

SNAPSHOT: LGBTQ ADOPTION AND FOSTER CARE PARENTING IN TEXAS

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.

Texas

Foster Care and Adoption Figures:

- According to a 2010 report by the Williams Institute, there are 9,191 same-sex couples raising an estimated 18,382 children in the state of Texas.
- In 2017, of the almost 443,000 youth in foster care in the U.S., 32,150 of them resided in Texas, 13,443 of whom were waiting to be adopted at the end of the fiscal year.
- In 2017, 5,361 children were adopted from the foster care system in Texas.

Foster Care and Adoption Laws:

- Texas law allows "an adult" to petition to adopt. Tex. Fam. Code Ann. § 162.001.
- State law provides that married couples must petition to adopt jointly. Tex. Fam. Code Ann. § 162.002. Because marriages of same-sex couples are now recognized nationwide, same-sex spouses should be able to adopt jointly.
- State law permits any married person to adopt the child of their spouse via stepparent adoption. Tex. Fam. Code Ann. § 162.001(b)(2). With nationwide recognition of marriage equality, an individual should be permitted to adopt the child of their same-sex spouse via stepparent adoption.
- Some Texas courts have granted second-parent and joint adoptions by unmarried same-sex couples, but there are no statewide laws or regulations explicitly allowing such adoptions. *See Hobbs v. Van Stavern*, 249 S.W.3d 1 (Tx. App. 2006); *Goodson v. Castellanos*, 214 S.W.3d 741 (Tex. App. 2007).
- In 2017, Texas enacted a license to discriminate law, allowing child welfare service providers to refuse to "provide, facilitate, or refer a person for child welfare services that conflict with . . . the provider's sincerely held religious beliefs." Tex. Hum. Res. Code § 45.004. The law also permits child welfare service providers to provide "religious education" to the children and families it serves, which is broad enough to include the harmful practice of "conversion therapy."

Financial Analysis

According to a 2007 report by the Williams Institute, if Texas were to ban lesbians and gays from serving as foster parents it would cost the state between \$2.4 – \$3.6 million 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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