

HB

20

<TARGET><BILL>HB 20</BILL><SUBJECT>HB
20</SUBJECT><COMM>SJUD30</COMM></TARGET>



Alaska State Legislature

Representative Matt Claman

Session: State Capitol, Rm 118 Juneau, AK 99801 Phone: 465-4919
Interim: 1500 W. Benson Blvd., Anch, AK 99503 Phone: 269-0130

Sponsor Statement House Bill 20

House Bill 20 expands the number of people eligible to solemnize (i.e. commemorate or memorialize) a marriage. Currently, religious leaders, judicial officers of the state, and individuals who have become "marriage commissioners" have the authority to marry individuals in Alaska. This group specifically includes:

- Ministers;
- Priests;
- Rabbis;
- Commissioned officers of the Salvation Army;
- Principal officers or elders of recognized churches or congregations that traditionally do not have regular ministers, priests, or rabbis;
- Marriage commissioners; and
- Judicial officers of the state.

House Bill 20 adds language to include elected officials, appointed or elected, to the group of individuals with the authority to solemnize a marriage. Currently, anyone can perform a marriage ceremony as long as they first obtain a marriage commissioner appointment from the Alaska Court System, which can be time consuming and includes providing the court with personal information and paying \$25.

This bill expands the individuals with authority to perform marriage ceremonies to include officials who hold public office and have sworn to uphold the constitution and the law. The bill has real practical advantages, particularly in rural communities. For example, if a couple in a remote Alaskan village are set to be married on a date and the minister becomes ill, the local mayor or assembly person could perform the marriage on short notice. In addition, couples who may not be affiliated with a particular religious organization would be able to have an elected official perform their wedding without having to go through the time-consuming of arranging for a marriage commissioner appointment for another person.

Finally, the bill reduces the cost of operating the court system by allowing elected officials to perform some of the work currently performed by judges and magistrates.



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House Bill 20

“An Act relating to marriage solemnization; and authorizing public officials in the state to solemnize marriages.”

Sectional Summary

Section 1 amends AS 25.05.261(a) relating to who may solemnize a marriage. Currently the statute only allows for marriage solemnization by

- A religious official, which includes ministers, priests, rabbis, or commissioned officers of the Salvation Army, or by the principal officer or elder of recognized churches or congregations,
- a marriage commissioner or judicial officer,
- or before or in any religious organization or congregation

House Bill 20 adds language to add to the list *“an individual holding an elective public office in the state.”*

Section 2 adds a new subsection to AS 25.05.261 that says that no religious official, organization or elected official that is authorized to perform marriages is *obligated* to do so.

AS 25.05.281, which allows marriages solemnized by unauthorized persons professing to be authorized to be considered valid is amended in **Section 3** to include language that reads that marriages solemnized by elective officials are considered valid.



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CS for House Bill 20 (JUD): Explanation of Changes Version D to Version O

In House State Affairs HB 20 version A was amended, inserting “; *nothing in this paragraph requires or obligates an individual holding an elective public office in the state to solemnize marriage*” into the language. This change made clear that elected officials would not have a duty to perform marriage solemnization.

In House Judiciary CS(STA)HB20 version D was amended to update the language “*nothing in this paragraph requires or obligates an individual holding an elective public office in the state to solemnize marriage*” to now read “*nothing in this section creates or implies a duty or obligation on a person authorized to solemnize a marriage under (a)(1), (3), or (4) of this section to solemnize any marriage.*” This language expands the language providing that elected officials aren’t obligated to solemnize marriage to also cover religious officials and religious organizations or congregations.

February 16, 2017

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



Re: Opposition to HB 20, relating to marriage solemnization

Dear Representative Kreiss-Tomkins:

We are writing to express our opposition to House Bill 20:

“An Act relating to marriage solemnization; and authorizing elected public officials in the state to solemnize marriages.”

HB 20 proposes to add elected officials to the list of persons who are authorized under law to solemnize marriages. Currently, those authorized to solemnize marriages include religious leaders (ministers, priests, rabbis), judicial officers, and marriage commissioners.

Alaska Family Council is concerned that the “authority” to solemnize a marriage can, especially with respect to public officials, be easily construed as a “duty” to solemnize a marriage.

Religious leaders can and do refuse to solemnize marriages for any number of reasons. For example, they can decline if the persons seeking marriage do not comply with the marriage requirements of a particular religion, or church. The First Amendment of the U.S. Constitution, as well as Article I, Section 4 of the Alaska State Constitution, would presumably protect the right of religious leaders to decline to solemnize a marriage for reasons that are purely sectarian.

Unfortunately, recent legal and political developments make it less clear that public officials enjoy the same freedom to refuse marriage solemnization for reasons of individual conscience or religious belief.

In Wyoming, the case of Judge Ruth Neely has drawn national attention. The following is a statement from the attorneys representing Judge Neely, that sums up the relevant facts of her case. This statement is accessible on the website for Alliance Defending Freedom:

<https://www.adflegal.org/detailspages/case-details/an-inquiry-concerning-the-honorable-ruth-neely>

“Judge Neely has served as the municipal judge in Pinedale, Wyoming, for over 21 years. In that position, she hears cases that involve traffic and parking violations, animal-control issues, and miscellaneous criminal misdemeanors like public intoxication and shoplifting.

Judge Neely has no authority to solemnize marriages as a municipal judge.

“Judge Neely has also served as a part-time circuit court magistrate for approximately 14 years. In that capacity, she has the authority to do things like administer oaths, issue subpoenas, conduct bond hearings, issue warrants, and solemnize marriages. Although Judge Neely ‘*may perform the ceremony of marriage*’ as a magistrate, she has *no legal obligation or duty* to do so.

“In December 2014, a reporter in Pinedale who suspected that Judge Neely’s religious beliefs prevented her from serving as a celebrant for same-sex marriages asked her whether she was ‘excited’ to perform same-sex weddings. In response, Judge Neely stated that she believes that marriage is the union of one man and one woman, and therefore, she would be unable to perform same-sex weddings. A few days later, an article appeared in the *Sublette Examiner* quoting Judge Neely as saying that, because of her religious beliefs, she would ‘not be able to do’ same-sex marriages and that she had not ‘been asked to perform’ one. [emphasis added]

“In March 2015, the Wyoming Commission on Judicial Conduct and Ethics filed a complaint against her, alleging judicial misconduct and seeking her removal from both judicial positions. The commission claimed that by merely communicating her religious beliefs about marriage and her inability to serve as a celebrant for same-sex marriages, Judge Neely failed to follow the law and manifested bias and prejudice.

“The commission brought these charges even though Judge Neely has never been asked to solemnize a same-sex marriage, no law requires magistrates to serve as a celebrant for any marriage, magistrates may decline to perform weddings for a host of secular reasons, and Judge Neely has an unblemished record of integrity, impartiality, and scrupulous compliance with the law in her more than 21 years of judicial service.

“In February 2016, the commission filed with the Wyoming Supreme Court a recommendation that Judge Neely be removed from office. The commission recommended that Judge Neely be removed not only from her position as a part-time circuit court magistrate, the position in which she may but need not perform weddings, but also from serving as a municipal judge, a job in which she is not even permitted to solemnize marriages.

“In April 2016, Judge Neely filed a petition with the Wyoming Supreme Court objecting to the commission’s recommendation. She also filed a brief explaining that it would violate the United States and Wyoming Constitutions to remove her from office for stating her religious beliefs about marriage.”

The case in Wyoming has yet to be resolved. But it underscores our concern with HB 20, that when a public official is vested with the “authority” to solemnize marriages, this can be easily be construed as a “duty” to perform marriages – or at least limit their reasons for declining to do so.

As a practical matter, HB 20 seems unnecessary because any elected official can already apply for the temporary authority to solemnize a marriage by seeking a one-day marriage commissioner appointment. The process for seeking such an appointment is explained on the Alaska Court System website at the following link:

<http://courts.alaska.gov/trialcourts/trialcts.htm#comm>

Alaska Family Council believes that HB 20 is unnecessary, and potentially could lead to situations in which elected officials suffer punitive consequences merely for declining to solemnize marriages for reasons of personal conviction or religious belief.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Minnery". The signature is written in a cursive style with a horizontal line underneath the name.

Jim Minnery
President, Alaska Family Council



February 15, 2018

Representative Gabrielle LeDoux
State Capitol – Room 216
Juneau, AK 99801-1182

Re: House floor vote – HB 20

Dear Representative LeDoux:

We expect the following bill will soon be brought to the House floor for consideration:

CS for HB 20 (JUD) – “An Act relating to marriage solemnization; and authorizing elected officials in the state to solemnize marriages.”

Alaska Family Action supports the Judiciary CS for HB 20. Although we earlier expressed opposition to HB 20, as introduced, our misgivings were largely resolved as a result of an amendment adopted by the Judiciary Committee. We appreciate the amendment maker, Rep. Chuck Kopp, and the bill sponsor, Rep. Matt Claman, for accommodating our concerns.

The Judiciary CS for HB 20, while authorizing elected officials to solemnize marriages, makes it clear that nothing in the bill **“creates or implies a duty or obligation”** for any elected official to solemnize any marriage. In addition, CSHB 20 (JUD) extends this provision to ministers, priests, and religious groups – clarifying they are under no duty or obligation to solemnize any marriage.

Our initial concern was that the added “authority” for elected officials to solemnize marriages might too easily be construed as a “duty” to solemnize marriages. We believe that the law should protect the right of elected officials to refuse to solemnize any marriage, and the Judiciary CS for HB 20 achieves this goal.

For the record, we believe entities in the private sector, especially small businesses, should enjoy the same freedom that is allowed elected officials under this bill. They should be under no “duty or obligation” to solemnize, celebrate, or participate in any marriage, especially when doing so would violate a sincerely held religious belief. However, we also recognize that extending such protections is beyond the narrow scope of this particular bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Minnery", with a horizontal line underneath the name.

Jim Minnery, President
Alaska Family Action



ALASKANS TOGETHER
FOR EQUALITY

February 15, 2017

Honorable Representative Matt Claman
State Capitol Room 118
Juneau, Alaska 99801

Dear Representative Claman,

Alaskans Together For Equality (ATE) supports House Bill 20 as written: "An act relating to marriage solemnization; and authorizing elected public officials in the state to solemnize marriages."

ATE represents thousands of members across the state of Alaska. We are a statewide, nonpartisan, civil rights organization whose mission is to advance civil equality for all Alaskans through education, grassroots organizing and advocacy, with a primary focus on lesbian, gay, bisexual, and transgender Alaskans. ATE believes a solid foundation of equal civil rights across institutions and practices enables all Alaskans to maximize economic opportunities, create healthy lives and build resilient communities – making for a stronger Alaska.

HB20 empowers elected public officials in both urban and rural areas to perform marriages for all eligible couples. Many areas in Alaska are remote. The inclusion of elected public officials in marriage solemnization eases the burden on communities in identifying the proper officials and scheduling marriage ceremonies.

Thank you for addressing this important issue.

Sincerely,

Elias Rojas
Board President

Billy Farrell
Executive Director

CC: ATE Board Members



10111 East Eagle River Loop Road
Eagle River, Alaska 99577

February 16, 2017

Representative Jonathan Kreiss-Tomkins
Chair, State Affairs Committee

Dear Rep Kreiss-Tomkins:

I write in support of HB 20 regarding the solemnization of marriage that is being sponsored by Rep. Matt Claman.

In my opinion, I think this would allow a wider access to formal marriage ceremonies, particularly in smaller communities where officials and clergy that are already granted this privilege, may not be available.

Thank you,

The Rev. Dr. Martin W. Eldred

-----Original Message-----

From: Alaska Tom [<mailto:alaskatom66@hotmail.com>]
Sent: Saturday, February 18, 2017 4:10 PM
To: House State Affairs <HouseState.Affairs@akleg.gov>
Subject: Support For House Bill 20

I am encouraging you to support the passing of HB20. Since an elected official ALREADY occupies a position of trust, there is NO valid reason why they should not solemnize a wedding. I personally applied for marriage commissioner status to solemnize a wedding ceremony for a friend 17 years ago. If I can do so, why should not an elected official do so without further paperwork?

Please support the passing of House Bill 20.

Thomas U Rachal Jr

Alaskan By Choice Since 1970

-----Original Message-----

From: Fred Traber [<mailto:fredtraber@gmail.com>]
Sent: Friday, February 17, 2017 4:43 PM
To: House State Affairs <HouseState.Affairs@akleg.gov>
Subject: HB 20 Solemnize Marriage: Elected Officials Bill - Please Support

I support HB20. It is so important for Alaskans to have the option of having a public official solemnize their marriage.

Thank you.

Fred Traber
Anchorage, AK 99501

-----Original Message-----

From: Gayle & Julie [<mailto:dreamchasers25@gci.net>]

Sent: Friday, February 17, 2017 6:07 PM

To: House State Affairs <HouseState.Affairs@akleg.gov>

Subject: HB 20 Solemnize Marriage: Elected Officials Bill - Please Support

This bill makes sense and provides a streamlined process to add people who are authorized to preform marriage ceremonies if they so choose. Please advance and pass HB 20.

Gayle Schuh
18631 Gibens Cir.
Eagle River, AK 99577

-----Original Message-----

From: Cindy Lelake [<mailto:lelakecindy60@gmail.com>]

Sent: Saturday, February 18, 2017 7:51 AM

To: House State Affairs <HouseState.Affairs@akleg.gov>

Subject: HB 20 Solemnize Marriage: Elected Officials Bill - Please Support

Good morning!

I urge you to support HB 20. Allowing elected officials the optional right to perform weddings would greatly benefit rural Alaskans and those who have no particular religious affiliation.

Thanks for your time!

Cindy Lelake
Anchorage

Sent from my iPad

-----Original Message-----

From: joanie ak [<mailto:joanieak@gmail.com>]

Sent: Saturday, February 18, 2017 10:12 AM

To: House State Affairs <HouseState.Affairs@akleg.gov>

Subject: HB 20 Solemnize Marriage: Elected Officials Bill - Please Support

I support this bill!!!
Thanks Matt Claman!!!
Sincerely,
Joanie Fogel zip code :99502

-----Original Message-----

From: Kylie Clark [<mailto:kylie.alvamarie@gmail.com>]

Sent: Saturday, February 18, 2017 10:46 AM

To: House State Affairs <HouseState.Affairs@akleg.gov>

Subject: Support for HB20

As a member of the Anchorage community, I would like to express my support for HB 20. Particularly for smaller communities across the state, extending the services provided to constituents by our elected officials to providing marriage solemnization is a simple and cost effective service. Please support HB 20.

Thank you for your time and consideration on this matter.

Sincerely,

Kylie Clark
Registered voter in Alaska

-----Original Message-----

From: Marian Call [<mailto:emilycbutler@mac.com>]

Sent: Saturday, February 18, 2017 10:56 AM

To: House State Affairs <HouseState.Affairs@akleg.gov>

Subject: HB 20 Solemnize Marriage: Elected Officials Bill - Please Support

Please support HB20.

As a non-religious person, I would like to be able to have the same liberty as people of faith, to have a local trusted official preside over my wedding (someone not associated with a church).

Non-religious Alaskans have to go through the fee and registration process to be married since there is not a simple free secular option.

Thank you.

Emily Butler
174 S Franklin St
Juneau, AK