

**HJR**

**1**

<TARGET><BILL>HJR 1</BILL><SUBJECT>HJR  
1</SUBJECT><COMM>HSTA30</COMM></TARGET>

# ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

## Sponsor Statement

### **House Joint Resolution 1:** *Proposing an amendment to the State Constitution relating to marriage.*

HJR 1 proposes that an amendment to the State Constitution be placed on the ballot of the next general election, to remove Article 1 section 25, which states “To be valid or recognized in this State, a marriage may exist only between one man and one woman.” HJR 1 would allow the people of Alaska to reconsider this section of our Constitution which both federal courts have ruled to be unenforceable.

In 2014, a year before same-sex marriage was nationally legitimized, our federal district courts ruled that Alaska’s ban on same-sex marriage is “unconstitutional as a deprivation of basic due process and equal protection principles under the Fourteenth Amendment of the U.S. Constitution.” The district court also stated that “...no state interest provides ‘exceedingly persuasive justification’ for the significant infringement of rights that they (Alaska’s same-sex marriage laws) inflict upon homosexual individuals.” (Hamby v. Parnell).

In the historic 2015 Supreme Court case of Obergefell v. Hodges, state-level bans on same-sex marriage were similarly declared unconstitutional and in violation of equal protection and due process.

As our federal courts revise and reinterpret the rule of law, the legislature must also review and revise existing statute to better reflect the ever-changing landscape of our country and the state of Alaska. In 2014, public opinion shifted in support of legalized gay marriage, and a recent poll reflects that the number of Alaskans who support this has only continued to grow. HJR 1 permits the people of Alaska to reconsider an overruled portion of our constitution, and to determine for themselves whether to change it.

I urge you to consider this legislation which could potentially realign our constitution with present day rule of law. Contact Megan Holland with questions at 465-4939.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HJR 1  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HJR1-LEG-SESS-02-26-18  
Title: CONST. AM: REPEAL MARRIAGE SECTION  
Sponsor: JOSEPHSON  
Requester: HOUSE STATE AFFAIRS

Department:  
Appropriation:  
Allocation:  
OMB Component Number: 0

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates				
			FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

N/A INITIAL VERSION. ONE PAGE. ZERO NOTE.

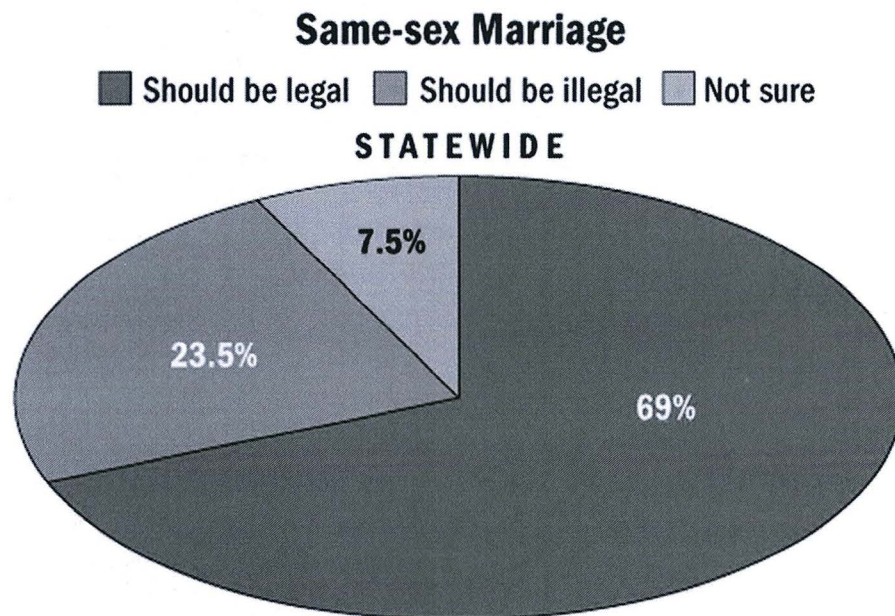
Prepared By: <u>SANTE LESH, BUDGET ANALYST</u>	Phone: <u>(907)465-4824</u>
Division: <u>LEGISLATIVE AFFAIRS AGENCY</u>	Date: <u>02/26/2018 01:06 PM</u>
Approved By: <u>JESSICA GEARY, EXECUTIVE DIRECTOR</u>	Date: <u>02/26/2018</u>
Agency: <u>LEGISLATIVE AFFAIRS AGENCY</u>	

# Alaska Dispatch News poll: Same-sex marriage

- Author: Alaska Dispatch News
- Updated: December 2, 2017
- Published January 20, 2017

*Editor's note: Daily through Jan. 25, ADN will publish poll results showing how Alaskans feel about topics ranging from the Affordable Care Act and President-elect Donald Trump's transition to crime and the opioid crisis.*

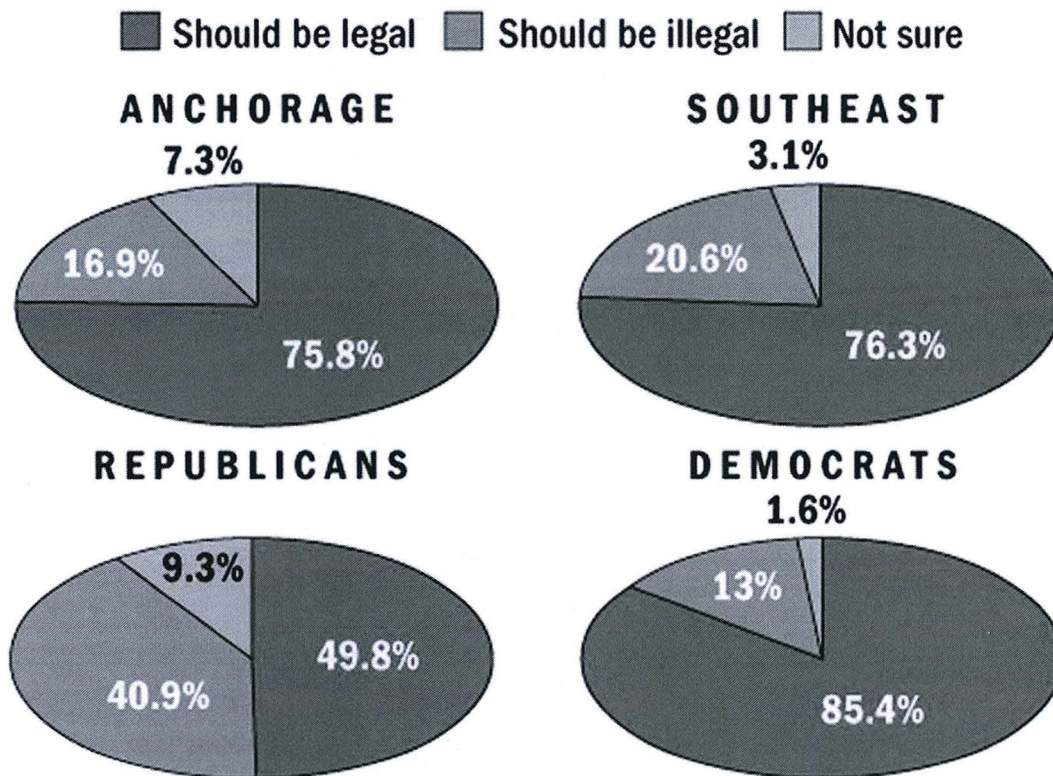
Alaska appears to be far less socially conservative than some might think. On one of the signature social conservative issues — same-sex marriage — Alaskans are strongly supportive, according to a public opinion poll conducted among 750 people last month for Alaska Dispatch News by Ivan Moore's Alaska Survey Research.



*Source: Ivan Moore's Alaska Survey Research, December 2016. (Pamela Dunlap-Shohl / Alaska Dispatch News)*

Statewide, 69 percent of respondents say it should be legal for same-sex couples to wed, while 23.5 percent are opposed. In Anchorage — where the Assembly has passed a law guaranteeing some rights for the lesbian, gay, bisexual and transsexual communities, and where opponents are proposing a ballot measure to weaken the law — support for same-sex marriage is even higher than the state at large: 75.8 percent say same-sex marriage should be legal. In every other area of the Alaska, a majority supports same-sex marriage, with Southeast holding an even bigger margin than Anchorage at 76.3 percent.

### Same-sex Marriage



Source:

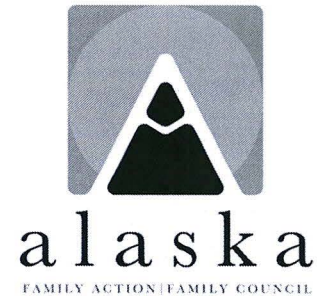
*Ivan Moore's Alaska Survey Research, December 2016. (Pamela Dunlap-Shohl / Alaska Dispatch News)*

Support dips among Republicans, but even at 49.8 percent, Republicans who believe same-sex marriage should be legal outnumber the 40.9 percent of those who would make it illegal.

See the full set of questions and cross tabs for this survey question [here](#). The poll was conducted as part of the quarterly Alaska Survey.

February 27, 2018

Representative Jonathan Kreiss-Tomkins  
Chairman, House State Affairs Committee  
State Capitol – Room 411  
Juneau, Alaska 99801



**Re: Opposition to HJR 1**

Dear Rep. Kreiss-Tomkins:

We are writing to express our opposition to House Joint Resolution 1, which proposes an amendment to the Constitution of the State of Alaska relating to marriage.

HJR 1 proposes to repeal Article I, Section 25 of the state constitution, which provides:

“To be valid or recognized in this State, a marriage may exist only between one man and one woman.”

We oppose HJR 1 as a matter of principle, but also for the practical reason that it seeks to place a question before voters that is futile. It offers no genuine debate between competing policy options, because the outcome is a preordained conclusion.

If HJR 1 were placed on the ballot and a majority of voters approved it, same-sex marriage would be permitted in Alaska. Yet if a majority of voters *rejected* HJR 1, same-sex marriage would *still* be legal in Alaska – due to the U.S. Supreme Court’s decision in *Obergefell v. Hodges* (2015). We are at a loss to understand why any legislator would want to spark a bitter public debate and consume valuable state resources to hold an election on a policy question that is, regrettably, a moot point.

By way of background, Alaska in 1998 became the first state in the nation to pass a constitutional amendment that specifically defines marriage as the union of one man and one woman, thereby precluding other unions, such as polygamy or same-sex relationships, from being recognized or defined as “marriage” under state law.

Alaska’s marriage amendment was approved by 68 percent of voters. Voters in 30 other states have approved similar amendments to their respective state constitutions.

**Alaska Family Action  
Testimony Re: HJR 1  
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The *Obergefell v. Hodges* decision imposed a court-invented right to same-sex marriage on Alaska and all other states in the nation. Alaska Family Action agrees with the dissenting opinion of Chief Justice John Roberts when he wrote:

“This universal definition of marriage as the union of a man and a woman is no historical coincidence. Marriage did not come about as a result of a political movement, discovery, disease, war, religious doctrine, or any other moving force of world history – and certainly not as a result of a prehistoric decision to exclude gays and lesbians. It arose in the nature of things to meet a vital need: ensuring that children are conceived by a mother and father committed to raising them in the stable conditions of a lifelong relationship.”

Marriage between a man and a woman is the fundamental building block of society and culture. It deserves its status as a privileged institution in public policy because of the unique benefits it confers on civilization. Notwithstanding the decision of five unelected and unaccountable justices on the Supreme Court, the marriage clause in Alaska’s constitution is an important articulation of social policy based on truth, and the will of the people.

Alaska Family Action believes the appropriate response to the *Obergefell* decision is principled resistance, not acquiescence. The project of redefining marriage for everyone, by transforming it into a “genderless” institution, will not end well. Once gender differences are discarded – as if they were meaningless for defining the substance of marriage – there will no longer be any rational basis under the law for limiting the marriage union to only “two” persons, as opposed to polygamous relationships of three, four, five or more persons. When marriage is redefined to mean *anything*, it will soon come to mean *nothing*.

A future court may one day overturn *Obergefell*, at which point a genuine debate about the merits of legislation such as HJR 1 will be possible – because Alaskans will have won back their constitutional authority to decide such matters for themselves. Until such time, the Legislature would be wise to shelve HJR 1 and similar proposals.

Sincerely,



Jim Minnery, President  
Alaska Family Action

Dear Legislators,

I am a resident and voter in Homer who stands in strong **opposition** to the Constitutional amendment to **repeal** marriage defined between one man and one woman.

Our state and nation is founded as a Constitutional Republic based upon the Rule of Law, NOT a democracy shifted to and fro by mob rule. Sending an amendment of our state Constitution to voters based upon societal pressures by people who represent less than 3% of our population is treading on a slippery slope.

I asked my teenage daughter what she thought about amending the Constitution regarding marriage. Her reply: "we shouldn't change it because things are confusing enough as it is."

Our children and society are looking for stability. The Constitution based upon the Rule of Law gives stability and guidance that is sure. When people feel secure and stable; they are at peace.

As lawmakers; I encourage you to promote peace and stability through your legislation by adhering to the established Rule of Law in our wise national and state Constitutions.

Respectfully,  
Sarah Vance