

## SNAPSHOT: LGBT ADOPTION AND FOSTER CARE PARENTING IN OKLAHOMA

Across the United States, approximately 3 million lesbian, gay, bisexual, or transgender (LGBT) Americans have had a child, and as many as 6 million American children and adults have an LGBT parent. Among LGBT 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.

### Oklahoma

#### Foster Care and Adoption Figures:

- According to a 2010 report by the Williams Institute, there are 1,280 same-sex couples raising an estimated 2,560 children in the state of Oklahoma.
- In 2017, of the almost 443,000 youth in foster care in the U.S., 9,312 of them resided in Oklahoma, 4,074 of whom were waiting to be adopted at the end of the fiscal year.
- In 2017, 2,593 children were adopted from the foster care system in Oklahoma.

#### Foster Care and Adoption Laws:

- Oklahoma law allows any adult at least 21 years old or a husband and wife jointly to petition to adopt. Okla. Stat. Tit 10 § 7503-1.1.
- While state law provides that a "husband and wife jointly" may petition to adopt, because marriages of same-sex couples are now recognized nationwide, same-sex spouses should be able to adopt jointly. Okla. Stat. Tit 10 § 7503-1.1.
- State law permits any married person to adopt the child of their spouse via stepparent adoption. Okla. Stat. Tit 10 § 7503-1.1. Because marriages of same-sex couples are recognized nationwide, an individual should be permitted to adopt the child of their same-sex spouse via stepparent adoption.
- Oklahoma law allows second parent adoptions, permitting a child's sole legal parent to specify a second adult to adopt the child without losing any parental rights. Okla. Stat. Tit 10 § 7503-2.1; *Eldredge v. Taylor*, 2014 OK 92 (Okla. 2014) ("Just as step-parents may adopt a spouse's child, so may a same-sex partner adopt a partner's child.").
- In 2004, the Oklahoma state legislature passed the Adoption Invalidation Law, which stated that Oklahoma "shall not recognize an adoption by more than one individual of the same sex from any other state or foreign jurisdiction," but federal courts struck down the law as unconstitutional. *Finstuen v. Crutcher*, 496 F.3d 1139 (10th Cir. 2007).

#### Financial Analysis

According to a 2007 report by the Williams Institute, if Oklahoma were to ban lesbians and gays from serving as foster parents, it would cost the state between \$618,000 - \$925,000 per year.

### Across the United States

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

- While LGBT 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 LGBT people fostering and adopting children. In many of these states, this silence either results in an outright ban on adoption/foster care by LGBT 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 LGBT people to petition to adopt their own children through second-parent adoption, while seven states restrict the ability of LGBT 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, LGBT 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 LGBT.**
- **Thirteen states have no protections against discrimination for LGBT 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 LGBT-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)**