

Jay BRAUSE and Gene Dugan, Plaintiffs,
v.
BUREAU OF VITAL STATISTICS,
Alaska Department of Health & Social Services, and
the Alaska Court System, Defendants
No. 3AN-95-6562 CI
Superior Court of Alaska
Feb. 27, 1998
MEMORANDUM AND ORDER
MICHALSKI, Superior J.

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

The plaintiffs' present motion for summary judgment seeks a decision that the Code's prohibition implicates the privacy and equal protection provisions of the Alaska Constitution, thus requiring a showing of a compelling state interest to withstand plaintiffs' claim that the Code's ban on same-sex marriage is unconstitutional.

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

STATEMENT OF FACTS

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

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

DISCUSSION

The current provision of the Alaska Marriage Code, A.S. 25.05.011(a), states: “Marriage is a civil contract entered into by one man and one woman that requires both a license and a solemnization.” A.S. 25.05.013 adds:

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

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

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

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

Before addressing the privacy and equal protection claims presented, it is useful to first review the basic role of the state in marriage.

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

day waiting period and is good for three months thereafter. A.S. 25.05.091; A.S. 25.05.121.

This description of the state's role in marriage focuses on the establishment of the marriage itself and is not inclusive, nor is it intended to be, of the many rights and consequences established by the state on behalf of those who are married. Once married, the state provides benefits and imposes duties that are significant and valuable to society as well as to the individual members of the marriage. For a list of statutory benefits of marriage, see the appendix to plaintiffs' reply brief identified as "[Revised Exhibit 4](#)." Further evidence of the importance of marriage and the issuance of marriage licenses is found in A.S. 25.05.331 which makes it a misdemeanor to willfully and wrongfully refuse to issue a license.

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

A. Right to Privacy

Alaska amended its Constitution in 1972 to explicitly guarantee the right to privacy. Article I, Section 22 reads in part: "The right of the people to privacy is recognized and shall not be infringed." Brause and Dugan contend that, insofar as the above cited statutes prevent same-sex marriage, they violate Alaska's guarantee of the right to privacy.

Brause and Dugan cite two primary cases for their argument that a prohibition of same-sex marriage implicates an Alaskan's constitutional right to privacy. In *Breese v. Smith*, 501 P.2d 159 (Alaska 1972), the Alaska Supreme Court invalidated a high school hair length limitation and stated that the core of the concept of liberty is the right to control one's personal appearance or, more broadly, the right to be let alone. 501 P.2d at 166-67. Because the hair length requirement implicated such an important right, the Supreme Court required the school to show a compelling interest for its existence. When the school was unable to do so, the limitation was struck down. Secondly, Brause and Dugan cite *Ravin v. State*, 537 P.2d 494 (Alaska 1974). The court in *Ravin* recognized a fundamental right to privacy in one's home and declared unconstitutional a state statute that prohibited marijuana possession by an adult for personal use in the home.

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

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

Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), demonstrates how government regulation can intrude improperly into the personal zone of intimacy protected by privacy. There the Supreme Court found that the state's prohibition of the distribution of information regarding contraceptives interfered with the right of marital partners to make intimate personal decisions about conceiving children and practicing birth control. The Court struck down the law for being an impermissible encroachment on the right to privacy. However, in Alaska, the history of the cases interpreting the right to privacy demonstrate that very public conduct may also be protected by the right to privacy, and that the right to privacy reaches beyond simple protection from government intrusion into one's intimate affairs.

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

At stake here is whether same-sex marriage can be denied by the state without violating fundamental rights, including the fundamental right to privacy. It is undisputed that marriage between persons of opposite gender is a fundamental right. *See, e.g., Griswold; Loving v. Virginia*, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967). The question presented by this case is whether the personal decision by those who choose a mate of the same gender will be recognized as the same fundamental right. Clearly, the right to choose one's life partner is quintessentially the kind of decision which our culture recognizes as personal and important. Though the choice of a partner is not left to the individual in some cultures, in ours it is no one else's to make. Indeed, the marriage license and the marriage ceremony themselves make clear that this must be a choice freely made by the individual. Certainly the choice of a life partner is as important and personal as the choices involved in determining one's personal appearance.

When the Supreme Court of Hawaii in *Baehr v. Lewin*, 74 Haw. 530, 852 P.2d 44 (Hawaii 1993), addressed same-sex marriage, it noted that:

[W]e do not believe that a right to same sex marriage is so rooted in the traditions and collective conscience of our people that failure to recognize it would violate the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions ... 852 P.2d at 57.

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

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

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

B. Equal Protection

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

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

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

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

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

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

subjected to more rigorous scrutiny at a more elevated position on our sliding scale.

[Citations omitted].

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

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

There is no dispute that the right to marry is recognized as fundamental. Today the court has recognized that the personal choice of a life partner is fundamental and that such a choice may include persons of the same sex. When the United States Supreme Court first characterized the right to marry as fundamental in *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942), it linked the right to marry to the right to procreate, being faced, as it was, with a case involving the sterilization of prisoners. Similarly, in *Zablocki v. Redhail*, 434 U.S. 374, 98 S.Ct. 673, 54 L.Ed.2d 618 (1977), the court was faced with a law that required a marriage applicant to prove he was up to date on his child support for children of his previous marriage before he could obtain a marriage license. The court focused on the decision to marry and have children as deserving of at least the protection allowed a woman in deciding whether to seek an abortion or to raise a child in illegitimacy:

Surely, a decision to marry and raise a child in a traditional family setting must receive equivalent protection. 434 U.S. at 385.

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

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

2. Classification Based on Sex

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

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

CONCLUSION

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

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

IT IS SO ORDERED.

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

PETER A. MICHALSKI

Superior Court Judge

Revised Exhibit 4

Law

1. AS 04.16.049. Alcoholic Beverages. Access of Persons under the age of 21 to licensed premises.
2. AS 04.16.051. Alcoholic Beverages. Furnishing or delivery of alcoholic beverages to persons under the age of 21.
3. AS 06.05.435. Banks and Financial Institutions. Directors.
4. AS 09.38.030 (e) (4) Code of Civil Procedure. Exemption of earnings and liquid assets.
5. AS 09.38.090. Code of Civil Procedure. Assertion of rights by another.
6. AS 09.38.095 (a). Code of Civil Procedure. Judicial relief.
7. AS 09.55.580 (a). Survival and Wrongful Death Actions. Action for wrongful death.
8. AS 13.12.102. Decedents' Estates, Guardianships and Trusts. Share of spouse.
9. AS 13.12.202. Decedents' Estates, Guardianships and Trusts. Chapter 12. Elective Share of Surviving Spouse. Elective share.
10. AS 13.12.203. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Composition of the augmented estate.
11. AS 13.12.204. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Decedent's net probate estate.
12. AS 13.12.205. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Decedent's non-probate transfers to others.
13. AS 13.12.206. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Decedent's non-probate transfers to the surviving spouse.
14. AS 13.12.207. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Surviving spouse's property and non-probate transfers to others.
15. AS 13.12.208. Decedents' Estates, Guardianship's and Trusts. Elective Share of Surviving Spouse. Exclusions, Valuation, and Overlapping Application.
16. AS 13.12.209. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Sources from which elective share payable.
17. AS 13.12.212. Decedents' Estates, Guardianships and Trusts. Elective Share of Surviving Spouse. Right of election personal to surviving spouse; incapacitated surviving spouse.
18. AS 13.12.301. Spouse and Children not provided for in Wills. Entitlement of spouse; premarital will.
19. AS 13.12.402. Decedents' Estates, Guardianships and Trusts. Homestead allowance.
20. AS 13.12.403. Decedents' Estates, Guardianships and Trusts. Exempt property.

Effect

- A person under 21 may enter or remain on licensed premises if accompanied by spouse. Spouse may furnish or deliver alcohol to underage spouse if not on licensed premises.
- Par value stock co-owned by spouse qualifies for minimum stock ownership required of bank director.
- Proceeds or benefits payable on death of spouse are exempt from judgment execution.
- Spouse of judgment debtor may assert rights to exempt property from execution.
- Spouse is entitled to relief against person who violates Alaska Exemption Act.
- Wrongful death action is maintained for benefit of spouse and children.
- Spouse entitled to intestate share of decedent's intestate estate.
- Spouse has right to elective share of estate.
- Concerning the augmented estate subject to the elective share of spouse.
- Concerning the augmented estate subject to the elective share of spouse.
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- Concerning the elective share of spouse.
- Concerning the elective share of spouse.
- Right of spouse to intestate share of estate where testator executes will after marriage.
- Right of spouse to homestead allowance.
- Right of spouse to exempt property from estate.

21. AS 13.12.404. Decedents' Estates, Guardianships and Trusts. Family allowance. Right of spouse to family allowance.
22. AS 13.16.065. Decedents' Estates, Guardianships and Trusts. Priority among persons seeking appointment as personal representative. Priority of surviving spouse to administer a decedent's estate.
23. AS 13.16.150. Decedents' Estates, Guardianships and Trusts. Formal testacy proceeding; notice of hearing on petition. Right of surviving spouse to notice of formal testacy proceeding.
24. AS 13.16.535. Decedents' Estates, Guardianships and Trusts. Successors rights if no administration. Rights of surviving spouse if no administration of estate.
25. AS 13.26.095. Decedents' Estates, Guardianships and Trusts. Guardians of Incapacitated Persons. Testamentary appointment of guardian for incapacitated person. Right of spouse of married incapacitated person to appoint by will a guardian for such person.
26. AS 13.26.135. Decedents' Estates, Guardianships and Trusts. Guardians of Incapacitated Persons. Notices in guardianship proceedings. Right of spouse to notice in guardianship proceedings.
27. AS 13.26.145 (c) (d). Decedents' Estates, Guardianships and Trusts. Guardians of Incapacitated Persons. Who may be guardian; priorities. Right of spouse to be guardian of incapacitated person despite insubstantial conflict of interest. Priority of spouse to be guardian of incapacitated person.
28. AS 13.26.185. Decedent's Estates, Guardianships and Trusts. Protection of Property of Persons Under Disability and Minors. Notice. Right of spouse to notice for appointment of conservator or other protective order.
29. AS 13.26.210. Decedents' Estates, Guardianships and Trusts. Protection of Property of Persons Under Disability and Minors. Who may be appointed conservator; priorities. Right of spouse to priority for appointment as conservator.
30. AS 13.33.215. Decedents' Estates, Guardianships and Trusts. Multiple-Person Accounts. Rights of creditors and others. Right of surviving spouse to assert liability against surviving party or beneficiary who receives payment from a multiple-person account after death of a party for repayment of proportionate share of amount received. Right of surviving spouse to make anatomical gift from decedent's body.
31. AS 13.50.0103. Decedents' Estates, Guardianships and Trusts. Uniform Anatomical Gift Act. Persons who may execute an anatomical gift. Right of surviving spouse to make anatomical gift from decedent's body.
32. AS 13.50.060. Decedents' Estates, Guardianships and Trusts. Uniform Anatomical Gift Act. Rights and duties at death. Right of spouse to body of decedent after removal of anatomical gift.
33. AS 14.25.055. Education, Libraries, and Museums. Supplemental contributions by teachers. Interest of spouse of teacher in the teacher's pension and right of teachers to make supplemental contributions to state retirement system for spouse's pension.
34. AS 14.25.155. Education, Libraries, and Museums. Non-occupational death benefits. Right of surviving spouse of teacher to non-occupational death benefits.
35. AS 14.25.157. Education, Libraries, and Museums. Occupational death benefits. Right of surviving spouse of teacher to occupational death benefits.
36. AS 14.25.164. Education, Libraries, and Museums. Spouse's pension. Right of surviving spouse of teacher to pension.
37. AS 14.25-166. Education, Libraries, and Museums. Designation of beneficiary. Right of spouse to be automatically named as beneficiary to teacher's state pension.
38. AS 14.25.167. Education, Libraries, and Museums. Joint and survivor option. Right of spouse to be contingent beneficiary to teacher's state pension.
39. AS 14.25.168. Education, Libraries, and Museums. Medical benefits. Right of spouse of teacher to medical benefits under retirement plan.
40. AS .14.43.085. Free Tuition and Fees for Spouse and Right to free tuition at state supported

Children of Certain Military Personnel.

41. AS 16.05.407 (A) (2) (A). Fish and Game.

42. AS 16.43.150 (h). Fish and Game. Regulation of Entry into Alaska Commercial Fisheries.

43. AS 18.80-220 (c) (1). Discriminatory Practices Prohibited. Unlawful employment practices; exception.

44. AS 21.27.390 (a) (1). Insurance. Temporary license.

45. AS 21.42.090. Insurance.

46. AS 21.42.365 (e) (6). Coverage for treatment of alcoholism or drug abuse.

47. AS 21.45.300 (f). Insurance.

48. AS 21.48.010 (d). Group Life Insurance.

49. AS 21.51.020 (3). Disability Insurance Policies.

50. AS 21.56.250 (9). Small Employer Health Insurance.

51. AS 21.84.200. Fraternal Benefit Societies.

52. AS 22.25.030 (a). Retirement and Death Benefits.

53. AS 22.25.035. Retirement and Death Benefits.

54. AS 22.25.090(a). Retirement and Death Benefits.

55. AS 23.10.500 (a) (1). Employment Practices and Working Conditions. Pregnancy, Childbirth, and Family Leave.

56. AS 23.20.370. Labor and Workers' Compensation.

57. AS 23.20.378 (1) (a). Alaska Employment Security Act.

58. AS 23.25.010. Employer's Liability for Negligence.

59. AS 23-30-215. Alaska Workers' Compensation Act. Compensation for death.

60. AS 24.45.051 (4) and 171 (4). Regulation of lobbying.

61. Sec. 24.60.200 and 990 (5). Financial disclosure by legislators and legislative directors.

62. AS 25.20.045. Marital and Domestic Relations. Legitimacy of children conceived by artificial insemination.

63. AS 25.23.050. Marital and Domestic Relations.

educational system for spouse of veteran who died in line of duty or as a result of injuries suffered in line of duty.

Right of nonresident spouse to hunt big game animals accompanied by resident spouse.

Automatic transfer to spouse of limited entry permit upon death of permit holder.

Employer can provide greater health and retirement benefits to employees with spouses.

Right of spouse to temporary insurance license upon death of license holder.

Right of spouse to effectuate insurance upon the other spouse.

Right of spouse to be "covered person" under health insurance policy for treatment of alcoholism or drug abuse.

Protection of spouse against certain insurance practices regarding cash surrender values.

Inclusion of "spouse" as "dependent" for group life insurance statutes.

Right of spouse to be included on health and disability insurance policy of spouse.

Inclusion of "spouse" as "dependent" for small employer health insurance statutes.

Right of spouse to be included on spouse's application for fraternal death benefits.

Right of spouse of justice or judge to survivors benefits under Court System retirement and death benefits statute.

Former spouse of justice or judge to be treated as spouse or surviving spouse under a qualified domestic relations order.

Right of spouse to medical insurance coverage.

Right of spouse to family leave to care for other spouse.

Right of spouse to receive workers compensation benefits of deceased or incompetent spouse.

Right of spouse to be exempt from "able to work and available for suitable work" requirements if accompanying other spouse for medical treatment.

Right of spouse to be beneficiary of wrongful death action for employer's negligence.

Right of spouse to workers compensation death benefits.

Inclusion of "spouse" within immediate family of public official for purposes of statute requiring reports of gifts and contributions made to public officials by lobbyists.

Spouse must be included in financial disclosures.

A child conceived by artificial insemination, born to a married woman, is considered legitimate child of both spouses.

Illegitimate child may be legitimated by

64. AS 25.23.040. Marital and Domestic Relations. Adoption.
65. AS 25.23.090 (b). Marital and Domestic Relations. Adoption.
66. AS 25.24.010. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
67. AS 25.24.060. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
68. AS 25.24.140. Marital and Domestic Relations. Divorce and Dissolution of Marriage. Orders during action.
69. AS 25.24.150. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
70. AS 25.24.160. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
71. AS 25.24.200. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
72. AS 25.24.230. Marital and Domestic Relations. Divorce and Dissolution of Marriage.
73. AS 26.05.224 (d) (1). Military Affairs and Veterans Retirement benefits.
74. AS 26.10.080 (a). Military Affairs and Veterans. Veterans. Death gratuity.
75. AS 28.15.051 (d). Motor Vehicles. Drivers' Licenses.
76. AS 28.15.071 (a). Motor Vehicles. Driver's Licenses.
77. AS 29.45.040 (a) (1). Municipal Government. Municipal Taxation.
78. AS 34. 15. 010 (b). Property. Manner of executing conveyances.
79. AS 34.15.110 (b) and 140. Property. Conveyances. Form and Effect.
80. AS 34.27.065 (1) (A), (B), and (C) Property. Modification or Abolition of Common Law Property Rules. Exclusions from statutory rule against perpetuities.
81. AS 34.70.010. Property. Disclosures in Residential Real Property Transfers.
82. AS 38.08.040 (a). Public Land. Home sites. Issuance of entry permit.
83. AS 38.09.030 (c). Public Land. Homestead Act. Qualification for homestead entry.
84. AS 39.20.305 (a) (2). Public Officers and Employees. Family and health leave.
85. AS 39.20.360. Public Officers and Employees. Compensation and Allowances. Payments Due to Deceased State Employees. Order of payment.
86. AS 39.30.090 (a). Public Officers and Employees. Insurance and Supplemental Employee Benefits. Group Life and Health Insurance.
87. AS 39.30.155. Public Officers and Employees. Supplemental Employee Benefits on Withdrawal from Social Security. Duties of the Public Employees
- subsequent marriage.
- Spouse of minor to be adopted has right to consent to adoption.
- Exemption of stepparent spouse from having to file expense report upon adoption, if other spouse is natural or adoptive parent of the child.
- Right of spouses to divorce.
- Right of spouses in divorce action to mediation.
- Right of spouses in divorce action to pendente lite relief.
- Right of spouses to judgment for custody of children.
- Right of spouses to divorce judgments adjudicating property rights and spousal support.
- Right of spouses to dissolve marriage.
- Right of spouses to judgment for dissolution.
- Right of spouse to death benefits for veteran.
- Right of spouse to death gratuity upon death of veteran.
- Right of spouse to consent to special driver's permit for person who is at least 14 years of age to drive motorcycle.
- Right of spouse to consent to a minor's driver's license application.
- Eligibility of 60 year old widow or widower to property tax equivalency payments.
- Right of spouse to sign deed or conveyance of family home or homestead.
- Right of spouse to conveyance of property as tenancy by the entirety.
- Premarital or post-marital agreements, separation and divorce agreements, and a spouse's election are exempt from Statutory Rule Against Perpetuities.
- Right to deliver disclosures in residential real property transfers to spouse of transferee.
- Right of spouse to receive transfer of home site entry permit.
- Right of spouse to receive transfer of homestead entry permit.
- Right of state employee as spouse to family leave to care for other spouse.
- Right of spouse to receive payment of unpaid compensation to deceased state employee.
- Right of spouses receiving benefits under AS 14.25.168, AS.22.25.090, AS 39.35.535 or former AS 39.37.145 to receive group insurance.
- Right of spouse to request hearing on decisions that relate to payment of supplemental benefits.

Retirement Board.

88. AS 39.35.040. Public Officers and Employees. Employees' Retirement System of Alaska. Powers and duties of board.

89. AS 39.35.200. Public Officers and Employees. Public Employees' Retirement System of Alaska. Refund upon termination of employment for reason other than death.

90. AS 39.35.340 (g). Public Officers and Employees. Public Employees' Retirement System of Alaska. Military service.

91. AS 39.35.360 (f). Public officers and Employees. Public Employees' Retirement System of Alaska. Earlier service.

92. AS 39.35.420 (b). Public Officers and Employees. Public Employees' Retirement System of Alaska. Non-occupational death benefits.

93. AS 39.35.430 (b). Public Officers and Employees. Public Employees' Retirement System of Alaska. Occupational death benefit.

94. AS 39.35.440 (b). Public Officers and Employees. Public Employees' Retirement System of Alaska. Death after occupational disability.

95. AS 39.35.450. Public Officers and Employees. Public Employees' Retirement System of Alaska. Joint and survivor option.

96. AS .39.35.455. Public Officers and Employees. Public Employees' Retirement System of Alaska. Rights under qualified domestic relations order.

97. AS 39.35.490 (a). Public Officers and Employees. Public Employees' Retirement System of Alaska. Designation of beneficiary.

98. AS 39.35.535 (a). Public Officers and Employees. Public Employees' Retirement System of Alaska. Medical benefits.

99. AS 39.45.025 (a) (4). Public Officers and Employees. Public Employees' Deferred Compensation Program. Duties of the Public Employees Retirement Board.

100. AS 39.50.030. Public Officers and Employees. Conflict of Interest. Contents of statements.

101. AS 39.50.090. Public Officers and Employees. Conflict of Interest. Prohibited acts.

102. AS 39.90.020. Public Officers and Employees. Miscellaneous Provisions. Nepotism prohibited.

103. AS 42.40.230 (a) and (f) (2). Alaska Railroad Corporation. Conflicts of interest.

104. AS 43.23.095 (H) (1), and (J). Revenue and Taxation. Permanent Fund Dividends. Definitions.

105. AS 45.50.825. Trade and Commerce. Competitive Practices and Regulation of Competition. Alaska Gasoline

Right of spouse to request hearing on decisions that relate to payment of benefits.

Right of spouse to consent to refund of contributions to state retirement plan to terminated employee-spouse.

Right of spouse receiving benefits under AS 39.35.420 (b), AS 39.35.430, or AS 39.35.440, or AS 39.35.450 to receive increased benefits based on military service.

Right of surviving spouse entitled to pension under AS 39.35.440 or AS 35.450 to increased benefits for service credit authorized under AS 39.35.360 (a) .

Right of surviving spouse to non-occupational death benefits.

Right of surviving spouse to occupational death benefits.

Right of surviving spouse to benefits after death following occupational disability.

Right of spouses to elect joint and survivor option for payment of retirement benefits.

Rights of spouse or former spouse under qualified domestic relations order.

Automatic designation of surviving spouse beneficiary under retirement system.

Right of spouse to medical benefits if other spouse elects major medical insurance coverage.

Right of spouse to request hearing on decisions that relate to payment of benefits.

Inclusion of spouse's income in statement of financial affairs filed by public official or candidates for public office.

Prohibition against public official using position for financial gain of spouse.

Prohibition against nepotism includes spouses.

Prohibits conflicts of interest with spouses by members of Alaska Railroad Corporation Board Member.

Exemption from state residency requirements for Permanent. Fund distribution to residents absent from the state to care for terminally ill spouse, to settle estate of deceased spouse, or to care for critically ill spouse.

Right of surviving spouse to right of first refusal on new lease of gasoline products dealer if

Products Leasing Act. Right of first refusal of surviving spouse.

106. AS 47.07.055 (b). Welfare, Social Services and Institutions. Medical Assistance for Needy Persons. Recovery of medical assistance from estates.

107. AS 47.08-040. Welfare, Social Services and Institutions. Catastrophic Illness Assistance. Applications for assistance.

108. AS 47.25.230. Welfare, Social Services and Institutions. Public Assistance. Persons liable for support and burial.

109. AS 47.30.910 (a). Welfare, Social Services and Institutions. Mental Health. Miscellaneous Provisions. Liability for expense of placement in a treatment facility.

110. AS 47.33.300 (a) (9). Welfare, Social Services and Institutions. Assisted Living Homes. Resident's Rights.

111. AS 47.37.190. Welfare, Social Services and Institutions. Uniform Alcoholism and Intoxication Treatment Act. Involuntary commitment.

112. AS 47.45.070 (a) (2). Welfare Social Services and Institutions. Alaska Longevity Bonus.

113. AS 47. 55.020 (a). Welfare, Social Services and institutions. Admission to Pioneers Home.

114. AS 47.80.150 (a). Welfare, Social Services and Institutions. Persons with Disabilities. Programs and Plans. Liability for expense of services.

115. Evidence Rule 505: Husband and wife evidentiary privilege.

surviving spouse has been active participant in business and is qualified.

Exemption from lien for recovery of medical assistance for home occupied by spouse.

Right of spouse to apply for assistance for catastrophically ill person.

Obligation of spouse to pay for support and burial of other spouse.

Obligation of spouse to pay for expense of placement of other spouse in a treatment facility.

Right of resident of assisted living room to share room with spouse who is also resident.

Right of spouse to petition for involuntary commitment of other spouse for alcohol and intoxication treatment.

Right of spouse to continue receiving longevity bonus of person confined to mental health institution.

Right of spouse younger than 65 to be admitted to Pioneer Home with Qualifying Spouse.

Liability of spouse for charges for care or treatment of person with handicap who participates in State programs.

Privilege of spouse not to testify against other spouse.