

SNAPSHOT: LGBTQ ADOPTION AND FOSTER CARE PARENTING IN MISSISSIPPI

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.

Mississippi

Foster Care and Adoption Figures:

- According to a 2010 report by the Williams Institute, there are 895 same-sex couples raising an estimated 1,790 children in the state of Mississippi.
- In 2017, of the almost 443,000 youth in foster care in the U.S., 5,440 of them resided in Mississippi, 1,867 of whom were waiting to be adopted at the end of the fiscal year.
- In 2017, 364 children were adopted from the foster care system in Mississippi.

Foster Care and Adoption Laws:

- Mississippi law allows any unmarried adult or a married person jointly with their spouse to petition for adoption. Miss. Code Ann. § 93-17-3(4).
- Mississippi was the last state in the nation to statutorily prohibit same-sex couples from adopting. Miss. Code Ann. § 93-17-3(5). In 2016, a federal court ruled that the adoption ban was unconstitutional, thus granting all same-sex couples the right to adopt jointly. *Campaign for Southern Equality v. Mississippi Dep't of Human Svcs.*, 175 F.Supp. 3d 691 (S.D. Miss. 2016).
- State law permits any married person to adopt the child of their spouse via stepparent adoption. Miss. Code Ann. §§ 93-17-3, 93-17-11. With nationwide recognition of marriage equality and the invalidation of the state ban on adoptions by same-sex couples, an individual should be permitted to adopt the child of their same-sex spouse via stepparent adoption.
- In 2016, the Mississippi state legislature passed a sweeping "conscience clause" law that explicitly allows state-funded child placement agencies to discriminate against LGBTQ youth and prospective parents on the basis of a "sincerely held religious belief or moral conviction." H.B. 1523 (Miss. 2016). The bill singles out LGBTQ individuals, defining "sincerely held religious beliefs or moral convictions" to be the belief or conviction that "(a) Marriage is or should be recognized as the union of one man and one woman; (b) Sexual relations are properly reserved to such a marriage; and (c) Male (man) or female (woman) refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth." The law went into effect in October 2017 after the U.S. Court of Appeals for the Fifth Circuit reversed, on standing grounds, a lower court's injunction against implementation of the law. *Barber v. Bryant*, 860 F.3d 345 (5th Cir. 2017).
- Despite having a law targeting the LGBTQ community, Mississippi has regulations prohibiting discrimination based on the sexual orientation or gender identity of a child in foster care. Code Miss. R. 18-6:1.



Financial Analysis

According to a 2007 report by the Williams Institute, if Mississippi were to ban lesbians and gays from serving as foster parents, it would cost the state between \$411,000 – \$630,000 per year.

Across the United States

More than 24,000 same-sex couples are raising adopted children in the U.S.

- 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 seven times more likely than their different-sex counterparts to be raising an adopted child.

Approximately 3,300 same-sex couples are raising foster children in the U.S.

Same-sex couples are seven 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.
- **Ten states – Virginia, North Dakota, South Dakota, Michigan, Texas, Alabama, Mississippi, Kansas, Oklahoma and South Carolina – have passed laws permitting child welfare agencies to discriminate against children and potential parents based on moral or religious objections.** Kansas, Oklahoma and



South Carolina enacted these discriminatory laws in 2018; 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.**

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