

HJR

1

<TARGET><BILL>HJR 1</BILL><SUBJECT>HJR
1</SUBJECT><COMM>HSTA29</COMM></TARGET>

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

MEMORANDUM

Date: February 3, 2015
To: Representative Lynn, Chair
From: Rep. Josephson
Re: Hearing Request for House Joint Resolution 1

Representative Lynn,

I respectfully request a hearing in the House State Affairs Committee for House Joint Resolution 1 relating to marriage as defined by the Constitution of the State of Alaska.

HJR 1 would put before the voters a resolution to remove Article 1, section 25 from the Constitution of the State of Alaska.

Attached is the requested sponsor statement, copy of the bill, sectional analysis and supporting materials. I would be happy to prepare any other necessary documents or provide additional information. The departments will prepare fiscal notes when the bill is scheduled for a hearing. As this legislation will have statewide impact, I suggest that hearings be teleconferenced to all LIO's. I can provide a witness list prior to a hearing. Feel free to contact me anytime. Thank you for your consideration.

Best regards,

Handwritten signature of Andy Josephson.

HJR 1
Committee Aide
John Chuck x6873

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sponsor Statement

House Joint Resolution 1: Gay Marriage

House Joint Resolution 1 proposes a constitutional amendment that would put before the voters the ability to remove Article 1, section 25. HJR1 would remove the definition of marriage from the Constitution of the State of Alaska.

On October 12, 2014, a federal judge ruled that Alaska's ban on gay marriage was unconstitutional because it deprived individuals of basic due process and equal protection under the Fourteenth Amendment of the U.S. Constitution. The State of Alaska chose to appeal the ruling and requested a stay. On October 17, 2014, the U.S. Supreme Court denied Alaska's request for an emergency stay and marriages were allowed to continue.

Alaska is the last state in the 9th Circuit Court to continue to appeal the ruling. Nevada, Idaho and Arizona have all dropped their appeals. During a time of fiscal constraints Alaska can not continue to pursue frivolous lawsuits.

HJR1 would allow the voters to remove a blotch from the State Constitution and allow all individuals to enjoy the rights secured for them under the Constitution of the United States.

I invite you to discuss this issue with me further and urge you to support this legislation.

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sectional Analysis

Section 1: Repeals Article 1, sec. 25, of the Constitution of the State of Alaska

Section 2: Directs that the proposed amendment to the Constitution of the State of Alaska be presented to the voters at the next general election



HRC Blog

Marriage Equality Arrives in Alaska

October 12, 2014 by [Stephen Peters](#)

Today, U.S. District Court Judge Timothy Burgess ruled Alaska's same-sex marriage ban is unconstitutional, making Alaska the latest state to see such a ban struck down in court since the U.S. Supreme Court handed down its historic marriage rulings last June. In *Hamby v. Parnell*, five couples sued the state arguing that Alaska's ban on marriage equality violates the U.S. Constitution. In his ruling, Judge Burgess wrote, "The court finds that Alaska's ban on same-sex marriage and refusal to recognize same sex marriages lawfully entered in other states is unconstitutional as a deprivation of basic due process and equal protection principles under the Fourteenth Amendment of the U.S. Constitution." With today's ruling, 30 states plus the District of Columbia now guarantee marriage equality for same-sex couples. In 1998, Alaska's constitutional amendment was the first state constitutional ban in the nation prohibiting same-sex couples from marrying.

"According to today's federal court ruling in Alaska and numerous others over the last year, there is no justifiable reason to keep these discriminatory marriage bans on the books," said Human Rights Campaign (HRC) Legal Director Sarah Warbelow. "The truth is, laws prohibiting same-sex couples from marrying serve no purpose other than to harm Americans who simply want to protect and provide for themselves and their families. Ultimately, the U.S. Constitution does not allow states to continue discriminating against committed and loving gay and lesbian couples."

Barring an unexpected stay from either the Ninth Circuit Court of Appeals or the Supreme Court of the United States, same-sex couples in Alaska can apply for marriage licenses when the clerk's offices open.

Last Tuesday, a three-judge panel for the Ninth Circuit Court of Appeals ruled that state bans barring marriage for same-sex couples are unconstitutional. In a decision authored by Judge Reinhardt, who was joined by Judge Gould and Judge Berzon, the court found that Idaho and Nevada's marriage bans violated the 14th Amendment to the U.S. Constitution on the basis of equal protection.

Last Monday, the nine justices of the Supreme Court announced they had declined to hear any of the cases pending before them challenging state bans on marriage for same-sex couples. This allowed the circuit court decisions striking down the bans to stand.

With Alaska, same-sex couples will now be able to legally marry in 30 states and the District of Columbia: California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Maine,

Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

The decisions of the past week will likely soon have implications for the remaining states in the Ninth, Fourth and Tenth circuits: Arizona, Kansas, Montana, South Carolina, and Wyoming.

Gallup puts support for marriage equality at 55 percent – an astonishing 15 point increase from just 5 years ago – with [other polls](#) showing support at even higher margins. And support for same-sex marriage rights continues to grow in virtually every demographic group. According to ABC News / Washington Post, [77 percent of adults under age 30](#) favor marriage equality. 40 percent of Republicans – an all-time high and jump of 16 points in under two years – now support marriage for gay and lesbian couples, while the number of Catholics supporting marriage has grown to 62 percent, [according to the New York Times](#). These numbers continue to grow, with no indication that support will slow down.

Alaska Dispatch News

Published on *Alaska Dispatch News* (<http://www.adn.com>)

[Home](#) > U.S. Supreme Court rules Alaska same-sex marriages can go forward; state vows to keep appealing

[Suzanna Caldwell](#) ^[1]

October 17, 2014

The U.S. Supreme Court denied Alaska's request for an emergency stay Friday morning, allowing same-sex marriages to resume in the state.

The one-line response came at 11:01 a.m., just one minute after a stay from the 9th U.S. Circuit Court of Appeals dissolved as scheduled.

The order allows marriages to proceed. However, with state offices closed in observance of Alaska Day, it was impossible for couples to apply for a marriage license or pick up licenses that had been issued earlier in the week. Marriages are set to resume Monday.

The state vowed to continue its appeals.

"In 1998, Alaska voters passed a constitutional amendment defining marriage as being between one man and one woman. When they did that, it became part of the Alaska Constitution, which Gov. Parnell has sworn to uphold," spokeswoman Sharon Leighow wrote in an email. "Today's denial of the stay doesn't change that and the State will continue with this appeal to the 9th Circuit. The State will comply with the earlier court rulings and resume issuing marriage licenses on Monday. The State will be filing its request for en banc review next week."

Alaska is the last state in the 9th Circuit to continue appealing rulings, according to American Civil Liberties Union of Alaska executive director Joshua Decker. Nevada and Idaho dropped their appeals earlier in the week, [as did Arizona on Friday](#) ^[2] immediately after U.S. District Court Judge John Sedwick struck down that state's ban. [Wyoming Gov. Matt Mead also said Friday](#) ^[3] that despite his personal conviction, Wyoming will not appeal a judge's ruling against the state's same-sex marriage ban.

"I'm surprised Parnell has not chosen to listen to the wisdom of fellow governors, all of whom may disagree with the court's decision but have said 'the courts have spoken, this is what the law is,'" Decker said.

The Friday rulings marked the latest in a week of complicated legal back-and-forth following U.S. District Court Judge Timothy Burgess' [ruling Sunday overturning Alaska's same-sex marriage ban](#). ^[4]

Alaska same-sex couples [began applying for marriage licenses Monday](#) ^[5], while the state quickly filed notice to appeal with the 9th Circuit Court and requested a stay from Burgess at the U.S. District Court level.

On [Tuesday, Burgess denied the stay](#) ^[6], forcing the state to request an emergency stay from the 9th Circuit. [That court granted the stay Wednesday evening](#) ^[7], halting marriages a day before the first licenses would have been issued Thursday morning.

The stay allowed [Alaska to seek an additional stay from the U.S. Supreme Court](#) [8]. The state Department of Law filed the emergency request Thursday morning with U.S. Supreme Court Justice Anthony Kennedy, who has jurisdiction over Western states. Kennedy referred the issue to the full court, [which rejected the stay without comment.](#) [9]

Attorney Caitlin Shortell, one of three attorneys representing plaintiffs in Hamby v. Parnell, the case challenging Alaska's same-sex marriage ban, said while the waiting was tough, she was not surprised by the Supreme Court's decision.

"I'm on many levels totally overjoyed that it is really going forward now," Shortell said. "Equal marriage can't be stopped."

Fellow attorney Allison Mendel expressed relief in the decision. Since plaintiffs prevailed, Mendel said, attorneys would now make a motion to ask for attorney fees from the state.

Mendel said there's "not a lot of hope" the state will prevail in overturning the ruling, especially as other states and circuit courts overturn similar bans in other states. While the state has argued that a potential ruling from the U.S. Supreme Court could possibly uphold bans across the nation, Mendel doesn't think that's likely.

"People are getting married everywhere, which is going to make it hard for them to run the clock backward, no matter what," Mendel said. "But right now we're just happy and relieved and happy."

Loren Leman, former Alaska lieutenant governor and former state senator, expressed dismay at the court decision.

"It was like a kick in the gut," he said of Burgess' Sunday ruling overturning the ban.

Read more: A short history of same-sex marriage in Alaska [10]

Leman was one of the lead sponsors of [Senate Joint Resolution 42](#) [11], the first step Alaska took in implementing the constitutional amendment defining marriage as between one man and one woman. More than two-thirds majorities in the state Senate and the House approved the resolution before it went to Alaskans in a referendum, which was approved by 68 percent of voters.

In the almost 16 years since, Leman has fought consistently for the marriage amendment. He had hoped that more of a national conversation about marriage would begin before the courts overturned bans.

"Of course there has been the push in the courts, but there really hasn't been a substantive conversation about the value of marriage, why we have it and why we define it the way it is," Leman said. "When we take all that together, (Burgess') decision was disappointing."

Leman acknowledged that the crux of many states' arguments in trying to uphold same-sex marriage bans has been that the bans were enacted by voters. Courts have rejected that on numerous occasions.

Leman contended you could apply the same reasoning to numerous issues, including changing the minimum voting or drinking age.

"We, as a society, establish certain boundaries for how we live, who we are," Leman said, "and some people will call that discrimination. I just call it establishing rules about how we operate as a

society.”

Decker of the ACLU offered a different perspective. He disagreed that the conversation about marriage has been moving too slowly, since the ACLU brought its first marriage equality lawsuit in 1970.

“I think if you ask any Alaskan or American whose rights are being denied, whether marriage or any other equal rights, they would say it’s been too long,” Decker said. “A day being discriminated against is a day too long.”

For Stephanie Pearson and Courtney Lamb, two plaintiffs in the Hamby v. Parnell case, and the only one of the five couples challenging the lawsuit who had not been married in another jurisdiction, the decision was long in coming.

“It was the decision we were waiting for,” Pearson said in a Facebook message. “The past two days have seemed like an eternity.”

Pearson and Lamb will be picking up their marriage license Monday morning with plans to marry as soon as they have the license in hand. Pearson said she hopes Parnell will “stand down” from challenging the lawsuit.

“This is a fight that love is going to win!” Pearson said.

Source URL: <http://www.adn.com/article/20141017/us-supreme-court-rules-alaska-same-sex-marriages-can-go-forward-state-vows-keep-0>

Links:

- [1] <http://www.adn.com/author/suzanna-caldwell>
- [2] <http://www.azcentral.com/story/news/arizona/politics/2014/10/17/arizona-gay-marriage-ruling/17431229/>
- [3] <http://www.therepublic.com/view/story/58dead33c74c47d4b89dab35a3782e1a/WY-Gay-Marriage-Wyoming>
- [4] <http://www.adn.com/article/20141012/state-vows-appeal-after-alaskas-same-sex-marriage-ban-struck-down>
- [5] <http://www.adn.com/article/20141013/appeals-pending-alaska-same-sex-couples-head-down-road-legal-marriages>
- [6] <http://www.adn.com/article/20141014/judge-denies-stay-rejection-alaskas-same-sex-marriage-ban>
- [7] <http://www.adn.com/article/20141015/court-decision-halts-same-sex-marriages-alaska-seeks-higher-court-decision>
- [8] <http://www.adn.com/article/20141016/alaska-appeals-us-supreme-court-seeking-stay-case-overturning-alaskas-same-sex>
- [9] <http://www.adn.com/sites/default/files/10-17%20SCOTUS%20order.pdf>
- [10] <http://www.adn.com/article/20141017/short-history-same-sex-marriage-alaska>
- [11] <http://www.legis.state.ak.us/PDF/20/Bills/SJR042A.PDF>