alaska family council

Policy Brief

Abortion and the Alaska State Constitution

In the 1997 *Valley Hospital* decision, the Alaska Supreme Court declared as follows: "…the right to an abortion is the kind of fundamental right and privilege encompassed within the intention and spirit of Alaska's constitutional language." (emphasis added) The court reached this conclusion despite the fact that (a) the word "abortion" is nowhere mentioned in the state constitution; (b) nothing in the 1955-1956 history of the Alaska Constitutional Convention (or any subsequent amendments adopted by the people) provides any evidence that the framers of the constitution intended to create a legal right to abortion; and (c) abortion was illegal throughout the United States when Alaska voters ratified the state constitution.

This manufactured "right to abortion" in the state constitution has been interpreted by the state Supreme Court as being far more liberal in scope than the federal abortion policy set out in U.S. Supreme Court decisions such as *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992). As a consequence, Alaska courts have struck down many laws that are permissible under *Roe* and *Casey* – such as requirements for parental consent before a minor's abortion, and laws restricting public funding of abortion.

Alaska Family Council supports a state constitutional amendment that would countermand the *Valley Hospital* decision by simply adding one sentence: *Nothing in this constitution shall be construed to grant or secure any right relating to abortion or the public funding thereof.*

Passage of such an amendment would not, in and of itself, change the legal status of abortion in Alaska. It would, however, allow the Alaska Legislature to regulate abortion to the extent allowed by federal law and in a manner consonant with the values of Alaska voters.