

## SNAPSHOT: LGBTQ ADOPTION AND FOSTER CARE PARENTING IN CALIFORNIA

Across the United States, approximately 3 million lesbian, gay, bisexual, transgender, or queer (LGBTQ) Americans have had a child, and as many as 6 million American children and adults have an LGBTQ parent. Among LGBTQ adults under 50 living alone or with a spouse or partner, 48% of women and 20% of men are raising a child under 18. 19% of transgender adults have had a child.

### California

#### Adoption Figures:

- According to a 2010 report by the Williams Institute, there are 15,698 same-sex couples raising an estimated 31,396 children in the state of California.
- In 2016, of the more than 437,000 youth in foster care in the U.S., 54,685 of them resided in California, 14,689 of whom were waiting to be adopted at the end of the fiscal year.
- In 2016, 6,542 children were adopted from the foster care system in California.

#### Adoption Laws:

- While California adoption law is silent as to whether or not sexual orientation can be considered (Cal. Code Regs. tit. 22, § 35181), the state's 2003 Foster Care Non-Discrimination Act states that discrimination on the basis of sexual orientation or gender identity is not permitted. Cal. Welf. & Inst. Code § 16013.
- California law also prohibits sexual orientation and gender identity-based discrimination against youth in the child welfare system, and it requires that transgender youth in out-of-home care be placed in accordance with their gender identity. Cal. Welf. & Inst. Code 16001.9 (a) (23), (24), & (25); Cal. Welf. & Inst. Code § 16006.
- California law allows single LGBTQ individuals to adopt. Any adult related to the child by blood or affinity, a person named in a deceased parent's will, a legal guardian, or a person with whom the child has been placed for adoption is permitted to petition to adopt. Cal. Fam. Code § 8802(A).
- California law permits married same-sex couples to jointly petition to adopt. As of 2004, registered domestic partners are permitted to adopt each other's children or children of the relationship using the same procedures for a stepparent adoption. Cal. Fam. Code § 9000(b) & (f).
- In 2003, the state Supreme Court affirmed that a same-sex co-parent, not only registered domestic partners, can petition to adopt his or her partner's child or child of the relationship. (*Sharon S. v. Superior Court*, 73 P.3d 554 (Cal. 2003)).

#### Financial Analysis

According to a 2007 report by the Williams Institute, if California were to ban lesbians and gays from serving as foster parents it would cost the state between \$18 – \$27 million per year.

## Across the United States

**More than 16,000 same-sex couples are raising an estimated 22,000 adopted children in the U.S. Same-sex couples are raising 1.4% of adopted children living with two parents.**

- While LGBTQ parents are raising adopted children all over the U.S., and while the largest numbers of adoptive families tend to be in New England, the Mid-Atlantic, and in the West Coast States, the highest proportions of same-sex couples raising children under 18 reside in Southern, Mountain West, and Midwestern states – areas with the fewest protections for LGBT families.
- The states with the highest proportions of same-sex couples raising children are Mississippi (26%), Wyoming (25%), and Alaska (23%).
- Same-sex couples raising children are four times more likely than their different-sex counterparts to be raising an adopted child.

**Approximately 2,600 same-sex couples are raising an estimated 3,400 foster children in the U.S. Same-sex couples are raising 1.7% of foster children living with two parents.**

- Same-sex couples are six times more likely than their different sex counterparts to be raising foster children.

**Most states are silent on the issue of LGBTQ people fostering and adopting children. In many of these states, this silence either results in an outright ban on adoption/foster care by LGBTQ people or it leaves these families vulnerable to the potential bias of individual agencies, child welfare professionals, and family court judges at the local level.**

- Only eight states have laws or policies explicitly prohibiting sexual orientation-based discrimination against otherwise qualified potential parents in foster care. CA, NJ, RI, and DC also prohibit discrimination in foster care based on gender identity.
- Only 15 states and the District of Columbia allow unmarried LGBTQ people to petition to adopt their own children through second-parent adoption, while seven states restrict the ability of LGBTQ people to complete second-parent adoptions.
- Generally, married same-sex couples have the same right to foster and adopt as married different-sex couples. Even with nationwide marriage equality, however, LGBTQ people and same-sex couples in some states may still face foster care and adoption laws, policies, or practices that permit agencies to continue to discriminate against them.
- Arizona and Utah require that preference be given to a “married man and woman” in foster and adoptive placements. This policy discriminates against same-sex couples and may prevent youth in care from finding permanent homes.
- Utah has a co-habitation ban, which bars individuals who live with an unmarried partner (same or different-sex) from adopting.
- **Seven states – Virginia, North Dakota, South Dakota, Michigan, Texas, Alabama, and Mississippi – have passed laws permitting child welfare agencies to discriminate against children and potential parents based on moral or religious objections.** South Dakota, Texas, and Alabama enacted these discriminatory laws this year; advocates successfully defeated attempts in several other states to pass similar discriminatory adoption and foster care laws.
- **Nineteen percent of foster youth over the age of 12 identify as LGBTQ.**



- Thirteen states have no protections against discrimination for LGBTQ youth receiving foster care and adoption services; an additional eleven states do not protect transgender youth receiving these services.
- Only three states require placement of transgender youth in facilities based on their gender identity.
- Only 9 states require LGBTQ-inclusive cultural competency training for child welfare staff and/or foster parents.

For more information, contact Julie Kruse, Federal Policy Advocate at [jkruse@familyequality.org](mailto:jkruse@familyequality.org)