479-0521	
<i>Lois C. Anderson</i>	Lois C. Anderson	PO Box 90175 Fairbanks AK 99707	479-0521	
<i>Lois C. Anderson</i>	Lois C. Anderson	PO Box 90175 Fairbanks AK 99707	479-0521	
<i>Lois C. Anderson</i>	Lois C. Anderson	PO Box 90175 Fairbanks AK 99707	479-0521	

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Fairbanks, AK p.13

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	MARKING CANABEK	1019 ASBURY ST FAIRBANKS 99701	907-459-0700	
<i>[Signature]</i>	BATIS GREENE	3407 KOSIE CREEK RD, FAIRBANKS 99709		
<i>[Signature]</i>	Jacqueline Williamson	660 Wilcox #16 Fairbanks 99709		
Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	Sean Jay Green	Postal Box 5271 Fairbanks AK 99708	485-3766	Sean@seanmccarthy.com
<i>[Signature]</i>	Helen E North	P.O. Box 73154 Fairbanks AK 99707	455-4667	
<i>[Signature]</i>	LAVELL FORT	3555 Go That @ Wainwright, AK 99705	485-8075	
<i>[Signature]</i>	Maria Adams	P.O. Box 82619 Fairbanks AK 99708	456-7897	maria@mariaadams.com
<i>[Signature]</i>	Isaac P. ...	P.O. Box 8508 Fairbanks AK 99707	487-9325	ISAC@ALASKA.EDU
Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>[Signature]</i>	Ken C. Fairbank	820 Rifle Rd, Fairbanks 99702	485-8492	ken@kenfairbank.com
<i>[Signature]</i>	CAROL J. GARRISON	P.O. Box 214, Ektar AK 99705	479-3068	cgarrison@alaska.net
<i>[Signature]</i>	JANICE JOHNSON	P.O. Box 83813 Fairbanks AK 99708	487-6140	
<i>[Signature]</i>	Walter Sullivan	P.O. Box 214 Ektar Alaska 99705	479-3068	walt@alaska.net
<i>[Signature]</i>	CHRISTINE L. LUCI	P.O. Box 97 Fairbanks AK 99705	479-2165	
<i>[Signature]</i>	WILLIAM KONIGER	111 PM 79146 Wainwright AK 99775	474-7507	william@koniger.com
<i>[Signature]</i>	Mark E. Schneider	P.O. Box 80863 College AK 99708	479-3466	mark@schneider.com
<i>[Signature]</i>	TELENEE BACE	P.O. Box 72533 Fairbanks AK 99707	487-8156	
<i>[Signature]</i>	ELANIE ...	3360 W. HATFIELD SERVICE, W.P. 99707	487-9002	
<i>[Signature]</i>	PAROLA S. PETERS	511 SUNNYSIDE RD FAIRBANKS 99709	479-4561	

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Fairbanks p17

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>John E. Davis</i>	John E. DAVIS	302 Circle Dr. Fairbanks, AK 99701	455-4745	
<i>Carolina Cauder</i>	CAROLINA CAUDER	P.O. Box 74137 Fairbanks AK 99704	455-4442	
<i>Roberta C. L.</i>	Roberta C. L.	10000 24th Ave. N. Anchorage AK 99505		
<i>Mary E. Uston</i>	MARY E. USTON	1 P.O. Box 74152 Fairbanks AK 99704	455-4431	
<i>Ann Ash</i>	Ann Ash	P.O. Box 344 Fairbanks AK 99701	451-2000	
<i>Billiam Sturt</i>	Billiam Sturt	1092 Popovush Dr. Fairbanks AK 99701	457-4441	
<i>Michael A. C. L.</i>	Michael A. C. L.	Box 84745 Fairbanks AK 99700	457-0754	

This document will become a part of the public record. Please fax completed petitions to (907) 586-4228, and originals to Commission for Equality, PO Box 34022, Anchorage, AK 99503. We would appreciate a reply and return to one of the following people at phone: Bob Collins, Jeff Walters, Pam Peasey, Mark Schmittner, Lisa Skypala, Nancy Kelling, Mark Curran, or Lenora Worth. Don't forget to sign the bottom of the petition.

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks p17

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Alison Cuccaro</i>	Alison Cuccaro	P.O. Box 91396 Fairbanks AK 99701	457-0000	
<i>Angela Lewis</i>	Angela Lewis	240 5th Ave Fairbanks AK 99701	456-5770	
<i>Arundine Simons</i>	Arundine Simons	P.O. Box 71501 Fairbanks AK 99701	457-1128	
<i>Charles Lewis</i>	Charles Lewis	320 Bluebird Ave Fairbanks AK 99701	455-4417	
<i>Michelle Miller</i>	Michelle Miller	1136 2nd Dr. Fairbanks AK 99701		
<i>Caroline J. Mack</i>	Caroline J. Mack	2537 Birch Ave Fairbanks AK 99701	457-3500	
<i>Thomas L. MacB</i>	Thomas L. MacB	2337 20th Ave Fairbanks AK		
<i>Christie A. Allen</i>	Christie A. Allen	17 Fairview Dr. Fairbanks AK 99701		
<i>Theresa J. Dwyer</i>	Theresa J. Dwyer	22809 9th St Fairbanks AK	452-5000	
<i>Mae Courtt</i>	Mae Courtt	8325 Seward Dr Anchorage AK		
<i>Tommy Waller</i>	Tommy Waller	460 1st St Anchorage AK	452-7922	
<i>Walter B. Gardner</i>	Walter B. Gardner	P.O. Box 30325 Anchorage AK 99505		
<i>Mary B. Pringle</i>	Mary B. Pringle	P.O. Box 92252 Fairbanks AK 99705		
<i>Al Hill</i>	Al Hill	1309 25th St Anchorage AK 99501		
<i>Michelle Plummer</i>	Michelle Plummer	2570 Laramie Ln Fairbanks AK 99701	456-3800	
<i>Erica K. B. Brown</i>	Erica K. B. Brown	3416 Lakeview Dr Anchorage AK 99503	457-3300	
<i>Janece A. Kephart</i>	Janece A. Kephart	P.O. Box 53444 Anchorage AK 99503	457-0000	

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Fairbanks p18

The Alaska State Legislature is considering an amendment to the Alaska Constitution, titled Senate Joint Resolution 42 (SJR 42), which would prohibit state recognition of same-sex marriages. We believe the proposed amendment encroaches on an Alaskan's right to privacy. We also believe the proposed amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Signature	Printed Name	Mailing Address	Phone	E-mail address
<i>Colin H. Hunter</i>	Colin H. Hunter	1819 Alaska Dr Fairbanks AK 99701	457-3300	

amendment would undermine the state constitution's guarantee of equal rights and opportunities for all Alaskans. We, the undersigned, urge all Alaska state legislators to vote against SJR 42.

Fairbanks, AK P10

Signature	Printed Name	Residing Address	Phone	E-mail address
<i>Loretta K Rees</i>	Loretta K Rees	1968 Hilltop Ave Fairbanks, AK	452-4119	Rees @ Alaska.net.com
<i>Rose Fagh</i>	Rose Fagh	640 Fairchild JLDs	475-3335	
<i>ANNE-NALISSA TUCKER</i>	ANNE-NALISSA TUCKER	510 VAK RD# 8625 FAIRBANKS	977-0033	Kelan To Oholmal.com
<i>Brian A Lawrence</i>	Brian A Lawrence	5618 S Lawrence ST FAIRBANKS	474-8046	BrianLawrence@comcast.com
<i>ILONA VERZAMATE</i>	ILONA VERZAMATE	3008 B1289, FAIRBANKS 99708	479-2136	ILONAV@AOL.COM
<i>Wendy Brakke</i>	Wendy Brakke	Box 11, Fairbanks, AK 99707	356-1382	Starkes22@kila.com
<i>MARVIN ANDERSON</i>	MARVIN ANDERSON	PO Box 11, Fairbanks, AK 99707	475-8809	marvin@alaska.net
<i>David R Berger</i>	David R Berger	5618 S Lawrence, ST Fairbanks, AK 99708	477-9546	DavidRBerger@alaska.net
<i>Jeffrey D. Walters</i>	Jeffrey D. Walters	20 Ave 8200 FAIRBANKS, AK 99708	457-3876	waltjdw@alaska.net.us
<i>Crystal Milk</i>	Crystal Milk	3475 Steady FAIRBANKS AK 99708		
<i>PAT CLARK</i>	PAT CLARK	P.O. Box 1000 FAIRBANKS AK 99706	475-710	Kel@alaska.net
<i>DAVID LAWRENCE</i>	DAVID LAWRENCE	P.O. Box 7022 FAIRBANKS		
<i>Brian A Lawrence</i>	Brian A Lawrence	4347 1st St FAIRBANKS AK		BrianLawrence@comcast.com
<i>Randy Balin</i>	Randy Balin	4347 1st St FAIRBANKS AK		
<i>Dorey Deane-Ross</i>	Dorey Deane-Ross	Box 333 Ester FAIRBANKS AK 99709	477-9979	dorey@alaska.net
<i>Martha Stevenson</i>	Martha Stevenson	285 Wilcox Ave FAIRBANKS AK 99709	455-4563	
<i>Joseph A. Ote</i>	Joseph A. Ote	"		

Testimony for SJR42 to House Finance

Thank you for the fair and just treatment in the course of this legislative investigation of SJR42. I realize that this legislature has already wasted much time and expense pushing this issue in the wrong direction.

This issue arose a few months ago when judge Peter Michaelski ruled that SB308 was unconstitutional and asked the state to provide a compelling interest for the law. Now if Sen. Loren Leman is correct that gay marriages will inevitably devastate our society, than there must be hundreds of proven compelling reasons for denying gay couples the right to marry. Just give one of those reasons to the judge and its all over. The state will have fulfilled the legal requirement for the statue to become law. If the state cannot come up with a valid compelling interest, then there is no reason to mess with our constitution.

The Senate Republicans sure thought they had some good reasons during their floor debate. Apparently they were afraid to submit their reasons to a "constitutionality test" by the Alaskan courts. They would rather leave the decision to the voters who can be influenced by their homophobic rhetoric. Ironically this ballot amendment will most likely also be declared unconstitutional and thrown out by the courts. Marriage is a civil right that cannot be determined by popular vote. It is a fundamental right to family and fulfillment that must be available to all members of our society equally. How would you feel if your marriage was on next falls ballot?

Please let the courts complete their work on this issue and do not allow constitutional amendments without reason. I urge you to allow this resolution to remain in committee.

Lawrence A. Woodall

5-04-98

Lawrence A. Woodall



**NASW Alaska Policy Statement
SJR 42**

The National Association of Social Workers (NASW) strongly opposes SJR 42. This proposal to amend the Alaska Constitution is a radical effort to restrict the privacy and freedom on one group of Alaskans. NASW asserts that discrimination and prejudice against any group is damaging to the social, emotional, and economic well-being of the affected group and of society as a whole. It is the position of NASW that same-gender sexual orientation should be afforded the same respect and rights as opposite-gender orientation. NASW recognizes that homosexuality and homosexual cultures have existed throughout history. Homosexual people have been subject to long-standing social condemnation and discrimination. Toward the elimination of this prejudice, NASW recommends legal and political action to:

- work toward implementation of domestic partnership legislation at local, state, and national levels that includes lesbian and gay people.
- encourage adoption of laws that recognize inheritance, insurance, child custody, property, and other rights in lesbian and gay relationships.
- see election of self-identified lesbian, gay and bisexual candidates in all political jurisdictions.

as well as antidiscrimination efforts which:

- seek repeal of, and actively campaign against, any laws allowing discriminatory practices against lesbian, gay and bisexual people.
- encourage broadening of affirmative action statements in state government, social agencies, universities, professional associations, and funding organizations to include sexual orientation.
- work toward implementation of antidiscrimination personnel policies that cover lesbian, gay and bisexual people within the state of Alaska.
- increase public awareness of the discrimination experienced by lesbian, gay and bisexual people and of the contributions to society made by lesbian, gay and bisexual people.

LEAGUE OF WOMEN VOTERS OF ALASKA
Resolution Number 98-1

**A RESOLUTION OPPOSING SJR-42, WHICH PROPOSES AN AMENDMENT TO THE
CONSTITUTION OF THE STATE OF ALASKA, ARTICLE I, DECLARATION OF RIGHTS,
RELATING TO MARRIAGE.**

Whereas, the League of Women Voters of Alaska considers the Constitution of the State of Alaska a model document that has upheld Alaskan citizens' individual liberties and fundamental rights exceedingly well;

Whereas, constitutions in a democracy exist, in part, to protect the minority from the tyranny of the majority;

Whereas, Article I, Section 3, Civil Rights, of the Alaska Constitution states: "No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section.";

Whereas, the position of the League of Women Voters of the United States on Citizen Rights: Individual Liberties is: "The LWVUS believes in the individual liberties guaranteed by the Constitution of the United States. The League is convinced that individual rights now protected by the Constitution should not be weakened or abridged.";

Whereas, the League's national commitment to diversity embraces all citizens regardless of "gender, age, race, ethnicity, disability and sexual orientation," and the League opposes abridging anyone's right to privacy based on membership in any of these groups; and

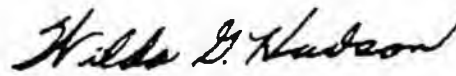
Whereas, a recent Alaskan law that restricted marriage to "one man and one woman" has been found unconstitutional by a Superior Court ruling under Alaska's right to privacy law;

THEREFORE, BE IT RESOLVED, that the League of Women Voters of Alaska opposes any legislative or other attempts to send to the voters amendments to the Constitution of the State of Alaska that would restrict, delete, or make exceptions to rights and liberties in place in the current Alaska Constitution dated January 1, 1998.

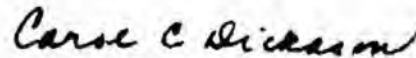
FURTHER, BE IT RESOLVED, that the League of Women Voters of Alaska supports equality of opportunity for all citizens. League rejects amendments to the Alaska Constitution that would make some groups of Alaskan citizens less equal than others and/or that would deny whole groups of citizens the same rights and responsibilities enjoyed by other citizens.

FURTHER, BE IT RESOLVED, that the League of Women Voters of Alaska opposes legislative attempts to pass SJR-42, a bill to amend the Alaska Constitution rather than uphold the Superior Court finding. The League opposes SJR-42 and any law or ballot measure intended to undercut or overturn court decisions which maintain the basic privacy rights of Alaskan citizens.

PASSED on April 19, 1998, by the delegates of the League of Women Voters of Alaska State Convention held in Kenai, Alaska.


Wilda G. Hudson, President
League of Women Voters of Alaska

ATTEST:


Carol C. Dickason, Secretary pro tem
League of Women Voters of Alaska



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE FINANCE
COMMITTEE NAME

COMMITTEE ON STROY2 DATED 5/4/98
BILL/SUBJECT

PLEASE OPPOSE STROY2.

IF JUDGE MICHALSKI HAD FOUND AGAINST THE MARRIAGE PETITION OF MR BRADSE AND MR DUGAN, I WOULD NOT BE HERE TODAY, NOR WOULD YOU.

I AM HERE, BECAUSE AS A MEMBER OF A MINORITY GROUP, I CANNOT FORGIVE THIS ISSUE AT THE BALLOT BOX.

THE COURTS ARE DOING THEIR JOB, AS OUR FOUNDERS INTENDED, TO BALANCE THE WILL OF THE MAJORITY IN A SOCIETY WITH MANY TRADITIONS.

PLEASE RESPECT THAT INTENT, OPPOSE THIS MEASURE AND LET THE COURTS PROCEED WITH THE CIVIL DISCUSSION. THE LEGISLATURE CAN ALWAYS ACT IN THE FUTURE.

SIGNED Nanet Sue Roberts
TESTIFIER

REPRESENTING (OPTIONAL) 479-0001
720 Chena Ridge Rd, Fairbanks, AK 99709
ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance Comm
COMMITTEE NAME

COMMITTEE ON SJR 42 DATED 5/4/98
BILL/SUBJECT

Dear Representatives on the House Finance Committee,

I hope you all read the letter from our PFLAG National president, Nancy McDonald. As president of Parents, Family and Friends of Lesbians and Gays - Fairbanks, I agree with all three of her points. I am particularly concerned with point one about the increase in the rise of hate crimes against lesbians, gays, their family members and those who are perceived to be gay, when these measures come up for a vote. When I have stood up for my daughter who is gay, and a wonderful person, as president of PFLAG, I have received death threats and hateful messages!
(over)

SIGNED Nancy Kailburg
TESTIFIER

REPRESENTING (OPTIONAL)
PO Box 84680, Fairbanks, AK 99708-4680
ADDRESS/PHONE NUMBER

This is just when we advertise our monthly meetings or have educational activities for our city. I hate to think what might happen if this passes the Finance committee and the entire house. and is put on the November ballot.

Please vote NO on SJR 42.

League of Women Voters of Alaska

1542 East 27th Avenue, Anchorage, AK 99508 - Phone/Fax: 272-0366

FAX TRANSMITTAL -- Two pages

April 22, 1998

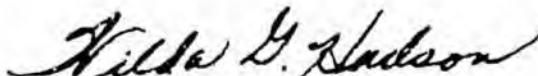
The Honorable Alan Austerman
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182
Fax (907) 465-4956

Dear Representative Austerman:

Transmitted herewith is resolution No. 98-1 passed by the delegates of the League of Women Voters of Alaska at our State Convention which was held in Kenai on April 17-19, 1998

The League respectfully requests that the Legislature defeat SJR-42, and that you not place this proposed amendment to the Alaska Constitution on the ballot.

Sincerely yours,



Wilda G. Hudson, President
League of Women Voters of Alaska



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance
 COMMITTEE NAME
 COMMITTEE ON SJR 42 DATED 5/4/98
 BILL/SUBJECT

I am opposed to SJR 42. Please consider the public debate which will be catalyzed by this ammendment. When minority rights are put to a popular vote on this controversial issue, citizens will be pitted against each other.

As I have been involved in the process to lobby the legislature on this issue, I would like to share with you my personal definition of success. Throughout the various committee hearings I have attempted to remain open hearted to all testifiers and listen to their words with respect. This is no small challenge when individuals characterize me as an animal, a pedophile or one who engages in bestiality. In fact, I am none of the above.

I hope that you will listen to all the testimony in a similar manner. I urge you to vote against SJR 42

SIGNED Mark Schubaer
 TESTIFIER

MARK SCHUBAUER
 REPRESENTING (OPTIONAL)

PO Box 87 Ester AK 389 2582
 ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Finance Committee
COMMITTEE NAME

COMMITTEE ON SJR 042 DATED 5/4/98
BILL/SUBJECT

As the President of the Unitarian Universalist Fellowship of Fairbanks, I represent our fellowships in voicing our support of the US Constitutional right to Freedom of Religion. Our religion takes an affirmative position in support of marriage between any two committed persons regardless of gender. Please ~~no~~ defeat ~~on~~ SJR 042 before it gets placed on the ballot

SIGNED Christine McGavin Christine McGavin, MSSW
TESTIFIER
President, Unitarian Universalist Fellowship of Fairbanks
REPRESENTING (OPTIONAL)
Po Box 82962 Fairbanks, AK 99708
ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE FINANCE
COMMITTEE NAME

COMMITTEE ON SJRO42 DATED 5/4/98
BILL/SUBJECT

PLEASE OPPOSE SJRO42
BALLOT INITIATIVES OF THIS TYPE IN OTHER
STATES HAVE LEAD TO AN INCREASE IN
CRIMES AND PERSONAL DISCRIMINATION
AGAINST GAY AND LESBIAN PERSONS

ALL CRIME COSTS THE STATE AND ITS
CITIZENS TIME, MONEY AND RECOURES.

THE GOVERNMENT OF ALASKA IS DISCUSSING
THIS ISSUE IN THE COURTS AND THE LEGISLATURE
WILL BE FREE TO ACT IN THE FUTURE AS
PART OF THIS CIVIL DISCUSSION

THANK YOU CHAIRMAN THERRIault FOR YOUR ATTENTION,
WITH BEST REGARDS FOR THE REMAINDER
OF THE SESSION

SIGNED Richard Collins RICHARD COLLINS
TESTIFIER

REPRESENTING (OPTIONAL)

PO Box 83683 FAIRBANKS AK 99708
ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance
COMMITTEE NAME

COMMITTEE ON SJR 42 DATED May 4, 1998
BILL/SUBJECT

I oppose SJR 42 because of the testimonies I have heard by those who support this bill. They were calling gays and lesbians child molesters involved ~~in~~ in incest + bestiality. These statements which I have heard over & over again are not based on fact but ^{based} on misinformation and fear. There are many outstanding citizens in this great state of ours who happen to be gay or lesbian. They are school teachers, counselors, social workers, police officers etc. I am a highly respected ~~city~~ youth counselor working with severely emotionally disturbed youth. I have read many case files on children who have been molested, & I have never come across a case file that said they were molested by a homosexual. Everyone that I have read said they were molested by a heterosexual male.

If you support this bill you will be sending a message to all Alaskans that gay & lesbians are bad immoral people, there are no facts that support this. ~~We are not immoral we go to work~~

What about the gay and lesbian teenagers? Gay youth comprise up to 30% of completed youth suicides. 28% of gay & lesbian youth drop out of school because of harassment at school. Gay & lesbian youth make up for 25% of youth living on the streets. By supporting this bill you will only increase these statistics because you will reinforce the myths, misinformation, & fear.

SIGNED _____

TESTIFIER

REPRESENTING (OPTIONAL)

ADDRESS/PHONE NUMBER

National association of Social workers

the social workers are also the
ones working with child molestation cases.

If lesbians & gays are doing the molestation
why would they oppose SJR 42 It is because
the social workers know the facts



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE ^{Finance} House Committee
COMMITTEE NAME

COMMITTEE ON SJR 42 DATED 5/3/98
BILL/SUBJECT

I am opposed to SJ-42 because it discriminates against a significant proportion of our population. As a minister of the gospel of Jesus Christ, I believe that we should extend to all the opportunity to marry and live together in a committed relationship. In Matt. 19 Christ talks about eunuchs (homosexuals) stating many are born that way, if God created them that way, just as He created heterosexuals, who are we to condemn? Instead of forcing them into untenable situations let's welcome them and treat all with respect and honor their desires of all to live useful productive lives.

I do not feel that heterosexual marriages would be affected adversely by this action. I don't feel we can blame them for our failures. Maybe they can set us a better example!

VOTE NO on SJH 42

SIGNED Willa Frey
TESTIFIER

Reorganized Church of Jesus Christ of Latter Day Saints
REPRESENTING (OPTIONAL)

PO Box 91714 Fbks, AK 99707 (907) 452-7858
ADDRESS/PHONE NUMBER

Chairman Hanley and Chairman Therriault,

Thank you for allowing us this opportunity to provide this testimony on SJR 42.

My name is Richard Kemnitz and I am speaking on behalf of the Social Action Committee of the Unitarian Universalist Fellowship of Fairbanks. We are opposed to this measure as it is contradictory to the following Unitarian Universalist Association Principles and Purposes which we covenant to affirm and promote:

The inherent worth and dignity of every person;

Justice, equity, and compassion in human relations;

Acceptance of one another and encouragement to spiritual growth in our congregations;

A free and responsible search for truth and meaning;

The right of conscience and the use of the democratic process within our congregations and in society at large;

The goal of world community with peace, liberty, and justice for all;

Respect for the interdependent web of all existence of which we are part;

In accordance with these principles the General Assembly of the Unitarian Universalist Association passed resolutions in 1984 and again in 1996 affirming Ceremonies of Union between members of the same sex.

We urge you to vote no on SJR 42.

Richard Kemnitz
Social Action Committee
Unitarian Universalist Fellowship of Fairbanks
P.O. Box 84734
Fairbanks, AK 99708
907-457-9009
rkemnitz@polarnet.com



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Finance
COMMITTEE NAME

COMMITTEE ON SSR 42 DATED 5/4/98
BILL/SUBJECT

I'm here to urge you to vote against SSR 42.
The issue here is about a minority and it is ~~is~~ obviously
inappropriate to bring it to a public vote and allow the
majority to decide.
This country was born on the ideas of Religious Freedom
Please continue to uphold that.

I am a single heterosexual woman & this
adment will not affect me personally
but as a believer of the importance of
civil rights I must take a stand.

As a Jew I am always aware that my
beliefs do not coincide with the majority
but I trust my government to protect my rights.

Thank you.

SIGNED

TESTIFIER

REPRESENTING (OPTIONAL)

321 Miller Mill Rd. Fairbanks 99709 479-6676

ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE HOUSE FINANCE
COMMITTEE NAME

COMMITTEE ON SJR-42 DATED 5-4-98
BILL/SUBJECT

REP. PETE KELLEY WROTE A GUEST OPINION FOR THE FAIRBANKS DAILY NEWS. HE AGREED THAT THE CHOICE OF A SPOUSE IS A PRIVATE DECISION. HE AGREED THAT MARRIAGE PRIVILEGES, WHAT HE LEFT OUT, IN HIS ACCOUNT OF JUDGE MICHALSKI'S DECISION, IS EQUAL PROTECTION. MY UNDERSTANDING OF EQUAL PROTECTION IS A DESIRE TO TREAT EVERYONE EQUALLY. IF SOME PEOPLE GET THE SPECIAL PRIVILEGES OF MARRIAGE, THEN ALL PEOPLE ARE ALLOWED ACCESS TO THOSE PRIVILEGES.

A $\frac{2}{3}$ MAJORITY OF AMERICANS NOW BELIEVE THAT HOMOSEXUALITY IS NOT AN ABOMINATION, BUT IS SIMPLY THE WAY GOD CREATED SOME PEOPLE. IT IS ^{UN}CONSTITUTIONAL TO DENY EQUAL PROTECTION TO ANY GROUP OF PEOPLE. I BELIEVE SJR-42, EVEN IF RATIFIED BY THE PEOPLE, WILL EVENTUALLY BE DECLARED UNCONSTITUTIONAL, RESULTING IN LEGAL BATTLES FOR THE STATE OF ALASKA.

SIGNED Mai Galus
TESTIFIER

REPRESENTING (OPTIONAL)

PO BOX 212 ESTER 99725
ADDRESS/PHONE NUMBER



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Finance
COMMITTEE NAME

COMMITTEE ON SJR 42 DATED 5-4-98
BILL/SUBJECT

I urge you to oppose this resolution. It is unnecessarily divisive and will only result in increased hate speech and similar crimes, In the end, dividing Alaskans. The time for dealing with this resolution is AFTER the courts have set down their final ruling. Should that ruling go against the current majority, this or a similar measure can always be revisited!

Please vote NO on SJR 42!

SIGNED  _____ Patrick E. Maclews
TESTIFIER

REPRESENTING (OPTIONAL)

P.O. Box 83683 Fairbanks, AK 99708 907-458-0913
ADDRESS/PHONE NUMBER

05/04/98
10:19:41

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:80808 SCHEDULED FOR:05/04/98 08:00 TO 10:30
PUBLIC HEARING HOUSE FINANCE

LTN1150
BY:ANC
FOR:ANC

LOCATION: ANCHORAGE

SJR 42	MR	TOM	RACHAL	TESTIFY
SJR 42	MR	AL	INCONTRO	TESTIFY
SJR 42	MS	PATRICIA	MARK	TESTIFY
SJR 42	MS	JENNIFER	RUDINGER	TESTIFY
SJR 42	MS	ALLISON	MENDEL	TESTIFY
SJR 42	MR	FREDERICK	HILLMAN	TESTIFY
SJR 42	MR	ELLIOTT	DENNIS	TESTIFY
SJR 42	MR	NORMAN	SCHLITTLER	TESTIFY
SJR 42		CONNIE	FAIPEAS	TESTIFY
SJR 42		MARI	JAMIESON	TESTIFY
SJR 42		DAN	CARTER	TESTIFY

05/04/98
09:05:47

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)
SCHEDULED FOR: 05/04/98 08:00 TO 10:30
PUBLIC HEARING HOUSE FINANCE

LTN1150
BY: JNU
FOR: ALL

TCN: 80808

LOCATION: ANCHORAGE

SJR 42	1 MR	WOM	RACHAL	TESTIFY
SJR 42	3 MR	AL	INCONTRO	TESTIFY
SJR 42	4 MS	PATRICIA	MARK	TESTIFY
SJR 42	18 18 MS	JENNIFER	RUDINGER <i>at dir</i> AKCLU	TESTIFY
SJR 42	18 18 MS	ALLISON	MENDEL - <i>attorney</i>	TESTIFY
SJR 42	20 ← MR	FREDERICK	HILLMAN	TESTIFY
SJR 42	2 MR	ELLIOTT	DENNIS	TESTIFY
SJR 42	21 MR	NORMAN	SCHLITTLER EB	TESTIFY

LOCATION: FAIRBANKS

SJR 42	5 MS.	NANCY	KAILING	TESTIFY
SJR 42	7 MS.	MARI	GALEREAVE	TESTIFY
SJR 42	9 MR.	PATRICK	MARLOW	TESTIFY
SJR 42	10 MR.	RICHARD	COLLINS	TESTIFY
SJR 42	11 MS.	WILLA	FREY	TESTIFY
SJR 42	16 MS.	JANET	ROBERTS	TESTIFY
SJR 42	12 MS.	RICHARD	KEMNITZ	TESTIFY
SJR 42	13 MS.	CHRISTINE	MCGARVIN <i>Pres.</i>	TESTIFY
SJR 42	14 MS.	PATTY	KEARON	TESTIFY
SJR 42	15 MR.	ROWENA	GROSS	TESTIFY
SJR 42	16 MS.	ELAINE	WILLIAMSON	TESTIFY
SJR 42	17 MS.	MARINA	DAY	TESTIFY

*Connie Fairbanks
Mari Jamieson*

*must be Jesus Christ
Unitarian Soc*

LOCATION: MATSU

9 SJR 42	MR	HOWARD	BESS - <i>minister</i>	TESTIFY
----------	----	--------	------------------------	---------

*Parents Friends + families
of lesbians + GAY*

Dan Carter, and



House Finance Committee

SUBJECT OF MEETING:

DATE: 5-4-98

PLACE: CAPS19

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Peggy Brown	INDIVIDUAL	619 East St.	99801	463-3254	586-3656	Y	(N)	SJR 42 OPPOSITION
Linda Thompson	Individual	4467 Columbia Blvd Juneau, AK 99801	99801	790-2852		(Y)	N	SJR 42 support
Morissa Sullivan	Individual	P.O. Box 240791 Douglas AK	99821	586-6162		(Y)	N	SJR 42 Oppose, respect 42
Russell Curry	SRLF	19296 RANDALL ROAD Juneau, AK 99801-8208	99801	789-7822	465-2311	Y	(N)	SJR 42 OPPOSE!
LEANNE GRIFFIN	Individual	1405 Mary Ellen Way Juneau, AK 99801	99801	780-6651	586-8474	(Y)	N	SJR opposition
Darien Wahl	individual	4225 Ptarmigan Juneau, Alaska 99801		789-2173	same	(Y)	N	SJR 42 SUPPORTS
Lin Davis	individual	3099 Nowell Ave Juneau, AK 99801	99801	5864111		(Y)	N	SJR 42 OPPOSE
						Y	N	
						Y	N	
						Y	N	
						Y	N	

STATEMENT READ



House Finance Committee

DATE: 5-4-98

PLACE: CAP 519

SUBJECT OF MEETING:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Guy Bell + Bill Church	Retirement + Benefits	SOB, 6th Floor		789-3361	465-2292	(Y) N	HB323 Answer ? 5
Maurcen Longworth	Self	3099 Howell Ave Juneau		586-4111		(Y) N	SJR 42 - NO
DAVID ROGERS	SELF	P.O. Box 33932		586-1107		(Y) N	SSA-42
Caren Robinson	AK wo	P.O. Box 33702		586-1107		(Y) N	SSR-42
Carol Andysen	Self	P.O. Box 22493		6-2410		(Y) N	SJR 42
Wilson Valertine		4311 Conifer Lane Juneau	99801	789-3255	789-5152	(Y) N	SJR 42
Willie Anderson	Self	8443 Kira Kerly Juneau	99801	789-4188		(Y) N	SR 542
						Y N	
						Y N	
						Y N	
						Y N	



House Finance Committee

SUBJECT OF MEETING:

DATE: 5-4-98

PLACE: CAP 519

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Sara Bremer	Committee for Equality	Box 34202 Juneau	99803			<input checked="" type="radio"/> Y	<input type="radio"/> N	SJR-42
Catherine Reardon	Cominara	PO Box 108 Juneau AK	99801		465-2538	<input checked="" type="radio"/> Y	<input type="radio"/> N	Answer questions SB 235
Guy Bell	Retirement & Benefits					<input checked="" type="radio"/> Y	<input type="radio"/> N	HB323 - Answers ?
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

2



House Finance Committee

SUBJECT OF MEETING:

DATE: 5-4-98

PLACE: CAP 519

TESTIMONY
READ BY
J. NELSON

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Mildred Boesser	myself	17585 Lena Loop	99801	789-1445		(Y) N	SJR42
Mark Boesser	myself	17585 Lena Loop	99801	789-1445		(Y) N	SJR42
ANGELA MUNOZ	JUNEAU HUMAN RIGHTS COMMISSION	PO BOX 222713 1055 1st St.	99802 99801		465-3241	(Y) N	SJR-42
Lawrence A Woodall	myself	PO Box 20586 Juneau, AK	99802	463-3434		(Y) N	SJR-42 must leave at 8:30 for work
Karen Champagne	Alaska Dept of Health	310 Irwin St. N	99801	385-2104		(Y) N	SJR 42
Marsha Buck	PFLAG Juneau	5445 Kimberly St. Juneau	99801	789-6167		(Y) N	SJR 42
Jason Nelson	Myself	909 1st Street Douglas, AK 99824	99824	364-2865		(Y) N	SJR 42
Bern Kettula	SELF	10601 Horizon Dr.	99801	463-5440		(Y) N	SJR 42
Ann Northrip	self	2810 Fritz Cove Rd.	99801	789-3554		(Y) N	SJR 42
Kirsten Bannergren	self	Box 20813 Juneau	99802	364-2842		(Y) N	SJR 42
Tom GARDY	Self Christian Coalition of AK	PO Box 34832 Juneau	99803	789-3453		(Y) N	SJR42



House Finance Committee

DATE: 5-4-98

PLACE: CAP 519

SUBJECT OF MEETING:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Charles Northrip	self	2810 Fritz Cove Rd	99801	784-3554	463-3662	(Y) N	SJR 42
Pamela Northrip	"	" " " "	"	"		(Y) N	
Marianna Mills	League of Women Voters of Alaska	2806 John St	99801	586-3209		(Y) N	SJR 42
Lauren Champagne Carol Hedlin	NASW self	310 Irwin St PO Box 211284 Anchorage	99801 99801	586 4404 790-2585	466-4446	(Y) N	opposed SJR 42
FABIENNE PETER-CONFESSE	"	2870 LINDA AVE JUNEAU	99801		4656002	(Y) N	OPPOSED TO SJR 42
PHILLIP GRAY	MYSELF	4410 N DOUGLAS HWY JUNEAU, AK	99801	586-6913	SAME	(Y) N	SJR 42 I AM IN FAVOR OF THIS BILL
Kim POOLE	SELF	PO Box 2284 B JUNEAU	99802	364-2110		(Y) N	SJR 42.
Mary Graham	self	235 5th St #2 JUNEAU	99801	586 4938		(Y) N	SJR 42
Darla Madden	self	9626 Stikine St	99801	790-2941	5-1629	(Y) N	SJR-42
Jeverly Haywood	Unitarian Universalist UCA	985 Mendenhall Pen. JUNEAU	99801	790-4069	w/a	(Y) N	SJR 42
KAREN WOOD	SELF	9626 Stikine St. JUNEAU	99801	790-2941	5-5198	(Y) N	SJR-42