

SJR

42

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)

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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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 308 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.

AMENDMENT

OFFERED IN THE SENATE

TO: CS for SJR 42 [work draft 0-LS1655\E]

Page 1, lines 6-11:

Delete all material and insert:

Section 25. Marriage. To be valid or recognized in this State, a marriage may exist only between one man and one woman. No provision of this Constitution may be interpreted to require the State to recognize or permit marriage between individuals of the same sex. Additional requirements related to marriage may be established to the extent permitted by the Constitution of the United States and the Constitution of the State of Alaska.

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."

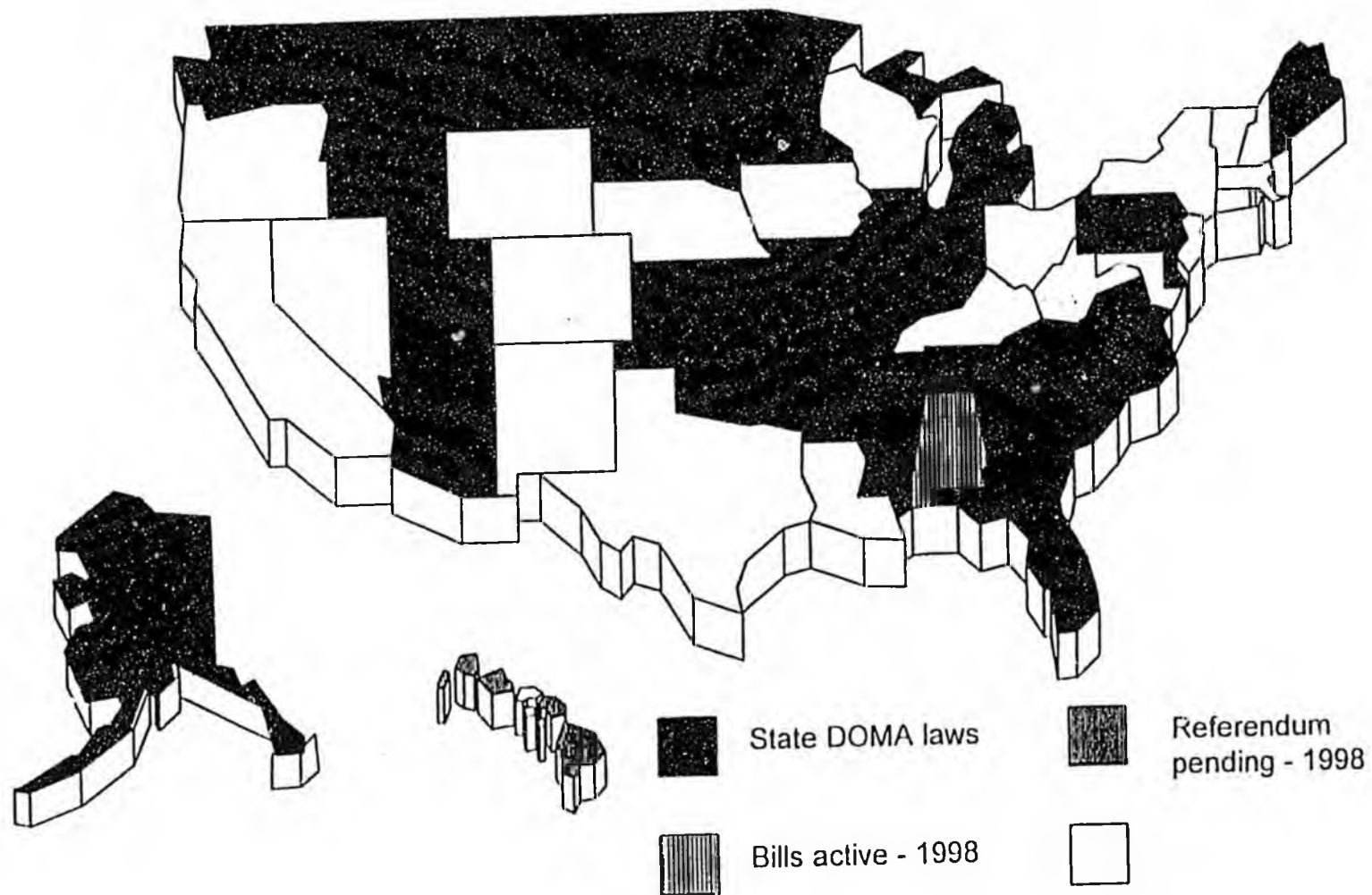
[**2420] (b) Clerical Amendment.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:

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

Speaker of the House of Representatives.

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

State Defense of Marriage (DOMA)



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."

and ice links, at least not one that would justify the kind of expenditure Mysterion is talking about. But he thinks we need one — and need it in an area inaccessible to most Mountain View. Follow and



the proposed business improvement district (BID) for downtown Anchorage. I would caution everyone involved to take care at the Native Cultural Center opening next summer.

FORUM / LETTERS

Hawaii's step toward gay marriage too far for U.S.

By LISA SCHIFFREN

As study after study and victim after victim testify to the social devastation of the sexual revolution, easy divorce and out-of-wedlock motherhood, marriage is fashionable again.

And parenthood has transformed many baby boomers into advocates of bourgeois norms.

Indeed, we have come so far that the surprise issue of the political season is whether homosexual "marriage" should be legalized. The Hawaii courts will likely rule that gay marriage is legal, and other states will be required to accept those marriages as valid.

Considering what a momentous change this would be — a radical redefinition of society's most fundamental institution — there has been almost no real debate. This is because the premise is unimaginable to many, and the forces of political correctness have descended on the discussion, raising the cost of opposition.

But one may feel the same

affection for one's homosexual friends and relatives as for any other, and be genuinely pleased for the happiness they derive from relationships, while opposing gay marriage for principled reasons.

"Same-sex marriage" is inherently incompatible with our culture's understanding of the institution. Marriage is essentially a lifelong compact between a man and a woman committed to sexual exclusivity and the creation and nurture of offspring.

For most Americans, the marital union — as distinguished from other sexual relationships and legal and economic partnerships — is imbued with an aspect of holiness. Though many of us are uncomfortable using religious language to discuss social and political issues, Judeo-Christian morality informs our view of family life.

Though it is not polite to mention it, what the Judeo-Christian tradition has to say about homosexual unions could not be clearer. In a diverse,

open society such as ours, tolerance of homosexuality is a necessity.

But for many, its practice depends on a trick of cognitive dissonance that allows people to believe in the Judeo-Christian moral order while accepting, often with genuine regard, the different lives of homosexual acquaintances. That is why, though homosexuals may believe that they are merely seeking a small expansion of the definition of marriage, the majority of Americans perceive this change as a radical deconstruction of the institution.

Some make the conservative argument that making marriage a civil right will bring stability, an end to promiscuity and a sense of fairness to gay men and women. But they miss the point.

Society cares about stability in heterosexual unions because it is critical for raising healthy children and transmitting the values that are the basis of our culture.

Whether homosexual relationships endure is of little concern

to society. That is also true of most childless marriages, harsh as it is to say. Society has wisely chosen not to differentiate between marriages, because it would require meddling into the motives and desires of everyone who applies for a license.

In traditional marriage, the tie that really binds for life is shared responsibility for the children.

A small fraction of gay couples may choose to raise children together, but such children are offspring of one partner and an outside contributor. What will keep gay marriages together when individuals tire of each other?

Similarly, the argument that legal marriage will check promiscuity by gay males raises the question of how a "piece of paper" will do what the threat of AIDS has not. Lesbians seem to have little problem with monogamy, or the rest of what constitutes "domestication," despite the absence of official status.

Finally, there is the so-called

fairness argument. The government gives tax benefits, insurance rights and employee benefits only to the married. All these financial benefits exclude help couples raise children. reform is an effective way to remove distinctions among earners.

If the American people interested in a radical experiment with same-sex marriage then subjecting it to the political process is the right route. For court in Hawaii to assume the has the power to radically refine marriage is a stunning act of power.

To present homosexual marriage as a fait accompli, with national debate, is a serious political error. A society struggling to recover from 30 years of weakened norms and broken families is not likely to respond gently having an institution central to most people's lives altered.

□ Lisa Schiffren was a speechwriter for Vice President Dan Quayle.

THE IMPORTANCE OF FAMILIES AND MARRIAGE

Testimony of Robert H. Knight
before the
Senate Health, Education and Social Services Committee,
State of Alaska
regarding SB 308, which would amend the state's marriage statute
March 18, 1996

Thank you for inviting me to testify on behalf of the Family Research Council. I've been asked to give a brief statement summarizing the importance of families and of marriage.

One of the Family Research Council's functions is that of a clearinghouse on research about families. Over the years, we have seen studies pile up to an overwhelming magnitude which show that children do best in mother-and-father families, and that communities are healthier where you find the most intact families.

Likewise, numerous studies show that marriage is a societal good, leading to more fulfilled, and even longer lives. Typical is a study in the *American Journal of Sociology* that finds married couples have longer lifespans than unmarried people. The authors conclude that "for both sexes, the hazard of dying falls significantly with marital duration, suggesting a cumulation of the benefits of marriage over time." The researchers say their findings are hardly surprising: "The relationship between marriage and death rates has now reached the status of a truism, having been observed across numerous societies and various social and demographic groups."¹

The heart of family life is marriage, the key organizing principle behind all civilization. Marriage, which brings the two sexes together in a unique, legal, social, economic and spiritual union, has had special protection within the law and the culture because it is indispensable to civilized life. No other relationship provides society what marriage does. No other relationship transforms young men and women into more productive, less selfish and more mature husbands and wives, and fathers and mothers, than marriage. No other relationship affords children the best economic, emotional and psychological environment. Only as we have drifted from

the defense of marriage have we experienced soaring social problems, such as divorce, illegitimacy, sexually-transmitted diseases, and crime. The answer is not to push the envelope further but to restore the primacy of marriage within the law and the culture.

Over the years, there have been attempts to redefine marriage outside the one-man, one-woman definition. In the mid-1800s, some people tried to legalize multiple-partner unions, but were soundly rebuffed. In fact, the U.S. Supreme Court declared in 1885 that any prospective state had to have law resting 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 estate 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." (*Murphy v. Ramsey*)²

Marriage is not something that can be taken lightly, or altered without much impact. Same-sex proponents often point out that some states once banned interracial marriage, but the comparison is invalid. Skin color is inborn and benign, while sexual behavior has everything to do with character, morality and society's basic rules of conduct. Eliminating one entire sex from an institution defined as the bringing together of the two sexes is a quantum leap from eliminating racial discrimination, which did not alter the fundamental character of marriage.

Marriage reflects the natural moral and social law which is in evidence all over the world. No society has loosened sexual morality outside of man-woman marriage and survived. Analyzing studies of cultures spanning several thousands of years on several continents, Harvard sociologist Pitirim Sorokin found that virtually all political revolutions that brought about societal collapse were preceded by a sexual revolution in which marriage and family were devalued.³ When marriage lost its unique status, women and children most frequently were the direct victims.

Giving same-sex relationships or out-of-wedlock heterosexual couples the same special status and benefits as the marital bond would not be the expansion of a right but the destruction of a principle. One can no more expand a definition of marriage than one can expand the definition of a yardstick and still use it as a reliable measure.

If the one-man, one-woman definition of marriage is broken, there is no logical stopping point for continuing the assault on marriage. If feelings are the key requirement, than why not let three people marry, or two people and a child, or consenting blood relatives of legal age?

Marriage-based kinship is essential to stability and continuity. A man is far more apt to sacrifice himself to help a bona fide son-in-law than some unrelated man (or woman) who lives with his daughter. Kinship imparts family names, heritage and property, secures the identity and commitment of fathers for the sake of the children, and entails mutual obligations to the community. Same-sex relations are a negation of the ties that bind, which are the continuation of kinship through the procreation of children.

Even childless married couples retain the possibility of becoming parents either biologically or through adoption, thus providing children with role models of both sexes. Marriages benefit more than the two people involved, or even the children who are created. Their influence reaches children living nearby, as young minds seek out clues to appropriate sexual behavior. Deliberately creating motherless or fatherless families is not remotely in the interests of children or the community, and benefits only a particular political agenda.

Homosexual activist Michaelangelo Signorile put it candidly when he wrote that activists should "fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society's moral codes but rather to debunk a myth and radically alter an archaic institution..."⁴ Likewise, homosexual activist Tom Stoddard admits that "I am no fan of marriage" but he sees "gay marriage" as a way of forcing society to accept homosexuality because marriage "is the centerpiece of our entire social structure, the core of the traditional notion of 'family.'"⁵ But when homosexuals talk about marriage and monogamy, they mean something different from what folks usually mean. Evidence is overwhelming that few gay couples are stable, and those that are, have an understanding to have outside sexual contacts. Andrew Sullivan, the homosexual editor of *The New Republic*, concedes in his book *Virtually Normal* that homosexual relationships are quite different. He contends that many homosexual households reflect "greater understanding of the need for extramarital outlets between two men than between a man and a woman."

Clearly, those who care deeply about children, about morality, about the well being of the larger society, must resist the attempts by a tiny segment of the population to seize marriage for their own purposes. The aggressors here are not ordinary people, who are doing their best to live according to ages-old, time-tested morality and family definition, but those who are trying to harness the power of the law to force acceptance of their agenda. Individuals struggling with same-sex desires should be accorded compassion, but this does not mean they should be given a mandate to radically redefine marriage.

Marriage must be protected, and creating counterfeit versions would undermine the special status of marriage in the law and in the culture--to the detriment of children, families and, finally, to civilization itself.

Thank you.

3/18/96

Robert H. Knight is director of cultural studies at the Family Research Council, a Washington, D.C.-based research and advocacy organization.

ENDNOTES

¹ Lee A. Lillard and Linda J. Waite. "'Til Death Do Us Part': Marital Disruption and Mortality." *American Journal of Sociology* 100 (1995). Pp. 1131-1156. Cited in "Living Longer, New Research." *The Family in America*. Rockford Institute. July 1995.

² *Murphy v. Ramsey* 114 U.S. 15, 45 (1885).

³ Pitirim Sorokin. *The American Sex Revolution*. (Boston: Porter Sargent Publishers. 1956.)

⁴ Michaelangelo Signorile. "Bridal Wave." *Out*. December/January 1994. P. 161.

⁵ Thomas Stoddard. "Why Gay People Should Seek the Right to Marry." *Lesbians, Gay Men and the Law*. William B. Rubenstein, ed. (New York: New York Press. 1993) Pp. 398, 400.

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March 8, 1995

MEMORANDUM

TO: Representative Norman Rokeberg

FROM: Carol R. Vandor ^{CRV}
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.

Representative Rokeberg

March 8, 1995

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After statehood, the legislature began to adopt territorial 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

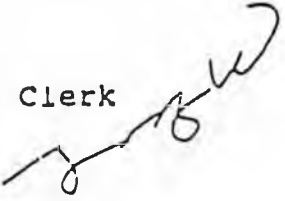
MEMORANDUM

TO: Kris Waugh
Marriage License Clerk

FROM: Larry R. Weeks
Presiding Judge
First Judicial District

Re: Same sex marriages

Date: April 3, 1995



You referred the marriage license application submitted by _____ and _____ to me. It is my understanding that it has long been the policy of the First Judicial District not to issue marriage licenses to same sex applicants. These applicants asked that the matter be referred to the Presiding Judge when you declined to issue a license.

I have reviewed the statutes involved and instruct you not to issue a marriage license to these same sex applicants. I do this based upon my reading of the legislative history and the statutory construction of marriage laws of Alaska.

AS 25.05.011¹, the statute authorizing issuance of marriage licenses, talks about a "person" not "male" and "female". The origin of that statute goes back to section 21-1-1 Alaska Compiled Law Annotated (ACLA). The law has been interpreted by our Supreme Court to mean that a marriage license is mandatory. Edwards v Frank, 364 P.2d 60 (Alaska 1961).

¹AS 25.05.011 Civil contract. (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. (S 1 ch 58 SLA 1963; am S 9 ch 245 SLA 1970; am S 92 ch 127 SLA 1974; am S 1 ch 28 SLA 1975)

Section 21-1-1 ACLA provided:

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 State 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.

In order to qualify for the issuance of a marriage license, ACLA 21-1-1 provides that males must be 21, and females 18 years of age. ACLA 21-1-1 was adopted by Alaska as the state law in 1 SLA 1963 and incorporated into the Alaska Statutes as AS 25.05.011. AS 25.05.011 was subsequently amended on two occasions before the term "person" was substituted for the terms "male" and "female".² Both of those amendments referred to males and females. The 1974 Legislature at section 92 chapter 127 again amended AS 25.050.011. That amended statute provided:

(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.

A search through the legislative history of this act indicates that the 1974 amendment was an attempt to make gender language consistent throughout the Alaska statutes. There is no legislative history to indicate the legislature intended to authorize licenses for same sex marriages. The Omnibus Bill amending AS 25.050.011 was passed at the request of the revisor of statutes. The duties of the revisor of statutes are normally to make the law consistent as to form.³ Numerous revisions in that act were made to a wide variety of statutes to make the references to gender consistent. There was no apparent attempt to change the substantive law.

² Sec 1, 58 SLA 1963 and Sec 9, 245 SLA 1970.

³ See AS 01.05.011.

If the Legislature had intended to change the marriage requirements in Alaska from "male" and "female" to "persons" for substantive reasons, the Legislature would have clearly expressed such an intention.

Beyond the history of this particular statute it is clear from a review of Title 25, "Marital and Domestic Relations," that the Legislature intended to provide for the issuance of a marriage license to a "husband" and "wife" in a marriage.⁴

Courts are to interpret words in statutes according to their common usage unless there is some indication that they should be interpreted differently.⁵ Webster's New Collegiate Dictionary defines husband as "a married man," and wife as "a married woman."⁶ Based on the above referenced legislative history and statutory interpretation, I believe that same sex marriages have not been authorized by the Alaska State Legislature. Marriages in this state are a creature of statute. Same sex marriages are not authorized, and you should not issue certificates for a same sex marriages, unless authorized by the Alaska Legislature.

⁴ See AS 25.05.021, AS 25.05.051, AS 25.05.301, AS 25.05.361 and generally the chapter AS 25.15 et seq.

⁵ Perrin v U.S., 444 U.S. 17 (1979) and Fagan v State, 779 P.2d 1258 (Alaska App. 1989).

⁶ Webster's New Collegiate Dictionary (1976).

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,

vs.

BUREAU OF VITAL STATISTICS,
ALASKA DEPARTMENT OF HEALTH &
SOCIAL SERVICES, and the STATE
OF ALASKA.

Defendants.

CASE NO. _____

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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ROBERT H. WAGSTAFF
First National Bank Building
415 G Street, Suite 610 • Anchorage, Alaska 99501
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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, § 1 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 LeRoy, P.C.
1016 W. 6th Avenue, Suite 420
Anchorage, Alaska 99501
(907) 277-2006
Attorneys for Plaintiffs


3 - Complaint for Injunctive
and Declaratory Relief

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Telephone (907) 277-4611 • Facsimile (907) 258-7329

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 FORM

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
BUREAU OF VITAL STATISTICS
JUNEAU, ALASKA 99801

941842

CITY OR TOWN

IN THE MATTER OF A MARRIAGE LICENSE FOR

AND

APPLICATION

APPLICANT

APPLICATION MADE BY:

DATE OF APPLICATION

RESIDING ADDRESS OF APPLICANT

08-04-94

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

—IDENTIFYING STATEMENT—			
NAME	FIRST	LAST	MALE
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 11, 1954	
PLACE OF BIRTH		PLACE OF BIRTH	
BROOKLYN, NEW YORK		BRUNSWICK, 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: *[Signature]*

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

MAYOR OR COMMISSIONER

Subscribed and sworn to before me on _____ 19 ____

8-4-94
W. Charlene Davis
M

Subscribed and sworn to before me on _____ 19 ____

SIGNATURE, TITLE, AND SEAL

CONSENT (GROOM)

MALE

PRIMARY & SECOND MARRIAGE

GIVEN

MARRIAGE LICENSE NO.

—CONSENT—

FEMALE

PRIMARY & SECOND MARRIAGE

GIVEN

DATE ISSUED

REMARKS: DO NOT ISSUE WITHOUT WRITTEN AUTHORIZATION OF PRESIDING JUDGE
[Signature]

GROOM		BRIDE	
NUMBER OF THIS MARRIAGE (Specify First, Second, etc.)	IF PREVIOUSLY MARRIED, LAST MARRIAGE ENDED BY	NUMBER OF THIS MARRIAGE (Specify First, Second, etc.)	IF PREVIOUSLY MARRIED, LAST MARRIAGE ENDED BY
1st	Death <input type="checkbox"/> Divorced <input type="checkbox"/>	First	Death <input type="checkbox"/> Divorced <input type="checkbox"/>
RACE—Specify Filipino, Black, Asian, White, etc.		RACE—Specify Filipino, Black, Asian, White, etc.	

16 FORM 204 (8-88) REV 1-89

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

Law Offices of
ROBERT H. WAGSTAFF
First National Bank Building
425 G Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 277-8611 • Facsimile (907) 358-7329

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: _____

Law Offices of
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First National Bank Building
425 C Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 377-8611 • 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.

3. 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

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First National Bank Building
425 G Street, Suite 610 • Anchorage, Alaska 99501
Telephones (907) 277-8611 • Facsimile (907) 258-7129

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
ROBERT H. WAGSTAFF
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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, Inc. 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 99620-1844

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. §923 (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.)

FAX 258-2916

18

Dear MIA

... (REP. ROXBOROUGH)

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.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

PLANNED PARENTHOOD OF ALASKA,)
et al.,)
)
Plaintiffs,)
)
vs.)
)
STATE OF ALASKA,)
)
Defendant.)
)
CONCERNED ALASKA PARENTS, INC.,)
)
Amicus Curiae.)

Case No. 3AN-97-6014 CI

MEMORANDUM AND DECISION

This matter is before the court on Plaintiffs' Motion for Summary Judgment. The State and Concerned Alaska Parent's, Inc. oppose plaintiffs' motion.

I. INTRODUCTION

There are those in our society who are morally opposed to abortion. There are those in our society who believe that a woman's right to have control over her body is an inalienable right. This decision does not deal with either of those concerns. Rather, this decision deals with the constitutional rights of all citizens of the State of Alaska to make decisions that are personal and intimate to their lives and to be treated equally.

I am asked to interpret the Alaska Constitution, to decide whether a recent enactment of the legislature comports with the fundamental principles set forth in that document.

}
?

II. BACKGROUND

On May 2, 1997, HCS CSSB 24 (Fin) ("SB 24" or "the Act") was enacted by the Alaska Legislature. Of relevance here are those provisions of the statute that require a minor to obtain parental consent or a judicial bypass before an abortion may be performed on her. The effective date of SB 24 was July 31, 1997.

On July 25, 1997, Planned Parenthood of Alaska, Jan Whitefield, M.D., Robert Klem, M.D., and ten unidentified Jane Does filed a complaint against the State of Alaska for declaratory and injunctive relief. The complaint seeks, among other things, a declaration that SB 24 is unlawful and void under the Alaska Constitution and a permanent injunction restraining the State of Alaska from implementing or enforcing the act. Subsequently, the non-profit corporation Concerned Alaska Parents, Inc. ("CAP") moved to intervene or, alternatively, to participate as an amicus curiae. This court denied CAP's motion to intervene but allowed it to participate as an amicus curiae.

On July 29, 1997, two days before the statute was to become effective, the plaintiffs moved for a temporary restraining order and a preliminary injunction. On August 5, 1997, this court issued an order temporarily restraining the implementation and enforcement of SB 24 pending resolution of the motion for preliminary injunction. An evidentiary hearing on the preliminary injunction was scheduled for August 13, 1997.

Subsequently, the parties stipulated to extensions of the time for the evidentiary hearing until it was finally scheduled for

.. 2, 1998. The parties and CAP also agreed that the temporary restraining order would remain in effect until the court issued its decision regarding the plaintiffs' motion for preliminary injunction.

On January 7, 1998, the plaintiffs filed this motion for summary judgment, asserting that this court can find as a matter of law that SB 24 is unconstitutional and void on its face. The State and CAP oppose summary judgment disputing plaintiffs' legal theories and contending that material facts are in dispute.

III. SUMMARY JUDGMENT STANDARD OF REVIEW

The proponent of a motion for summary judgment has the burden of establishing the absence of genuine issues of material fact and its right to judgment as a matter of law. Dansereau v. Ulmer, 903 P.2d 555, 570 (Alaska 1995), citing Bauman v. State, Div. of Family and Youth Services, 768 P.2d 1097, 1099 (Alaska 1989). The party opposing a motion for summary judgment need not establish that it will prevail at trial, but merely that there exists a genuine issue of fact to be litigated. Alaska Rent-a-Car, Inc. v. Ford Motor Co., 526 P.2d 1136 (Alaska 1974). All inferences of fact from proffered proofs must be drawn in favor of the non-moving party. Maddox v. River & Sea Marine, Inc., 925 P.2d 1033, 1035 (Alaska 1996).

IV. THE NEW LAW - AS 18.16.010 - 030

Although a copy of the new law is attached to this opinion, I have summarized the relevant provision of the law here, to provide context for the decision.

The Act provides that before an abortion is knowingly performed by a doctor on an unemancipated woman under the age of 17, consent has to be given in writing by one of the parents, or by a legal custodian. AS 18.16.010(a)(3); AS 18.16.020.

Alternatively, the Act provides that an unemancipated minor can apply for "judicial bypass" of the parental consent requirement. To do so, the unemancipated woman must file a complaint in superior court requesting the issuance of an order authorizing the minor to consent to the abortion without the consent of a parent. The complaint must allege either or both of the following: that the minor is mature enough to make that decision by herself, and/or that one or both parents have engaged in physical, emotional or sexual abuse against the minor. AS 18.16.030. Judicial bypass hearings are confidential, and the unemancipated woman, if she has not retained an attorney, shall receive a court appointed attorney. AS 18.16.030(d) and (k). Within five days from the date of the complaint, the Superior Court must hold a hearing to determine if one or both allegations have been proven by "clear and convincing" evidence and must issue a ruling immediately thereafter. AS 18.16.030(e)-(g). Failure by the court to hold a hearing within this 5-day period will result in a "constructive order" which authorizes the minor to consent to the abortion. AS 18.16.030(c).

A physician violating this section may be subject to both criminal and civil penalties. AS 18.16.010(c) and (e).

V. ISSUE PRESENTED

This Act presents a very specific question. It is crucial to identify the narrow contours of the question. This decision does not deal with the general issue of a woman's reproductive rights or the general issue of the constitutionality of abortion. The question presented by the Act is, who should decide when a minor woman wants to have an abortion.

Since the Act does not attempt to regulate abortions directly, it is pertinent to set out exactly what the legislation achieves. First, the Act distinguishes between women based upon their age. For those aged seventeen and above, no consent by a third party is required. Second, with respect to those under the age of seventeen, the Act has limited the right to make a reproductive decision in a very specific way. There is a distinction between a reproductive decision, and the choice to have an abortion. They are not the same. A reproductive decision involves choosing between two options, either to carry the fetus to term or to have an abortion. Therefore, a reproductive decision has two possible outcomes. This legislation restricts only one of those outcomes.

If an unemancipated minor chooses the first option, to carry the pregnancy to term, whatever her age might be, she can make that decision without parental guidance or consent. Thus, the unemancipated, underaged woman's right to choose to carry the fetus to term is not restricted by this Act. Conversely, if a minor wishes to select the second reproductive choice, to abort the

pregnancy, the Act imposes restrictions on the minor's right to make that choice.¹

VI. THE CONSTITUTIONAL RIGHT TO PRIVACY

A. The Constitutional Right of Privacy

Plaintiffs challenge the new legislation on state, rather than federal constitutional grounds.² One difference between Alaska's constitution and the Federal constitution is Alaska's explicit constitutional protection of the right to privacy. Article I sec. 22 of the Alaska Constitution provides:

Right of Privacy. The right of the people to privacy is recognized and shall not be infringed."

Alaska's privacy guarantee is broader in scope than the implicit right of privacy guaranteed by the federal constitution. Messerli v. State, 626 P.2d 81 (Alaska 1980); Falcon v. Alaska Pub. Offices Commission, 570 P.2d 469 (Alaska 1977). Justice Boochever explained this right to privacy very well in Ravin v. State, 537 P.2d 494, 515 Alaska 1975) when he stated:

Since the citizens of Alaska, with their strong emphasis on individual liberty, enacted an amendment to the Alaska Constitution

¹ The Act imposes a "consent requirement," which requires at least one parent to give actual written consent to a minor's decision to have an abortion. This is distinguished from a "notification requirement," which does not require actual parental consent, but which requires the physician or health care provider to notify both parents of the minor's wish to abort, often 48 hours before the abortion.

² Based on my analysis of federal constitutional law, the legislation as enacted would most likely satisfy federal constitutional standards. Planned Parenthood v. Ashcroft, 462 U.S. 476, 103 S.Ct. 2517, 76 L.Ed.2d 733 (1983).

expressly providing for a right to privacy not found in the United States Constitution, it can only be concluded that that right is broader in scope than that of the Federal Constitution. . . . [I]t includes not only activities within the home . . . but also the right to be left alone and to do as one pleases as long as the activity does not infringe on the rights of others. . . . The right to privacy, however, is not monolithic. For example, the right to decide whether to eat strawberry ice cream cannot be placed on the same level as that of deciding whether to bear a child.

Thus, not all rights of privacy are the same, nor is the right to privacy absolute. In order for the State to interfere or restrict a citizen's right to privacy, the State must have a legitimate reason for doing so. The greater the right to privacy, the more important the State's reason must be to interfere with that right. For rights that are "fundamental rights," the state must show a "compelling state interest" in regulating that right.

Therefore, the first step is to define the level of privacy afforded the right in question here.

B. Reproductive Rights are Fundamental Rights Encompassed Within the Right to Privacy.

In Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973), rehearing denied 410 U.S. 959, 93 S.Ct. 1409, 35 L.Ed.2d 694 (1973), the United States Supreme Court ruled that a woman's right to have an abortion was part of her fundamental right of privacy. The Roe majority opinion established what is now known as the "trimester" analysis for determining the permissible degrees of government regulation during the course of a woman's pregnancy. In a nutshell, Roe decided that during the first trimester, the level

allowable state intervention permitted is slight but, after that, the level of allowable state intervention rises until the third trimester, when the state's interest in preserving the fetus becomes compelling.

The Roe decision in 1973 commanded a majority of the United States Supreme Court. Since then, the United States Supreme Court has struggled with the issue in numerous cases leading up to Planned Parenthood v. Casey, 505 U.S. 833, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992). In Casey, a majority of the Supreme Court affirmed the ruling in Roe that recognized a woman's fundamental right to reproduction choice. However, there was no majority in support of Roe's "trimester" test. To summarize, four justices would have rejected Roe entirely, two justices, although they joined in the majority, would have upheld Roe entirely, while three justices upheld Roe in the majority decision, but with changes. The three "plurality" judges changed the "trimester" test to an "undue burden" test which abandoned the Roe trimester analysis.³

In Valley Hospital Association, Inc. v. Mat-Su Coalition for Choice, Op. No. 4906 (Alaska November 21, 1997), the Alaska Supreme Court considered the extent of this state's constitutional right to privacy as it applies to reproductive rights, including the right

³ Unlike in Casey and in Roe, where the same analysis applies to a woman's decision to abort her pregnancy no matter what her age, the question of what are the permissible circumstances under which a female is permitted to freely proceed with an abortion is not the question raised here.

to an abortion. In Valley Hospital, the supreme court unanimously held:

[W]e are of the view that reproductive rights are fundamental, and that they are encompassed within the right to privacy expressed in article I, section 22 of the Alaska Constitution. These rights may be legally constrained only when the constraints are justified by compelling state interest, and no less restrictive means could advance that interest. These fundamental reproductive rights include the right to an abortion. The scope of the fundamental right to an abortion that we conclude is encompassed within article I, section 22, is similar to that expressed in Roe v. Wade. We do not, however, adopt as Alaska constitutional law the narrower definition of that promulgated in the plurality opinion in Casey.

The Alaska Supreme Court specifically concluded that the Alaska Constitution protects a citizen's reproductive autonomy more broadly than does the United States constitution. Therefore, under Valley Hospital, the reproductive rights of citizens, including the right to an abortion, are fundamental rights guaranteed by the privacy provision of the Alaska Constitution.

C. The Fundamental Right to Reproductive Choice Extends to Unemancipated Women Under the Age of Seventeen.

Valley Hospital was a case of general application and did not specifically address the reproductive rights of women under the age of seventeen. Defendant, the State of Alaska contends that the constitutional rights of minors are not coextensive with those of adults and that women under the age of seventeen have diminished

constitutional rights.⁴ Plaintiffs contend otherwise. These issues have not been squarely addressed by any Alaska Supreme Court opinions.

In areas where the Alaska Supreme Court has not directly ruled on an issue I look to, and follow the legal principles set out by the Alaska Supreme Court. I also look to other jurisdictions that have faced the same question to see what results those courts have reached, and to follow those legal principles consistent with and closest to Alaska law. Some cases instruct that the status of a minor does not diminish her right of privacy, but is a factor to be considered when deciding whether the State has met its burden of showing a "compelling state interest." Other cases conclude that the privacy interests of minors are lower than those of adults.

1. Cases From Other States with Constitutional Privacy Provisions

As already discussed, the Alaska Constitution contains an explicit privacy provision. In answering the question of whether the privacy interests of minors at stake are considered "fundamental" for purposes of constitutional analysis, other states with a similar and explicit privacy section in their constitution offer guidance. Two states, Florida and California have addressed the same problem, and have concluded in each instance that the rights involved are fundamental.

⁴ Amicus curiae, CAP presents the same argument in its brief.

In Re T.W., 551 So.2d 1186, 1190 (Fla. 1989), the Florida Supreme Court stated that "Florida is unusual in that it is one of at least four states having its own express constitutional provision guaranteeing an independent right to privacy . . . and we opt to examine the statute first under the Florida Constitution."

After doing so, the Florida court concluded that "[a] woman's right to make that choice freely is fundamental." *Id.* at 1193.

In Re T.W. concerned a statute almost identical to the one in question in this case. That statute provided that prior to undergoing an abortion, a minor must obtain parental consent or, alternatively, persuade a court that she is sufficiently mature, or if immature, that an abortion is still in her best interest. To reach its decision, the Florida Supreme Court first addressed the rights of the minor. The court stated:

The next question to be addressed is whether this freedom of choice concerning abortions extends to minors. We conclude that it does, based on the unambiguous language of the amendment: The right of privacy extends to "[e]very natural person." Minors are natural persons in the eyes of the law and "[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, . . . possess constitutional rights. *Id.* at 1193 [cites omitted].

The Florida Court held that the rights of minors were coextensive with those of adults.

The same analysis was applied by the State of California when that state faced a similar parental consent statute. California's constitution contains a privacy provision much the same as

Florida's. In American Academy of Pediatrics v. Lungren, Op. No. S041459 (August 5, 1997) at 40, the court concluded that minors as well as adults are persons under the Constitution and are entitled to no less protection of their fundamental rights.

Alaska's constitutional protection of the right of privacy is just as broad: the "right of the people to privacy is recognized." Thus, I find the Florida and California state principles consistent with Alaska law.

2. Federal Cases, Where There Are No Explicit Privacy Provisions

The United States Constitution does not contain an explicit privacy provision. Even so, the federal cases also provide guidance on the outcome of this case.

The United States Supreme Court is quite clear that, for women above the age of majority, any third party notification or consent requirement is unconstitutional. Planned Parenthood v. Danforth, 428 U.S. 52, 96 S.Ct. 2831, 49 L.Ed.2d 788 (1976); Planned Parenthood v. Casey, 505 U.S. 833, 887-97, 112 S.Ct. 2791, 2826-31, 120 L.Ed.2d 674 (1992). The United States Supreme Court has been divided, however, on the issue of what level of privacy rights does a minor enjoy. The justices have different views on the matter.

Some justices would lower the privacy rights of minors. Bellotti v. Baird, 443 U.S. 622, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979), rehearing denied 444 U.S. 887, 100 S.Ct. 185, 62 L.Ed.2d 121 (1979) was a United States Supreme Court case that examined a parental consent statute as well as the adequacy of judicial bypass provisions. Justice Powell spoke for the plurality of the court.

He was joined by Chief Justice Burger, and [REDACTED] Rehnquist. In that opinion, Justice Powell found three reasons why the rights of minors were not coextensive with those of adults. He stated:

We have recognized three reasons justifying the conclusion that the constitutional rights of children cannot be equated with those of adults: the peculiar vulnerability of children; their inability to make critical decisions in an informed, mature manner; and the importance of the parental role in child rearing. Bellotti, 443 U.S. at 634, 99 S.Ct. at 3043.

The opinion concluded that, based on a minor's reduced right of privacy, a greater intrusion by the state into that right was permissible.

Other justices of the United State Supreme Court, however, have expressed a different view on the privacy rights of minors. In Hodgson v. Minnesota, 497 U.S. 417, 110 S.Ct. 2926, 111 L.Ed.2d 344 (1990), the U.S. Supreme Court addressed the constitutionality of a Minnesota statute that provided that no abortion shall be performed on a woman under the age of 18 years old until at least 48 hours after both her parents have been notified. The Minnesota statute contained a judicial bypass provision.

In the concurring and dissenting opinion of Justice Marshall, joined by Justices Brennan and Blackmun, the justices noted that the constitutional right to privacy was broad enough to encompass a woman's decision whether to terminate her pregnancy. The justices also noted that the right to make that choice is fundamental, consistent with the Roe v. Wade decision. In

addressing the scope of that right as applied to minors, Justice Marshall stated:

Neither the scope of a woman's privacy right nor the magnitude of a law's burden is diminished because a woman is a minor. [cite omitted]. Rather, a woman's minority status affects only the nature of the State's interests. 479 U.S. at 463.

Under Justice Marsnall's analysis, state laws requiring parental consent would be subject to a "strict scrutiny" standard and even one-parent notification statutes (with judicial bypass) would be unconstitutional.

As already discussed, a majority of the justices of the United States Supreme Court have departed from the original fundamental rights formulation enunciated in Roe v. Wade. Given the Alaska Supreme Court's recent rejection of Casey and its assertion that Alaska's constitutional privacy provision is similar to that set out in Roe, the principle in Alaska is to afford its citizens greater protection consistent with that level of protection enunciated by Justice Marshall in Hodgson, supra.

Based on the Alaska Constitution, the Valley Hospital case, and guidance from federal and other state cases, I conclude that the privacy right of minors, as it applies to the question at hand, are co-extensive with those of adults.

The maturity or immaturity of minors and their capacity for decision making does not diminish the right of privacy of that person. Those factors are relevant to question of the state's interests in enacting the Act.

D. The State Must Show a Compelling State Interest and that No Less Restrictive Means to Advance Those Interests Exists.

Establishment of the nature of the right at stake does not end the inquiry. As discussed in section V of this decision, the Act restricts the exercise of a fundamental constitutional right. The legislation takes the right of a minor to elect to have an abortion and places that decision in the hands of her parents in the first instance, or a judge in the last instance.

As stated in Valley Hospital, rights of a fundamental nature can only be constitutionally constrained by a compelling state interest and only where no less restrictive means could advance that interest. Valley Hospital at 12. The burden is on the state to satisfy the two part test before such legislation can pass constitutional scrutiny.

When the legislature passed the Act, the legislature set out a list of compelling state interests as well as findings of fact supporting the legislation.⁵ In Valley Hospital, at 20, the court

⁵ Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this Act to further the important and compelling state interests of

- (1) protecting minors against their own immaturity;
- (2) fostering the family structure and preserving it as a viable social unit;
- (3) protecting the rights of parents to rear children who are members of their household; and
- (4) protecting the health of minor women.

(b) The legislature finds that

- (1) immature minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences;

held that "we cannot defer to the legislature when infringement of a constitutional right results from legislative action." However, in Gulf Oil Corp. v. State, Dept. of Revenue, 755 P.2d 372, 387 (Alaska 1988), the court stated that "while not dispositive, we give legislative findings considerable respect in our analysis."

Thus, to determine whether the State has met its burden with respect to establishing a compelling interest, it would be necessary to examine the legislative statements of purpose and findings of fact as well as to reach findings of fact based upon the evidence produced in this matter.⁶ However, because I conclude that summary judgment is appropriate on equal protection grounds, I need not reach the question whether the State has sufficiently

(2) the physical, emotional, and psychological consequences of abortion are serious and can be lasting particularly when the patient is immature;

(3) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related;

(4) parents ordinarily possess information essential to a physician's or surgeon's best medical judgment concerning the child;

(5) parents who are aware that their minor daughter has had an abortion may better ensure that the daughter receives adequate medical attention after the abortion;

(6) parental consultation is usually desirable and in the best interest of the minor; and

(7) parental involvement legislation enacted in other states has shown to have a significant effect in reducing abortion, birth, and pregnancy rates among minors.

⁶ When the court is faced with the task of deciding the constitutionality of a statute, the court must, in addition to reaching its own adjudicative findings of fact also consider the legislative findings of fact, that is, the policy considerations and background of the particular statute. State v. Erickson, 574 P.2d 1, 5 (Alaska 1978).

shown that a question of material fact exists as to whether the state has a compelling interest in enacting this legislation.

VII. THE CONSTITUTIONAL RIGHT TO EQUAL PROTECTION

A. The Right to Equal Protection

Plaintiffs also challenge SB 24 on State equal protection grounds. The equal protection provision protects a right different from the right to privacy. As with the right to privacy, the Alaska Constitution provides its citizens with greater equal protection rights than those afforded by the United States Constitution. Article I section 1 of the Alaska Constitution provides:

Section 1. Inherent Rights. This constitution is dedicated the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State. (emphasis added).

In interpreting Alaska's equal protection provision, the Supreme Court has adopted a standard more flexible and in some ways, more rigorous, than the one used pursuant to the Federal Constitution. In Isakson v. Rickey, 550 P.2d 359, 362 (Alaska 1976) the court explained its departure from the "rigid two-tier formulation" and its adoption of a "more flexible and more demanding standard which will be applied in future cases if the compelling state interest is found inappropriate." Later, in Erickson, supra at 12, the court instructed that "[s]uch a test will be flexible and dependent upon the importance of the rights

involved." In the case of Alaska Pacific Insurance v. Brown, 687 P.2d 264, 269-70 (Alaska 1984), the court explained the current three part test as follows:

First, it must be determined at the outset what weight should be afforded the constitutional interest impaired by the challenged enactment. The nature of this interest is the most important variable in fixing the appropriate level of review ... Depending upon the primacy of the interest involved, the state will have a greater or lesser burden in justifying its legislation.

Second, an examination must be undertaken of the purposes served by a challenged statute. Depending on the level of review determined, the state may be required to show only that its objectives were legitimate, at the low end of the continuum, or, at the high end of the scale, that the legislation was motivated by a compelling state interest.

Third, an evaluation of the state's interest in the particular means employed to further its goals must be undertaken. Once again, the state's burden will differ in accordance with the determination of the level of scrutiny under the first stage of analysis. At the low end of the sliding scale, we have held that a substantial relationship between means and ends is constitutionally adequate. At the higher end of the scale, the fit between means and ends must be much closer. If the purpose can be accomplished by a less restrictive alternative, the classification will be invalidated.

In explaining its review of classification schemes, the court in State, Dept. of Revenue v. Cosio, 858 P.2d 621 (Alaska 1993) said that, under the sliding scale test, the applicable standard of review is determined not only by the individual rights asserted but also "by the degree of suspicion with which we view the resulting classification scheme." Cosio, supra, at 629, citing State v. Ostrosky, 667 P.2d 1184, 1192-93 (Alaska 1983). As the right

asserted becomes more fundamental or the classification scheme employed becomes more constitutionally suspect, the more rigorous the scrutiny on the sliding scale.

B. The Importance of the Right and the Compelling State Interest

The first two steps of the equal protection analysis are essentially identical to the two steps of the constitutional right to privacy analysis. In this case, the right involved is the fundamental right to privacy. Section VIB and VIC. The question of compelling state interest supporting the legislation has also been examined. The difference between the rights of equal protection and rights of privacy resides in the third prong of the equal protection test.

C. The Classification Scheme and Level of Scrutiny

In Valley Hospital, the Alaska Supreme Court cited with approval Professor Tribe's analysis:

Of all decisions a person makes about his or her body, the most profound and intimate relate to two sets of ultimate questions: first, whether, when and how one's body is to become the vehicle for another human being's creation; second, when and how -- this time there is no question of "whether" -- one's body is to terminate its organic life. Valley Hospital, supra, at 11-12, citing Laurence H. Tribe, American Constitutional Law 1337-38 (2d ed. 1988).

This legislation, by operation, creates two separate classes of pregnant minors, one class comprised of those who elect to have abortions and another class comprised of those who elect to carry the fetus to term. The statutory treatment of the first class, and the consent requirement imposed, has been discussed in Section IV

of this decision. I now turn to statutory treatment of the second class.

For a minor who elects to continue with her pregnancy, no parental consent is necessary. In addition, the minor can obtain medical services without the consent of her parents.⁷ AS 25.20

⁷ AS 25.20.025. Examination and treatment of minors.

(a) Except as prohibited under AS 18.16.010(a)(3),

(1) a minor who is living apart from the minor's parents or legal guardian and who is managing the minor's own financial affairs, regardless of the source or extent of income, may give consent for medical and dental services for the minor;

(2) a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent; however, where the parent or legal guardian cannot be contacted or, if contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them;

(3) a minor who is the parent of a child may give consent to medical and dental services for the minor or the child;

(4) a minor may give consent for diagnosis, prevention or treatment of pregnancy, and for diagnosis and treatment of venereal disease;

(5) the parent or guardian of the minor is relieved of all financial obligation to the provider of the service under this section.

(b) The consent of a minor who represents that the minor may give consent under this section is considered valid if the person rendering the medical or dental service relied in good faith upon the representations of the minor.

(c) Nothing in this section may be construed to remove liability of the person performing the examination or treatment for failure to meet the standards of care common throughout the health professions in the state or for intentional misconduct.

025(a)(2) provides that a minor may consent to medical treatment even if a parent withholds consent to that treatment. It is up to the medical provider to "counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best as the provider presumes them." On the subject of a minor's pregnancy, AS 25.20.025(4) provides that "a minor may give consent for diagnosis, prevention or treatment of pregnancy, and for diagnosis and treatment of venereal disease." A minor who is the parent of a child "may give consent to medical and dental services for . . .the child." AS 25.20.025(a)(3).

None of the enunciated legislative interests or findings show that the different treatment of the two classes created by the Act relates to a compelling governmental objective. The first legislative interest and its supporting findings of fact, (1), (2) and (3), which concern the immaturity of minors and their ability to make mature decisions, apply to both classifications equally. Minors faced with pregnancies have to make informed decisions regardless of the decision at which they finally arrive.

With respect to the legislatively enunciated interests of protecting the family structure and protecting the rights of parents to rear children who are members of their household, these same interests are at stake whether the minor seeks the consent of her parents to have an abortion or whether she seeks the consent of her parents to carry a pregnancy to term. The decision to have an

abortion is a very significant and important decision. But similarly, the decisions to have a child, to raise the child or to put the child up for adoption, are also significant and important decisions for both the minor and for her family.

Finally, with respect to the last legislative interest, that of protecting the health of minor women, findings of facts (4) and (5) also apply equally to both classes of pregnant minors. Those findings provide that parents may have information essential to a physician's judgment, and that parents who are aware of their daughter's abortion can better care for their daughter's health immediately following the abortion. Parents' access to or knowledge of a minor's pre-existing health condition is equally applicable to abortion as to medical treatment for or conditions related to pregnancy. The defendant State of Alaska, in its briefing and submissions has not raised an issue of material fact regarding a state interest justifying the classification of minors resulting from the legislation.

In the case of In Re T.W., supra, the court, while discussing the compelling state interest analysis under similar statutory provisions, observed:

Under this statute, a minor may consent, without parental approval, to any medical procedure involving her pregnancy or her existing child - no matter how dire the possible consequences - except abortion ... [W]e are unable to discern a special compelling interest on the part of the state under Florida law in protecting the minor only where abortion is concerned. We fail to see the qualitative difference in terms of impact on the well-being of the minor between allowing the life of an existing child to come

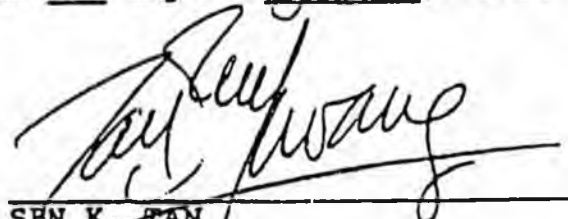
to an end and terminating a pregnancy, or between undergoing a highly dangerous procedure to end one's pregnancy. If any qualitative difference exists, it certainly is insufficient in terms of state interest. In Re T.W., supra, at 1195.

This same reasoning was adopted in the California case of American Academy of Pediatrics v. Lungren, Op. No. S041459 at 68.

Therefore, based on a high level of scrutiny, no compelling state interest has been established to justify the classification of minors based upon their reproductive choices, and so I conclude that SB 24 violates Art. I section 1 of the Alaska Constitution.¹

Accordingly, Plaintiff's Motion for Summary Judgment is GRANTED.

DATED at Anchorage, Alaska this 25 day of Jul, 1998.



SEN K. TAN
SUPERIOR COURT JUDGE

¹ In so concluding, I distinguish between the right of privacy and that of equal protection. The challenged legislation might, by requiring all pregnant minors to obtain parental consent (or judicial bypass) before undergoing a medical procedure or treatment related to the pregnancy, satisfy the equal protection provision. But, whether such a statute would satisfy the privacy provision of the Alaska Constitution would still present an issue of fact under this decision.



N A S W

ALASKA CHAPTER

National Association of Social Workers

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STUDENT REPRESENTATIVE
Lynda Meyer
Anchorage

March 9, 1998

Senator Robin Taylor, Chair
Judiciary Committee
Alaska State Senate

RE: SJR 42

Dear Chairman Taylor:

The National Association of Social Workers (NASW) asserts that discrimination and intolerance 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 opposes attempts to amend the Alaska State Constitution to ban same-gender marriage. Our constitution guards civil rights including marriage, a civil institution. Same-gender couples must be afforded the same legal and economic benefits extended to married opposite-gender couples such as spousal and dependent support benefits, benefits associated with health and other insurance and retirement, income-tax rates; benefits, inheritance, child custody and property rights, as well as the simple recognition and equality to enter into a valid marriage contract.

Marriage is an intimate association for which citizens must be afforded the right to privacy. Amending the constitution is an inappropriate effort to restrict the privacy and freedom of Alaskans.

Finally, the referendum demanded by SJR 42 serves no practical purpose for Alaskans, and can only create an atmosphere of hatred and division. We urge you not to pass SJR 42 from committee.

Sincerely,

John Waters, LCSW
President, NASW Alaska Chapter

RECEIVED

MAR 9 1998

Ans'd.....



NASW Alaska Policy Statement

Lesbian, Gay and Bi-Sexual Issues

The National Association of Social Workers (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. Homosexuals 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.

ALASKA CIVIL LIBERTIES UNION*An Affiliate of the American Civil Liberties Union*

P.O. Box 201844

Anchorage, AK 99520-1844

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

Talk to Loren

April 21, 1998

SENT VIA FACSIMILE

Representative Joe Green, Chair
House Judiciary Committee
Capitol Building
Juneau, Alaska

Con Bunde, Vice-Chair
House Judiciary Committee
Capitol Building
Juneau, Alaska

Re: House Judiciary Committee Hearings on Constitutional Amendment SJR 42

Dear Representatives Green and Bunde:

We are writing to urge you to make any upcoming House Judiciary Committee hearings on SJR 42 available to all the Alaskans wishing to testify on the proposed constitutional amendment. While we have no reason to believe you plan to do otherwise, because the public encountered some problems with access on the Senate side, the Alaska Civil Liberties Union thought it might be a good idea to make our case for full public participation in your committee ahead of time.

As you may be aware, only limited testimony was taken in the Senate Judiciary Committee hearing on this measure. At the outset of that hearing, Chairman Taylor indicated that the committee planned to move the bill out that day because there were other matters on the calendar to which the committee needed to turn its immediate attention. As a result, of the over one hundred and twenty-five people who showed up statewide to speak before the committee in opposition to the amendment, less than ten were heard. In response to one Senator's objections to the "artificial limit" set on testimony at the Senate Judiciary hearing, committee member Miller explained the committee's rationale for not hearing the measure fully: "the voters will ultimately decide the issue." We believe any effort to treat any constitutional amendment as not worthy of full hearing in the legislature, simply because the voters of the state will have a chance to rule on it, is misguided.

Alaska is not a state where the constitution can be amended by simple referendum, as Senator Miller's comments would tend to suggest. As we all know, in Alaska, under Article XIII, Section 1, amendments to the constitution must receive a two-thirds vote of the Legislature before going to the people. Unlike a referendum-only situation, Alaska's Constitution mandates careful consideration of proposed amendments *before* they are placed before the voters. Legislative review provides an important check on the "tyranny of the majority" over individual rights that would ensue if amendments could be done solely through public referendum.

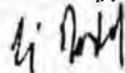
Because of the two-thirds requirement, each legislator's vote is critical both to those opposing and those supporting any constitutional amendment. It is noteworthy that SJR 42 passed the Senate by only one vote. Committee hearings provide the best venue for either side of the issue to persuade individual legislators of their position. In the other Senate Committee to which SJR 42 was assigned, Senate Finance, a subcommittee was appointed to hear public testimony on the measure. Many people from all around the state showed up to express their views to the subcommittee, but, for much of the time there were only two or three subcommittee members present. We respectfully ask that you allow all interested Alaskans to present their views before the full House Judiciary Committee.

We realize that in the final few weeks of the session, you and every other legislator, as well as all the committees, are under tremendous pressure to consider many bills on subjects of immediate and great importance to our state. In the event the House Judiciary committee does not have time to hear full testimony on SJR 42, there is another solution. Rather than take the time for proper legislative deliberation of this constitutional amendment, as required by Article XIII, you could remove SJR 42 from consideration until the courts have issued a final ruling in the Brause litigation. If the House passes SJR 42, a prolonged and heated ballot ratification fight will ensue unnecessarily. The status quo as to who can get married in this state has not changed, nor will it change prior to the convening of the next Legislature.

The Brause decision is far from becoming law in Alaska. At present, the state has asked the Alaska Supreme Court to review Judge Michalski's Superior Court decision. If the Supreme Court accepts review, it probably will be several months before they have finished deliberations and issued a decision. If the court overturns the Superior Court decision, the matter is closed and there will be no need for SJR 42. If the Supreme Court declines to review Judge Michalski's decision, or accepts it for review and affirms it, the case will be returned to the Superior Court for the hearing on "compelling state interest," the result of which no doubt also will be appealed back up to the Supreme Court, for further briefing and prolonged deliberation. As has been acknowledged by the state's attorney on the case, there is no way the court will be done with the case before the 21st Legislature convenes next January. There simply is no need to hear SJR 42 in the next few weeks, during which your committee may have no other choice but to abbreviate its consideration in favor of other equally important, but more time-sensitive, measures.

Please consider carefully the above statements and either allot adequate time for all interested Alaskans, statewide, to testify on SJR 42 before the full House Judiciary Committee, or pull the measure from active review in the 20th Legislature. If you have questions about any of the points raised in this letter, please give me a call at 463-2601. Thank you for your kind consideration of this request.

Sincerely,



Liz Dodd, President
Board of Directors
Alaska Civil Liberties Union

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 Joe Green
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182
Fax (907) 465-4316

Dear Representative Green:

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

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

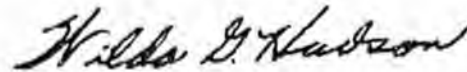
Whereas, a recent Alaskan law that restricted marriage to "one man and one woman" has been found unconstitutional by a Superior Court ruling under Alaska's right to privacy law;

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.

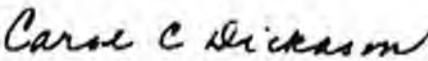
FURTHER, BE IT RESOLVED, that the League of Women Voters of Alaska supports equality of opportunity for all citizens. League rejects amendments to the Alaska Constitution that would make some groups of Alaskan citizens less equal than others and/or that would deny whole groups of citizens the same rights 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



PEOPLE FOR THE AMERICAN WAY

Your Voice Against Intolerance

FAX COVER SHEET

TO: Alaska State Representatives

FROM: Carole Shields

DATE: 4/22/98 FAX #: _____

OF PAGES: 3 CODE: _____
(Including cover)

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PEOPLE FOR THE AMERICAN WAY

Your Voice Against Intolerance

April 22, 1998

Via fax

Hon. Joe Green
State Capitol
Juneau, Alaska 99801-1182

Re: SJR-42

Dear Representative Green:

Last month, I wrote to you on behalf of our organization and our many hundreds of Alaska members in opposition to SJR-42, a proposed amendment to the state Constitution that would relegate gay and lesbian Alaskans to the status of second class citizens by denying them the right to marry the person of their choice, a right enjoyed by all other members of our society. Since then, this unfair, unfortunate and harmful measure has been passed by the Senate by a vote of 14-6. I am writing to you now to ask that you not allow bigotry to be enshrined in the state Constitution, and that you save the citizens of this state from a costly and divisive ballot campaign by stopping this misguided proposal in its tracks.

It is our understanding that since SJR-42 was introduced, the Christian Coalition has urged its members to flood your offices with messages in support of this discriminatory measure. I am not surprised by this news, since the intolerance and virtual demonizing of gay men and lesbians are two of the hallmarks of that group. Our organization tracks the activities of the Religious Right nationwide, and I can tell you that the Christian Coalition is working feverishly around the country to deny fundamental civil rights to gay men and lesbians, as though the world would come to an end if these members of our community were to be accorded the basic human rights that the rest of us enjoy and take for granted, including the right to marry the partner of our choice.

As a Southern Baptist and the daughter and granddaughter of Southern Baptist preachers, I believe that the intolerant message of the Christian Coalition is not a Christian message at all. To the contrary, it is an uncharitable message that violates the American Way of individual liberty and the Alaskan spirit of "live and let live." On behalf of our Alaska members, I strongly urge you not to allow the Alaska Constitution to fall victim to prejudice and intolerance. Civil rights cannot

April 22, 1998

Page 2

properly be subjected to a vote, and the fundamental protections of the Alaska Constitution should not be put up for grabs.

Please reject SJR-42. Thank you.

Sincerely,

Carole Shields

Carole Shields
President

cc: All Members, House of Representatives

**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

In 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" on 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. Wardle, *A Critical Analysis of Constitutional Claims for Same-Sex Marriage*, 1996 B.Y.U. L. Rev. 1.

Last month, in *Braune 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 will 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. Seth*, 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 Hojgarrrd 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 than 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).

PRESS RELEASE

For Immediate Release

March 9, 1998

STATEWIDE EFFORT UNDERWAY TO HALT CONSTITUTIONAL AMENDMENT ON SAME SEX MARRIAGE

Statewide civil rights groups are mobilizing to fight a legislative proposal that seeks to add a provision to the Alaska Constitution prohibiting marriage between people of the same sex. The first hearing on the proposed constitutional amendment (SJR 42), is set for today at 1:30 p.m. before the Senate Judiciary Committee. Civil rights groups from across the state are planning to show up in force in hopes of stopping the measure in committee. "This proposal would turn our State Constitution into a document that would mandate unequal treatment and violations of privacy," said Sara Boesser of Committee for Equality. "We expect citizens from all walks of life to step forward in opposition to this unprecedented attack on individual rights in our state," added Boesser.

Senator Loren Leman pushed to have the proposed constitutional amendment introduced by the Senate Health, Education and Social Services Committee earlier this month, after an Anchorage Superior Court judge ruled unconstitutional the legislature's recent rewrite of the state's marriage statute. The re-worked statute restricted marriage to "one man and one woman." Judge Peter Michalski ruled such a restriction discriminates on the basis of sex and violates individual privacy rights guaranteed in the state Constitution. "This legislature has been notorious for passing unconstitutional laws," said Liz Dodd, President of the Alaska Civil Liberties Union. "Now that some of these laws aren't passing constitutional muster in the courts, the Legislative majority has decided that instead of obeying our Constitution, it might be easier to dupe Alaska's voters into amending our Constitution in ways that weaken individual rights. "I think they underestimate the public," said Dodd.

Opponents of SJR 42 point out Judge Michalski's ruling rightfully extends the rights and

responsibilities that flow from a marriage license to all of Alaska's qualified citizens. Marriage bestows many social and economic benefits -- such as joint tax status, health insurance benefits for family members, the right to visit family members in the hospital, to choose how one's life partner will be buried, and numerous other legal rights -- which unjustly have been denied Alaska's many same-sex couples. Individuals and members of the civil liberties and civil rights groups who will be appearing before the Legislature later today intend to counter arguments that granting marital rights to same-sex couples will result in the disintegration of society. Rather, they will argue, the extension of these rights simply will provide stability and security to families that already exist.

Opponents of the constitutional amendment warn it isn't just same-sex couples who should be worried about SJR 42 advancing through the Legislature. "What we have here is an attempt to weaken everyone's constitutional rights, by attacking the rights of one group the Legislature perceives to be unpopular," said Elliot Dennis, past president of Parents, Family and Friends of Lesbians and Gays-Anchorage (PFLAG). "Individual liberty has always been 'inherent' in our state Constitution, but this measure changes that. I can't think of anything more un-Alaskan," he added.

Representatives from the groups opposing SJR 42 will hold a press conference on the steps of the Capitol Building following today's hearing. For more information, contact Sara Boesser in Juneau (789-9604); Allison Mendel in Anchorage (279-5001); or Ilena Cramer in Fairbanks (452-4222).

Rights & Benefits of Marriage

What is Marriage, Anyway?

Most importantly, it's not just about sex. Anyone who is married knows that.

Marriage is a powerful legal and social idea that protects and supports intimate family relationships by providing a unique set of rights, privileges, and benefits. Those who can marry often take these rights for granted, but for gay men and lesbians, these benefits are forever denied.

In Hawaii alone, for instance, because lesbians and gay men cannot marry, they have no right to:

- Accidental death benefit for the surviving spouse of a government employee;
 - Airport relocation assistance for displaced persons;
 - Appointment as guardian of a minor;
 - Award of child custody in divorce proceedings;
 - Beneficial owner status of corporate securities;
 - Bill of Rights benefits for victims and witnesses;
 - Burial of servicemember's dependents;
 - Certificates of occupation;
 - Consent to post-mortem examination;
 - Continuation of rights under existing homestead leases;
 - Control, division, acquisition, and disposition of community property;
 - Criminal injuries compensation;
 - Death benefit for surviving spouse for government employee;
 - Disclosure of vital statistics records;
 - Division of property after dissolution of marriage;
 - Eligibility for housing opportunity allowance program of the Housing, Finance and Development Corporation;
 - Exemption from claims of Department of Human Services for social services payments, financial assistance, or burial payments;
 - Exemption from conveyance tax;
 - Exemption from regulation of condominium sales to owner-occupants;
 - Funeral leave for government employees;
 - Homes of totally disabled veterans exempt from property taxes;
 - Income tax deductions, credits, rates exemption, and estimates;
 - Inheritance of land patents;
 - Insurance licenses, coverage, eligibility, and benefits organization of mutual benefits society;
 - Lease of agricultural parks;
 - Lower hunting license fees;
 - Making, revoking, and objecting to anatomical gifts;
 - Nonresident tuition deferential waiver;
 - Notice of guardian ad litem proceedings;
 - Notice of probate proceedings;
 - Payment of wages to a relative of deceased employee;
 - Payment of worker's compensation benefits after death;
 - Permission to make arrangements for burial or cremation;
 - Proof of business partnership;
 - Public assistance from the Department of Human Services;
 - Qualification as a facility for the elderly;
 - Real property exemption from attachment or execution;
 - Right of survivorship to custodial trust;
 - Right to be notified of parole or escape of inmate;
 - Right to change names;
 - Right to enter into pre-marital agreement;
 - Right to file action for nonsupport;
 - Right to gasoline dealer franchise;
 - Right to inherit property;
 - Right to purchase leases and cash freehold agreements concerning the management and disposition of public land;
 - Right to sue for tort and death by wrongful act;
 - Right to support after divorce;
 - Right to support from spouse;
 - Rights and proceedings for involuntary hospitalization and treatment;
 - Rights by way of dower or curtesy;
 - Rights to notice, protection, benefits, and inheritance under the uniform probate code;
 - Sole interest in property;
 - Spousal privilege and confidential marriage communications;
 - Status of children;
 - Succession to Hawaii Homes Commission leases;
 - Support payments in divorce action;
 - Tax relief for natural disaster losses;
 - Travel and transportation expense of government employees;
 - Vacation allowance on termination of public employment by death;
 - Veterans' preference to spouse in public employment;
 - In vitro fertilization coverage;
- 300,
- Waiver of fees for certified copies and searches of vital statistics.

April 20, 1998

Dear Representative Green,

This letter regards SJR 42 which proposes an amendment to the constitution to define marriage as a union that can be entered into only by "one man and one woman."

We urge you to support this important bill. Passage of this bill would allow the people of the State of Alaska to decide whether or not they want marriage defined as a union of one man and one woman. Last year, as you are well aware, legislators -- with the general support of their constituents -- passed a bill that would have given marriage just this definition. This bill was passed into law, and now one or two judges have nullified it.

From both a biblical and historical perspective, we strongly support marriage as the legal union between one man and one woman. However, regardless of our views on the subject, we see no reason why the people of Alaska shouldn't be able to vote on a possible amendment to the constitution -- if we are truly living in a democracy and not a governmental system run by one or two judges!

Again, we urge your support for SJR 42. Thank you for your time and consideration of this important matter.

Sincerely,

Alan and Chris Schuler
4066 Deborah Drive
Juneau, AK 99801
aecrsas@ptialaska.net

Author: kailing@mosquionet.com at CC2MHS1
Date: 4/28/98 10:12 AM
Priority: Normal
BCC: Representative Gail Phillips at LAA_CAP
TO: Representative_Joe_Green@legis.state.ak.us at CC2MHS1
Subject:

Dear Representative Green,

We want to thank you and the House Judiciary Committee for conducting a fair, impartial hearing yesterday. It was entirely different from the Senate hearings on SJR 42, when efforts were made to limit testimony in opposition to this resolution and the attitude toward those wanting to testify was anything but accommodating.

Those of us attending in Fairbanks did feel like the ugly stepchild for a while, but all of us were eventually able to testify. We are grateful for your patience and the respectful attitude you displayed toward all who testified--for or against.

Regardless how the vote comes out, we have the feeling that we were heard, at least by a few of the committee members, and that absent committee members will diligently review all testimony given before making up their minds on how to vote. You and your committee have done a great deal toward restoring our faith in the public process--a faith that was severely eroded during the Senate hearings on this issue.

Stephen & Nancy Kailing

*Good Job, Joe -
Please pass on my
appreciation to your
committee.
Thanks -
Gail*

"For where two or three are gathered together in my name, there am I in the midst of them."

--*The Gospel according to St. Matthew, 18.29*

A Statement in Support of Family and in Opposition to SJR 42
May 7, 1998

"Some time ago a little child came to our house about midnight. I went down and there stood this little one in tears. Upon questioning she said: "I went to my mother and she did not want me; I went to my father and he did not want me. You, do you want me?"

--*Mother Teresa of Calcutta*

My name is Morissa Lou Williams. I am writing to each member of the House on behalf of myself, as a woman of faith, and on behalf of the children of the State of Alaska, who will suffer the violence of an unjust society if SJR 42 continues its misguided path through the halls of the legislature. I am a student of theology and non-violence. I subscribe to Gandhian principles of non-violent resistance to injustice. I respectfully say to you that should an essentially violent doctrine such as this, which would make the highest union between two human beings a crime for many citizens of Alaska, become law, I am called by my conscience to resist its implementation.

My religious tradition is Jewish, which is to say that I know without doubt that when any group of people -- in this case, people who happen to love people of their own sex -- are set apart for persecution, then we as a society have lost the navigational brilliance of our common ideals and, in this case, our constitution. Alaska is only beginning to recover from its history of discriminating against the Native peoples of its own lands. That process is very painful and demanding for anyone whose heart is sincerely engaged in authentic change. How is it possible that anyone should choose to return us, morally, back through the very gates of oppression? Shall insanity be called sanity again?

There are many things the children of Alaska are crying for. Most desperately, they are calling on the grownups in their lives to make peace with one another, and with themselves, so that they may live inside safe, loving families, streets, neighborhoods, communities. Every one of us stands in the presence of a child asking us if he or she is wanted in our society. Mother Teresa saw, and asked us to see, that every single child relies upon every one of us to love that child just as God created him or her.

SJR 42 may not be intended to do harm, but it can only do harm. It is a misguided and confused document which is best set aside as an historical footnote. I submit to you, respectfully, that to continue the pretense that there is any value in this document is to bow before violence and invite it to do its worst among us. Can you look into the eyes of any child and say, without feeling a sickness in your own soul, "You have no right to a just and peaceful future"? Please, honor your best selves by recollecting that God is love. On the following pages I offer a faith perspective on this legislation.

✱

If you have ever seen film of Mother Teresa, you have seen that it was from children, who radiate the undimmed hope and love of God, that Mother Teresa found particular strength for her work. She gratefully received this hope and this love, and returned it a thousand-fold not only to the children but to the people around them. This is something every one of us is capable of doing. If children become the mirror into which each conscience gazes, then we cannot help elevating justice and compassion to be the highest priorities in decision-making matters. It is when we turn away from children and look into such transient and misleading reflections of our worth as power or wealth that compassion and justice disappear from our deliberations.

Page One

"For where two or three are gathered together in my name, there am I in the midst of them."

--*The Gospel according to St. Matthew, 18.29*

I believe that this measure, SJR 42 rises from a misguided belief that elevating the status, wealth and power of some citizens over others will bring about some manner of good result. It cannot do such a thing. If the few proponents of the bill could look directly into the eyes of the children whose future they are mauling in their confusion, they would soon enough see the mistake being made. I am certain that every one of you reading this letter does many charitable things for the benefit of children. I know that you are generous and that you care. But children need more than charity. They need the careful, honorable foundation of a just society: a society with a democracy and a sturdy constitution which can withstand the moral storms which sometimes obscure our common ideals. SJR 42 is such a storm.

I believe that SJR arises from a lack of understanding. It arises from a fear that perhaps the marriage of a man to a man or a woman to a woman might threaten the marriage of a woman to a man. No such thing is true. On the contrary, any marriage undertaken in courage and love fortifies every other marriage by fortifying the very institution of marriage. Every marriage embarked upon in faith demonstrates the beauty of fidelity and a reverence for love. These are the qualities which create a society in which children are safe, protected and honored.

Though SJR 42 may not be intended to do harm, it is capable of doing only harm. The implicit intent of the measure, which is to protect the sacred institution of marriage, can in fact only be met by: (1) recognizing that the bill contradicts its own intent, and (2) dismissing the bill from further deliberations and interring the bill in the safe depths of historical archives.

SJR 42 assaults the institution of marriage even as it disdains the expressed intent of our constitution and our democracy. I write this letter as a woman of faith with a very conservative nature. The supporters of SJR 42 are commonly held to be "conservatives", but this is, I believe, an improper designation. When I think of the word "conservative" Abraham Lincoln comes to mind. This conservative gentleman had this to say to advocates of carrying the institution of slavery forward in federal territories:

"But you say you are conservative--eminently conservative--while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and tried, against the new and untried? We stick to, contend for, the identical old policy on the point in controversy which was adopted by "our fathers who framed the Government under which we live;" while you with one accord reject, and scout, and spit upon that old policy, and insist upon substituting something new. True, you disagree among yourselves as to what that substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and denouncing the old policy of the fathers. Some of you are for reviving the foreign slave trade; some for a Congressional Slave-Code for the Territories; some for Congress forbidding the Territories to prohibit slavery within their limits; some for maintaining slavery in the Territories through the judiciary; some for the "gur-reat principle" that "if one man would enslave another, no third man should object," fantastically called "Popular Sovereignty;" but never a man among you is in favor of federal prohibition of slavery in federal territories, according to the practice of "our fathers who framed the Government under which we live." Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. Consider, then, whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundations."

Address at Cooper Institute, New York, February 27, 1860.

Page Two

"For where two or three are gathered together in my name, there am I in the midst of them."

--*The Gospel according to St. Matthew, 18.29*

What we encounter in SJR 42 is a chaotic result of shallow theological references and even shallower historical thought. We are a nation which honors the separation of church and state but we are also a nation whose principles are based on moral precepts arising from our religious sensibilities. Thus, when we consider a bill like this, with its frank dehumanization of American citizens, we are in the difficult position of simultaneously considering: (1) the ostensible moral origins and consequences of the law, (2) whether the law is acceptable under the mandate of our history and our constitution; and (3) whether the law will succeed in fulfilling its own intent. The third question is, I believe, answered. The law not only fails to succeed in fulfilling its own intent, it actually defeats it. The second question is also clear: the law is directly in conflict with the mandate of our history and our constitution. That has been amply demonstrated by legal experts and witnesses.

The first question is the one I wish to address now because I believe it is the fundamental question in our hearts. I believe that the measure arises from impoverished moral thinking and, again, shallow historical understanding. As scholar John Boswell writes in *Christianity, Social Tolerance and Homosexuality*,

"Not only does there appear to have been no general prejudice against gay people among early Christians; there doesn't seem to have been any reason for Christianity to adopt a hostile attitude toward homosexual behavior...To a contemporary observer of social trends, it would probably have seemed that...Christian sexual attitudes would be focused on the quality of love, not the gender of the parties involved or the biological function of their affection."

When rituals sacred to human beings such as attending religious services, celebrating marriages, or honoring one's own family are forced to go "underground", to become invisible, it is a symptom that the principles of a society have been, for a time, obscured by misguided uses of power. But such principles do not wither. That is the beauty of principles: we carry them within ourselves. In fact, the persecution of a principle can bring about its unexpected flowering. The Czechoslovak dissident Vaclav Havel, who was to become the president of his country, took part secretly in religious services while he was in prison.

The greatest spiritual leaders of any time are its children. They are its often invisible prophets. Christ said, "Take heed that ye despise not one of these little ones; for I say unto you, That in heaven their angels do always behold the face of my Father which is in heaven." (Matthew 18.10.) If we make decisions which insult children by creating an atmosphere of neighbor against neighbor, we violate the spirit not only of the Christian gospels but of virtually every religious tradition mankind has known. We put ourselves into the worst possible moral position, which is to refuse to be a neighbor to our neighbor. In *Is the Homosexual My Neighbor*, authors Scanzoni and Ramey journey the breadth and depth of Old and New Testament in considering this question. They relate the story of the man who hopes to justify himself by disowning other human beings as neighbors:

"And behold, a certain lawyer stood up, and tempted him, saying, Master what shall I do to inherit eternal life? He said unto him, What is written in the law? how readest thou? And he answering said, Thou shall love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbor as thyself. And he said unto Him, Thou has answered right: this will do, and thou shalt live. But he, willing to justify himself, said unto Jesus, And who is my neighbor?"

Page Three

"For where two or three are gathered together in my name, there am I in the midst of them."

--*The Gospel according to St. Matthew, 18.29*

Scanzoni and Ramey go on to observe, concerning our responsibility to our neighbors,

"If the homosexual is my neighbor, the Bible commands that I shall not bear false witness against that person (Exodus 20:16)...Zech. 8:17 specifies that none of us should allow ourselves to imagine evil in our hearts against our neighbor.....The Bible has many other things to say about how we should treat our neighbor, but they are all summarized in the repeated injunction to "love your neighbor as yourself" (Lev. 19:18, RSV; Matt. 19:19, 22:30; Mark 12:31; Luke 10:27; Rom. 13:0; Gal. 5:14; James 2:8). The formula in these passages is highly significant for our topic. We can love or accept our neighbor only to the degree that we accept ourselves. True self-acceptance comes most readily through the realization that God loves and accepts us just as we are."

Etty Hillesum was a Jewish writer in Holland who kept a diary from 1941 to 1943, when she was deported to Aushwitz concentration camp and died. She would have been much in harmony with the these words. She begs us, from the pages of her diary, to consider life as a sacred responsibility to love:

"I believe in God and I believe in man and I say so without embarrassment...True peace will come only when every individual finds peace within himself; when we have all vanquished and transformed our hatred for our fellow human beings of whatever race - even into love one day, although perhaps that is asking too much. It is, however, the only solution. I am a happy person and I hold life dear indeed, in this year of Our Lord 1942, the umpteenth year of the war."

Is such transformation too much to ask? Etty's words, "the only solution" are a challenge to that other solution, the "final solution", which was Hitler's relentless process of genocide. It seems quite extraordinary that we should still be debating questions concerning the worthiness of any human being to live in peace, and yet we are.

Albert Schweitzer put it simply: "Humanitarianism consists in this principle: that a *man* is never to be sacrificed to an *end*." We simply cannot persecute some human beings - in this case, human beings who happen to love others of their own sex - in order to placate the spiritual crisis of faith of other human beings. Like Etty, Schweitzer's faith was in a God of love, not a God of divisiveness.

Schweitzer cried out from his letters, "The essential element in Christianity as it was preached by Jesus and as it is comprehended by thought, is this, that it is only through love that we can attain to communion with God." Not through discrimination against human beings; not through judgment against varieties of love, but through love itself: "All living knowledge of God rests upon this foundation: that we experience Him in our lives as will-to love".

Can any single act more indicate a will-to-love than the dedicated love of marriage? Again, theologian, philosopher, musician and doctor Albert Schweitzer:

"We have a rich inheritance from the past. That inheritance has been squandered. We are sinking today into a spiritual and intellectual poverty. I wrote several decades ago that modern man was renouncing inalienable rights of the individual--and that this made our race incapable of producing new ideals or of making current ones serviceable for new objects. Modern man's only experience in this field is that prevailing ideas obtain more and more authority, take on a more and more one-sided development, and live on till they have produced their last and most dangerous consequences."

Page Four

"For where two or three are gathered together in my name, there am I in the midst of them."

--The Gospel according to St. Matthew, 18.29

We can avert such consequences, simply and gracefully, by choosing to protect the inalienable rights of our brothers and sisters. Rather than degrading family life in Alaska by making marriage a crime for many of its citizens, I would advocate embracing the following actions, on an individual basis, which would transform entirely the lives of Alaskan children and strengthen Alaskan families in every respect:

- ◆ Remove alcohol voluntarily from the family home so that intellectually, emotionally, spiritually and in all ways we are able to make choices that honor the needs of children.
- ◆ Create marriages of tenderness, fidelity and respect.
- ◆ Be patient with children and spend time with them so they can learn to trust and mature into people who can sustain committed relationships.
- ◆ Endow the education of children to ensure they are not excluded from the decision-making process of democracy, and to ensure the democracy itself does not falter.
- ◆ Read deeply and widely so your own life grows richer.
- ◆ Share your spiritual beliefs humbly and offer their presence joyfully as gifts.

These are not actions which can reasonably be made law; but, chosen individually as matters of conscience, they would foster an atmosphere of law-abiding peace we cannot even imagine in our current state. Children in Alaska are not suffering because a man loves a man or a woman loves a woman. Children in Alaska are suffering because so very many Alaskans have displaced love with alcohol, power, money or violence. Every single thing we do to protect the dignity of family life will bless our children and their futures, and every single thing we do to injure family life - and SJR 42 is an example of such injury - will injure these children, who are already in the midst of so much violence and loneliness. If we judge this bill on its actual intentions, which are to respond to theological/social mandates concerning marriage, we see it fails on all levels. I call on you to oppose this bill and support the children of Alaska.

Thank you for your kindness in considering this letter.



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Page Five

CHARLES M. NORTHRIP

2810 FRITZ COVE ROAD

JUNEAU, ALASKA 99801

(907) 789-3554

4/20/98

To: Rep. Joe Green

Hi Joe,

I understand House Judiciary is the first referral for SJR 42. As I'm sure you know, I have a deep personal interest in the subject. Pam + I will be out of town until April 30. I hope I'll have an opportunity to testify on the proposed resolution. Please let me know if and when you'll schedule hearings. I'd also like to come see you and discuss SJR 42 with you.

Thanks,
Charlie Northrip

April 21, 1998



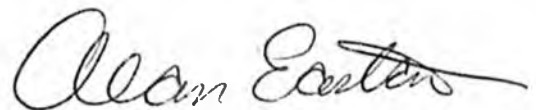
State Representative Joseph Green
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Green:

I urge you to oppose SJR42. This bill would put before the voters a proposal to amend the Alaska state constitution to forbid same-sex marriages.

I feel that same-sex couples should be given the same opportunities under the law as opposite sex couples. Imagine if you were forbidden to marry the person you loved !!! Please do not make it more difficult for same-sex couples to achieve legal recognition.

Sincerely,



Alan Easton
2317 Seven Pines Dr.#7
St. Louis, Missouri 63146

wow

***** P. 01 *****
 * TRANSACTION REPORT *
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TO: Chair (H) Judiciary
 ATTN: Chair Green FAX: 465-4316 PHONE: _____
 FROM: Arch L10 PHONE: _____
 INSTRUCTIONS: Written (T) on SJR 42

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MESSAGE TEXT: YOU MAY FAX ANY WRITTEN TESTIMONY TO:
465-4316



Alaska State Legislature

Please enter into the record my testimony to the Joint House Committee
 committee name
 committee on SJR-42 , dated 4-27-98
 bill/subject

Please vote No on SJR-42

Signed: Susan Mozing
 Testifier

Representing (Optional)

1014 W 16th St Anchorage Alaska 99501

Address

275-1182

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Joint House Committee
committee name
 committee on SJR-42, dated 4/27/98
bill/subject

I urge you to vote no on SJR-42
 which is a bill that would cause much
 hate to surface in our state.

This is an issue that should
 be settled in the courts, not
 battled out by the people on TV
 and the media.

Signed: Mr Lunder
Testifier
myself Abraham L Vandorf
Representing (Optional)
1014 W 16th #4 Anchorage AK 99504
Address
278-1182
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SSR 42, dated 27 April 1998
 bill/subject

The rhetoric from the "majority" leadership is confusing:

- You claim to represent a party in favor of reduced government interference in the daily lives of citizens, yet you are trying to pass new laws which impose new government restrictions on individual freedom
- You complain that your stereotyped view of gay people is that they are promiscuous and don't respect "family values," yet when two men or women want to codify their relationship and guarantee the same spousal protections most of you enjoy, you try to create more obstacles to people with different lives from your own.
- It appears you "do not protest too much" on these issues. If someone else's mere existence is threatening to you, I believe you need to examine your own motives, and rhetoric, and not interfere with individuals' choices.

Signed: TIMOTHY TATTAN

Testifier

Self

Representing (Optional)

POB 200632, Anchorage

Address

272. 7988

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House
Judiciary Committee
 committee name
 committee on STR 42, dated April 27, 1997
 bill/subject

Dear Committee Members

I would like to ask you to consider voting against STR 42

for the following reasons:

- I feel each Alaska citizen should have available to them the rights + privileges of marriage regardless of their sexual preference
- From the states perspective marriage is a legal contract, & Moral judgement about a persons personal choices about partnerships should not be a consideration.
- It is considered discrimination not to allow the marriage rights for all.
- 10-15% of Alaskans are hard working, tax-paying citizens who also happen to be gay or lesbian - They do not deserve to be discriminated against or excluded.

Signed: _____

Testifier

Ruby M. Henry

Representing (Optional)

PO Box 143205 Anch. AK 99514

Address

522-3953

Phone No.

7240
Dorenda
Circle



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SJR-42, dated 4-27-98
 bill/subject

I am against SJR-42 and would appreciate if you would vote no on this issue. This isn't a moral issue but a legal one, and an individual should ~~be able~~ ^{not have} their rights limited because of who they choose as a life partner.

The constitution should not be amended to limit anyone's civil rights.

I want to be able to make legal choices regarding my partner, that other married couples get to make.

Signed: Kemi Everett
 Testifier

Representing (Optional)
1850 Logan St Anchorage, AK 99508

Address
258-9027

Phone No.

I would like to testify in favor of SJR 42. The dictionary defines marriage as between one man and one woman. The Federal government defines marriage as between one man and one woman. An attempt to redefine marriage in any way other than between one man and one woman flies in the face of everything we know to be right. The laws of a land must flow from our knowledge of what is right. We can see how ridiculous it is to redefine marriage on the basis of sexual behavior by considering that some people participate in sexual activity with small children. Do we want to allow marriage to occur between a man and his son or daughter? Some people participate in sexual activity with animals. Do we as a people want to allow a man to marry a dog, a sheep, or a chicken? I think not! Let's stick with marriage between one man and one woman.

Bob Wheeler
278-3912
1211 Redwood Ct.
Anch. AK 99508

SJR 42

I AM OPPOSED TO RECOGNIZING SAME
SEX MARRIAGES AND AM IN FAVOR OF
SJR 42. THIS IS TOO IMPORTANT AN
ISSUE TO BE DECIDED BY ONE JUDGE.
THE PEOPLE OF THIS STATE SHOULD
DECIDE. ~~THE ISSUE~~

Michael J. Gray
4/27/98

3000 WINEY POST AVE.
ANCHORAGE, AK 99517

4-27-98

I strongly support SJR 42. SJR 42 does not discriminate against homosexuals. Homosexuals are free to live however they choose - the state does not prohibit homosexual behavior or relationships.

What is being asked of the people of Alaska is to approve of the homosexual lifestyle and allow it to be promoted. This is a change as to how we currently live.

I cannot give my approval to the homosexual lifestyle. It is imperative that this issue come before the voters of the state of Alaska. I urge you to vote for SJR 42 + give the people of Alaska a chance to have our vote heard.

Tamara Wheeler
1211 Redwood Ct.
Anchorage AK 99508



LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

Kramer
FBI

DATE: 4/28/98

Please accept the enclosed original(s) of written testimony for the

House Judiciary (STR 43) teleconference scheduled on

4/27/98. A copy of this testimony was

transmitted to your committee via fax.

Thank you,

Fran/ Flex 210



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary Comm.
 Committee on SJR 42 Committee Name Dated 4-27-98
Bill / Subject

I am heterosexual & an ~~active~~ active member of a local church. I oppose SJR 42 on several grounds. I oppose this bill because it legalizes discrimination and it does so in our constitution. Our constitution should be a document which upholds equal rights and the privacy of all Alaskan citizens. Our constitution as it is now written does this. I know many of you ~~will~~ agree that our constitution should be a document of rights and not one of prohibitions and preferences for some. ~~Therefore,~~ I urge you to vote against this punitive bill.

SIGNED: Jana Peirce
 Testifier

Jana L. Peirce
 Representing signature

820 Rifle Rd, Fairbanks, AK 99712
 Address / Phone Number 907-488-8692



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Judiciary
COMMITTEE NAME
COMMITTEE ON SNR 42 DATED 27 APR 98
BILL/SUBJECT

Please Vote No. on SNR 42.

Thank-you.

SIGNED Meredith Smith
TESTIFIER

REPRESENTING (OPTIONAL)

PO Box 35022 FWA 99703
ADDRESS/PHONE NUMBER

Good Afternoon,

I am Lisa Slayton. I am a well respected educator in the Fairbanks school system, a community volunteer, a spiritual person who believes in God. I am the girl next door, I am a Lesbian.

This is my second time to testify AGAINST SJR 42. My voice was not heard in the Senate. I pray that that is not the case in the House.

There are so many legitimate arguments against this discriminatory amendment that I find it hard to Prioritize them in order to speak on them in just three minutes, so I have decided to give a personal account of what it was like growing up lesbian in a fearful, hateful, homophobic atmosphere...an atmosphere that unfortunately continues to exist for most of our gay and lesbian youth due to anti-gay measures such as SJR 42.

I am 35 years old. I have been a lesbian for 35 years. I did not CHOOSE a lifestyle when I was born. I did not choose to be made to feel alone and afraid in high school for far more serious reasons than the usual teenage angst. I did not choose to be kicked out of my home when my family finally did find out about my sexual orientation. I did not CHOOSE to be physical attacked by my mother and sister and then sent to a psychiatrist for being "abnormal". And now, as an adult, I do not CHOOSE to be constantly afraid of losing my job, I do not CHOOSE to constantly have to defend my right to exist as my true self in this world, and I do not CHOOSE to find myself in a position where a majority of people may possibly have the right to decide who I can legally marry and build my life with.

Gays and Lesbians to not CHOOSE to be feared, hated, treated with disrespect, denied civil rights. We are not asking for special rights, we are asking for the SAME rights as everyone else because we ARE everyone else. We are people. We are your teachers, doctors, postal clerks, social workers, police, lawyers, the check out clerk at Fred's...and make no mistake, we are YOUR uncles, aunts, cousins, sisters, brothers, children and grandchildren. I promise you that you have gays and lesbians in your OWN families. When you vote on this amendment, take into consideration just WHO you are affecting. Please keep in mind that voting "NO" on SJR 42 hurts no one. Voting "YES" hurts many. Do not continue this cycle of fear and hate...Please oppose SJR 42. Thank you.

Lisa Slayton
457-2787
Fairbanks, AK

Re SJR 42

Mary Bishop, 1555 Guss Grind, Fbx Ak 99709

thus Fri & Sat

I just attended the state Republican Convention here in Fairbanks. I was elected as an alternate delegate from District 29 and I attended virtually every event.

Friday Morning breakfast debate -- a table of eight Lathrop High School students is introduced. Three of these students ask questions of the gubernatorial candidates. One question relates to the same-sex marriage resolution.

Our Republican candidates answered so negatively, with such rancor and malice -- I was ready to crawl under the table. And while this rancor was being spouted from the podium, I glanced at a table to one side of me. Some men were raising out of their seats, pushing their fists to the ceiling, figuratively, if not literally, shouting "Go for it, yeah man, get'em." One thing is for certain, the Republican Party lost virtually every student at that table who wasn't from an extremely "religious right" philosophy. Of course, all this made the front page of the local paper, too. ^{it was newsworthy.} And probably was the talk of Lathrop High School the next day. We (i.e., we Republicans) are just lucky the photographer didn't get a picture of those men raising their fists. Shades of the Ku Klux Klan. We Republicans will lose the ^{young adults} youth of today -- over this issue-if this rhetoric continues.

Surely each of you have homosexual members of your family or extended family. Remember them. They are our sons and daughters, our brothers and sisters, our nephews, neices, aunts and uncles. Sometimes they are our mothers and fathers. They are friends and neighbors, employees and employers. They are even sometimes our fellow Republicans-- (though this rancorous rhetoric is really making it difficult for that to continue.)

And lest you Democrats feel too righteous -- I have also witnessed a rather dispicable display of political power by the "D's"--when it was to their advantage to be gay unfriendly.

We are in the limelight now of a great national conversation. I am delighted that this conversation is happening. But the conversation must not be filled with the malice and rancor I saw on the podium last Friday morning -- nor with the garbage in one of the recent public hearings on SJR 42 where homosexuals were equated with

child molesters, dogs, goats, and where it was recommended that homosexuals be stoned to death.

Republicans -- remember what you used to type -- "Now is the time for all good men to come to the aid of their party". Don't lose the youth of today. Gays are no longer in the closet; our youth know gays aren't all beasts and molesters.

Remember, imitation is the ^{sincerest form of flattery} greatest form of compliment. Gays who want to marry ~~are~~ ^{are} complimenting our cultural and social values. They wish to demonstrate to others that a committed, monogamous lifestyle is "the way to go". Please support them in this endeavor. ^{like Richard Collins} ^{Vote no -}

I will submit this as written testimony
Thank you

Hello. My name is Susan Galereave and I am here today to testify against SJR-42. I am opposed to this Constitutional amendment because it singles out a minority group as not being worthy of the benefits to which the majority is entitled. I believe that, if passed, and when challenged by the courts, SJR-42 will be found to be unconstitutional, just as was the DOMA legislation of 2 years ago. It violates the right to privacy and our equal protection under the law that applies to all citizens.

I am a member of that minority. I consider myself married to my partner who is a woman. We are living out the essence of what marriage is, even though the law does not recognize that. We are committed to cherish and support each other for the rest of our lives. We support each other financially and emotionally which enables us to be productive, contributing citizens of this town and state.

Whether or not you are comfortable with my lesbian union, it is what makes sense for me. I was raised to be a heterosexual and used to be married to a man. While my former husband and I were friends and felt loving towards each other, it was not an emotionally satisfying union for me. It was a union that looked good in the eyes of society, and in the eyes of my parents, but ultimately did not support my yearning for a companion with whom I could establish a nurturing, loving home. I have that and will not give it up for anything.

The institution of marriage up until now has been defined by society and by the law as between a man and a woman. It is time for that to change. It is time for the laws and peoples' attitudes to honor and reflect the reality that has existed since people came to be. Homosexuality has always been the true expression of a minority and always will be.

This legislation proposes to write discrimination into our constitution. It reminds me of the time when African Americans were considered 3/5 of a human being. Can't we skip that step? Haven't we learned from the Civil Rights movement? Discrimination is harmful to everyone. Broaden your view. See what is true for a large number of Alaskans. Human beings are rich and complex, not limited to what we have been able to imagine and tolerate up until now.

I urge you to vote NO on SJR-42. Let's maintain what we know is right: the conscience of the people as expressed in the Constitution.

Respectfully submitted by Susan Galereave,
P.O. Box 212, Ester, Alaska, 99725

Public Opinion Statement of
Dena R. Ivey
P.O. Box 80164
Fairbanks, Alaska 99708

My name is Dena Ivey, and I am here to testify against SJR-42. I was born and raised here, in Fairbanks, graduated from Lathrop High School in 1989, and joined the Air Force in 1992. I served our country proudly and honorably for four years, then returned to Fairbanks to pursue higher education. I am also a Native activist, and am also here to speak in defense of my fellow Alaskan Native and non-Native homosexuals, who desire to be afforded the same fundamental rights as all other Alaskan citizens.

For me, as with all other homosexuals, being gay was not a choice I made. In His infinite wisdom, God made that choice for me when I was born, in the same manner that He decided I would be female with brown hair and brown eyes. The only choice I made with regard to my sexual orientation was to accept and celebrate it as the only lifestyle that would make me truly happy. Unfortunately, in Alaska, this happiness is conditional. For four years, I lived with unbelievable paranoia and fear while in the military. I cannot walk down the street, holding hands with my significant other, without the fear of being physically or verbally assaulted for such public displays of affection; affection which I see among heterosexuals every day. I am denied the opportunity to share in the rights and responsibilities of marriage...a basic human right which the heterosexual members of my family currently enjoy.

Whose responsibility is it, to question the devices and decisions of God? There are those who would say that it would behoove society for me to live a lifestyle that was not mine to begin with. Since when has God condoned living dishonestly, living a lie? Jesus said, "Love thy neighbor as thyself." Jesus did not say, "Love thy neighbor as thyself, but only if he is heterosexual." For Jesus, love is unconditional. Jesus was an advocate of compassion and love, not of hate and fear. Hate and fear are the devices of His adversary. I think Jesus would be appalled to witness the amount of hate and fear which has arisen against human beings such as myself; hate and fear which is evoked in His name, no less. This hate and fear, rooted in ignorance, is the premise of legislation such as SJR-42.

It is interesting to find, in this great state where individual freedom is emphasized and regulation is resisted, that such regulation should be imposed upon people like myself...people who's only desire is to be productive members of society: to work and raise healthy families and contribute to the betterment of Alaska. It is disheartening to note that Alaska is willing to accept our contributions, but not willing to acknowledge us as legitimate human beings.

Thank you for your time, and for affording us the opportunity to make ourselves heard.

Respectfully Yours,



Dena R. Ivey



STATE of ALASKA

Delta Junction Legislative Information Office

P.O. Box 1189
Room 210, Jarvis Office Center
Delta Junction, AK 99737
(907) 895-4236

Fax: (907) 895-5017

April 27, 1998

Kevin

TO: House Judiciary

Please accept the enclosed originals of written testimony for the House Judiciary Committee hearing that was scheduled on 4/27/98.

Copies of this testimony were transmitted by fax on 4/27/98.

Thank you,

Tammy Renee Hall

Tammy Renee' Hall
Information Assistant

Enclosures: 5



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee on SJR 42, dated 4-27-98.
 bill/ subject committee name
(SJR42)

I strongly support this bill that would define marriage as being a union between a male and a female. Anything different from this would be an aberration - and I can't see making an "aberration" a lawful thing.

Signed: Jo E. McBride
 Testifier

Representing (Optional)
P.O. Box 779 Delta, AK 99737
 Address
907-895-4009
 Phone No.

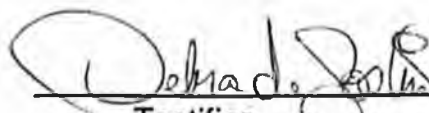


Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SJR 42, dated 4-27-98
 bill/ subject

I urge you to pass this Bill. You will hear many voices asking you to vote against this Bill. They seek to redefine marriage. Since the beginning of time marriage has been a lifetime union between one man and one woman. I ~~am~~ for one will not accept the defining down of marriage. If few or if many choose to deviate from the norm it puts us under no obligation to change the definition of what is normal. ~~A lot of people do things that~~ ~~are~~ Homosexual marriage is not normal. Pass this Bill so that the people of Alaska have the opportunity to decide for themselves.

Signed:


 Testifier
RPA, Dist 35, Chickwoman
 Representing (Optional)
Box 377, Delta Jct, AK 99737
 Address
(907) 895-4565
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the judiciary
 committee on SJR 42, dated 27 April 98
 bill/ subject _____
 committee name _____

Why redefine marriage? Those who wish to do so ignore the God-given foundations of our society and the underpinnings of our culture. It is clearly a destructive design, based on selfish and self-seeking motives. It will open the doors for them to begin similar actions in other states. Please support this bill.

Signed:

Marla Willis *Marla Willis*
 Testifier
RPA Comm, the woman - Delta Jct, Precinct
 Representing (Optional)
P.O. Box 375 - Delta Jct, AK 99737
 Address
895 - 4161
 Phone No. _____

Please support SJR 42. We feel very strongly that to allow same sex marriages in our state would lead to a very negative image of our great state. Let our state be the state to set and keep laws that are honorable and good, that lift up human dignity. Same sex marriage can never be anything but demeaning, vulgar, cheap and wrong. Some day these very people who want same sex marriage will reap great turmoil in their physical and emotional health. This bill in the long run will cost our state millions of dollars for health and mental counseling. The voters of Alaska should be given the right to make this decision not an unelected judge. Respectfully, Marlin and Neva Starnes

Marlin L. Starnes

P.O. Box 1293

DELTA JCT. AK.

99737

Neva I. Starnes

P.O. Box 1293

DELTA JCT. AK.

99737



Alaska State Legislature

Please enter into the record my testimony to the _____

committee name

committee on _____, dated _____
bill/ subject

I support the bill to define a marriage as a legal union between one man and one woman. Any other definition of "marriage" I believe will contribute to the moral decline of our nation.

Signed:

Garth McCord

Testifier

RPI Treasurer Big Delta District

Representing (Optional)

Box 511 Delta, AK

Address

895-4992

Phone No.



LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

DATE: 4/27/98

Please accept the enclosed original(s) of written
testimony for the

House Judiciary (STR42) teleconference scheduled on

4/27/98. A copy of this testimony was
transmitted to your committee via fax.

Thank you,



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Judiciary Committee
Committee Name
 Committee on SJR 42 Dated April 27, 98
Bill / Subject

I am in favor of SJR 42. Please pass this along to the voters of Alaska. I do not think that a judge should be able to impact Alaskans on such a major social issue without a challenge. Our constitution in article 1 section 2 declares that all political power is inherent in the people. So let the people answer this political issue! Same sex marriage is a major departure from historical and contemporary meaning of marriage.

SIGNED:

John B. Cuyhite
 Testifier

myself and family
 Representing

PO Box 58003 Fbks, AK 99711 488-7886
 Address / Phone Number

Testimony for April 27, 1998--Jeff Walters

I wish to testify today against Senate Joint Resolution No. 42.

I am against Senate Joint Resolution No. 42 because it seeks to legislate discrimination and because it is an attack on the privacy rights of all Alaskans. The wording of the resolution is such that it is meant as an undeniable attack on gay men and lesbians and denies them the legal rights afforded to the heterosexual majority. The Superior Court judge noted in his decision that it is a fundamental right of all people to choose their life partner and that, had the will of the majority been left in place in the past, segregation would still exist today. I think this attack on a certain segment of our society is meant to keep that segment from attaining the rights that the majority has. It is discrimination, pure and simple.

Another line of the resolution disturbs me as much as the first. If passed by a majority of our population in November, the legislature could "by law, enact additional requirements relating to marriage." What in the world could this mean? Is our state legislature willing to go even further to dominate our population, invade our privacy, and eliminate our right to make our own decisions? This clear attack on the privacy and rights of Alaskans should be a warning to us all. How far will the state go to legislate its own view of morality?

I would like to add that I am a gay man and that I am in a long-term, committed, and loving relationship. My family, and the family of my life partner, are both wonderful and accepting. We spend holidays with them, talk on the phone often, and share wonderful times when we can visit. Two summers ago my life partner and I flew his mother and niece to Alaska for a visit: a wonderful experience for us all. To imply that our relationship is not as honorable and loving as other relationships is a personal insult to not only me, but also to our families.

I have not been willing to publicly testify before because of my job, but I think it

^{is state that}
is important for you to know what I do for a living. I am a science and math teacher at West Valley High School here in Fairbanks. In the past I have not been willing to "come out" and be open about my relationship, ^{because of fear, but I don't want to live in fear.} but I now feel compelled to do so because of the nature of this resolution. I treat my students with respect for who they are, but I do not believe that this resolution affords me or many of my friends a similar respect. I am deeply troubled by the message that Senator Leman and others is sending out and, should this pass, I see a dangerous and divisive seven months ahead as this issue heads for a popular vote. I feel that I have no choice but to speak my conscience and follow my heart if this debate continues.

I urge you to defeat this resolution. Thank-you.

Jeff Walters
P.O. Box 82708
Fairbanks, AK 99708



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the ^{House} Judiciary Comm Hse
 Committee on SJR-42 Committee Name Dated 4/27/98
Bill / Subject

See attached

SIGNED:

S.H. Kauling
 Testifier

Self
 Representing

POB 84630 FLs AK 99708-4680
 Address / Phone Number

TESTIMONY AGAINST SJR42

Representative Joe Green
Chair of House Judiciary Committee
State Capitol
Juneau, AK 99801-1182
cc: House Judiciary Committee

P.O. Box 84680
Fairbanks, AK 99708
April 27, 1998

Dear Representative Green,

SJR 42 has brought gay bashing to a new level. Gay people throughout Alaska are having to listen to ugly, stereotypical public rhetoric against same-sex marriage. The arguments are similar to those advanced in the past against ending slavery and allowing interracial marriage. They are coming from some of the people elected to lead Alaska--not just uninformed, conservative members of the public. Most of Alaska's gay citizens are doing their jobs, following the law and being responsible members of their communities--now they must take time and energy to fight legislative discrimination against them.

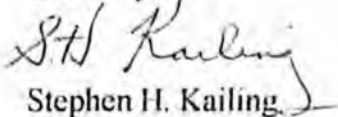
It is true that same-sex marriage has not been allowed in recent history. It may surprise you to learn that the Catholic Church performed same-sex marriages and blessed these unions between 500 A.D. and 1300 A.D. (John Boswell, "Homosexuality and Religious Life, A Historical Approach", 1989). Since then, discrimination against gays has become so pervasive in society that it is no wonder same-sex marriages were not even seriously considered until recently. To use historical attitudes and laws as an argument against denying same-sex marriage today is ludicrous.

Equally ludicrous is the argument that same-sex marriage will cheapen or make a mockery of opposite-sex marriage. Would you please explain to me how allowing a minority of Alaska's citizens the same rights, privileges and benefits as the majority will detract from my own 36-year marriage?

I have even heard members of the Senate attack the Alaska judicial system because it is telling them and their supporters what they do not want to hear. This is reminiscent of past public attitudes against equal civil rights for people of color and Alaska Natives.

At the end of this debate (if the Legislature even allows a real one), I simply ask you to do what is right--not what is popular. Nip your discriminatory legislation in the bud before it turns into an ugly leaf in the annals of Alaska's history.

Sincerely,


Stephen H. Kailing

To: All Representatives

In 1984 and again in 1996 resolutions were approved at the General Assembly of the Unitarian Universalist Association related to Ceremonies of Union between members of the same sex. The 1996 resolution states as follows, (slightly abbreviated)

BECAUSE Unitarian Universalists affirm the inherent worth and dignity of every person; and

BECAUSE marriage is held in honor among the blessings of life; and

WHEREAS The Unitarian Universalist Association has adopted numerous Resolutions over the last twenty-six years supporting equal rights for gay, lesbian, bisexual, and transgender persons, including support for Ceremonies of Union between members of the same sex; and

WHEREAS The UUA Board of Trustees and the Unitarian Universalist Ministers Association have voted their support for the right to marry for same-sex couples;

THEREFORE BE IT RESOLVED that the General Assembly of the Unitarian Universalist Association adopts a position in support of legal recognition for marriage between members of the same sex;

BE IT FURTHER RESOLVED that the General Assembly of the Unitarian Universalist Association urges its member congregations to take an affirmative position in support of the value of marriage between any two committed persons, whether of the same or opposite sexes, and to make those positions known in their home communities.

The Social Action Committee of the Unitarian Universalist Fellowship of Fairbanks, in accordance with our Unitarian principles and these resolutions, supports same-sex marriages and urges our legislators to vote NO on SJR-42. Our fellowship has performed a number of Ceremonies of Union between same-sex couples and will continue offer gay, lesbian, bisexual and transgender persons a spiritual home.

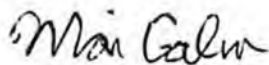
**Richard Kemnitz
Social Action Committee
Unitarian Universalist Fellowship of Fairbanks
P.O.Box 84734
Fairbanks, AK 99708
907-457-9009
rkemnitz@polarnet.com**

Recently, Representative Ramona Barnes said that she refuses to make second class citizens out of a group of her constituents. She was speaking of subsistence. Yet I say that if you vote for SJR-42, you are making second class citizens out of a group of constituents, is this case, Gay men and Lesbians.

Now listen to Senator Robin Taylor: "Under no circumstances will I hold office and violate [the] equal protection rights of our Constitution". Hmm, that's interesting, then why did he vote in favor of SJR-42? Senator Taylor is not willing to violate equal protection to solve the subsistence issue but he is willing to violate equal protection to deny same-sex marriage.

If we give special privileges to a minority group, such as Natives, in compensation for the land we stole, I have no problem with that. But notice this: SJR-42 gives special privileges to a majority group. And it asks the majority group to ratify these special privileges in the Constitution. This is outrageous! Equal protection is intended to protect minorities from the tyranny of the majority. SJR-42 undermines equal protection and opens the way for any majority group to give itself special rights.

SJR- 42, when compared to rest of the Constitution, is unconstitutional. The place to stop the erosion of equal protection is here, in the House Judiciary. I urge you to vote NO on SJR-42.



Mari Galereave
PO Box 212
Ester, AK 99725



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SJR 42 Committee Name
 Dated 4/27/98
 Bill / Subject

Please vote no on SJR 42. This bill is divisive, and it is an inappropriate invasion of the private rights of individuals. The state has no compelling interest in this matter. I believe that this legislation is an attempt to compel adherence to religious dogma in violation of the separation of church and state. The negative consequences of this are significant and there are no benefits at all.

SIGNED:

[Signature]
 Testifier

Arthur W Brack

Self

Representing

PO Box 82533 Fairbanks, AK 99708 479-4139
 Address / Phone Number

April 27, 1998.

To: Alaska State Legislators
House Judiciary Committee

Re: SJR-42

Fr: Teresa Glendinning
2531 Linda Lane
Fairbanks, Ak. 99709

As the sister of a gay woman I ask you to vote NO on SJR42. This bill would legalize and promote discrimination and hatred in our state.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SSR 42 Committee Name Dated 4/27/98
Bill / Subject

I strongly urge you to vote NO on SSR 42
 This country was born with the concept of Religious Freedom.
 It is the responsibility of the leaders to protect the rights
 of minorities, not change the state constitution to take them
 away.
 With all the important complex issues facing this
 legislator I can not believe this obviously discriminatory
 amendment is even being considered.

I am a single woman who will probably marry a person
 of the male gender; It is none of my business or the
 states who my neighbor may chose to marry;
 I also want to avoid the negative and hateful campaigning
 that would surely result if this bill is passed.
 Please leave the constitution's ~~other~~ right to privacy alone.

SIGNED: Rowena Gross
 Testifier

Representing
321 Miller Hill Rd, Fairbanks 479-6670
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SJR 42 Committee Name Dated 4/27/98
Bill / Subject

I am opposed to SJR 42. As a gay man I fear the hatred that would be unleashed in the months preceeding a public debate. This is a very emotional issue tinged with heavy religious overtones. I would like to use this opportunity to describe myself beyond the singular aspect of sexuality. I would like to catalog some of the things I've done in the last few years that I am most proud of. In 1990 my mother died. I took leave from my life and spent 3 months offering companionship to my father, living in his home in Buffalo, N.Y. In 1996, an acquaintance of mine who had terminal cancer, needed a place to live and die when her husband became abusive. I opened my home to her and, with other community members, hospiced her to her death. In 1997, a friend was told by her husband to leave their home of 20 years. I opened my home to her until such time as her husband was comfortable enough to share their home. My favorite civic holiday is Clean up day and I extend this day to the weeks before and after the day. I have never received a traffic citation. I wonder why I am so repugnant to some that my civil rights are denied.

SIGNED: Mark Schubauer Mark Schubauer
 Testifier
self
 Representing
P.O. Box 87 Ester AK 99725 389 2582
 Address / Phone Number

April 27, 1998

HAROLD A. HALDANE
P.O. Box 61168
Fairbanks, Alaska 99706
Telephone (907) 479-4200

'RE: Constitutional amendment to legalize homosexual marriage...

TO WHOM IT MAY CONCERN:

I am an expert in constitutional law. I also teach the constitution. In the true sense it would be unlawful to pass an amendment to legalize homosexual marriage for several reasons:

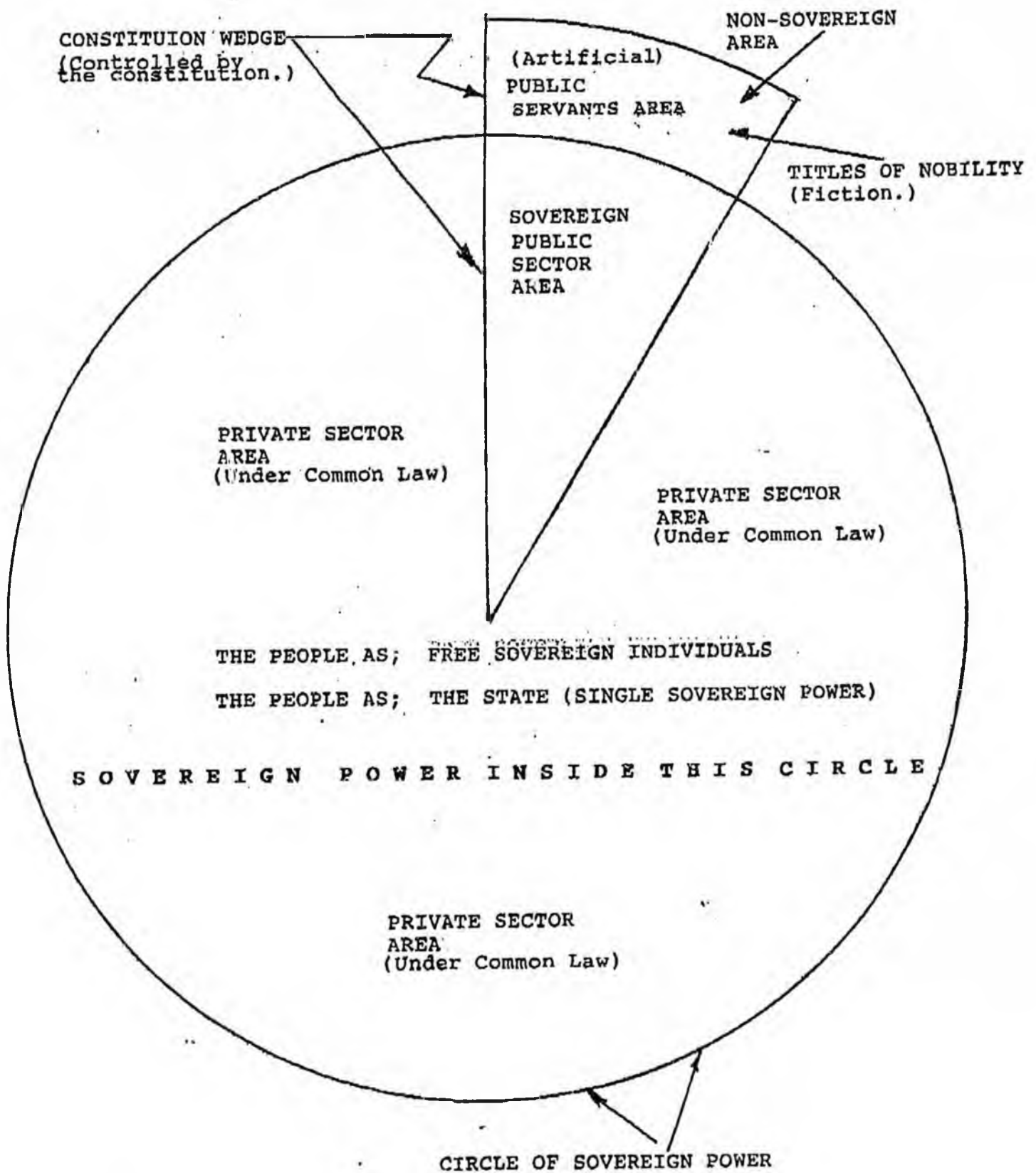
1. The constitution forbids the administrators of public government to enterfere into the private life of an American Citizen. You will never find the term "American Citizen " in the constitution. The reason for this is because "We The People" were to live under the common law which is the most perfect law ever given to man, and that the public servant was to stay the hell out of our private affairs. The reason that the people appear to be living under state and federal law is because of the influence of the "New World Order" which has been trying to overthrow the United States and the constitution since the mid 1800s, and the ignorant public servant is unaware of this.

2. This country was founded on the scriptures(Holy Bible) and the common law which we the people inherited from England since 1620. State and federal law did not come into existence until 1778 when the artificial offices were created by we the people in the constitution. The public servant was only to govern the public sector and not the private sector of the country, or state.

Homosexuality is an abomination in the sight of Almighty God. Sodom and Gamorah were destroyed in a terrible catstophe by the hand of God, because the people practised homosexuality. The people in these cities even tried to rape the angel that came to take Lot and his wife out of Sodom. Anal intercourse is called "Sodomy" and is named after the city of Sodom.

3. An amendment in it's true nature comes from the root word "amend" which means to repair. The word "addendeum" means to add on, which is forbidden by the "Supremacy Clause" of the United States constitution. (Article IV Section 2.) The legislature can only mend the constitution; it cannot add on. However the "adding" pracrtice has been going on since the beginning of the century under the influence of the New World Order, which is evil and demonic and unAmerican.

4. WHEREFORE: do not pass any law to allow homosexuality.



by Harold Haldane April 2, 1998



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Judiciary
 Committee on SJR 42 Committee Name Dated July 27-98
Bill / Subject

Please vote no on SJR 42.

Apart from anyone's personal feelings or moral convictions I do not believe the majority should ~~be~~ be deciding the constitutional rights of a minority.

I would like the option of a legal marriage to the person I have chosen to share the rest of my life with. a person with whom I have a loving, intimate, and committed relationship. ~~with~~

Let the legal system determine my constitutional right regarding marriage, not people who would impose their religious ideas against me.

SIGNED: Dr. Jean Battley
 Testifier

Representing

720 Chena Ridge Rd Fols AK 99709 9074790001
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SJR 42 Dated 4-27-98
 Bill / Subject

Recent history has established that it is wrong to put minority rights up for public vote. I quote Hannah Arendt German-born US political philosopher. She speaks about the Fascist Eichmann ^{an instrument of great evil.}

"The trouble with 'Heinrich' - excuse me 'Eichmann' was precisely that so many were like him, and that the many were neither perverted nor sadistic, that they were, and still are, terribly and terrifyingly normal. From the viewpoint of our legal institutions and of our moral standards of judgment, this normality was much more terrifying than all the atrocities put together."

I ask you to look through the smoke screen, realize the ramifications of this bill, destroy SJR 42. It erodes your basic rights and the basic rights of all your friends and neighbors.

Protect our Alaskan constitution, let the courts decide on this issue

SIGNED: MARILYN DAY Marilyn Day
 Testifier
Alaska voters
 Representing
PO Box 11 Eider AK 99725
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SJR 42 Committee Name
 Dated 4-27-98
 Bill / Subject

FIRST AND FOREMOST I ASK why should the basic constitutional privacy rights of all Alaskans be gutted in reaction to an ongoing court case? Face it folks when the word homosexual pop us people react emotionally. It is important that the emotional smoke screen surrounding this bill be cleared. The real question is: Should everyone's basic right to choose a life partner be mandated?

Consider Sec. 25; it reads; "the legislature may enact additional requirements related to marriage". Ask yourself what does SJR 42 Really say? Once this minority group is stripped of the constitutional right to love whom they choose, who is next? I quote, Martin Niemoller, a Protestant pastor who knows from experience when basic rights erode. He spent eight years in Nazi concentration camps. "In Germany: They first come for the Jews and I did not speak up because I wasn't a Jew. They come for the Trade Unionist and I did not speak... then they come for me and by that time no one was left to speak up."

~~Stand.~~ I Speak against SJR 42 it erodes your basic rights and the rights of all your friends and neighbors. Good people look thru the emotional smoke screen, rip this erosion in the building stage.

SIGNED: MARINA DAY
 Testifier
People concerned about the erosion of basic rights
 Representing
PO Box 11 Ester AK.
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HJUD
~~Health, Ed, & Soc. Sec. Comm.~~
 Committee Name
 Committee on SJR 42 Dated 4-27-98
 Bill / Subject

ABOUT 20 YRS AGO Billy Crystal on Soap ~~show~~
 & said he was a HOMOSEXUAL FAGOT - AT FIRST I shocked
 my parents & I but we thought IT WAS JUST T.V. AND IT wouldn't
 effect us, But here I am ABOUT 20 YRS LATER HAVING TO TAKE TIME
 out of my work day (w/o PAY) TO TESTIFY AGAINST ^{THESE} HOMOSEXUAL, BISEXUAL,
 TRANSVESTITE ~~and~~ people who are HURTING THIS GREAT STATE.

Every Body in this Room, State, and even world are here
 because of the Union Between a man and a woman & and that
 is the way it should be!!!

IT IS MY RIGHT AS AN AMERICAN TO TESTIFY AGAINST
 HOMOSEXUAL, BISEXUAL, TRANSVESTITE ~~relationships~~ marriages, & IT IS MY RESPONSIBILITY AS
AN ALASKAN (even if it cost me in time & money). IF IT TAKES
 A CONSTITUTIONAL Amendment to STOP this waist of Time & money
 then — Lets' DO IT.

SIGNED:

Sheldon Thompson
 Testifier

myself, my children, & my grandchildren.
 Representing

162 ALLEGHENY WAY FIBKS, AK
 Address / Phone Number

99709



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Judiciary
 Committee on SJR042 Dated 4/27/98
Committee Name
Bill / Subject

I wanted to testify against SJR042
 I understand the hardship and heartfelt
 difficulty many people have in accepting Alaskans
 who happen to be gay and lesbian. I understand
 that this maybe a majority of people in todays
 Alaska.

However, lesbian and gay Alaskans do form
 life-long, loving and comitted relationships. I count
 myself lucky enough to find such a relationship
 and have celebrated it with my family and friends
 in a religious wedding ceremony. Finding a man was
 not what my family wanted for me but they have
 accepted it as making sense for me.

Changing the state constitution effectively
 criminalizes gay and lesbian Alaskans in
 perpetuity.

I respectfully ask you to oppose this imitative. For
 those of you with gay and lesbian family members and
 friends to recognize their humanity and the dignity of their
 life partnerships. For those who do not, to avoid letting this
 unfamiliarity find voice as prejudice and discrimination.

With best wishes for the remainder of this busy session.

SIGNED:

Richard Collins — RICHARD COLLINS

Testifier

Richard Collins

Representing

Box 83683
Fairbanks AK 99708 907-458-0913
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
Committee Name
 Committee on SJR 42 Dated 4/27/98
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 incest & bestiality. These are outright lies 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 happen to be a lesbian. And I am also a highly respected youth counselor working with severely emotionally disturbed youth. If you support this bill you will be sending a message to the families I work with and all other Alaskans that I am a "bad immoral youth counselor. This is just not true. As a youth counselor I have read hundreds of case files on children who have been molested. I have never read a case file that said the child was molested by a homosexual. Everyone of the molestation cases have reported that these kids have been molested by a heterosexual male. Either the mother's boyfriend, the step father or the child's natural father.

What about the gay and lesbian teenagers? Gay youth comprise up to 30% of all completed youth suicide. 28% of gay and lesbian youth drop out of school because of harassment at school

Gay and lesbian youth make up 25% of youth living on the streets because of harassment at home. By supporting this bill you are only going to increase those statistics. because you will be sending a message that gay and lesbian youth are bad people who do not deserve the same civil rights as everyone else. Please oppose this bill

SIGNED: Patty Kearson
Testifier

myself
Representing

Po Box 72268 Fairbanks AK 99707
Address / Phone Number
451-8132



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the JUD
 Committee on SSR 42 Committee Name
 Dated 4/27/98
Bill / Subject

Why would anyone be opposed to
 letting the good people of Alaska vote
 on such a fundamental issue as ~~marriage~~
 the definition of marriage?

Please forward SSR 42 to a
 vote of the people. Our constitution
 recognizes that the power is in the
 hands of the people of Alaska. Let the citizens
 have their vote on this issue that effects
 the very foundation of our society.

SIGNED:

Doug Ruffert
 Testifier

self - common sense
 Representing

32 Adx Ave, Fbx 99701 4521407
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary Committee
 Committee on SJR 42 Committee Name Dated 4-27-98
Bill / Subject

My name is Ryan Gray and I believe in the traditional, and true marriage between a man and a woman. I am against the idea and practice of Sodomite marriages because God says that it is wrong and it goes directly against the Christian foundation which America was built upon.

I believe that this issue should be put on the ballot to be brought before the people of Alaska to vote upon.

Thank-you,
 Ryan Gray.

SIGNED: Ryan Gray
 Testifier
Self
 Representing
1416 Holy Cross Dr. Fbks. AK 99709 452-4622
 Address / Phone Number

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
Committee on SJR 42 Committee Name House Judiciary
Bill/Subject Dated 4-27-98

SIGNED: Ruth Craig
Testifier

2325 - 30th Avenue, Fairbanks, Alaska
Address/Phone Number 99701

Testimony for SJR42 4-27-98
to be included in the packet.

I am Ruth Ewig, and I like many traditional family members, believe in traditional marriage, one man and one woman which has been proven to stabilize our nation through 3 centuries of existence. Jonathan, my husband, teens and I support your efforts through SJR 42 to protect us from the courts and the aggressive sodomites that are trying to cash in on their lifestyle using our money and forcing us to agree, or crying "victim."

Marriage is universal. All cultures and all major religions honor marriage which means the bringing together of the two sexes to form families. Marriage is not only a matter of feelings, but it is the specifically defined legal, social, and economic union of a man and a woman. Homosexuals have the same right to enter into marriage with the opposite sex. Once you break the one-man, one-woman definition of marriage, there is no stopping point.

Marriage is an independently quantifiable good for society. Society has an interest in preserving and protecting the special status of marriage, regardless of religious beliefs. A society can get along without any homosexuality, but no society can get along without heterosexual marriage. This leads to chaos.

The legalization of same-sex marriages will make it easier to for two homosexuals to adopt a child because they will be meeting the marriage requirement. There is no "right" to adopt, and to create one would be contrary to the best interests of children who need to be in traditional families for stability and many reasons proven out by history.

If homosexual marriages are legalized, employers including those with strong religious beliefs, like myself, would be forced to recognize these "marriages" and to provide the same benefits as they provide to married couples such as family health benefits. This is taking away our money for the homosexuals who as a class are already better off economically than the average citizen.

Children would be taught in schools that homosexual sex is the moral equivalent of marital love. Homosexuals are demanding that society elevate homosexuality to the moral level of marriage and to the moral equivalent of heterosexuality. When they bring the law into it, they are imposing it on every single citizen.

Since the National Organization of Women now officially endorse same-sex marriage, they are pushing hard for the homosexuals in legislation. In their publication National NOW Times (1/97), the group's "Same-Sex Marriage Kit" offers members such ideas as "staging mock ceremonies on the courthouse steps, organizing rallies and delivering heart-shaped lobbying messages to legislators".

The homosexual's motive is not a matter of legality since they already live together and avail themselves of most of the practical benefits, with their prenuptial-style contracts, putting one another in their wills, making each other insurance beneficiaries, and so on. Their motive is a matter of redefining our culture, in education, popular culture, imposed on existing American traditions.

We homeschool our teens because anti-family philosophies and lifestyles are being forced on children in government schools under the veils of health and science. This is aggressively being done against us to teach against the traditional family and we are not going to conform to this aggressive anti-family intimidation, thus, homeschool or private school becomes the more expensive alternative. We have become victims of the sodomites and anti-family movements that are fighting for dominance. Our money is applied to accommodate the anti-family biases. This is wrong!

Ruth Ewig 4-27-98
2325 - 30th Ave
Fairbanks, AK 99701
Phone: 907-452-5538



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HJUD

Committee on SRS 42 Committee Name Dated 5-1-98

Bill / Subject

If you think this "Marriage" issue will stop at two sodomites living together you are crazy. Next they will want to reproduce. - The Bible says we are to reproduce after our own kind, but this is impossible for the homosexuals - therefore it must not be of God (who defined marriage in the first place). So if they want to reproduce they must adopt. - but to fully reproduce they must make their children queer. in order to do this they must force them to go against their nature and sexually abuse them. - Next they will want to legalize sexual abuse to minors. Then the next issue is to have the common business man hire them as anyone else. this is no different than forcing a day care to hire a child molester to work for them. or a Banker to hire a thief.

this "Marriage" Decision will affect every person in our entire nation. The people must vote. It is our job to make these decisions. Power is given to People; we just lend it to the Gov. What could possibly be wrong with allowing us to vote on such a fundamental issue as defining marriage?

SIGNED:

Gregg Clark

Testifier

Right / self

Representing

32 Adak 452-1407

Address / Phone Number

TESTIMONY AGAINST SJR42

Representative Joe Green
Chair of House Judiciary Committee
State Capitol
Juneau, AK 99801-1182
cc: House Judiciary Committee

P.O. Box 84680
Fairbanks, AK 99708
April 27, 1998

Dear Representative Green,

PFLAG National (with a 70,000 household membership), many other national, state, and local organizations and many individual U.S. citizens have signed the marriage resolution as follows:

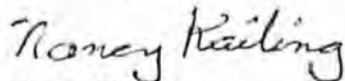
THE MARRIAGE RESOLUTION

Because marriage is a basic human right and an individual personal choice, **RESOLVED**, the State should not interfere with same-gender couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage.

PFLAG Fairbanks has over 50 households as members and has many other fair-minded individuals as friends. We support this marriage resolution and are **AGAINST SJR 42!!**

Putting this constitutional amendment before the public will generate more hate and hurt feelings. I have seen the rhetoric put out by the Christian Coalition to support SJR 42 and it is very hurtful and insulting. I too am a Christian and resent this type of talk. If these supporters had a loved gay family member who they know to be a good, capable, giving person, I'm sure they would see this bill and the implications differently.

Sincerely,



Nancy Kailing

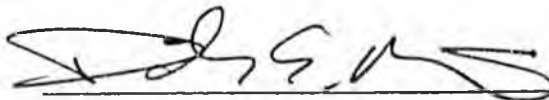
(proud mother of a lesbian daughter, retired elementary school teacher with 17 years of service in the Fairbanks North Star Borough School District, UAF graduate student in Community Psychology, president of PFLAG Fairbanks, deacon in the Presbyterian Church, 21 year resident of Alaska, etc.)



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Judiciary
 Committee on SJR 42 Committee Name
 Dated 4-27-98
 Bill / Subject

I urge you to oppose SJR 42 simply because you can. As you know, the courts have not ruled on this issue, but merely asked the state to show a compelling interest NOT to allow same-gender marriage. By voting against SJR 42 you in no way vote to allow same-gender marriage. You only allow the courts the opportunity to make the whole issue go away quietly. By voting for SJR 42 you fan the flames of a highly charged issue unnecessarily. I ask you, therefore, to allow the courts to rule and avoid unnecessary divisiveness. Vote against SJR 42. Should the courts rule against the current majority, the issue can always be revisited in the next legislative session.

SIGNED:  Patrick E. Marlow
 Testifier

Representing

P.O. Box 83683, Fairbanks 99708 907-458-0913
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
Committee Name
Committee on SJR-42 Dated April 27, 1998
Bill / Subject

Vote no on SJR-42.

Everyone has the right to choose their own
life partner, the one they love and want to
share responsibility with.

SIGNED:

Clara Jodwalis

Testifier

Representing

2631 Henselail Trail, Fairbanks, AK 99709

Address / Phone Number

Sarah McClellan
494 Ookpik Way
Fairbanks, AK 99709

* * * * *

(907) 452-2577

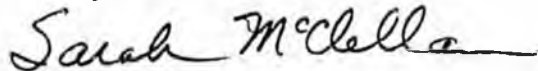
April 27, 1998

Dear Representatives,

I am against SJR-42 because it tears away Alaskans' personal rights and freedoms that are currently protected by the Alaska Constitution. Why has this bill has even come before the legislature since it its currently under consideration at a court level?

This is an emotional issue for those who are directly involved. I know this bill would hurt Alaskans that are dear to me. Please stop this bill. Let it run through the court system. Do not change our Alaska Constitution on this issue.

Thank you,



Sarah McClellan

I've heard plenty of rhetoric these past few months about the superiority of male/female relationships. That somehow society will fall apart if we recognize that love between 2 adults of the same sex is just as legitimate.

Whether recognized or not, gay and lesbian couples do love each other as deeply and remarkably as straight couples do. We fall in love, create families based on mutual consideration, respect and the desire for unity. Some of us have children. As any family, we want the best for our loved ones. We hope to provide for them in sickness and health, to protect them and nurture them. We have jobs, pay taxes, work and volunteer in our ^{churches and} communities. We get involved in our children's education. Our families face the same societal pressures as any only we experience the extra burden of homophobia and the denial of the economic and legal securities married couples take for granted. While the special rights bestowed on those who are allowed to marry are too numerous for me to articulate, our denial of them adds extra emotional and financial stress to our households. I fail to see how our burden strenghtens heterosexual marriages.

I also fail to understand how legislating this (or any) discrimination against some Alaskan families benefits the state in any way. Nontraditional Alaskan families and their children deserve the same special rights ~~that~~ ^{and protections} everyone else in this state is entitled to.

Thank you

Jennine Williamson
2454 Killarney Way
Fairbanks, AK 99709



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Finance Committee
 Committee on SJR 42 Dated 7/27/98
Committee Name
Bill / Subject

Our legislature can best guide the state by providing positive policy and laws. SJR 42 is a retrograde resolution more reminiscent of Blue Laws in Eastern states which were a consequence of Puritan heritage. Alaska is a Western state whose constitution has traditionally assured more individual liberty and constitutional protection for private matters than the Federal constitution and many state constitutions.

Vital issues regarding the protection of our physical environment and subsistence and development issues, as well as adequate health care for all citizens regardless of race, sex or natural heritage ~~are~~ should be addressed directly by our governors

SIGNED:

Testifier

Carolyn Peck

Representing

self

Address / Phone Number

622 Ridgecrest Drive

479-0509



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on SSR 42[#] Dated 4-27-98
Committee Name
Bill / Subject

Dear Representatives :

I strongly encourage you to vote NO on SSR 42[#], which states that marriage can only exist between one man and one woman. for the following reasons:

- the amendment proposed by SSR 42[#] would be a disservice to the voting public of AK.
- the union of 2 people is one of love as well as many other factors, we as a state, have no business influencing & interfering in, therefore SSR 42[#] is an invasion of personal choice & privacy.
- there are many other issues needing your attention that will assist Alaskan families.
- Please vote no on SSR 42[#]

SIGNED:

Chris DeBois
Testifier

Representing

494 Oxpik way Fairbanks, Alaska 99709
Address / Phone Number 907-452-2577

April 27, 1998

Judiciary Committee
House of Representatives
State of Alaska
Juneau, Alaska

Dear Judiciary Committee

Thank you for allowing us the opportunity to provide this testimony on SJR 42.

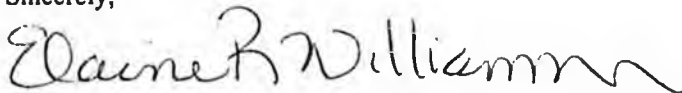
I am a sister of a Fairbanks gay woman. As a result, I have gotten to know many of the gay community here in Fairbanks, and also Anchorage and Juneau. My association with these folks has enriched my life. I feel fortunate that I have been given the opportunity to include them as my friends and Alaskan family.

I hope you will seriously consider the testimony here today and vote against this measure. I do not think the constitution should be amended that will add language of discrimination for any person or group of this state. This measure will do that if passed in the general election in November. Civil rights discrimination should not be allowed.

If this measure passes in the House of Representatives, the true ugliness will start. Are you prepared to have this issue divide the communities of this state? Already, during the senate hearings there have been many horrible things said about gay people. This not only affects the gay community but also their families and friends. What will all this hate and discrimination say to the youth of our state?

I urge you to vote no on this measure. Let the courts decide this issue.

Sincerely,



Elaine R. Williamson
P.O. Box 84811
Fairbanks, Alaska 99708

479-8241
elainew@compuserve.com

April 28, 1998

Chairman Joe Green
Representative Brian Porter
Representative Jeanette James
Representative Con Bunde

House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: SJR 42

Dear Favorite Members of My Favorite Committee:

I'm so thoroughly accustomed to testifying on behalf of the State of Alaska that I'm caught quite flat-footed when it comes to speaking out as an individual. But SJR 42 is a matter of special importance to me personally and this plea is on my own behalf and on behalf of my friends, rather than for the State of Alaska.

I'm not usually at a loss for words, nor am I usually a coward, but I just couldn't make my feet walk down the hall to your committee room on Monday to testify on SJR 42. I am, however, very proud of my many wonderful friends who were able to testify and I thought you were wonderfully patient and sensitive toward all.

I would like to encourage you to vote against SJR 42. I think there are good reasons for members of the Judiciary Committee to do so.

First, this issue isn't even ripe yet. There's no need to put the citizens of Alaska through a divisive campaign with only a superior court ruling at issue. It seems hasty, at best, to seek amendments to our state constitution just because of an unpopular trial court decision.

Second, I think it is a big mistake to use the state constitution as a tool of exclusion rather than as a shield to protect the rights of minorities. Our constitution has always reflected the most noble aspirations of our leaders, rather than catering to our common fears and prejudices. It would be a sad day for Alaska if we break from that tradition now.

Third, on the merits, I think there is a good case to be made for recognizing same-sex marriages. Even fifteen years ago, I couldn't imagine such a

thing. But the fact is that between five and ten percent of our population consists of gays and lesbians -- which amounts to between *30,000 and 60,000* Alaska citizens. That's a lot of people. And many of them are in committed, long-term relationships. Far more of these than you would think have children. Either from prior marriages or because, even if they are gay, they want to be parents and raise a whole family. They adopt or, in the case of women, use sperm donors. To my mind, the reason we as a whole society want government involved in the business of marriage isn't for the privileges it confers but instead is to establish and clarify the responsibilities of the parties -- especially toward their children. Because we do have so many gays and lesbians raising families, I think it is appropriate for the state to involve itself in the relationships and address issues of custody, support, insurance, etc.

Again, however, I am mostly concerned that SJR 42 is an attempt to use the constitution for purposes of exclusion, rather than inclusion. This is extremely troublesome. Never before have we said, Oh, oh! This constitution is being used to afford protection to a group that I don't understand or support; we'd better amend it to stop that.

Normally, a vote of the people on an important issue is a good idea and should be encouraged (some might type in "subsistence" here ☺). This is not *always* true, however. The most classic example of when it shouldn't be allowed to happen is when the rights of a minority group are at issue. It's just too easy for the majority to outvote the minority. Indeed, that's why we have a constitution and three branches of government -- to balance the rights of the majority and the rights of individuals. I think it would be a mistake for our state leaders to "defer" to the majority on this issue.

Judge Pegues used to sit on the superior court bench in Juneau. I remember his remarks at one bar luncheon, when the same-sex marriage ban legislation was pending a couple of years ago. He said he'd never wish for one of his children to be gay, because it isn't an easy lifestyle, but he'd defend their right to choose it.

I also remember when I called my Dad some fifteen years ago and started our conversation by saying, "Dad, you know how you've always supported me when I've been a little out of step with others ummmm does that still hold even if I'm out of step in a big way?" He's a good man with a big heart, as well as a great mind, and it meant a whole lot to me when he flew up to Juneau to attend my commitment ceremony to a woman I loved and lived with for over a dozen years.

Even though Beverly and I split up a few years ago now, my Dad still asks after her and her children (and now her grandchildren).

Not everyone is as lucky as I've been and they've experienced hate, fear, and abuse, rather than compassion and support. I worry that putting SJR 42 on the ballot will polarize our state and provide fuel for the hate mongers. There aren't many of them in this state, but just a few can cause quite a bit of pain. It would be pretty wonderful if you could help stop that from happening.

Well, those are my thoughts. I'm sorry I didn't have the courage to come and testify, but I'm glad to be able to write to you. There's probably a lot we disagree on, and this is likely to be one of those items, but I've grown very fond of you over the course of time and am glad you're on the Judiciary Committee. I know you'll do what you think is right and I respect that.

For whatever reason, this year all my legislation skipped your committee and went straight to Finance. Tsk tsk. But I expect I'll see you around this next year!

Thank you for your time and good thoughts.

Sincerely,


Margot Knuth

Peter Otsea
215 Gastineau Avenue
Juneau, AK 99801

Senator Loren Lemman
State Capitol
Room 113
Juneau, AK 99801

April 28, 1998

Dear Mr. Lemman;

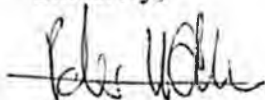
I gave testimony, a first for me, Monday, April 27 on House Bill SJR-42 to Representative Joe Green and the other representatives present. My thoughts and opposition to the bill have crystallized a little since, and I would like to share that with you.

I would like to relate some life experiences. As a boy, I was part of the school yard bully pack. I distinctly remember teasing a boy who was "different" than "us". We called him a homo. My initial reaction to that recalled instance is shame. But on reflection, our - the bully pack's - behavior was ignorance. Ignorance to the reality of differences around us and not being taught sufficiently to acknowledge those real differences.

I've grown since then and know the world is full of realisms that are out of my control. Rather than fight what is real and different, I accept and, in some cases, embrace the variety. I am married now; my wife and I have two young children. I am trying to raise them in a manner that they will not fall into the ignorance of the bully pack mentality. As an adult I will feel shameful if I fail to pass on the understanding of acceptance to my children. I've met gay and lesbian people and have become friends with some. Some have children. These people are as "normal" as you or I and deserve the same life choices as we do.

I urge you to withdraw Bill SJR-42. Any responsible adult should have the right to marry if they wish. I can not imagine you would like to be responsible for the pack behavior that is likely to result from a bill of this nature.

Sincerely,



Peter Otsea

cc: Representative Joe Green
Representative Eric Croft

ANNE L. HENRY, M.A., C.H.T.
5750 Glacier Hwy., Bldg. D, Rm. 12, Box 10
Juneau, AK 99801
Telephone: (907) 780-6345

April 28, 1998

Dear Representative Green,

Yesterday when I came home from the Senate Finance Committee hearing on my bill, I flipped on Gavel to Gavel to watch your progress in the Judiciary Committee hearing. You see, I was anxious for you to have time to talk with Melissa about the discussion of Rule 504 in the Senate Judiciary Committee minutes, and in the Finance Committee hearing. Melissa told me she would try to talk with you during a break in your hearing of SJR42.

As I sat there watching the testimony on SJR42, I kept thinking of the clients I have worked with whose lives have been so negatively touched by homophobia. Gay, straight, parents and kids. The fear of being seen as different, in any way.

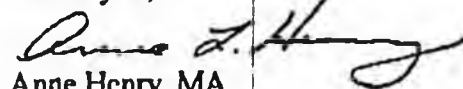
In the couples counseling that I do, the issue that I find that most divides them is their differences. So, I teach appreciation for diversity. We are all so different. Sometimes we are attracted by the differences, then as we get closer, sometimes we are repelled by them-- if we do not learn to cherish what diversity can bring to our lives.

I agree with my other colleagues who spoke against the bill. SJR42 is the kind of bill that will create a climate of hatred, fear and division, when we are just beginning to make some strides toward understanding and acceptance.

If you have already voted to pass this bill on, please consider a "NO" vote on the floor. My mother lives in Oregon where Proposition 9 was held a few years back. Some people in the hearing referred to it yesterday. I remember what happened in my family. My mother decided to vote against it because she thought it was a hateful piece of legislation. My brother-in-law began calling her to try to convince her to vote against it. The sad result of his yelling and arguing is that he and my sister hardly speak to my 77 year old mom.

This is just one story of one family. This is the kind of thing that stopping this bill will prevent. Boy, I can get riled up about this but will stop now. Please vote not to pass this bad legislation.

Thank you,


Anne Henry, MA



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on SJR42 , dated April 27, 1998
 bill/subject

See following page.

Signed: Michael Jones
 Testifier

Representing (Optional)
Box 6185, Sitka AK 99835
 Address
747-8384
 Phone No.

Many of the arguments made in support of SJR-42 have been made on the basis of religion and in the name of God. I am a Christian who OPPOSES SJR-42.

There are compelling religious arguments which could support this amendment. There are also arguments – with religious origins and overtones – which speak to the offensiveness of this proposed amendment. Whether we like it or not – the United States of America was founded largely in the quest for religious freedom. And for that reason, we have a formalized and deliberate separation between matters of the state and issues of the church.

The Bible teaches of the dangers of riches and the responsibility to distribute the wealth equally among all peoples – yet our society of classes praises and supports its capitalistic foundations. Christianity teaches us to turn the other cheek – yet we have good laws that protect a victim acting out in self-defense. Catholicism, which I practice, does not have room for divorce. Yet the rate of failed marriages is alarmingly high, and our state and our nation tolerate this legally. The Bible refers to the evils of taxes – and places tax collectors among the lowest members of a society – yet we all understand the roll of paid taxes in our state and national budgets.

To use religious arguments in this legal, governmental forum is not appropriate – no matter how strong and valid our individual religious beliefs and convictions.

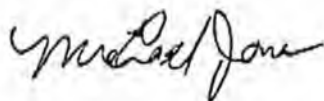
Quite simply, my opposition to SJR-42 comes down to matters of civil liberties. Within Section 1 Article 14 of the Constitution of the United States it is written: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ... nor deny to any person within its jurisdiction the equal protection of the laws." These words are reflected in Section 1 Article 1 of the Alaska Constitution.

In 1967, the U.S. Supreme Court supported these societal rules, declaring that marriage "...is one of the basic civil rights of man(– and presumably of woman)" and that the "freedom to marry is essential to the orderly pursuit of happiness."

To quote attorney Thomas Stoddard from a New York Times editorial: "Those who argue ... that same-sex marriage would be anti-family overlook the obvious. Marriage creates families and promotes social stability ... (and) in an increasingly loveless world, those who wish to commit themselves to a relationship founded upon devotion should be encouraged, not scorned."

Recognizing that there are important and significant differences between a civil marriage and a religious marriage, I urge you to OPPOSE SJR-42.

Michael Jones
P.O. Box 6185
Sitka, AK 99835



Testimony to House Judiciary Committee regarding SJR-42; 27APR1998.

My name is Steven Jacquier and I currently reside in Manokotak. This is the second time that I have taken a personal leave day from work and flown to Dillingham to testify against this reprehensible legislation.

There are three points which I hope to make with regard to SJR-42.

First, research has established that a substantial percentage of suiciding teens are killing themselves in large part because they fear that their lives will be miserable if they turn out to be lesbigay. They fear rejection and marginalization to the point that they would rather die than face it. This bill contributes directly to fostering the climate of fear, intolerance, and marginalization which leads to suicides. SJR-42 is cruel and destructive.

Secondly, this bill seeks to define marriage as "a union between one man and one woman," but it cynically sidesteps defining what constitutes a man and what constitutes a woman. The legislation fails to define what it is to be male and what it is to be female simply because when it comes right down to it there is no rational, practical, and enforceable basis upon which to do so. Every member of the legislature received copies of scientific articles by Dr. William Beerman and Dr. Ann Sterling-Fausto explaining the ambiguities encountered when we examine carefully what constitutes a man or a woman. Is it chromosome composition (XY versus XX), as geneticists and the Olympic Committee view the situation? Is a person a man or a woman on the basis of external anatomy and internal plumbing? There are at least 5 million Americans who are neither clearly male nor female on these bases. Is a person

a man or a woman based on how they dress and behave? That is a cultural assignment of gender, irrespective of either chromosomal or anatomical sexual identity, and is practiced in many societies. Without specifically defining what constitutes a man and what constitutes a woman for the purpose of entering into the secular contract called marriage, SJR-42 is meaningless, impractical, and unenforceable -a waste of taxpayer money that will surely be struck down when tested in the courts should it pass into law.

Thirdly, how long is it reasonable to expect that people who are being marginalized, singled out, and unjustly persecuted will continue turning the other cheek to this oppression? I urge legislators to awaken regarding the genuine urgency and passion of ordinary people who are sick and tired of having pain, expense, and violence inflicted upon them by the irrational prejudices of the ignorant and by the cruel vindictiveness of the radical religious right. What is it going to take for all citizens to actually hold the equal civil rights which are constitutionally due each of us in a secular nation where church and state are separate and all citizens are constitutionally equal under the law?

Please say no to this heinous legislation, now, before this debate becomes violent.

Thank you.

A handwritten signature in black ink, appearing to be "Steve" followed by a stylized surname, possibly "Fisher". The signature is written in a cursive style with a long, sweeping underline.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

committee on SSR 42, dated April 27, 1998
bill/subject

I am in support of SSR 42. This is a nation that is supposed to be founded on the Word of God.

One nation UNDER God. We were founded on the Bible, & the Bible certainly states homosexuality is a violent sin against our God Lord and His word. How can we pass a law, and make something legal, that is so obviously wrong & unnatural? Common sense tells us that the idea of a "marriage" existing between anything other than one man and one woman is ridiculous & blatantly sinful, marriage is God's institution and I would be afraid & ashamed to give such a wrong "relationship" the holy place & title of marriage. Man has no authority to change what God established, once & for all.

Signed: William Essary
Testifier

Representing (Optional)

P.O. Box 2178, Valdez, AK 99686

Address

(907) 835-5920

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House judiciary
committee name

committee on SJR 42, dated Monday, April 27, 1998.
bill/subject

I AM IN Support of SJR 42. It is A SHAME that AMERICA IS FALLING FURTHER AND FURTHER INTO the CONDITION that it is. IT GRIEVES MY SOUL AND HEART that the possibility of A legally recognized "homosexual marriage" would even be CONSIDERED IN this NATION. It is AN Abomination to God, (who, by the way, IS supposed to be the foundation FOR this country) AND it IS A great SHAME to the SOCIETY OF MANKIND. The Reason America grew AND prospered so greatly when it WAS founded WAS because GOD WAS most important, AND honored, AND Feared. IF AMERICA continues to operate AND Rule without the FEAR OF GOD AND holiness She has lost, We will most ASSUREDLY lose the FAVOR OF GOD, AND will FALL INTO IRREVERSABLE destruction. please do something to Keep ALASKA Right. THANK you.

Signed: Rhoda G. Ewary
Testifier

Representing (Optional)

PO Box 2178

Address

(907) 835-5920

Phone No.



Alaska State Legislature

5124

Please enter into the record my testimony to the HJUD
committee name

committee on SJR 42 , dated 4/27/98
bill/subject

I support SJR 42

if God wanted a same sex marriage he might have made Adam & Adam or Eve & Eve Even the animals know its unnatural, you dont see them having same sex ~~partners~~ partners. ~~After~~ After all the laws that are in place today are from the Bible with few exceptions of man made laws. Lets not have another man made law such as this same sex marriage. And dont pass the buck please.

Thank-You

Signed: *Darlene Pharo - Surijan*
Testifier

Your makey
Representing (Optional)

P.O. Box 3020 Valdez, AK. 99686
Address

835-4275
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HJUD
committee name
 committee on SJR 42, dated 4-27-98
bill/subject

I would like to be identified with those who wish to put the issue of definition of marriage to rest.

I want to ^{see} this issue brought to a public vote so that our state constitution defines marriage traditionally as one man and one woman.

This value needs to be set in stone so that one person can not affect it.

Signed: Edward A. Varner
Testifier
Traditional family values
Representing (Optional)
P.O. BOX 3107 VALDEZ, AK 99686
Address
835-2708
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HATUD
committee name
 committee on SJR42, dated 4-27-98
bill/subject

I'm A 24 year old Single Male, No
 Kids, I feel that The Gay Community
 Is plaguing us with there Filth.

I am totaly against the Bill of same
 Sex marriage. I would like my Future wife
 and Kids to grow up in a clean, pure
 world. Thank You,

Signed: Kenn D Varnes
Testifier
United States of America
Representing (Optional)
P.O. Box 3078 Valdez AK 99686
Address
835-3927
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HJUD
 committee name
 committee on SJR 42, dated 27 Apr 98
 bill/subject

I FEEL STRONGLY THAT THE
 DEFINITION OF MARRIAGE INCLUDES
 HUSBAND (MALE) AND WIFE (FEMALE) ALREADY.

I SUGGEST THAT THE HOMOSEXUAL COMMUNITY
 RETIRE, CAUCUS, AND COME BACK WITH ANOTHER
 TEAM FOR THEIR UNION. THE WORD
 MARRIAGE ALREADY HAS A MEANING.

Signed: James Boyd Butler
 Testifier

Representing (Optional)
P. Box 945 VALDEZ, ALASKA 99686
 Address
(907) 835-2501
 Phone No.

4/27/98

Honorable Joe Green, Chair
House Judiciary Committee
Capitol Room 120
Juneau, AK 99801

Dear Representative Green and members of the House Judiciary Committee

Please do not pass SJR 42 (Fin), Proposing an amendment to the Constitution of the State of Alaska relating to marriage from your committee. Please do not support this resolution.

I am a heterosexual, married woman but I believe in sexual tolerance. Same sex relationships, including marriages should be recognized in our state. I believe this resolution is contentious and divisive. I do not think our State Constitution should be changed to define marriage.

Please add my opposition to this resolution to your committee in your committee minutes. Thank you

Sincerely,



Nancy Hemenway
726 Basin Road
Juneau, AK 99801



Nome Legislative Information Office
Office - (907) 443-5555 Fax - (907) 443-2162

TO: House Judiciary Committee

ATTN: _____ FAX: _____ PHONE: _____

FROM: NOME LIO PHONE: _____

INSTRUCTIONS: 7 pages of written testimony - originals
will be mailed.

SENT: Date 4/28 Time _____

NUMBER OF PAGES: 7 (NOT counting cover sheet)

TRANSMITTED BY: Beck



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on SJR 42, dated 4-22-98
 bill/subject

I am writing to say that I am against
 the SJR 42

I am a licensed, clinical social worker and a member of NASW - National Association of Social Workers. I have a duty to advocate in support of my clients and future clients as a clinician to aid against discrimination due to sexual orientation.

Sen. Lemans proposal bill is directly opposed to the kind of legislature that NASW members support.

Signed: Julie Whittaker LCSW JULIE WHITTAKER
 Testifier

MYSELF
 Representing (Optional)

PO Box 2036 Nome, AK 99762
 Address

907-443-7188
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on SJR 42, dated 4/27/98
 bill/subject

To whom it may concern -

I strongly oppose any bill that would ban same sex marriages in Alaska. Marriage is an institution where two people who love each other make a life-long commitment. I see no reason why the two people can't be of the same sex. I am a happily married heterosexual but have good friends who are homosexual. Our friends are a wonderful couple, marvelous human beings and great parents. These folks deserve to be married as much as the next couple. Please, please do not pass this bill. It would be a sad step backwards for human rights.

Signed: Leiza Johnson LEIZA JOHNSON
 Testifier
myself
 Representing (Optional)
Box 1773, Nome 99762
 Address
907/ 443-4145
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on SJR 42, dated 4/27/98
 bill/subject

I am vehemently opposed to any proposed legislation banning same sex marriages. I am a happily married heterosexual with a wonderful wife and two wonderful children. I believe that marriage is an institution where two people make a commitment for a lifelong relationship. It has been my experience that our friends in same sex relationships have in general had much healthier + happier relationships than many of our friends in heterosexual relationships. I believe it would be a crime to pass any legislation making it illegal for two people to make a legal commitment to a lifelong relationship just because they are the same sex.

Signed: Paul H. Johnson RDS PAUL H. JOHNSON, DDS
 Testifier

Myself
 Representing (Optional)
P.O. Box 1773
 Address
(907) 443-4145
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
committee name
 committee on SJR 42 , dated 4/27/98
bill/subject

I am against bill SJR 42 and I feel that it should be a Supreme Court decision. It is a civil rights issue & should be dropped or passed through the proper judicial manor. I do not feel as if this should be a decision for Senator Lemmon, to make for himself.

Signed: Leah Barnes LEAH BARNES
Testifier
Myself
Representing (Optional)
P.O. Box 1725 Nome AK 99762
Address
(907) 443-7635
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on STR 42, dated 4-27-98
 bill/subject

I'm totally against bill STR 42. No one
 has the right to play "GOD", and make
 such a decision. Gay + Lesbian are people
 too. Lets start treating them a such.

Gloria Eaton

Signed: *Gloria Eaton* GLORIA EATON

Testifier

Self

Representing (Optional)

PO BOX 211 NOME, AK 99762

Address

N/A

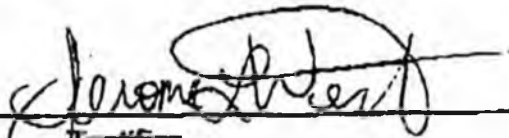
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
committee name
 committee on STR 42, dated 4/27/98
bill/subject

I'm totally against bill STR42!
 I feel Gay's & Lesbian's are people
 also! They should have all the
 same rights as everyone else! Thank
 you!

Signed:  JEROME L. WEST
Testifier

Representing (Optional)
Box 997 Nome AK 99762
Address

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
committee name
 committee on SJR 42 , dated 4/27/98
bill/subject

I would like to register that I am against SJR-42.

As a member of the Nat'l Assn. of Social Workers, I am against all forms of discrimination including discrimination due to sexual orientation.

Sen. Leman's proposed bill is directly opposed to the kind of legislation that NASW members support.

We are all obligated to protect the equal rights of all persons.

Signed: E. Holly Aldrich E. HOLLY ALDRICH
Testifier

Self
Representing (Optional)

P.O. Box 2071 Nome, AK 99762
Address

907.443.4635
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the

HJUD

committee name

committee on

5JR 42

dated

4/27/98

bill # / subject

As a resident of the State of Alaska for the past 24 years, I am proud of the way we have handled our concerns within our borders.

All Alaskans have a right to be heard and vote on issues that touch our daily lives. I believe we should have the right to vote on 5JR 42, that is, if the legislature will allow us.

We do not want the ignomy of being the state that allowed one judge to decide the fate of our culture and communities. Marriage cannot be redefined anymore than a person can redefine their gender.

We do not want our state to approve or promote the lifestyle of homosexual marriages. Homosexuals are free to live however they want, but we should not publicly give them the benefits of a relationship that is based on natural & moral law. Our country has thrived & been blessed because we do have a strong history of making wise choices.

Besides being known for 1960s oil & the Permanent Fund we do not want to be known as the state to lead the disastrous way of changing the status quo.

Please vote YES on 5JR 42 & help preserve the fundamental definition of marriage. Our country, our families & our children are counting on you to let us decide, not one elected

Signed:

Ruth A. Henry

JUDGE.

Testifier

Representing (Optional)

1121 Walnut Kenai, AK 99611

Address

283-3897

Phone number

SJR-42

My name is Ric. Plate. I have been an active voter for more than 20 years

I wish to speak in support of SJR-42.

This bill does not in its self establish a law or constitutional amendment, nor does it establish or prohibit homosexual marriages.

This bill does the right thing by allowing the public the opportunity to vote on this issue.

A small percentage of the population of Alaska should not decide a matter this important to the people of Alaska, whether it be the Alaska State Legislature, homosexual advocate rights groups, or even those who have taken the time to write letters, send P.O.'s or email messages. Defeating this bill would only serve to silence the people.

An issue this important should be decided by the majority of Alaskans. I believe a constitutional amendment is needed to establish that marriage exists between one man and one woman.

Why a constitutional amendment? Because

It would end the debate about homosexual marriages, one way or the other. It would establish a law for the judicial system to enforce, rather than re-interpret the will of the people, re-write or throw out as unconstitutional.

Most importantly, the people of Alaska would have the opportunity to speak.

Thank you for the chance to speak in support of SJR-42.

Mary I. Mussman
373 W. Vine Ave
Soldotna AK 99669
907-262-3937

HOUSE JUDICIARY COMMITTEE

Senate Joint Resolution 42
Juneau AK

Dear Chairman Joe Green, Representatives Con Bunde, Jeanette James, Brian Porter,
Norman Rokeberg, Ethan Berkowitz, and Eric Croft

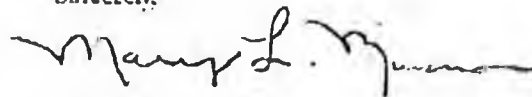
We, the undersign, are writing the committee to inform you we are expressing our strong support of SJR 42. We wish for it to pass and be placed on the November ballot to give all Alaskans the opportunity to vote on preserving the traditional "one man, one woman" definition of marriage. A vote against SJR 42 is a vote against allowing Alaskans to decide this issue for themselves. Polls show that 70 percent of Alaskans are opposed to homosexual "marriage." We deserve a chance to decide this issue.

Judge Peter Michalski made a mistake when he ruled on Feb. 27 that Alaska's "one man, one woman" definition of marriage may be unconstitutional. No other court in the United States has ever found that a person's right to privacy gives them the power to force the state to publicly recognize homosexual relationships. SJR 42 will give voters a chance to overrule Judge Michalski's dangerous opinion. No other state in the U.S. recognizes homosexual "marriage." No other country in the world recognizes homosexual "marriages." If Alaska legalized homosexual marriage it will place our state in conflict with the laws of all other states and every country in the world.

The federal government defines marriage as a union of "one man and one woman." All three members of Alaska's congressional delegation supported the bill creating this federal law, and President Clinton signed it into law. This definition is binding on all federal agencies and is controlling for more than 3900 sections of federal statutes and regulations that use the word "marriage" and spouse.

All SJR 42 will do is preserve what we have now: the "one man, one woman" definition of marriage. This has been the definition throughout Alaska's history as a Territory and State. It is not right for one unelected judge to change the definition of marriage that we have always lived under, without the approval of Alaska's people.

Sincerely,



MARY I. MUSSMAN



Alaska State Legislature

Please enter into the record my testimony to the Judiciary committee name

committee on SJR-42, dated 4-27-98
bill # / subject

I am in favor of SJR 42

Marriage defined in four dictionaries written between 1828 and 1990 including Black's Law dictionary states specifically that marriage is a legal union between one man and one woman. Choosing a 'life partner' may be a right, however legal marriage requires a state license so therefore is not a right but a privilege.

Unfortunately we have to defend the obvious. I am grateful for the pursuit of this amendment to our constitution for the sake of clarity if nothing else.

* Dictionaries

- Noah Webster - 1828
- Merriam-Webster 1956
- Merriam-Webster - 1983
- Black's Law Dict. - 1990

Signed: Elizabeth Perry
Testifier

Representing (Optional)

Box 3514 Soldotna, AK 99669

Address

262-9740

Phone number



Alaska State Legislature

Please enter into the record my testimony to the HJUD
committee name

committee on SJR # 42, dated April 27 98.
bill # / subject

+ my beliefs are based on God's Holy Bible. God Created Adam and Eve not Adam and Steve. (Genia: 21-25)

+ I am not homophobic I have some friends that are Gay. I believe you should love the sinner and hate the sin. I am married and have 3 kids. I believe that if people are given the freedom to marry same sex then what next?

+ we need to get back to basics and what America was founded on and that is the word of God - the Bible

Signed: Sheryl Dee Main
Testifier

Self
Representing (Optional)

207 Walker Kenai, AK 99611
Address

283-5296
Phone number



Alaska State Legislature

Please enter into the record my testimony to the ~~House~~ HJUD
committee name

committee on SJR 42, dated 04/27/98

This is not ABOUT CIVIL RIGHTS ^{bill # / subject} ITS ABOUT HONORING MARRIAGE AS ONE MAN AND ONE WOMAN. I'M HERE TODAY AS SOMEONE WHO IS VERY SAD. I NEVER THOUGHT THIS WOULD BE OR EVER BECOME AN ISSUE. THAT WE WOULD HAVE TO PLEAD WITH OUR STATE OFFICIALS OVER SUCH AN ISSUE AS SJR 42. I LOVE THIS COUNTRY AND I'M SO PROUD OF HER THAT I GAVE 4 YEARS OF MY LIFE TO THE MILITARY DURING THE VIETNAM ERA AND WAS READY TO GIVE MY LIFE FOR HER. OUR FINE FATHERS FOUND THIS NATION AND GAVE THEIR LIVES FOR HER - THEY SO MUCH BELIEVED IN GOD THAT THEY PUT IT ON OUR CURRENCY (IN GOD WE TRUST) BUT HOW CAN WE SAY WE TRUST IN GOD AND ~~NOT~~ THEN WE WANT TO CHANGE HIS WORD TO SATISFY OUR IMMORAL ACTIONS. ~~THIS IS NOT AN ALTERNATE LIFESTYLE AS SOME WOULD SAY BUT AN SIN ISSUE. WE CAN SEE HOW GOD HAS BLESSED NATIONS WHO SERVED HIM AND THEN RECEIVED JUDGMENT WHEN THEY TURNED THEIR BACK ON GOD. IF WE PERMIT ~~THE~~ SAME SEX MARRIAGES THEN WE OUR VIOLATING GOD'S LAWS AND WILL REAP THE CONSEQUENCES. GOD HAS BLESSED ALASKA BECAUSE THERE ARE ACROSS THIS STATE GOD FEARING MEN & WOMEN WHO PRAY FOR OUR LEADERS & FOR OUR LAND. AS A DAD I'M LOOKING FORWARD TO SEEING MY GIRLS GROW UP AND HAVE A HUSBAND & CHILDREN OF THEIR OWN. THAT WILL MAKE ME A PROUD GRANDFATHER. IN THE BEGINNING GOD CREATED MAN AND WOMAN AND TOLD THEM TO GO OUT AND MULTIPLY THE EARTH. IF THIS HAD NOT HAPPENED NONE OF US WOULD BE HERE TODAY. I SPEAK THIS AS ONE WHO LOVES THE LORD GOD WHO READS THE BIBLE, BELIEVES IN IT & LIVES BY IT. PLEASE KEEP MARRIAGE AS GOD INTENDED ONE MAN AND ONE WOMAN. LET US ALL REPENT OF OUR UN-GODLY WAY SO HE WILL HERE FROM HEAVEN, FORGIVE US AND HEAL OUR LAND. YES TO SJR 42!~~

Signed: *Ermen J. [Signature]*
 Testifier
Self & All God's Children in Alaska
 Representing (Optional)
P.O. Box 393 STANLING, AK 99672
 Address
(907) 262-8821
 Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary committee name

committee on SJR 42

dated 4-27-98

Thank you for allowing me to speak on this important issue.

My name is Carol Wherry. My husband, Tony, and I have lived in Alaska for 15 years and have just celebrated our 35th wedding anniversary. We have 2 children and 5 grandchildren.

I fully support the constitutional amendment introduced by Sen. Loren Leman to write the traditional definition of marriage into the state constitution.

The sacred bond between man and woman has been since time began for the sake of bringing forth new life which a same sex marriage cannot give. Society has a stake in this issue because it is through preservation that new members will arise and insure its perpetuation.

Laws regulating the continued of marriage enable the creation of a stable institution where a loving mother & father bring up a healthy contributing individual. Alaska putting their stamp of approval upon homosexual activity does not encourage moral greatness, but simply more

Signed: Carol Wherry Testifier *and we the people a chance to vote on this issue*

Representing (Optional)

1528 Steeler Dr. Kenai, Ak 99611

Address

283-7772

Phone number

April 28, 1998

Dear Representative Green,

This letter once again concerns SJR 42 (which by now, you may or may not be tired of hearing about!) I still support this proposed constitutional amendment and ask that you also support it.

Upon further reflection of some of the statements that asked you to let this amendment die in committee, several more thoughts came to mind. One argument I heard over and over was that we should just let the courts decide this case and not the people. I wonder if these people realize that in 1986, the **Supreme Court** upheld the power of states to even **outlaw** homosexuality in the case of *Bowers v. Hardwick*, 478 U.S. 186 (1986). This ruling was not even about same-gender marriage, but had to do with the act of homosexuality itself.

Some of these same opponents of SJR 42 who just wanted the courts to decide, also compared not granting homosexuals marriage rights to allowing slavery to continue as status quo. Slavery in the early days of America was wrong, and I'm thankful that it wasn't allowed to continue! However, comparing the two is absurd. First of all, it wasn't the court system at all who put an end to slavery, and in fact, the Supreme Court originally ruled that slavery was constitutional (thankfully they later reversed this decision). Furthermore, it was a **constitutional amendment** that once and for all did away with slavery (Amendment 13)! So does that mean that it's okay to have the people vote only when it serves the best interest of a particular group? It seems to be a rather twisted view of democracy.

Thanks for letting me express some of these thoughts, and I do thank you for your time and consideration of these matters as you weigh the various testimonies on SJR 42. I hope you will give it your support.

Sincerely,

Mrs. Chris Schuler
4066 Deborah Drive
Juneau, AK 99801

I for one have had enough, I will not stand by and watch the Federal wedge be pounded further into the heart of Alaska. My support goes to those who are willing to set aside ridged ideologies, act creatively and bring Alaskans back together.

Alaska's vastness and her valuable wildlife resources have created tremendous ways of life that are not available any other place on earth. This, coupled with an equally diverse cultural landscape make living here and creating the proper resource allocation process much more complex than any of us would like. However, it can be accomplished; but not with the Federal mauling we must live with as ANILCA is currently written. This will not be easy; nothing worth doing is. In order to get to the middle, some large bits of pride will have to be swallowed along with a little crow by those who find themselves on opposite ends of the spectrum.

The Constitution of the State of Alaska is beyond a doubt a fine piece of work and changing it to allow for an ill conceived Federal Law does not set well with many of us. However, the complexities of the allocation process as well as social considerations beg for some changes somewhere and the fact is, most people in Alaska want to be heard; they want to make a choice. So, if it takes a vote by Alaskans to allow for a priority based on a creative, well thought out plan, that can bring us back together; isn't that much better than being force fed a priority based on a plan that has proven itself to be one we can not live with?

Those Alaskans that carry a copy of that constitution next to their heart and steadfastly refuse to accept the idea of letting the voters make a choice need to look inside themselves and decide if it is worth it to force Alaska through the Federal knot hole just to prove they were right.

But this coin has two sides. Those Alaskans that have been given the Federal ride the recipients of the priority need to search their souls as well. There have been tremendous abuses carried out under the name of subsistence with the sanction afforded by the Federal system. Those "rural residents" who take full advantage of the system either to expand their personal freedoms or garner political power, knowing full well they are acting beyond the intent of the law have severely muddied the water, creating conflict where none existed before ANILCA and in the process, destroying the much deserved credibility of Alaska's true subsistence users.

An "equitable" solution means extremists on each side must give, and the time to do so is now. As Alaskans, we must all strive to understand this complicated mess, make informed suggestions to our Legislators and act this year to put this devisive monster behind us.

Rob Holt

Rob Holt, President
Alaska Professional
Hunters Association-
an organization of Alaska's Guides
907-733-2723

HOUSE JUDICIARY COMMITTEE TESTIMONY
April 27, 1998

Present, but
had to leave
😊

My name is Marsha Buck and I am here to ask you to OPPOSE SJR 42. I am the current co-chair of PFLAG Juneau. PFLAG stands for Parents, Families, and Friends of Lesbians and Gays. I am active in PFLAG because I have a bisexual daughter who is married, in eyes of her church and in the eyes of our family, to a woman.

I am opposed to SJR 42 for many reasons, but let me share only one of those with you today. To be honest, I am frightened about what could happen to young people like my daughter if this resolution is put to a vote of the people. I know many of you don't agree with same sex marriage and that is really OK with me because differences of opinion are not a problem for us in our democracy and in Alaska. But putting a divisive issue like this on the ballot so that people who are not as well informed or as even tempered as you are about discrimination issues, about the separation of church and state, and about the use of discourse instead of violence to resolve debate, could put us in the position that Oregon and Colorado have been in recently when ballot measures came up for a vote there and gays, lesbians, bisexuals and their allies were harassed, threatened, injured, and even killed.

This does not need to happen in Alaska. This issue does not need to come before the voters right now. There is no hurry that makes this a crucial issue for this legislature or for you personally right now. This a time to be patient and see what happens in the courts, and if it doesn't go the way you think is appropriate then there is time to offer alternatives that are well thought through and appropriate. Our daughters and sons, your grandchildren or nieces and nephews perhaps, don't need to be sacrificed now by a hasty vote to proceed with this resolution. You are reasonable people who can say NO for now so that you can save pain and suffering now and deal with this issue calmly and clearly when the courts are finished and the time is right.

Please do not send SJR 42 out of this committee.

Marsha Buck
8445 Kimberly St.
Juneau, AK 99801
789-6167



Testimony of Susan Phillips
1760 Evergreen Avenue
Juneau, Alaska 99801
(907) 463-2695

Susan had
to leave,
but was
here

April 27, 1998

Good afternoon. Thank you, Mr. Chairman and members of this committee, for the opportunity to testify. My name is Susan Phillips.

I am a heterosexual. I am telling you that for two reasons. First of all, because I want to tell you that I didn't choose to be a heterosexual. It just happened that one day, I started chasing boys, not girls, around my elementary school playground. I no more chose to be a heterosexual than gay men and lesbians choose to be homosexual. We are the way we are. I am also telling you about my sexual preference to let you know that it is not only homosexuals who are opposed to SJR 42.

I am not married. But if I wanted to get married, there is nothing, except for a stubborn boyfriend, stopping me from doing so. But if SJR 42 were passed by this Legislature, and the voters of this state, my gay and lesbian friends would be Constitutionally denied the opportunity to legalize their choice of a life partner.

It is not right to deny the opportunity to marry to certain people, just because they have same-sex partners.

Our Constitution, in Article One, Section One, says that "...all persons are equal and entitled to equal rights, opportunities, and protection under the law..."

I recently had the pleasure of seeing an exhibit here in Juneau. It was entitled, "Love Makes a Family" and was on display at the Federal Building, the Nugget Mall, and the University of Alaska Southeast several months ago. The exhibit featured photographs and text depicting families with gay and/or lesbian members. Some families were lesbian couples and their children. Other exhibits portrayed gay male couples with their children. Still others showed people my parents' age with their grown children, some of whom were gay or lesbian.

When I thought about what I was going to say this afternoon, I kept thinking back to the title of that exhibit: Love Makes a Family. Why deny the right of adults who love one another to marry? Everyone in this room seems to understand and agree upon the importance of families. It only makes sense to expand, not contract, the definition of 'family'.

The times, they are a'changin'. It used to be that "family" meant a mother, father, and children, who all lived together. Now we have divorces, remarriages, blended families, stepparents, stepchildren, adoptions, and single-parent families. What's next? Are we going to narrow the definition of "family" to mean only the traditional nuclear family?

I also want to say that I am shocked at the number of proposed Constitutional amendments before this Legislature. It seems that a new one is introduced every week. A BASIS print-out shows about ^{40 to} fifty proposed Constitutional amendments before this Legislature. I wish that the Legislature had more respect for our Constitution than to propose amending it every time an Alaska judge makes a ruling with which a legislator does not agree.

On that note, I think that it is premature to address a proposed Constitutional amendment when the court case prompting it has not yet made its way through the courts.

I was able to watch part of the Senate floor debate on SJR 42 a couple of weeks ago. During that debate, some hateful things were said, particularly by one Anchorage senator, about gay and lesbian Alaskans. I could not help but think that those hateful comments were just a preview of coming attractions. If SJR 42 passes the House and goes before the voters of this state in November, many hateful things will be said in the campaign before the election. Please stop this legislation in its tracks, and do not bring about an ugly and divisive campaign in our state.

Thank you for this opportunity to testify against SJR 42.

Please vote against SJR 42.

Thank you.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name
 committee on SJR 42, dated 4/27/98.
bill/subject

Please vote against this bill.
 As a member of an unpopular group, ^{life} can be challenging enough in the bush. Bills such as this one seem to legitimize discrimination. The 5th Amendment of the U.S. Constitution already requires Equal Protection.

Rather than what you might perceive as the easy thing, please do the right thing. Yes, other countries have.

Signed: Kim Mack [Kim Mack]
 Testifier

Representing (Optional)
Box 249 / Barrow [AK 99723]
 Address
852-6465
 Phone No.

[LHO will mail hard copy down to Comm. today.]

League of Women Voters of Alaska
1542 East 27th Avenue, Anchorage, AK 99508 - Phone/Fax: 272-0366

FAX TRANSMITTAL -- One page

April 27, 1998

The Honorable Joe Green
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182
FAX (907) 456-4316

Dear Representative Green:

The League of Women Voters of Alaska urges you to oppose SJR-35.

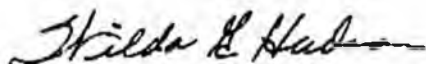
The Constitution of the state of Alaska is one on the newest state constitutions and is considered a national model document. It has served our state well through the years.

The League is extremely concerned about legislative resolutions which propose amendments to the Alaska Constitution that limit citizens' rights to privacy and individual liberties. We believe these resolutions are in conflict with Article I, Sections 1, 3 and 22 of the Alaska Constitution as currently written.

Leagues members throughout the state respectfully request that you protect the integrity of the Alaska Constitution and not clutter it up with amendments that do not serve well the interest of all our citizens.

The League believes that SJR-35 should not be passed out of the Legislature. Again, your vote in opposition to SJR-35 is requested and will be greatly appreciated.

Sincerely yours,



Wilda G. Hudson, President
League of Women Voters of Alaska

April 27, 1998

Dear Representative Green,

This letter concerns SJR 42, a real "hot topic" lately. I was unable to attend the hearing in the Judiciary Committee today, but did watch and listen to some of the testimonies on television.

I do wholeheartedly support SJR 42 and found difficulties with some of the testimonies that were given opposing it, in particular the argument that church and state should be separated and that this bill was trying to legislate morals. This amendment contains no wording about God, no wording about the Bible, no wording about morality, and no wording declaring that homosexuality is wrong. As I read and understand it, this amendment simply defines what may and may not be termed as legal "marriage." Because one defines what marriage always has been and is, is that mixing religion and government?

Now I suppose that by declaring that one kind of marriage is legal (heterosexual) and that the other (homosexual) is illegal, it sends the message to society in general that one marriage is moral and the other is immoral. Opponents of SJR 42 do not want morals legislated to them, but whether they like it or not, morals govern most of our laws and our society. Morality governs the laws that say "No, it's not okay for one person to go kill another," or "No, it's not okay for someone to go steal from someone else, even if that other person has lots of wealth and can spare some," or even "No, it's not okay to go walking down the street stark naked." If opponents do not want morals legislated to them, then I think that's even more reason to allow the people of Alaska to vote on what definition of marriage they want to live with!

Please give SJR 42 your support. Thanks so much for persevering through this volatile topic.

Respectfully yours,

Mrs. Chris Schuler
4066 Deborah Drive
Juneau, AK 99801

RANDY M. OLSEN

1209 Skyline Drive

Fairbanks, Alaska 99712

(907) 457-8939

e-mail: Olsens@mosquito.net.com

April 23, 1998

Re: SJR 42

I wanted to write a reasoned support for SJR 42, the call for an amendment defining marriage in Alaska as between one man and one woman. I start my comments with 3 governing principles:

First, there may be some who oppose any limiting definition. However, even those opposing the resolution would agree that a "marriage" between a dog and a human should not be legally recognized. Similarly, a "marriage" between an adult and a 5-year-old child would not be countenanced. Once it is recognized that some limitations are desirable and required, then the next consideration is where to draw the line.

Second, It is absurd to claim that the state has no interest in family structures and relationships. The state budgets millions of dollars each year in state social programs to try to remedy problems created by faulty relationships. The state's efforts in social programs, adult protective services, children in need of aid, child support enforcement, and youth corrections are examples. The impact of family life on education has been well documented, and the state government is unquestionably involved in the education of Alaska children. Family structures and relationships are topics which the state government unavoidably must be concerned with, to be able to have any hope of dealing with the social problems the government routinely addresses.

Third, besides each natural person possessing rights of citizenship, the state government has found it useful to also recognize and give legal identity to certain associations of people: business corporations and partnerships, political subdivisions, fraternal organizations, etc. These legally identifiable entities promote societal order and commerce. When disruptive the state government may cancel charters and disband associations which it has previously recognized. Marriage licenses issued by the state, and then divorce orders, are government actions which recognize and then revoke marriage associations. The control of marriages is already a government function.

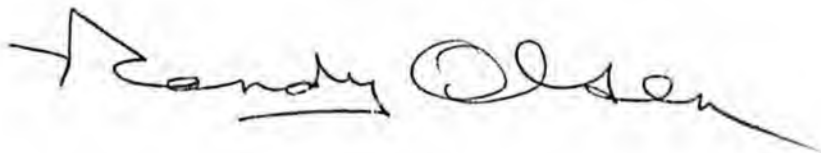
After considering these principles, I urge adoption of the resolution which would permit a vote for an amendment which would define marriages as between one man and one woman. This resolution addresses the legal definition of a legally recognized association. It does not in any way limit private conduct, but is concerned with government sanctioning of particular marriage associations.

To recognize any other definition of marriage would be to legally recognize polygamy (multiple spouses, either one woman with multiple husbands, or one husband, with multiple wives), homosexual relationships, and unimaginable combinations. This scenario would make Alaska the destination of every person seeking legal recognition for every possible non-traditional marriage form. Some would stay, and prove disruptive of our social order, while others would return to other states, and insist that their home states give recognition to their Alaska "marriage". Either way we have chaos and, from the research, a multitude of new social problems arising out of non-traditional marriages.

My wife and I have 8 children, and we donate a large part of our resources and time to youth sports, boy scouts and girl scouts, and school activities. In each of these we find ourselves filling the needs of children who are without a mother or father in their lives. These kids are messed up and need a lot of help. Further confusion by tampering with the traditional definition of marriage so as to further disrupt the traditional home structure is unconscionable.

It is unavoidable that the adoption of the resolution will be seen by some as imposing a social order or making a judgment call as for what is best for Alaskans. Every statute, however, whether it be related to a plumbing code, drunk driving law, etc., operates the same way. The Legislature is in the *business* of making decisions which affect the quality of life for Alaskans. Because it must be interested in family relationships and structures, the Legislature should conclude that there is great reason to promote the traditional family structure, and absolutely no reason to abandon the traditional family structure.

Please support the resolution.

A handwritten signature in black ink that reads "Randy Olsen". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

April 26, 1998

Dear Representative Green,

I am writing to ask you to support SJR 42 and to urge your fellow Representatives to support it as well.

It just amazes me that the special interests behind this homosexual marriage idea want our State of Alaska to be the first State in the first country in this entire world to change the definition of marriage.

And they want you, our elected Representatives, to deny the rest of us Alaskans the right to our ballot voice on the matter.

I know that these people are my fellow Alaskans and some may be friends. Some of them probably buy halibut and crab from me in the summer. Nevertheless, they have made a wrong moral choice to pursue the homosexual lifestyle. I'll still remain friends with them but I don't want their social experiment to start in Alaska without a democratic vote of the people.

I believe that homosexuals want some of the same privileges that come from a legal marriage contract such as insurance benefits. But even more they want society to say their moral choice is 'ok' by being promoted and elevated to legal marriage.

Please don't remove our democratic rights by allowing this extreme change to occur without a vote of the people.

Sincerely,



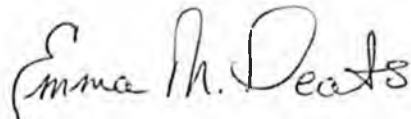
Ted Deats
PO Box 87
Juneau, Alaska 99802
463-3262

April 27, 1998

Dear Representative Joe Green,

I feel marriage should remain as the Creator of marriage designed it---one man and one woman legally joined together. Any variation of this definition would be contradictory to natural law and lead to chaos within the social structure of our state.

At the very least, Alaskan voters should be allowed to vote on this issue. I urge you to support SJR 42 with your vote.

A handwritten signature in cursive script that reads "Emma M. Deats". The signature is written in dark ink and is positioned to the right of the typed name.

Emma Deats
PO Box 87
Juneau, Alaska 99802
907-463-3262

4/27/98

To: Rep. James - 907-465-2381
 Rep. Green - 907-465-4316
 (Joe, thanks for what I believe was understanding, as many as 4 years ago)
 other members of House Judiciary

As the parents of a gay son, living in a long-time committed relationship, my wife and I urge you to vote do not pass on SJR 42 in the House Judiciary Committee.

We love and are proud of our son, as we are of his older brother and younger sister. We are all one family - as is he and his partner. They both work hard, serve on a neighborhood watch program, and collect food for the needy. Our son works in international economic development. Even as I work on economic development in Alaska, he's working to bring free enterprise capitalism to former Soviet block countries and the Balkans.

The short story is my son and his partner are real people, just like us. SJR tries to single them out for special treatment - or lack of it.

Please let the courts at least finish their process on this issue. My 35 years in Alaska has taught me that we value our personal freedom and privacy and that any discrimination is wrong.

I'm sorry I'm out of town or I would be in the Judiciary meeting today to testify against SJR 42. I'd have also spoken with ~~Rep. James~~ ^{Rep. James} personally at Rotary tomorrow. I'll be back by Thursday. If you can't see your way clear to oppose the resolution, I hope you'll vote to hold it in committee to allow further testimony at a later time.

Thanks,
 Charlie

Charles Northrip

P.O. Box 20813
Juneau, AK 99802
April 26, 1998

Dear Representative:

SJR 42, proposing a constitutional amendment to prohibit same sex marriages, will be before you in the House Judiciary committee today. I urge you to vote against this bill and keep it from moving out of the committee.

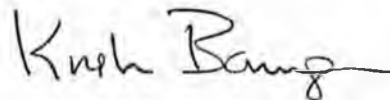
This bill will create an unnecessary hate campaign that will hurt many people in our state, not only those who may seek to enter same sex marriages, but also many of their friends and loved ones. It will also hurt people on both sides of this issue by the atmosphere of hatred it will generate. If you view yourself as a true leader, do not lead the people of Alaska into a tirade of hatred and the promotion of discrimination.

The Superior Court decision that triggered this legislation will be reviewed by the Supreme Court on appeal. Before placing such an issue on the ballot, the legislature should allow the court to complete its review of the legal questions.

The amendment proposed in this legislation will subject the rights of a minority to a majority vote. The amendment itself places discriminatory language within the body of our state's constitution. This is a terrible mistake. I feel certain that, in future years, you will be able to feel proud of any role you took in preventing the promotion of this cause by voting against SJR 42.

Do the right thing. Just say "no" and vote against SJR 42.

Sincerely,

A handwritten signature in black ink that reads "Kristen Bomengen". The signature is written in a cursive, flowing style.

Kristen Bomengen

United Students of the University of Alaska
Southeast- Juneau Campus
Resolution # 98-02

Date of Introduction: Friday, April 24, 1998

Sponsored by: Senator Jackson

Title: Opposition to Senate Joint Resolution 42

Purpose: To voice our extreme opposition to the discriminatory and invasive nature of this proposed resolution before the legislature

Whereas: Article I section 2 of the USUAS-JC Constitution states that the purpose of the USUAS-JC is to "...promote the rights of students ... regardless of gender, race, national origin, age, creed, appearance, handicap, social status, economic background, religious affiliation, political affiliation, *sexual preference, and or lifestyle*"

Whereas: The USUAS-JC has an unwavering commitment to the equal rights and protections of all students regardless of above mentioned factors

Whereas: SJR 42 encroaches upon Alaskan's explicit constitutional right to privacy

Whereas: SJR 42 goes against the fundamental principals behind a constitution because it does not protect the rights of any citizen

Whereas: SJR 42 would create ambiguity in the Alaska State Constitution

Be it resolved that the USUAS -JC voices its fundamental opposition to Senate Joint Resolution 42

This action to take effect April 24, 1998

President's Signature: Rosanne M. Lilliest date: 4/28/98

**CONSTITUTION
OF THE
UNITED STUDENTS OF UAS
JUNEAU CAMPUS**

PREAMBLE

We, the Students of the University of Alaska Southeast Juneau Campus, in Order to Provide for the Students herein stated Organized Representation within the University System, the State of Alaska, and the World at-large, do Affirm and Establish this Constitution of the United Students of the University of Alaska Southeast Juneau Campus.

**ARTICLE I
Section One - NAME**

This organization will be known as the United Students of the University of Alaska Southeast Juneau Campus (USUAS-JC).

Section Two - PURPOSE

The purpose of USUAS-JC will be to:

Clause One: Promote the educational needs, general welfare and rights of the students.

Clause Two: Provide an official and representative student organization with powers to receive complaints, investigate student problems and participate in decisions involving the student body.

Clause Three: Foster awareness of the student's role in the campus, local, state, national, and international communities.

Clause Four: Provide services and activities for the students and the University community at large.

Clause Five: Serve all students equally, regardless of gender, race, national origin, age, creed, appearance, handicap, social status, economic background, religious affiliation, political affiliation, sexual preference, and/or lifestyle.

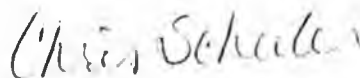
April 27, 1998

Dear Representative Green,

Attached you will find several letters from Alaskan constituents in support of SJR 42. Please read these and take them into consideration as you vote on this very important matter.

Thanks so much for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Chris Schuler".

Mrs. Chris Schuler

April 27, 1998

Dear Representative,

This is to let you know that I sincerely hope that bill SJR 42, defining marriage as the legal union between "one man and one woman," will pass. Please give this proposed amendment your support.

Thank you very much.

Yours sincerely,

Mrs. Hilda Hoffman

Mrs. Hilda Hoffman
3610 Glacier Highway
Juneau, AK 99801

April 27, 1998

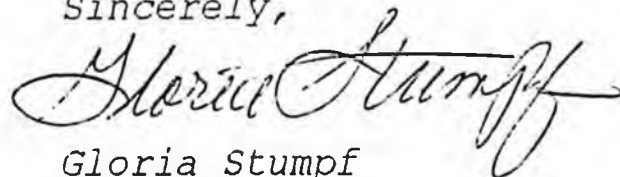
Dear Representative

It's okay to say **yes** to **SJR 42**.

We hear all the time how our families and society are being torn apart by divorce, abortion, kids killing kids, adultery, and now we want to legislate that it is okay for a man to have sex with another man or a woman to have sex with another woman. If they want to have their sex life with each other, then let them work through it on their own and with counseling. Let's not legislate a sexual act is justification for "marriage."

Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Gloria Stumpf". The signature is written in black ink and is positioned above the typed name and address.

Gloria Stumpf
9242 Gee Street
Juneau, AK 99801

April 27, 1998

Dear Representative,

This is regards to SJR 42. Please give this bill your full support!

Structure is basic to our society. When you remove this structure from our society-- society business, and family, - will collapse - every time. Marriage is an institution that can't be separated from the natural complementary of men and women. We can no more "redefine" marriage than we can redefine gender! Marriage & family are the foundational structure of our civilization!

This issue is bigger than the legislature. If passed by the Legislature, SJR 42 will give the voters of Alaska an opportunity to vote on preserving the traditional "one man, one woman" definition of marriage. Polls show that 50 percent of Alaskans are opposed to homosexual "marriage." They deserve a chance to decide this issue. PLEASE give the people of Alaska the opportunity to vote on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Ruth Ann Bowman". The signature is written in black ink and is positioned above the typed name and address.

Ruth Ann Bowman
4436 Wood Duck
Juneau, Alaska 99801

(907) 790-2422

April 24, 1998

Dear Representative,

This letter is to ask your support for SJR 42. We only recently became aware that such a bill was even necessary. Due to Judge Peter Michalski's February 27 ruling that the State of Alaska may not be able to refuse marriage licenses to homosexuals on constitutional bases, we are forced to take a positive step in the form of a constitutional amendment. We hope you will agree with the majority of the people of our state that such a profound change in our social underpinnings as Judge Michalski's ruling has created must be subject to a vote of all the people.

Throughout history traditional marriage between a man and a woman has been recognized as the foundation of the family. Now Alaska is faced with the dubious distinction of being the first state in history to recognize other "styles" of marriage. This not only opens the door to homosexual marriage, but polygamy, incestuous marriage (e.g., father and daughter) and perhaps others. Even the federal government defines marriage as a union of only "one man and one woman."

We do not hate homosexuals, or feel that they are second class citizens. Nothing in such a constitutional amendment would prohibit homosexuals from pursuing their own lifestyle. However, it would establish what undoubtedly was the intent of the constitutional drafters: marriage is the union of one man and one woman.

Having lived most of our lives here in Alaska, we have witnessed many bold and positive changes which have benefited our families. But opening our state up to legalized homosexual marriage will have a very destructive effect. If Judge Michalski's ruling is left to stand, that is what we will have.

Thank you for your work on our behalf.

Lance A. Elphic
Judy Elphic
Lance and Judy Elphic
4216 Taku Blvd.
Juneau, AK 99801

Dear Alaska State House of Representatives .

I would like to urge you to vote for SJR 42 . So that we the people would have an opportunity to vote on whether we would accept same sex marriages. As a parent I would hope my children would have a chance to grow up knowing that our laws are clearly defined just like their gender is. It highly concerns me that because the homosexual community is small , that they would be calling themselves an oppressed minority in hopes of getting us to feel bad enough to allow same sex marriages. This has absolutely nothing to do with the fact that we were created as men and to women to compliment each other as we join together in marriage. I believe the common sense of the majority people would not be able to allow this play on our emotions to over rule what the truth is .

Thank you , Debbie Eliason

Debbie Eliason

*Debbie Eliason
17025 Towers Rd
Juneau, Ak,
99801*

April 27, 1998

Dear Representative,

I support SJR 42, "The Definition of Marriage," amendment and urge you to give it your full support.

We all came about because of the union of one man and one woman. This union is the foundation block of our society.

NO UNIONS. NO OFFSPRING. NO SOCIETY.

However, if you start creating alternative plans (same sex marriages) as an original design, it will chip away at society's foundational block until it crumbles and there is no more society.

For these and other reasons, I support SJR 42 and ask that you do the same. This is an issue that affects all Alaskan voters, and they should have a chance to vote on their future.

Thank you for your time and consideration of this matter.

Sincerely,

Linda Hemphill

Mrs. Linda Hemphill
4467 Columbia Boulevard
Juneau, AK 99801

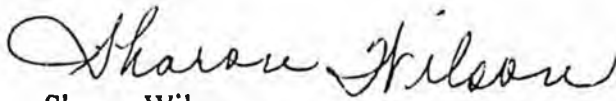
Sharon S. Wilson
P O Box 211391
Auke Bay, AK 99821

Dear Representative:

I urge you to support SJR 42, which defines marriage in the traditional way; one man and one woman. When the constitution was written, the acceptable union was one man and one woman, and today should remain the same.

Thank you for taking the time to read this letter.

Respectfully,


Sharon Wilson

April 25, 1998

Dear Representative,

We strongly support **SJR 42** and hope you will do the same. For the last 200 years our country has recognized marriage as a union between one man and one woman. We believe our founding fathers did an excellent job of creating our government and laws. It has been sad to see those laws reinterpreted to suit the decaying moralities of recent years. Our endeavor to teach our children morals and truth is threatened when our elected officials make decisions that are contrary to those truths. It is then we feel betrayed and wonder whatever happened to "government by the people and for the people."

Thank you for your service in our state government and for considering our request.

Sincerely,

Cary Henrichsen

Shirley Henrichsen

Cary & Shirley Henrichsen
PO Box 210116
Auke Bay, AK 99821

Dear Representative,

I support SJR 42 and I urge you to also support this issue. I believe the traditional way of one man and one woman marriage is the only way we should live. The same sex marriage goes against all my beliefs and should also be that way in our society. I again urge you to support this issue so that we can bring this to all voters in Alaska.

Thanks for your time.

Sincerely,

A handwritten signature in cursive script that reads "Jean C. Mallett". The signature is written in black ink and is positioned above the typed name.

Jean C. Mallett

P.O. Box 35075

Juneau, Alaska 99803

April 23, 1998

Dear Representative,

I am writing to urge you to support SJR42. I believe that traditional marriage is one of the foundational principles on which this country functions best. If we undermine the family, our society will crumble and fall further into decay.

Thank you.

**Julie Wilcke
P.O. Box 210608
Auke Bay, AK 99821**

**2135 Cascade
Juneau, AK 99801**

April 27, 1998

Dear Representative,

I'm writing to urge you to support SJR 42. The definition of marriage has always been used to denote the **legal union between one man and one woman**. This proposed amendment would simply protect that definition. For the definition of marriage to be changed to something else (i.e. same sex relationships), it would need to be shown that it is in society's best interest to change it. That has not been shown nor proved. We need to keep the definition of marriage as one man and one woman.

Please pass SJR 42 so that Alaskans can vote their opinion on the matter. Thank you for your consideration of this subject.

Respectfully,

Chris Schuler

Mrs. Chris Schuler
4066 Deborah Drive
Juneau, AK 99801

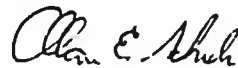
4066 Deborah Drive
Juneau, AK 99801
(907) 789-2667
aecrsas@ptialaska.net
April 26, 1998

Re: In Support of SJR 42

Dear Representative:

Please support SJR 42. SJR 42 provides the people of Alaska the opportunity to uphold the commonly held and long-standing definition of marriage. I am appalled that a single judge could essentially redefine a written and assumed definition that has been held by all people groups throughout time. Judges should only be allowed to interpret existing laws and not create radically new societal structures, such as homosexual marriages. When judges get out of line, the legislature has the responsibility and obligation to bring the judicial system back in line by clarifying what they intended the law to say, or to bring the issue before the people. This is part of the checks and balances established within our government. Hence, SJR 42 is appropriate and should be passed so the people of Alaska can vote on this critical issue. Thank you.

Sincerely,



Alan E. Schuler

- Dear Representatives:

I am here to express my concern with SJ~~bill~~ 42, involving gay and lesbian marriages. I feel that this bill is unconstitutional.

The arguments for this ~~bill~~ range from "the destruction of marriage" to "confusing our youth" to religion. As I see it, allowing gays and lesbians their constitutional right to choose a partner and to make the life long commitment to each other will only enhance the family. Marriage between two adult people who love and care about each other will set an example for others to follow. This bond can be between a man and a woman, a man and another man, or between two women.

Unfortunately, in today's society a lot of couples do not consider marriage as a life long commitment. I personally know of several marriages which were given God's blessing through a church that have ended too quickly, or are filled with violence/abuse. It is sad for me to look at these marriages knowing that society approves of this union only because it is between a man and a woman. The decay of marriage is already happening and will continue to occur with or without the gay and lesbian marriages. However, I know that my commitment to my partner, of 8 years and counting, will help turn the tides in creating a stable, concrete, build-up of the reconstruction of marriage. Some of my heterosexual friends have looked toward my relationship with my partner as a role model, making statements like: "Your relationship is the most normal I've ever seen in any marriage" and "God, I wish my husband and I communicated as well as you two."

As for confusing our youth, well, our youth can be pretty intuitive. Gay and lesbian youth know that there is something different about them because it is within them, it is not a choice. They may not know what or be able to define it in words right away, but eventually they will realize who they are. At this point they will either try to hide it or they will follow their heart. Unfortunately, the church will refer to them as sinners and evil- I know because it has happened to me. Those gays and lesbians who are devout Christians/Catholics may either abandon their faith in order to survive-which is ashamed or they may commit suicide because they can't deal with it. It is no wonder the suicide rate is highest among gay and lesbian teenagers. The churches need to reach out and love thy neighbors, sisters, and brothers, not push them away. *We are not young anymore.*

5,82420 17
Please do not support ~~a bill~~ that is unconstitutional.

Thank you for your valuable time, I appreciate having the opportunity to read this.

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).

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

Juneau

586-5230 (w)

A Statement in Support of Preserving the Alaska Constitution and
of Preventing a Morally Indefensible Law
Which Would Ban Same-Sex Marriages

MORISSA LOU WILLIAMS

P.O. Box 240791, Douglas, Alaska 99824-0791

April 27, 1998

My name is MORISSA LOU WILLIAMS. I am 40 years old and the descendant, as most Americans are, of immigrants to the United States. Most of my family perished in Nazi occupied Europe. Though you might not guess it from my name, I am Jewish. "Williams" was what is often called an Ellis Island change. An official processing my grandfather's entry into the country gave up on my father's father's Polish name, and set him down for his future life in America as Williams.

I owe my existence to the courage of Americans who loved justice, compassion and mercy - the greatest gifts God has given us - more than they feared the great challenge of human differences. I have thus received a mandate not only from my religious tradition but from the tradition of the United States of America to stop short at the gates of persecution and bigotry. Beyond those gates lies the corrosion and ruin of human souls.

For some reason there is a pretense - a lie - in our times that there is something wrong or unusual about a man loving a man or a woman loving a woman. I doubt very much that there is even a single person in this building who has never been attracted to someone of their own gender. It is an entirely natural thing that one child of God should find another child of God worthy of love. As Socrates said, love is the love of what is lovely. Love has nothing at all to do with gender. Love of any kind is the natural consequence of our being the children of a loving God.

This is what I believe. I think it may be possible that supporters of the bill banning same-sex marriage are suffering from a crisis in faith: they do not believe that God loves them enough, and they are trying to exclude other people from God's love because they are suffering from loneliness or fear. But God has infinite love. There is not a need to be frightened that God will forget one person because God loves another. Human beings may be limited in their capacities, but only to the extent they forget they come from an infinite creator. There is plenty of love, and always will be, if we choose to draw upon it and welcome it into our midst.

I have studied religion and theology for a long time. I received a B.A. in Biblical Studies from Wellesley College in 1978. I have studied Old Testament and New Testament theology not only in the comfort of the academic classroom but also in the more rigorous classrooms of such places as an integrated school in Belfast, Northern Ireland and in other places of racial, economic or religious historical conflict. In America integration refers to black and white. In Belfast it refers to Catholic and Protestant. Elsewhere it might refer to Hindu and Moslem, or Moslem and Christian, or Moslem and Jew, rich or poor, or the good Lord knows what.

(continued on page two)

What I have learned is that it is a very bad mistake to imagine that we can dictate to anyone whom one loves, or on what terms. The way we love one another is a reflection of the way we love God. If we despise even one of God's children for loving another, then we despise God, who created us all. Again, this is what I believe. I understand that many people do not believe in a God, and I respect their feelings. Perhaps the framers of this bill have stopped believing in God, or their faith has been shaken. I can respect these feelings, too. But I cannot support the consequences of such feelings. If the framers of this bill wish to put this bill through on a false notion that to prevent the public and legal expression of love would somehow please God, then I must protest on three levels: as a citizen of the United States, as a citizen of Alaska, and as a person of faith who has spent the preponderance of her life contemplating theological questions.

The poet and songwriter Ysaye M. Barnwell wrote a song for gospel musicians which goes:

Prayer

Lord, must I do unto others
before they do unto me
Must I arm myself
to protect myself
from harm and injury?

Oh no, that is not the lesson
that I learned on my Mother's knee
when she told me to
"Do unto others, only what I'd have them do unto me."

I would not wish to see any bond injured between two people who have the courage to show commitment and reverence. In Nazi Germany the church itself was scorned and defiled along with Gays, Jews and anyone who threatened the paranoid illness of the Reich. This kind of bill is immoral and contrary to our constitution. It is a sad reminder of times when love was considered dangerous. It is, most of all, a brutal insult to a loving God. Thank God, we in Alaska need not suffer the paranoid behavior of ill leaders. When our leaders have lapses in judgment, we can guide them gently back to faith. Let us do so, preserving both Constitution and hope.

April 27, 1998

Dear Members of the House Judiciary Committee

Thank you for the opportunity to testify today.

I am here to speak against the passage of SJR 42. I think we should let the Supreme Court issue a ruling on this matter, before we even consider voting for a Constitutional Amendment.

Amending Alaska's Constitution is a very serious matter.

After listening to the debate on this issue in the Senate, I still find no logical reason for amending Alaska's Constitution to allow discrimination against a portion of Alaska's citizens.

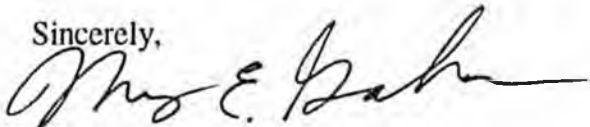
I don't see how my choice of a life partner, can affect anyone else's marriage. It is not like love is a non-renewable resource or there are a limited number of marriage licenses for the state to issue.

Most of the reasons I have heard for supporting this amendment, are based on personal religious convictions, and an attempt to keep the status quo. Well it's time for Alaska to move beyond the status quo. There are many couples who are granted marriage licenses now, who's marriages I personally don't approve of, or agree with, but that doesn't give me the right to say they shouldn't be granted a civil marriage license.

If this measure goes on the ballot, there will be months of divisive debate filled with hate, lies and stereotypes. We don't need that to happen in Alaska.

Please let SJR 42 be put to rest.

Sincerely,



Mary E. Graham
235 5th St.
Juneau, AK 99801

P.S. In Jan 1998, the Netherlands created registration of Partnerships which gives same-sex partners all the same civil legal rights and benefits and responsibilities as married heterosexual couples including custody and adoptions. The sponsor of this Bill has stated numerous times no country in the western world has same sex "marriage".

Statement re: SJR 42

April 27, 1998

I'm here to request that you give the people of the state of Alaska the right to vote on an issue that is seen differently by Judge Michalski and by some of you. Some of us believe in giving the same tough love to those who choose sex with someone of the same sex as you would to an alcoholic. Would you tell an alcoholic that his drinking is ok? and think that by accepting his behavior you are showing kindness to him? No. You tell an alcoholic that what he is doing is wrong, but that you love him. Real love is tough enough to risk rejection - an almost certain rejection - temporarily, to try to give wholeness to one with difficult temptations.

Because we practice tough love, those of us who won't agree to the charade of same sex marriages love those who choose same sex sex more than those who won't oppose it.

But this debate is more that about the illusion of kindness in allowing same sex marriages. It is about putting the matter before the public. The legislature is supposed to represent the people, but will be seen by the people as dictators and tyrants if they do not want the people to have a voice in such an important matter. If you do not vote for this, then you are voting against the right of the people to be heard because you don't like what they will say. Even though I say this, I do expect better of you and expect you to act honorably and to vote for SJR 42.

HOUSE JUDICIARY HEARING on SJR42

My name is Mildred Boesser. I am 73 years old, mother of 4 and grandmother of 4, a homemaker and a clergy wife. My husband and I came to Alaska as Episcopal missionaries in 1954. This year we celebrate our 50th year of marriage. He would be here today to testify with me, but he is out of town. Most certainly I am not here to shoot down the institution of marriage. I want to enlarge the concept. I oppose SJR 42.

Like you, I say I want to protect and encourage life-long, monogamous unions. So, why are we moving NOT to protect or encourage life-long monogamous unions? I know of many same-sex couples who have lived together for as long as my husband and I, without the benefits we enjoy.

Like you, I want to turn back the tide of broken marriages and address all the anguish and havoc for adults and children that such breakdowns wreck on our society. How can we be blind to the fact that this disintegration of the heterosexual two-parent family is a problem completely separate from our granting basic civil rights to gay and lesbian couples?

We live in a nation that prides itself on having in place a system that treats all persons as equal. Why are we attempting to change the system to deny equal rights to some? And shame on us for calling these rights "special rights", a ruse historically used to legitimate discrimination!

We live under a constitutional Bill of Rights that expressly forbids the intrusion of any religion in affairs of state, yet we are moving to do just that, and scaring good God-fearing people into believing same-sex marriage will destroy so-called traditional marriage. Actually, this whole matter is not about making religious bodies do or believe ANYTHING they do not choose to do or believe. The push for same-sex marriage is about civil marriage and the long list of rights and privileges that are currently given to civil marriage.

However you feel about gay and lesbian persons is not the issue here. Unfortunately it colors and distorts the issue. This resolution is about changing the Constitution to say it's all right to discriminate! Who will we choose to discriminate against next time? This whole thing brings to my mind, having lived through it, 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 mass execution of 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, and Alaska will be no exception. Please do not pass SJR 42.

Mildred P. Boesser
17585 Lena Loop
Juneau, Ak. 99801
phone and FAX 789-1445

April 27, 1998

To: House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Members of the Committee:

I am writing to let you know that I oppose SJR-42 being put on the ballot. The issue of same-sex marriage needs to be defined by the courts; making it a political issue does not make sense. Not only will it be a waste of taxpayers' money, but I believe it will further divide the people of Alaska to such an extent that a calm and rational discourse on this issue will be impossible.

Trying to legislate a moral issue is not your purpose.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Sue McGowan". The signature is fluid and cursive, with a large loop at the end.

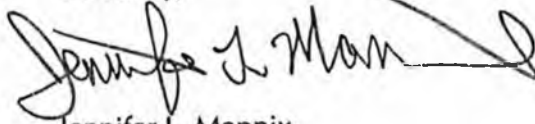
M. Sue McGowan
P. O. Box 21842
Juneau, Alaska 99802

April 27, 1998

House Judiciary Committee:

I strongly oppose SJR 42. Please vote against it.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Mannix", with a long horizontal flourish extending to the right.

Jennifer L. Mannix
P.O. Box 33383
Juneau, Alaska 99803
(907) 789-3654

Anchorage Legislative Information Office (LIO)
 • 716 W 4th Avenue, Suite 200, Anchorage, AK 99501 • Phone: 258-8111 Fax: 258-1261

This form MUST be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below.

Mr., Mrs.	First name Lauren	M.I.	Last name Chempaigne	Jr., Sr., III...
Mailing address 310 Irwin St, B, Juneau, AK				Zip code 99801
Residence (street) address if different from mailing address				Zip code
Daytime telephone number 586-4404	Group affiliation (if applicable) National Association of Social Workers ALASKA CHAPTER		Signature Lauren Chempaigne	Date 7/25/98

To: Put a ✓ in the appropriate box(es).

	Committees	House members	Senate members
H or S			
<input type="checkbox"/>	Community & Regional Affairs (cra)	<input checked="" type="checkbox"/> Austerman (aus)	<input checked="" type="checkbox"/> Adams (ada)
<input type="checkbox"/>	Finance (fii)	<input type="checkbox"/> Barnes (bar)	<input checked="" type="checkbox"/> Donley (don)
<input type="checkbox"/>	Health, Ed., & Social Services (hes)	<input type="checkbox"/> Berkowitz (ber)	<input checked="" type="checkbox"/> Duncan (dun)
<input type="checkbox"/>	Judiciary (jud)	<input type="checkbox"/> Brice (bri)	<input checked="" type="checkbox"/> Ellis (ell)
<input type="checkbox"/>	Labor & Commerce (l&c)	<input type="checkbox"/> Bunde (bun)	<input checked="" type="checkbox"/> Green (gre)
<input type="checkbox"/>	Resources (res)	<input type="checkbox"/> Cowdery (cwd)	<input checked="" type="checkbox"/> Halford (hal)
<input type="checkbox"/>	Rules (ris)	<input type="checkbox"/> Croft (cro)	<input checked="" type="checkbox"/> Hoffman (hot)
<input type="checkbox"/>	State Affairs (sta)	<input type="checkbox"/> Davies (dav)	<input checked="" type="checkbox"/> Kelly, T. (kel)
<input type="checkbox"/>	Transportation (tra)	<input type="checkbox"/> Davis (dag)	<input checked="" type="checkbox"/> Leman (lem)
<input type="checkbox"/>	Other:	<input type="checkbox"/> Dyson (dys)	<input checked="" type="checkbox"/> Lincoln (lin)
<input type="checkbox"/>	Other:	<input type="checkbox"/> Elton (elt)	<input checked="" type="checkbox"/> Mackie (mak)
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		<input type="checkbox"/> Green (gm)	<input checked="" type="checkbox"/> Parnell (par)
		<input type="checkbox"/> Grussendorf (grs)	<input checked="" type="checkbox"/> Pearce (pea)
		<input type="checkbox"/> Hanley (han)	<input checked="" type="checkbox"/> Phillips, R. (phi)
		<input type="checkbox"/> Hodgins (hod)	<input checked="" type="checkbox"/> Sharp (sha)
		<input type="checkbox"/> Hudson (hud)	<input checked="" type="checkbox"/> Taylor (tay)
		<input type="checkbox"/> Ivan (iva)	<input checked="" type="checkbox"/> Torgerson (tor)
		<input checked="" type="checkbox"/> James (jam)	<input checked="" type="checkbox"/> Ward (war)
		<input type="checkbox"/> Joule (jle)	<input checked="" type="checkbox"/> Wilken (wik)
			<input checked="" type="checkbox"/> Williams (wil)

Subject: Fill out the boxes below **OR** enter a Subject.

HB or SB SB	Bill number STR-42	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR enter a general Subject (LIO staff may modify):
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Message: Your PRINTED message cannot exceed 50 words or contain any vulgar language.

House	members	please	join	the	5
brave	six	senators	who	showed	10
strength	in	character	when	they	15
opposed	STR-42	despite	it's	explosive	20
power.	Please	stop	this	bill	25
and	protect	our	communities	from	30
any	further	destructive	forces	six	35
months	of	hateful	"religious"	justified	40
but	destructive	lighting	is	for	45
long.	Thank you	for	your	consideration.	50

P.O. Box 22866
Juneau, AK 99802
April 27, 1998

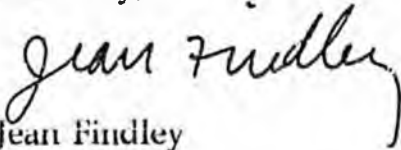
Dear Representative:

I urge you to oppose SJR 42. This issue is already being decided in the courts, where it belongs. It is too bitter and divisive to be put on the ballot.

Today Sen. Leman said that you should put this on the ballot so that the state could save money in legal fees. But money is one reason it does not belong on the ballot. The issue would become a media event where those with the most money win. I'm sure we'd see many TV ads that prey upon peoples' paranoia about those who are different. This would make our constitutional rights a farce, and severely divide our state. I would hope we are more civilized than that.

With SJR 42, the legislature is already playing political football with peoples' civil rights - and this is politics at its worst. You have the power to stop this game right now and drop this resolution.

Sincerely,


Jean Findley

Testimony on SJR 42
by Alan Schuler (of Juneau)
April 27, 1998

Thank you for this opportunity to testify on SJR 42. I believe the Legislature should pass SJR 42 so that the people of Alaska can vote on this critical issue.

Many of the opponents to SJR 42 expressed how this bill would "limit" marriage. I believe the correct perspective is that SJR 42 would "clarify" the commonly held boundaries and prevent it from being *broadened* to include homosexual unions. It does not add additional restrictions to marriage.

Opponents have stated that SJR 42 invades privacy laws. If privacy was a real concern of the homosexual community, they would not be seeking a public marriage license. In reality, SJR 42 *does not* invade privacy laws or personal choice. People are still free to live with whomever they wish. SJR 42 only clarify that the State is not obligated to classify homosexual unions as "marriage."

Similarly, the expansion of marriage is not a judicial responsibility. Laws are established by the legislature and interpreted by the judicial system. It is not the responsibility of the judicial system to expand laws beyond their original intent. When this happens, the legislature has the responsibility and obligation to bring the judicial system back in line by clarifying what they intended the law to say. Hence, SJR 42 is appropriate.

SJR 42 has nothing to do with civil rights. A person's race or gender is intrinsic. In contrast, homosexual activity is a choice. Even if a person believes they were born as a homosexual, that does not obligate the State to expand marriage laws. For example, it is commonly accepted that some people are more prone to alcoholism than others. However, this intrinsic condition has not obligated the State to loosen drunk driving laws. Similarly, the presence of homosexual activity in our society does not obligate the State to loosen marriage laws.

I strongly urge the quick passage of SJR 42 so that the legal definition of marriage may be clarified. Thank you.

P.O. Box 22493
Juneau, AK 99802

Alaska State Legislature
House of Representatives
House Judiciary Committee
Juneau, AK 99801

April 27, 1998

Dear House Judiciary Committee Member:

I am opposed to SJR-42. I urge you to kill this bill in committee. I am an Alaskan resident, and I oppose this bill for several reasons. First, I believe that this bill is unnecessary. This issue is currently before the courts in Alaska, and I believe that is where it should be resolved.

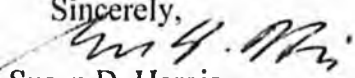
Second, I believe that this bill is divisive and will create an opportunity for hate-mongering in the upcoming election season. There are many who will tell you that they do not "hate" gays and lesbians. This is undoubtedly true. The problem lies in the fact that there are many individuals who DO hate lesbians and gays, and this controversy will bring them out in full force. This is not conjecture. This scenario has been played out several times across the country, each time with a rise in anti-gay violence. I have recently had the opportunity to staff the phone line for the Southeast Alaska Gay & Lesbian Alliance, and I can tell you that some of the calls are extremely threatening and unpleasant. We don't need to foster this kind of hate by creating an unnecessary ballot measure.

The third and most important reason I oppose this bill is that I believe passage of this bill is the wrong thing to do. I believe that you, as legislators, bear the responsibility to support and defend the basic rights of ALL Alaskans. It does not matter whether you agree with same-sex marriage, or even homosexuality in general. What DOES matter is that you defend the rights of all adult Alaskans to make their own life choices, including choice of their own partner.

Putting this bill on the ballot, and even possible passage by a general vote will not make these families go away. What it will do is to continue to foster the misconception that "somehow," gays and lesbians are responsible for the decline of American society. Rather than recognizing and giving all stable, long-term relationships the dignity that they deserve, this bill seeks to pretend that these relationships do not exist. Somehow, it just doesn't resonate as true to me that individuals in long-term relationships will threaten traditional marriages.

I urge you to exercise your individual freedom as legislators to vote your conscience on this bill. This kind of intrusive bill is absolutely not what either political party is about. Let Alaskans live their own lives, and kill this bill in committee.

Sincerely,


Susan D. Hargis

April 24, 1998

During this legislative session I have listened with great frustration and sadness to the attempts to pass SJR-42, the bill banning same sex marriages in the state of Alaska. During these last few months I've also been wondering how many of Juneau's citizens recall what happened in the state of Oregon during the 1992 election year? Does Ballot Measure 9 ring any bells? If not, Ballot Measure 9 was a bill to amend the Oregon state constitution declaring homosexuality "abnormal and perverse". I vividly recall that year. I remember watching and hearing about heated debates between those who opposed "special rights" for one group of people and those who felt that Ballot Measure 9 was an oppressive, discriminatory and hateful piece of legislation.

I remember hearing about the 100% rise in hate crimes during and after the campaign, not only against gay and lesbian people, but against people of color, religious minorities, and women. I remember the story of the catholic church that was vandalized, large swastikas spray-painted throughout the interior and around the exterior of the building, beautiful stained-glass windows smashed, and the words, "No Spics, Jews or Gays", "We hate Catholics and Gays", "Yes on 9", "No on special rights", "Kill Catholics and Gays", and ironically, "Yes on family values" covering the walls of that holy sanctuary. I recall crying when I heard the news about the two roommates, an African American lesbian and a young gay man who were burned to death when their apartment was fire-bombed by racist skin-heads who supported Ballot Measure 9. I also remember the story of the young gay man who was beaten to death by a group of teenagers after leaving a night club. These were only a few of the acts of intimidation and terrorization that occurred in Oregon during 1992.

Imagine this kind of violence taking place in our state and even in our own community. It seems so unlikely, so horrifying. I can assure you that if SJR-42 goes to the ballot this fall, we **WILL** see similar incidences of violence and hate crimes take place in Alaska. Each city and state in our nation that has experienced this sort of discriminatory legislation has seen violence increase. Not only will gay and lesbian Alaskans be at risk of being victimized by hate crimes, **ALL** minority groups will be at risk. Putting this kind of bigotry and hatred on the ballot only gives permission for those with the most anger and hatred toward any oppressed group to act out that anger and hatred in the form of violence. When some of our elected leaders propose legislation that simply fuels bigotry, how can we expect anything positive to result from it?

I encourage all of Juneau's citizens to think about what this might mean for our community and our state as a whole. Do we want to see this divisive bill on the ballot? I encourage all members of the House of Representatives to think about this when it is time to vote on SJR-42. Additionally, I encourage all Juneau residents to consider the impact that this could have on each of you and each of your friends and family members should this bill be passed. We must remember the famous words of Emma Goldman who said, "The most violent element in society is ignorance". Finally, for those of you who truly believe that allowing same-sex partners to marry is a "special right", please consider this; when you haven't had the right to be there in the first place, how can opening the door be a special right? Let us be a model for the rest of the country and show how we, Alaskans, can work to unite our state and it's citizens rather than divide it.

Karen Wood - Juneau, Alaska



Mush with PRIDE

Providing Responsible Information on a Dog's Environment

David Monson, President Mush with PRIDE
P.O. Box 60249
Fairbanks, AK 99706

Sen. Dave Donely
State Capitol
Juneau, AK 99801

March 18, 1998

RE: SB-284 ANIMAL CRUELTY BILL

Dear Sen. Donely,

Thank you for your continuing efforts to strengthen Alaska's animal cruelty laws. We believe that the lowering of the criminal standard for prosecution of cruelty to animals is a necessary step in protecting Alaska's domestic animals from negligent owners.

Sleddog medicine has become a specialty within the veterinary profession. Veterinary members of the International Sled Dog Veterinary Medical Association (an internationally recognized professional organization), as well as most veterinarians in the Alaska Veterinary Medical Association are well aware of the conditions and standards used in assessing care and well-being of sleddogs. In addition, Mush with PRIDE has issued Sleddog Care Guidelines which set standards for most common sleddog practices. These PRIDE standards, which have been endorsed by all major Alaskan racing organizations (Iditarod, Quest and ADMA) as well as most international sleddog racing groups (ISDRA and IFSS) were developed with constant input from several mushing veterinarians who are Directors of PRIDE. Therefore, we believe that the current statute does provide adequate protection against prosecution. We do not feel that any other musher-specific defense against prosecution is needed to protect mushers against prosecution.

We are hopeful that SB-284 will be passed this session so that state officials can better deal with the small minority of abusive owners who tarnish the image of our state and the official state sport of dogsledding.

Sincerely,

David Monson



THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99518
Phone: 662-2999

March 2, 1998

To Whom It May Concern:

The Alaska Society for the Prevention of Cruelty to Animals, SPCA is in full support of SB 284. Efforts in past cruelty cases have been next to nothing. Alaska needs to have a stronger law to support our justice system in prosecution of animal abusers. The SPCA in past years, has witnessed animal abusers in the worst scenarios. Due to insufficient laws, the District Attorney's office was unable to penalize these people. Animal abuse is and has been occurring throughout the state. Most people are unaware of the severity of some of these cases. Public awareness is increasing and the state needs to update legislation to deal with cruelty offenders.

Statistics show that there is a definite link between animal cruelty and spousal, child abuse occurring within the home.

Again, the SPCA, as well as most of the general public, are in strong support of SB 284, and show a very strong interest in the passage of this bill.

Sincerely,

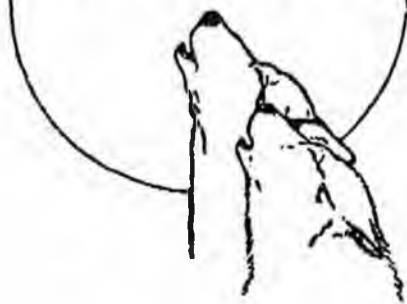
Ethel Christensen, Director

Diane Zarfoss

John McLane

Diane Vuckovich

Lori Cornett



February 26, 1998

Senator Dave Donley
State Capitol Building
Juneau, Alaska 99801

Senator Dave Donley:

On behalf of the Gastineau Humane Society we would like to go on record as being in support of Senate Bill 284. The statutory language currently in AS 11.61.140 is very difficult to prove and courts have been unable to prosecute a number of neglect and cruelty cases. Bill 284 will improve the language in AS 11.61.140 and enable prosecutors to convict those that have participated in obvious acts of neglect and cruelty.

Currently both the Humane Society of the United States and American Humane have initiated campaigns, "First Strike Animal Cruelty / Human Violence" and "Campaign Against Violence", this year to increase the awareness and alert all agencies involved in addressing issues of child abuse and neglect that there is a high correlation between animal abusers and child abusers. If the animal abuser can be prosecuted under AS 11.61.140 this could be a tool not only to prevent further animal cruelty but also provide opportunity for intervention in cases where children are also victims.

If there is anything I can do to facilitate passage of Bill 284 please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Linda M. Bleggen".

Linda M. Bleggen
Executive Director



FAIRBANKS NORTH STAR BOROUGH

2408 Davis Road * P.O. Box 71267 * Fairbanks, Alaska 99707-1267

Department of Direct Services
Division of Animal Control

(907) 459-1451 * FAX (907) 459-1120

March 13, 1998

The Honorable Dave Donley
Alaska State Capitol, Room 508
Juneau, AK 99801

Dear Senator,

I support passage of CSSB 284, an act relating to cruelty to animals.

The proposed changes create a more useful tool for investigators and prosecutors of cruelty to animals cases than the current language. It has long been known that under the current statute the only good evidence to prove the crime of cruelty to animals is a dead animal. The proposed changes will give enforcement officers the ability to intervene and hopefully save animals before they die or suffer severe injury due to inhumane treatment.

With the strong connection between cruelty to animals and abuse of children and other humans it is essential that we take cruelty to animals very seriously. Recognition, intervention and effective prosecution of cruelty to animals cases may help prevent the cycle of abuse from continuing in Alaskan families. Cruelty to animals cannot be tolerated, and an enforceable law is the first step in addressing the problem. Thank you.

Sincerely,

Laura Hood, Manager
Division of Animal Control

To all Alaska State Representatives

RE: SJR 42

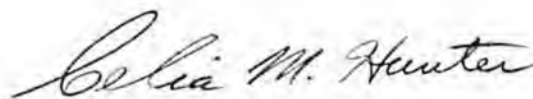
FROM: Celia M. Hunter, 1819 Musko Trail, Fairbanks, AK 99709
(907) 479-2754

I am writing to you as one of your constituents. I am strongly opposed to passage of SJR 42, and to having the subject of same-sex marriages placed on the ballot this fall. The result of such a move on the part of the Legislature would contribute enormously to the divisive, abusive rhetoric already flying about on this issue.

The basic philosophy behind this negative resolution reiterates many untruths concerning the "assumed" consequences of permitting same-sex marriages to be performed. Marriage has many legal ramifications and protections for married couples, as well as responsibilities, and the willingness of same-sex couples to undertake such a commitment is evidence that they want the same kind of stability in their unions as heterosexual couples.

I strongly urge you to vote against SJR 42 in the interests of peace and comity among all of Alaska's diverse peoples. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Celia M. Hunter".

Celia M. Hunter

Please retain this letter in the files on SJR 42.