



EVAN B. DONALDSON ADOPTION INSTITUTE

# EXPANDING RESOURCES FOR WAITING CHILDREN II:

Eliminating Legal and Practice Barriers  
to Gay and Lesbian Adoption from Foster Care

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## Policy & Practice Perspective

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Prepared by: The Evan B. Donaldson Adoption Institute

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120 E. 38<sup>th</sup> St.  
New York • NY • 10016  
(212) 925-4089 • [www.adoptioninstitute.org](http://www.adoptioninstitute.org)



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## EXECUTIVE SUMMARY

**F**or a growing number of boys and girls in foster care, the path to a safe, loving, permanent family is through adoption. These children – most of whom are older and have special physical, mental health, and/or developmental challenges – face gloomy prospects of succeeding in life without adoptive parents who can provide them with affection, nurture, support, and guidance. Often, their foster parents adopt them; in thousands of other cases each year, however, child welfare agencies must recruit new adoptive families to meet these children's needs. That reality has led to an increasingly urgent, nearly universal professional consensus that the pool of potential adoptive parents must be expanded to keep pace with the growing number of children in foster care who are legally free for adoption. Nevertheless, there remains considerable debate over whether all adults, especially those who are lesbian or gay, should be considered as suitable mothers and fathers.

Adoption by non-heterosexuals has been the subject of considerable interest in a rapidly changing legal and policy environment. During the early 2000s, a number of states enacted or attempted to enact legislation to prohibit gays and lesbians from fostering or adopting children. Recently, legislative efforts have taken a different form, in which legislation attempts to accomplish the same goal through broad language that prohibits unmarried, cohabitating couples from fostering or adopting. At the same time, efforts are underway to amend the existing bans on adoption by gay and lesbian individuals and other unmarried, cohabitating couples. In yet other states, laws have been passed to authorize joint or second-parent adoption for gay and lesbian parents (granting parental rights to the partner in a same-sex couple), and such legislation is pending in additional states.

This report builds on the Evan B. Donaldson Adoption Institute's 2006 Policy & Practice Perspective, *Expanding Resources for Waiting Children: Is Adoption by Gays and Lesbians Part of the Answer?* and, like that initial paper, focuses on meeting the needs of waiting children. It provides an overview of current law and policy, and offers recommendations for expanding the pool of qualified adoptive families for these children by removing legal and practice barriers to gay and lesbian adoption.

### GENERAL FINDINGS

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- **Tens of thousands of children in foster care, who cannot return to their original families, are waiting for permanent homes.**

About 129,000 waiting children are in need of adoptive homes (USDHHS, 2008).

Research shows that the 25,000 youths who “age out” of foster care each year are at high risk for a host of negative outcomes, including poverty, homelessness, incarceration and early parenthood (Collins, Paris, & Ward, 2008; Courtney, Dworsky, Ruth, Keller, Havlieck, & Bost, 2005; Landsverk, Burns, Stambaugh, & Rolls Reutz, 2006; Wind, Brooks, & Barth, 2005).

Adoption of children from foster care yields substantial savings annually, estimated to be between \$3.3 and \$6.3 billion nationally (Barth, Lee, Wildfire, & Guo, 2006).

- **Gays and lesbians are important family resources for waiting children**

A number of studies have documented that gay and lesbian adults are very willing to adopt children with special needs and, as a demographic group, may be more willing to do so than heterosexual adults (Brooks & Goldberg, 2001; Alcalay, Tyebjee, Shahnaz, & O'Loughlin, 2001; Brodzinsky, Patterson, & Vaziri, 2002).

Data show that gay and lesbian adults provide a significant number of families for children who need foster or adoptive homes.

Researchers estimate over 14,000 children live in lesbian- or gay-led foster families today, while at least 4 percent of all adopted children in the U.S. – about 65,000 – are being raised by gay and lesbian parents (Urban Institute/Williams Institute, 2007).

- **Research shows that children fare as well with gay and lesbian parents as those raised by heterosexuals.**

There is currently little research on the long-term outcomes for children adopted by gays or lesbians. However, studies on children dating back 25 years conclude that children raised by gay and lesbian non-adoptive parents fare as well as those reared by heterosexual parents (Breways, Ponjaert, Van Hall, & Golombok, 1997; Chan, Raboy & Patterson, 1998; Golombok, Perry, Burston, Murray, Mooney-Sommer, Stevens, & Golding, 2003; Wainwright, Russell & Patterson, 2004).

- **Mainstream professional organizations across the social service, legal, and medical spectrum support adoption by gays and lesbians.**

Thirteen leading professional organizations have issued formal statements of support for adoption by gays and lesbians.<sup>1</sup>

- **Excluding gay and lesbian adoptive parents carries significant economic costs.**

Researchers conservatively project a national ban on foster care provision by lesbian, gay, or bisexual adults would add \$87 million to \$130 million to expenditures each year. The estimated cost to individual states would range from \$100,000 in those with smaller populations up to \$27 million in states with large numbers of gay and lesbian foster parents (Gates, Badgett, Macomber, & Chambers, 2007).

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#### STATE LAW AND POLICY: FINDINGS AND RECOMMENDATIONS

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- **Most children adopted from foster care are adopted by their foster parents, and banning lesbian and gay adults from fostering will reduce the number of adoptive homes for children.**

No state, as of this writing, expressly bars fostering by gay or lesbian parents by statute, but one state does so through policy. Efforts to prevent fostering by gay and lesbian parents are ongoing, leaving open the possibility that restrictions could be placed in the future.

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<sup>1</sup> Please see Appendix B for a list of organizations and a summary of their positions.

### Recommendation

All adults should be evaluated and licensed as foster parents based on their capacity to provide nurturing support for children in foster care, rather than on their sexual orientation. Foster families should be chosen based on their ability to meet individual children's needs. State child welfare policy should explicitly prohibit the exclusion of foster parent applicants solely on the basis of sexual orientation.

- **State laws excluding gay and lesbian prospective adopters can negatively affect the pool of adoptive families for waiting children.<sup>2</sup>**

Adoption by gay or lesbian individuals is legal in 49 states, and adoption by same-sex couples is, in theory, permitted in 47. Florida is the only state to explicitly prohibit adoption by gays and lesbians by statute. Mississippi bans adoption by "couples of the same gender," and Utah forbids adoption by any unmarried couple; legislation recently introduced in Arkansas and Tennessee mirrors the Utah prohibition. If such efforts to restrict the rights of gays or lesbians to foster or adopt children continue, the pool of prospective families for children in foster care could be significantly reduced.

### Recommendations

Laws that prohibit adoption by non-heterosexual individuals and couples should be rescinded to maximize the number of interested, qualified families for waiting children. Child advocacy groups in Arkansas, Florida, Mississippi, and Utah – as well as national organizations – should join together to reverse bans on adoption by adults who, apart from their sexual orientation, meet all necessary requirements.

States should enact laws that specifically disallow excluding applicants solely on the basis of sexual orientation.

- **Children are disadvantaged when state laws do not permit joint and second-parent adoption.**

Most states do not currently recognize both partners in gay and lesbian adoptions as the child's legal parents. California, Connecticut, Colorado, Illinois, Indiana, Maine, Massachusetts, New Jersey, New York, Pennsylvania, and Vermont specifically allow a child to be adopted at the same time or consecutively by both partners. In New Hampshire and Oregon, same-sex couples in civil unions can adopt through one of these means. Through joint and second-parent adoption, children receive a range of rights and benefits associated with having two legal parents.

### Recommendations

The legal recognition of both parents in a family headed by gay or lesbian adopters is in the best interests of children. States should expressly recognize the simultaneous adoption by each of the two parents in a couple, regardless of their sexual orientation.

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<sup>2</sup> "Waiting children" are defined as those children in the foster care system whose parents' parental rights have been terminated and/or who have a permanency goal of adoption.

States should expressly recognize second-parent adoption by a partner in a couple where the other partner has given birth to, fathered, or adopted a child previously and is the sole legal parent of the child.

- **The legal status of both parents should be recognized across state lines.**

Though courts have overturned the policies of two states that refused to acknowledge the legal status of both parents as determined by another state, legislation recently was introduced in Mississippi to prevent state courts from recognizing out-of-state adoptions by unmarried couples. Statutes that conflict with states' responsibility to grant full faith and credit to adoptions legally completed in other states are contrary to the best interests of children.

#### Recommendation

States should give full faith and credit to decrees of adoption issued by other states, without regard to the sexual orientation of adoptive parents.<sup>3</sup>

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### AGENCY POLICY AND PRACTICE: FINDINGS AND RECOMMENDATIONS

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- **Agencies vary in the extent to which they are welcoming and sensitive to all prospective families. To meet the needs of waiting children, they need to actively welcome all types of qualified families.**

#### Recommendations

Agencies should develop and make visible their commitment to non-discrimination and inclusion.

Agencies should systematically assess their efforts to combat homophobia and heterosexism.

Agencies should develop mechanisms for assessing their success in connecting to and recruiting gay- and lesbian-headed adoptive families.

- **Agency policies for assessing traditional families may not appropriately assess gay and lesbian prospective adoptive families.**

#### Recommendations

Agencies should use culturally sensitive practices in engaging gay and lesbian prospective adoptive parents in the assessment process.

Agencies should appropriately address issues of sexual orientation in the assessment process. They should provide gay and lesbian prospective adoptive parents with

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<sup>3</sup> Article IV, section 1, of the U.S. Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other State." This constitutional guarantee provides that the rights and protections afforded in one state must be honored in others and will not be lost in another.

opportunities to explore the impact of adoption on the degree to which they are presently “out” as gay or lesbian persons.

- **Traditional agency practices in preparing families may not appropriately prepare gay and lesbian foster and adoptive parents.**

#### Recommendations

Agencies should evaluate PRIDE, MAPP<sup>4</sup> or other common training curricula for foster and adoptive parents to determine if these should be amended to make them welcoming to gay and lesbian foster and adoptive parents. Agency staff should ensure that trainers are sensitive to the needs of gay or lesbian parents and can conduct training groups in ways that acknowledge and promote acceptance of all family types.

Agencies should develop strong relationships with community service providers that can offer supports to gay- and lesbian-headed families.

- **To serve diverse populations, including gays and lesbians, agencies need culturally competent staff.**

#### Recommendations

Agencies should recruit diverse staffs of social workers and supervisors, including those who can bring expertise and personal experience in serving gay and lesbian families in order to effectively recruit and retain a maximum number of qualified adoptive families for waiting children.

Agencies should train and support personnel so that they develop expertise in working with the full range of families, including gay and lesbian prospective parents and gay- and lesbian-headed families.

- **Much more needs to be learned to provide agencies with clear guidance on quality policy and practice in recruiting, assessing, preparing and supporting gay and lesbian foster and adoptive parents.**

#### Recommendation

Research is needed to enrich the understanding of:

- The most effective ways to recruit and retain gay/lesbian foster and adoptive parents.
- Practices that are culturally sensitive and effective in engaging gay and lesbian prospective foster and adoptive parents in the assessment process and in incorporating sexual orientation into that process.
- How training of prospective foster and adoptive parents should be adapted to be welcoming to gays and lesbians.
- How best to prepare agency staff to work effectively with gay and lesbian foster and adoptive applicants and gay- and lesbian-headed families.

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<sup>4</sup> PRIDE (Parent Resources for Information, Development and Education) and MAPP (Model Approaches to Partnerships in Parenting) are two widely used curricula for training foster and adoptive parents.

## CONCLUSION

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Implementing the recommendations advanced in this report will play an important role in increasing the number of permanent, nurturing families for the tens of thousands of children waiting in foster care for families. These recommendations provide assertive, practical, legal and agency policy and practice strategies to ensure that far more children who need homes get them and that fewer “graduate” from foster care without permanent family relationships. Efforts to find families for these boys and girls must expand and intensify – and gay and lesbian adults are part of the solution.

## INTRODUCTION

For a growing number of boys and girls in foster care, the path to a safe, loving, permanent family is through adoption. These children – most of whom are older and have special physical, mental health, and/or developmental challenges – face gloomy prospects of succeeding in life without adoptive parents who can provide them with affection, nurture, support, and guidance. Often, their foster parents adopt them; in thousands of other cases each year, however, child welfare agencies must recruit new adoptive families to meet these children's needs. That reality has led to an increasingly urgent, nearly universal professional consensus that the pool of potential adoptive parents must be expanded to keep pace with the growing number of children in foster care who are waiting for adoption. Nevertheless, there remains considerable debate over whether all adults, especially those who are lesbian or gay, should be considered as suitable mothers and fathers.

Adoption by non-heterosexual parents has been the subject of considerable controversy in a rapidly changing legal and policy environment. In the early 2000s, a number of states enacted or attempted to enact legislation prohibiting gays and lesbians from fostering or adopting children. More recently, such efforts have taken a different form, attempting to accomplish the same goal through broad language that prohibits all unmarried, cohabitating couples from adopting or fostering. A ballot initiative will try to achieve that goal in Arkansas this November, while Tennessee and Mississippi recently attempted legislative action but failed; a bill in the latter state was passed by its Senate but stalled in its House. At the same time, in Florida efforts are underway to end bans on adoption by gay and lesbian individuals and couples and in Utah to end the ban against adoption by cohabitating, unmarried couples that has the effect of disallowing lesbian/gay couples. Several states have authorized joint and/or second-parent adoption by same-sex couples, and legislation is pending in others, including Michigan, Nebraska, and New York. As these developments demonstrate, laws regarding adoption by gay and lesbian adults remain in flux. In most states, the status of gays and lesbians to foster and adopt remains ambiguous, neither expressly permitted nor expressly forbidden. Greater clarity is emerging, however, in states that now recognize civil unions, domestic partnerships, or marriage (Massachusetts and California) for gays and lesbians.

In March 2006, the Evan B. Donaldson Adoption Institute issued a Policy & Practice Perspective, *Expanding Resources for Waiting Children: Is Adoption by Gays and Lesbians Part of the Answer?* That report reviewed the growing body of social science research on the successful outcomes for children raised by gay and lesbian parents and described the diverse state policies on adoption by gay and lesbian parents. The Institute concluded that these prospective parents – who, as a group, have shown both interest in adopting children from foster care and a commitment to meeting these children's needs – are an important part of the solution to ensuring that every boy and girl has a permanent, loving family. This new report, intended for child welfare advocates, policy-makers, and media opinion leaders, builds on the Institute's March 2006 policy brief and likewise focuses on the needs of children in foster care.<sup>5</sup> This report:

- Provides a framework for assessing current state policies and developing sound ones regarding fostering and adopting by qualified gay and lesbian adults;

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<sup>5</sup> Although some of the issues discussed in this report are relevant to domestic infant adoption and international adoption, the focus of this policy brief is on the need for permanent families for children in foster care.

- Identifies issues that child welfare agency policy and practice must address in connection with fostering and adopting by gays and lesbians to improve the prospects of every child in foster care moving into a permanent family; and
- Makes specific recommendations for advancing state legislative policy, as well as agency policy and practice, to remove barriers to the adoption of children from foster care and to fostering by qualified gay and lesbian adults.

## I. Children in Foster Care: The Benefits of Adoptive Families

**A**s of September 2006, the most recent date for which data were available, some 510,000 children were in foster care waiting to return safely to their birth families or to move to new families through adoption or guardianship. These children had been in the public system, on average, more than two years (28.3 months). A large group of them – an estimated 129,000 in FY 2006 – were waiting for adoption. These children, who had a goal of adoption and/or whose parents' rights had been terminated, on average had been waiting in foster care for more than three years (39.4 months). Over half of these waiting children (70,230, or 54 percent) lived with unrelated foster parents who, data tell us, are the most likely candidates to provide them with adoptive families (U.S. Department of Health and Human Services, 2008). Waiting children tend to be older (average age of 8.2 years) and members of sibling groups; in addition, because of their histories of abuse, neglect, and temporary care placement, they often have physical, mental health, and developmental challenges (U.S. Department of Health and Human Services, 2008; Hansen, 2006).

For many of these boys and girls, the waiting never ends. Each year, for the last four years for which data are available, from 20,000 to over 26,000 youths exited foster care through “emancipation” – that is, they left the child welfare system without formal support or permanent families. In FY 2006, more than 26,000 youths became ineligible to remain in foster care because of their age (18 in most states and older in a few others) and left to live “independently” (U.S. Department of Health and Human Services, 2008). The number of youths “aging out,” in fact, has increased over the past five years (Kids Are Waiting, 2007). While youths in the general population continue to rely on family long after they reach 18 (with over half of all 18- to 24-year-olds continuing to live at home), those who have spent years in foster care because they experienced abuse and neglect are expected to become independent and self-sufficient in late adolescence. These youths, lacking permanent families to help them transition into adulthood, are at heightened risk of negative outcomes: emotional adjustment problems, poor educational results and employment prospects, and inadequate housing and homelessness; furthermore, they are more likely to become involved with the criminal justice system (Collins, Paris, & Ward, 2008; Courtney, Dworsky, Ruth, Keller, Havlieck, & Bost, 2005; Landsverk, Burns, Stambaugh, & Rolls Reutz, 2006; Wind, Brooks, & Barth, 2005). These negative outcomes take a huge toll on the young people themselves, and they translate into significant societal costs as adult public services – including mental health, substance abuse, housing, and criminal justice – must address their needs.

When adoptive families are not found in a timely way, we not only fail vulnerable children who are depending on the system to ensure that they get permanent families, but we incur considerable costs to care for them. Economic analyses by Barth, Lee, Wildfire and Guo (2006), as well as by Hansen

and Hansen (2006), demonstrate that adoption is a less-expensive option. Barth and colleagues found that local, state and federal governments save between \$65,422 and \$126,825 on the average child who enters care at age 3 if he or she is adopted rather than remaining in state care throughout childhood. They project a national cost savings on the approximately 50,000 children adopted from foster care each year of between \$3.3 billion and \$6.3 billion. Hansen (2006) calculated that the human service costs of adoption are about one-half the costs of long-term foster care. Further, she found that when examining other social costs such as reduced incarceration or increased education attainment, each dollar spent on the adoption of children from foster care results in \$2.45 to \$3.26 in tangible benefits to society as a whole.

For children, of course, the benefits of living in a permanent, loving family transcend economics – but many never receive that opportunity. The experiences of boys and girls who continue to wait in foster care – and the experiences of youths who age out without a permanent family to support them – make clear that more adoptive parents are critically needed. It is through a commitment to expanding adoptive family resources that we can achieve the outcomes that are federally mandated for each child in foster care: safety, well being, and a permanent family. And, in the process, we can not only benefit society economically, but also by infusing it with more citizens who are productive and require fewer of its resources.

## II. Gay and Lesbian Families: Important Adoptive Family Resources

**T**he needs of children waiting in foster care and those of youths poised to “age out” dictate that concerted efforts be made to identify, recruit, and support all families who want to adopt them and are qualified to do so. Gay and lesbian adults represent an important source of interested, qualified adoptive parents, as has been recognized by leading child-focused organizations nationwide; actively recruiting and supporting them therefore benefits children who need homes and society as a whole.

*Gays and lesbians are interested in adopting.* A number of studies have documented that gay and lesbian adults are very willing to adopt children with special needs, and may be more willing to do so than heterosexuals. Brooks, Allen and Barth (2002), in a study of 600 heterosexual Caucasian adoptive parents, found they were reluctant or expressed concern about adopting children who have the very characteristics of those in foster care; i.e., they are older, have behavioral or emotional issues, are members of sibling groups, or have histories of prenatal exposure to drugs or alcohol. By contrast, studies that have examined the interests of gay or lesbian prospective adopters have found a willingness to parent a wider range of children, including older ones and those with behavioral, emotional and learning problems (Alcalay, Tyebjee, Shahnaz, & O'Loughlin, 2001; Brodzinsky, Patterson, Vaziri, 2002; Brooks & Goldberg, 2001).

The National Survey of Family Growth (2002) offers further evidence that lesbian and gay adults represent a significant pool of prospective adoptive parents. The NSFG is a nationwide study conducted through the federal National Center for Health Statistics within the Center for Disease Control and Prevention. In Cycle 6 of the NSFG, trained interviewers collected data from over 12,500 Americans ages 15-44 in response to questions about fertility, child-bearing and the desire to have or add children to their families. Those over 18 were asked to identify their sexual orientation. About

500 individuals (4.1 percent) identified themselves as homosexual or bisexual. The study asked these individuals if they were interested in having a child or, if they already did, if they would like to parent another. Among individuals who did not have a child, the great majority of gay men (87 percent), bisexual women (75 percent), and bisexual men (70 percent) expressed interest in doing so. Lesbians expressed the lowest level of such interest (37percent). Among individuals who already had a child, more than half of bisexual women (59 percent) and bisexual men (55 percent) and about half of lesbians (49) expressed interest in adding a child to their families.

The NSFG recently reported on the extent to which people in different age groups had adopted, indicating that more men than women have adopted children in their lifetimes. For example, among adults in the 35-39 age group, 3.8 percent of all men had adopted, compared to 1.6 percent of all women (USDHHS, 2008). One possible explanation of this difference is that step-parent adoption is more common among men than women. The NSFG also asked respondents about their interest in adoption and if they had ever taken steps toward adoption. Unfortunately, the survey only queried women on this topic, so data regarding men's interests and adoption-related activities are not available. Lesbian and bisexual women were considerably more likely to express interest in adoption (46 percent) than were heterosexual women (32 percent). Respondents in the NSFG study were much more likely to express interest than to report having taken steps toward adoption, as is the case with every population of adults asked these questions. Lesbian and bisexual women, however, were about 1.75 times more likely to have taken steps toward adoption than were heterosexual women – 5.7 percent vs. 3.3 percent.

The Urban Institute and the Williams Institute of the UCLA School of Law (Gates, Badgett, Macomber, & Chambers, 2007) analyzed data from the NSFG. The researchers concluded that just over 1 million women who are gay or bisexual have considered adoption, and over 130,000 of these women have taken steps toward adopting. Based on the levels of reported interest on the part of gay and bisexual men in having children, the study estimated that over 2 million lesbian, gay or bisexual persons have an interest in adopting. The researchers hypothesized that because biological parenthood is less likely to be the path to parenthood for gay men than for lesbians, this estimate of interest in adoption is probably conservative.

### Gay and Lesbian Adults Foster and Adopt Children

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The Urban Institute/Williams Institute researchers (2007) used 2000 Census data and data from the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) to estimate the number of children in foster care currently living with lesbian and gay foster parents. Such information is important because foster parents consistently represent the largest number of adopters of children from the public system. In their analysis, based on the best available data, the researchers estimated just over 14,000 children live with lesbian or gay foster parents; that translates into about 4 percent of foster children overall and 6 percent of those living in non-kin foster homes. Among the population of single foster parents, who constitute about one-third of all foster parents, the researchers further estimated (based on 2000 Census data) that one in seven is lesbian or gay. This study also estimated that gay or lesbian parents had already adopted a minimum of 65,000 children, accounting for 4 percent of all adopted children in the United States. The authors found that of the estimated 3.1 million lesbian- and gay-headed households in the country, 52,000 include adopted children.

*Research shows that children fare just as well with gay and lesbian parents when compared with children raised by heterosexuals.*<sup>6</sup> There is limited research on long-term outcomes for children adopted by gays or lesbians. However, 25 years of social science research concludes that children raised by such parents fare well when compared to those raised by heterosexuals. Studies on lesbian parenting and the few extant studies on gay parenting have found that their children are not disadvantaged and, in some cases, receive unique benefits. No significant differences have been found, for instance, between children of lesbian mothers and heterosexual mothers on a range of measures of social and psychological adjustment such as anxiety, depression and self-esteem; or behavior problems, social relationships or emotional difficulty. Children also fare similarly in school performance and cognitive ability (Anderssen, Amlie, & Ytteroy, 2002; Breways, Ponjaert, Van Hall, & Golombok, 1997; Chan, Brooks, Raboy & Patterson, 1998; Chan, Raboy & Patterson, 1998; Flaks, Ficher, Masterpasqua & Joseph, 1995; Golombok, Perry, Burston, Murray, Mooney-Sommer, Stevens, & Golding, 2003; Golombok, Spencer & Rutter, 1983; Meezan & Rauch, 2005; Patterson, 1994; Wainwright, Russell & Patterson, 2004).

Studies also have examined the sexual orientation of children with gay or lesbian parents. Because those who oppose parenting by gays and lesbians perceive their sexual orientation as negative, they have raised the concern that these children are at greater “risk” of not being heterosexual. Without regard to the underlying merits of these beliefs, it is notable that the significant majority of empirical studies show the sexual orientation of children is not associated with family type (Anderssen, Amlie & Ytteroy, 2002; James, 2004; Wainwright, Russell & Patterson, 2004). Some studies have shown that the daughters (not the sons) of lesbians were more likely to report same-sex romantic exploration, although later sexual orientation did not differ from children raised in heterosexually led households.

A few studies have found that children of lesbian and gay parents fare better on some measures than their peers, including school involvement (Wainwright, et al., 2004) and ability to discuss sexual development with parents (Tasker & Golombok, 1995). Studies also have found greater involvement and more equality in parenting by both parents in families headed by gays and lesbians (Chan, et al., 1998). Most research on parenting by homosexual parents examines lesbian-mother households; less work has been conducted on gay fathers, but the findings to date also point to positive adjustment for children and positive family functioning (Anderssen, Amlie, & Ytteroy, 2002).

### Professional Organizations Support Adoption by Gays and Lesbians

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Recognizing the research findings, the needs of waiting children in foster care, and the potential adoptive family resources in the gay and lesbian community, a wide range of professional and child advocacy groups in the United States have issued formal statements of support for adoption by gays and lesbians who demonstrate the ability to successfully parent these children. These organizations include the most respected child-focused organizations in the United States: the Child Welfare League of America, the American Academy of Child and Adolescent Psychiatry, the American Academy of Family Physicians, the American Academy of Pediatrics, the American Bar Association, the American Medical Association, the American Psychiatric Association, the American Psychoanalytic Association, the American Psychological Association, the National Adoption Center, the National Association of Social Workers, the North American Council on Adoptable Children, and Voices for Adoption. Appendix B provides information on the policy statements of these organizations that endorse adoption by qualified gays and lesbians. The most comprehensive statement in support

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<sup>6</sup> The research on outcomes associated with gay and lesbian parenting is provided in more detail in Appendix A. This appendix describes the outcomes and limitations of these studies.

of adoption by gays and lesbians is that of the American Psychological Association; its 2004 Resolution on Sexual Orientation, Parents and Children is provided in Appendix C.

The only professional organization with a policy statement specifically opposing such adoptions is the American College of Pediatricians. This group formed in 2002, when some members broke away from the American Academy of Pediatrics in opposition to its affirmation of parenting and adoption by gays and lesbians. The American College of Pediatricians maintains that the two-parent, married, mother/father family structure is optimal and the best choice in adoption “whenever possible,” and asserts that “it is inappropriate, potentially hazardous to children and dangerously irresponsible to change the age-old prohibition on homosexual parenting, whether by adoption, foster care, or by reproductive manipulation” (American College of Pediatricians, 2004) Other groups on record as opposing adoption by gay or lesbian adults are not representative professional associations but rather interest groups, usually with conservative beliefs about family life. These groups generally assert that homosexuality poses threats to gay and lesbians themselves, to the children they raise, and to society as a whole.

The National Council for Adoption (NCF), a major adoption advocacy organization, does not expressly object to adoption by qualified gays and lesbians but, in its Adoption First Principles, it says that “consistent with the child’s best interests, preference in adoption placements should be given to families that offer married mother-and-father parenting.” NCF also lists as a First Principle that “single-parent adoption is in the best interests of some children” and states that “many children across America benefit greatly from loving, permanent relationships with single adoptive parents. Especially for some older children, single-parent adoption can be the best option available.”

### Excluding Gays and Lesbians Carries Significant Economic Costs

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In addition to the many benefits for children when they are adopted by qualified parents, society gains when policy and practice support fostering and adoption by gays and lesbians. The Urban Institute and Williams Institute researchers at the UCLA School of Law estimated the costs of banning these individuals from fostering and adopting. The current pool of foster parents for children in care is extremely limited (Macomber, Scarcella, Zielewski & Geen, 2004; Rhodes, Orme, Cox, & Buehler, 2003), and the loss of a significant number of available families solely on the basis of their sexual orientation would result in the displacement of as many as 14,000 children who would have to be moved elsewhere. Significant family resources would be lost, and given the shortage of foster parents, these children could not be readily placed into other temporary families. Some percentage of them, especially older children, would likely be placed in more costly group homes and in institutional care, where their prospects for adoption would be greatly diminished.

Based on estimates of the numbers of gay and lesbian adults currently serving as foster parents, the Urban Institute and Williams Institute approximated the costs of prohibiting adoption and fostering by gay or lesbian adults nationally, as some groups propose. Even assuming enough foster families could be recruited to replace all the gay and lesbian ones lost, states would incur significant additional costs to locate and train the new families.

The Urban Institute/Williams Institute study conservatively projected that a national ban on foster parenting by lesbian, gay, or bisexual adults would add \$87 million to \$130 million to foster care expenditures each year; the estimated price tag for individual states would range from \$100,000 in those with smaller populations up to \$27 million in those with large numbers of gay and lesbian foster parents. These costs do not include expenses associated with the implementation of such a policy,

including for therapeutic services for children experiencing yet another placement disruption and separation from caregivers with whom they have an emotional bond. The estimate also does not include the costs associated with the likely reduction in adoptions that would follow if more children were placed in congregate care rather than with foster families.

An analysis of the financial impact of the recent Tennessee legislation to bar adoption and foster parenting by unmarried, cohabitating sexual partners projected that if it had been enacted, the state would have incurred additional costs in the millions as more children remained in foster care (Tennessee Equality Project, 2008). Thus there not only are costs to children, but there also are costs to society of banning gays and lesbians from caring for children in foster care.

### III. The Legal and Policy Environment<sup>7</sup>

When states consider statutory provisions or formal policy on adoption by gays or lesbians, there is inevitably intense debate. On the one side, opponents of gay and lesbian adoption find support in conservative groups that share their opposition, and the arguments often incorporate strongly anti-gay statements that reflect a desire to hold firm to traditional notions of family. These advocates often link “gay” marriage and “gay” adoption. James Williamson, the Republican state senator who sponsored Oklahoma's bill that prohibited recognition of same-sex adoptions granted in other states, for example, stated: “It was a matter of them continuing to erode our concept of what is legitimate adoption...The radical homosexual agenda includes trying to be recognized both as married couples... and as a family union...That's their agenda and they're going to continue pushing the envelope...The whole concept of family is being challenged across the nation” (Fagan, 2004, p. A5).

On the other side of the debate are interest groups who actively advocate on behalf of adoption by gays and lesbians who meet the criteria for adoption that guide the selection of all adoptive families. These groups include the American Civil Liberties Union, the Human Rights Campaign, Lambda Legal, and the National Center for Lesbian Rights. These advocates focus on the role of gay and lesbian adoption in meeting the needs of children who need adoptive families, although some approach the issue from a civil rights perspective – that is, the right of gay and lesbian citizens to enjoy the same rights and opportunities as heterosexuals, including adoption.

#### State Laws Regarding Fostering and Adoption by Gays and Lesbians<sup>8</sup>

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State laws regarding fostering and adopting by gays and lesbians, joint and second-parent adoptions, and the acknowledgement by other jurisdictions of such adoptions by gays and lesbians constitute a patchwork of sometimes-conflicting legal approaches.

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<sup>7</sup> The following discussion describes state law and policy as of the publication of this report. Given the ongoing developments in this area, states' law and policy may have further evolved following this report's publication.

<sup>8</sup> The Institute acknowledges and expresses its appreciation for the contributions of the All Children All Families Campaign, the Family Project of the Human Rights Campaign Foundation, and the Gay and Lesbian Rights Project of the ACLU to the development of the following discussion.

**Bans on fostering by gays and lesbians.** Foster parents, by far, adopt the most children from the public system. In 2006, 59 percent of the 29,997 children adopted from care were adopted by their unrelated foster parents (U.S. Department of Health and Human Service, 2006). Almost all states allow gay and lesbian adults to foster children, but there have been several recent efforts to prohibit this practice; though largely unsuccessful to date, they raise concerns about future attempts to restrict the recruitment of the broadest possible pool of qualified foster parents.

A few states have forbidden fostering by gays and lesbians through policy. In 1995, the director of the Nebraska Department of Social Services issued a letter mandating that children not be placed in the homes of adults who identify themselves as homosexual and that such homes not be granted foster care licenses (Harvey, 1995). This policy, which also prohibits unmarried couples from fostering children, remains in effect. In 1999, the Child Review Board of Arkansas created a policy barring “known homosexuals” from fostering.<sup>9</sup> In 2006, the state’s Supreme Court unanimously affirmed a lower court ruling striking down this policy. The high court found that “[T]he driving force behind adoption of the regulation was not to promote the health, safety or welfare of foster children, but rather based on the Board’s view of morality and its bias against homosexuals” (*Dept. of Human Svcs. et al. v. Howard*, 2006, p.8). An attempt to establish a statutory ban on both fostering and adoption by lesbians and gays was defeated in committee in the Arkansas Senate in 2007.

Missouri also instituted a practice of declining applications for fostering by lesbians or gays, but it was overturned by a Circuit Court in 2006. The case involved two lesbians who sought to foster. One held a degree in child development and worked directly with children and the other was a chaplain at a psychiatric facility for troubled children and adolescents. The couple had successfully completed the home study process and had begun foster parent training when they were notified they no longer could be considered as foster parent candidates because they were lesbians. In defending the practice before the court, the child welfare department spokesperson stated: “We’re considering the biological parent’s preference and we’re also considering the abuse and neglect that [children experienced] and whether or not an alternative lifestyle environment would be confusing or add trauma to an already abused or neglected child.” The Circuit Court ruled in favor of the women, noting they were “exceptionally qualified,” and held that the sexual orientation of an applicant should not be the endpoint for the state agency’s consideration of approval in foster home licensing (Lambda Legal, 2006).

### **Recommendation**

All adults should be evaluated and licensed as foster parents based on their capacity to provide nurturing care for children. Placements should be based on a family’s abilities to meet the needs of an individual child. Categorical bans on fostering by gays and lesbians should be ended. State child welfare policy should explicitly prohibit the exclusion of foster parent applicants solely on the basis of sexual orientation.

**Laws expressly prohibiting or permitting adoption by gays and lesbians.** Only one state (Florida) explicitly prohibits adoption by gays and lesbians. Two additional states prohibit adoption by gay and lesbian couples (Mississippi does so expressly and Utah does so by prohibiting adoption by

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<sup>9</sup> Regulation 200.3.2 enacted by the Child Welfare Review Board in 1999 stated:

No person may serve as foster parent if any adult member of that person’s household is a homosexual. Homosexual, for purposes of this rule, means any person who voluntarily and knowingly engages in or submits to any sexual contact involving the genitals of one person or the mouth or anus of another person of the same gender, and who has engaged in such activity after the foster home is approved or at a point in time that is reasonably close in time to the filing of the application to be a foster parent.

cohabitating unmarried couples). While other states' statutes do not prohibit adoption by gays and lesbians, individual judges or courts have ruled against the practice. Appendix D provides a list of states and their laws and policies related to adoption by lesbians or gays.

- Mississippi does not allow gay *couples* to adopt. The state's statute prohibits "adoption by couples of the same gender." (Miss. Stat. Ann. §93-17-3(2)).
- Utah does not mention gays or lesbians, but bars adoption by anyone who is "cohabitating in a relationship that is not a legally valid and binding marriage under the laws of this state." The law not only prohibits joint adoption, but disallows an individual (rather than both members of a couple) from adopting if the person is cohabitating (Utah Stat. Ann. §78-30-1(3)(b)). Legislation (HB318) was recently introduced that would have permitted cohabitating heterosexual and same-sex couples to adopt jointly, but it did not pass.

**Florida's Statutory Prohibition on Adoption by Gays and Lesbians:** Florida's statute banning adoption by gays and lesbians was enacted in 1977, during a period of anti-gay activism. It provides that "[n]o person eligible to adopt under this statute may adopt if that person is homosexual" (Fla. Rev. Stat. §63.042(3)). In implementing this prohibition, Florida's Department of Children and Families utilizes forms for prospective adoptive parents that include a check-off option reading, "I am a homosexual." If an applicant checks this box, he or she is rejected from the application process.

A 2004 legal challenge to the Florida statute failed. A three-judge panel of the U.S. Circuit Court of Appeals held that the law was rationally related to the goal of placing children in what the state asserted was the optimal developmental condition: with a married father and mother. The court accepted this assertion without evidence, relying on what it called "unprovable assumptions." In a 6-6 decision, the full court declined to reconsider, but it was deeply divided. Three judges suggested that the statute is unconstitutional, while three others expressed concern about the constitutionality of a law that treats convicted felons more favorably than it does gay or lesbian citizens.

Although Florida law prohibits adoption by lesbian or gay adults, it allows them to be foster parents – which some critics point to as a logical disconnect. Separately, given the frequency with which foster parents adopt children in their care, it is not surprising that these dissonant policies have negatively impacted children's opportunities to have permanent families through adoption. In a case that received national attention, Florida foster parents Steven Lofton and Roger Croteau fostered four children whom the state placed with them as infants or young children. All of the children had complex medical needs resulting from HIV, and one ultimately died from AIDS. The Florida agency that placed the children with Lofton and Croteau publicly recognized the couple's dedication as foster parents by selecting them as foster parents of the year in 1998. Despite their commitment and desire, these foster parents were prohibited from adopting the children for whom they had cared almost since birth. Because federal law requires states to find permanent families for children in foster care and because Lofton and Croteau were ineligible to adopt where they lived, Florida initiated efforts to find new adoptive families for the children who, at the time, were between 8 and 11 years old. Fortunately, the two oldest are now adults and the remaining Florida ward is in high school. The family has been able to remain together despite the parents' legal inability to adopt.

In the 2008 legislative session, two bills (SB200 and H45) allowing adoption by gay or lesbian individuals under certain circumstances (child lives with prospective adopter, views him/her as a parent, in child's best interest) were introduced in Florida but did not pass out of committee.

**Legal Developments Regarding Marriage and Adoption by Gays and Lesbians:** Recent court decisions and legislation indicate that adoptive parenting by gays and lesbians is gaining greater

acceptance, even as “gay marriage” remains a highly charged topic. Twenty-seven states have passed constitutional amendments that prohibit same-sex marriage, and 44 states have statutes that expressly restrict marriage to unions between a man and a woman (National Conference of State Legislatures, 2008). As states have moved to ban same-sex marriages, there simultaneously has been an increase in the number that legally recognize other forms of union. Massachusetts and California are the only states that currently allow marriage by two persons of the same sex, but others – Connecticut, New Hampshire, New Jersey, Oregon, and Vermont – provide legal status to relationships that mirrors marriage. An additional four jurisdictions – the District of Columbia, Hawaii, Maine, and Washington – offer some of the rights and privileges of marriage to same-sex couples (National Conference of State Legislatures, 2008). Several states, including Illinois, New Mexico and Rhode Island, are currently considering legal recognition of civil unions. Even in some states that do not recognize same-sex marriage, civil unions, or domestic partnerships, “gay adoption” has gained acceptance. Indeed, several states that prohibit same-sex marriage have endorsed or removed barriers to adoption by lesbians and gays. The most recent example is Colorado, which barred same-sex marriage in 2006 and legalized adoption by gay or lesbian couples (and others) in 2007.

Efforts continue, however, to introduce or strengthen prohibitions on adoption by gays and lesbians. In Tennessee, legislation was introduced in January 2008 to ban adoption by cohabitating unmarried couples, but it failed. Also early this year, a measure in Mississippi (S.B. 2766) sought to amend existing law to prohibit unmarried adults cohabitating outside of marriage from adopting. The bill also stipulated that Mississippi would not recognize adoptions by more than one individual not able to be married under state law and would not enforce child-support orders from other states when the order involved same-sex parents; the state Senate passed the bill last February, but it did not progress in the House. In Arkansas, in response to the state Supreme Court’s striking down a policy prohibiting fostering by gay and lesbian adults, the Arkansas Family Council has been successful in getting the requisite number of signatures for a ballot initiative to be included on the ballot in November 2008. The initiative would make it illegal for children to be adopted or fostered by unmarried, cohabiting partners. It would apply to any type of foster or adoptive placement, even a relative placement, thus significantly shrinking the number of possible homes for children.

Current state laws that restrict the ability of gays and lesbians to adopt, along with continuing efforts to prevent them from doing so, make it clear that this remains a critical policy issue. If the legislative proposals being promoted were to be enacted, they would significantly reduce the pool of available qualified adoptive families for waiting children, thereby limiting their opportunities to have permanent families through adoption.

### **Recommendation**

Laws that prohibit adoption by gay or lesbian individuals and couples should be rescinded to maximize the number of interested, qualified adoptive families for waiting children. Child advocacy groups should work together to reverse statutes that prohibit adoption by adults who, apart from their sexual orientation, meet the necessary requirements.

While Florida and Mississippi expressly prohibit adoption by either gay/lesbian individuals or couples through statute, 14 states<sup>10</sup> and the District of Columbia specifically allow such adoption either through statute or decisions by the state’s highest court. In other states, the law is silent regarding adoption by gays and lesbians.

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<sup>10</sup> These states are California, Colorado, Connecticut, Indiana, Illinois, Pennsylvania, Maine, Massachusetts, New Jersey, and New York. Ohio has case law saying that being gay is not an obstacle to adopting. The civil union laws of Vermont, Oregon and New Hampshire allow second-parent adoption for same-sex couples.

### **Recommendation**

States should enact legislation that specifically includes gays and lesbians as possible adopters or, alternatively, bars the exclusion of applicants for adoption solely on the basis of sexual orientation. Child welfare advocates in the states and in the nation as a whole should work for explicit statutory language in state laws.

**Joint and second-parent adoption.** States vary regarding whether they recognize both partners in a gay or lesbian relationship as a child's legal parents. Currently, the District of Columbia, Illinois, Indiana, Massachusetts, Maine, New York, and Pennsylvania permit unmarried partners to adopt jointly, including those of the same sex, as a result of appellate court decisions; New Jersey allows these joint adoptions as a result of a consent decree. Joint adoption is available for same-sex couples who are married in California or have civil unions in Connecticut, New Hampshire, Oregon and Vermont (Personal communication, Leslie Cooper, ACLU, June 4, 2008).

The advantages of joint adoption have been well documented. Many children's rights and benefits are tied to legal parental status, including health care (which requires parental consent), insurance coverage, survivor benefits, Social Security benefits, school admission, and the ability to obtain a driver's license and passport. When children are jointly adopted, there is never a period where the child is legally vulnerable to the loss of one parent. Statutory recognition of joint adoption codifies the parental relationship of both same-sex parents and provides children with the same rights and security that children of heterosexual couples enjoy (Cahill & Tobias, 2007).

Case law affords protection for some children adopted by same-sex parents. In 2006, an Indiana appellate court held that state law allows joint adoption by an unmarried lesbian couple (*In Re Infant Girl W*, 2006). By a 4-1 decision, the court declined to hear arguments against unmarried couples adopting, thereby upholding a lower-court ruling that allowed the joint adoption. In August 2007, Maine's highest court approved a joint adoption by lesbian partners, stating, "A joint adoption assures the children to be eligible for a variety of public and private benefits.... Most importantly, joint adoption affords adopted children the love, nurturing, and support of not one, but two parents" (*Adoption of M.A.*, 2007 Maine 123).

Colorado is the most recent state to statutorily recognize joint adoption. HB 1330, signed into law in 2007, legalized adoption by unmarried couples, including lesbian or gay couples; previously, joint and second-parent adoption was restricted to married couples. The law now allows same-sex couples, as well as relatives such as grandparents or older siblings, to jointly adopt. Bills similar to Colorado's were introduced in 2008 in Michigan, where advocates are hopeful of action in the next legislative session, and in Nebraska, where consideration was indefinitely postponed.

Another route to legally protecting children is second-parent adoption, wherein a court allows a second adult who is acting as a parent to legally assume that role. Such adoptions were initially used to allow one party in heterosexual couples, such as a stepmother or stepfather, to adopt the child of the other party. Several states have extended the availability of second-parent adoption to same-sex parents. Four of them – California, Colorado, Connecticut and Vermont – authorize second-parent same-sex adoption in statute. As of this writing, the appellate courts of five additional states – Illinois, Indiana, Massachusetts, New York and Pennsylvania – and the District of Columbia have ruled that

their adoption laws permit adoption by a same-sex second parent. An additional 15 states have allowed same-sex second parent adoption in some jurisdictions.<sup>11</sup>

Five states – Florida, Nebraska, Ohio, Utah, and Wisconsin – have ruled that their adoption laws do not allow second-parent or “step-parent” adoption by gay/lesbian partners (Human Rights Campaign, 2008). In these states, as well as in Mississippi and all states without clear judicial acceptance of second-parent adoption, children in two-parent gay- or lesbian-led households are legally vulnerable.

There are legal mechanisms that can help protect a child’s relationship with the non-recognized parent even when adoption is disallowed, including powers of attorney and wills. These mechanisms, however, do not give full protection because they do not provide, as does adoption, the right to continue caring for the child if something happens to the other parent. Powers of attorney and wills do not convey the degree of security that accompanies adoption (Sanchez, 2005). These legal “workarounds,” which can be expensive and time-consuming, also do not provide for benefits of recognized parenthood such as Social Security benefits, health insurance, and child support.

### **Recommendation**

The legal recognition of both parents in a family headed by gay or lesbian adopters is in the best interests of children. States should expressly recognize the simultaneous adoption by both parents in a couple, regardless of their sexual orientation.

States should expressly recognize second-parent adoption by a partner in a couple where the other partner has given birth to, fathered, or adopted a child previously and is the sole legal parent of that child.

***Acknowledging the Legal Status of Both Parents across Jurisdictions:*** One potentially serious issue has arisen in several jurisdictions that have sought to limit the “full faith and credit”<sup>12</sup> given to final adoption decrees issued by other states to same-sex parents. In 2004, Oklahoma initiated a policy to invalidate the birth certificate of any child legally adopted in another state if the document listed two same-sex parents.<sup>13</sup> After the Department of Health refused to amend the birth certificate of a child born in Oklahoma but adopted by a same-sex couple in Washington, the state legislature passed the Adoption Invalidation Act, stating that Oklahoma “shall not recognize an adoption by more than one individual of the same sex from any other state or foreign jurisdiction.” In 2006, the federal district court struck down the law. U.S. District Judge Cauthron wrote on behalf of the court:

The very fact that the adoptions have occurred is evidence that a court of law has found the adoption to be in the best interests of the children. . . . To now attempt to strip a child of one of his or her parents seems far removed from the statute’s purpose (*Finstuen v. Edmondson*, p. 1309).

In 2007, the Tenth Circuit Court of Appeals affirmed the district court’s ruling (*Finstuen v. Crutcher*, 2007).

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<sup>11</sup> In the following states, courts have allowed second-parent adoption by partners of the same sex: Alabama, Alaska, Delaware, Hawaii, Iowa, Louisiana, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Rhode Island, Texas, and Washington.

<sup>12</sup> Article IV, section 1, of the U.S. Constitution provides that “Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other State”. This constitutional guarantee provides that the rights and protections afforded in one state must be honored in others. will not be lost in another.

<sup>13</sup> Note: Adoptive parents appear on the child’s amended birth certificate after the adoption is finalized.

The Supreme Court of Virginia reached a similar conclusion in 2007. In *Davenport v. Little-Bowser*, it held that the Virginia Department of Vital Records and Statistics could not lawfully refuse to issue a new birth certificate for a child born in Virginia to a same-sex couple who had already been allowed to adopt that child in another state.

Despite these outcomes in Oklahoma and Virginia, this issue continues to surface. Proposed legislation in Mississippi, for example, would have prevented state courts from recognizing out-of-state adoptions by unmarried couples. This legislation, passed by the Mississippi Senate but stalled in the House, was part of a broader bill to clarify the state's ban on adoption by same-sex couples.

### **Recommendation**

States should give full faith and credit to decrees of adoption issued by other states without regard to the sexual orientation of adoptive parents.

## IV. From Law to Practice: Assessing and Strengthening Agency Policies and Practices

Changes in state law and policy are an important beginning to expanding the number of prospective adoptive parents for children in foster care. Ending legal and de facto restrictions on adoption and fostering by gays and lesbians, however, is just one step in that direction. Agency policies and practices, as well as the practices of individual workers, also can significantly impede the adoptions of waiting children. A study by Brodzinsky and the Evan B. Donaldson Institute (2003) found a significant proportion of adoption agencies (60 percent) accept applications from gays and lesbians, and about 40 percent already have placed children with such parents. The study also found that although social attitudes and practices are changing, as reflected by these findings, there continue to be formal and informal agency policies, practices, and worker attitudes based on negative stereotypes that discourage prospective gay and lesbian parents from pursuing their efforts to adopt.

Massachusetts and California ban discrimination based on sexual orientation, including in adoption; in these states, the few agencies with explicit policies against placing children with gay/lesbian individuals or couples cannot implement their exclusionary intent without violating state law. As a result, some agencies have discontinued adoption services. That was the case with Catholic Charities of Massachusetts after the Catholic Church required the agency to suspend its adoption program because it was complying with state law by accepting gay and lesbian individuals and couples as adoptive parents. The Church based its position on edicts against such adoptions,<sup>14</sup> a position contrary to the State of Massachusetts' explicit prohibitions against discrimination. Board and staff members of Catholic Charities wished to continue the practice of considering all potential

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<sup>14</sup> Cardinal Ratzinger, now Pope Benedict XVI, stated in *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons* (2003) that "allowing children to be adopted by persons living in (homosexual) unions would actually mean doing violence to these children in the sense that their condition of dependency would be used to place them in an environment that is not conducive to their full human development." Cardinal Alfonso Lopez Trujillo, Vatican head of the Pontifical Council for the Family, wrote that allowing same-sex couples to adopt children "would destroy the child's future. It is an act of moral violence against the child."

adopters – including gays and lesbians – and placing children with qualified families, but the Archdiocese of Boston required the agency to stop. Catholic Charities ended its century-old adoption program in Massachusetts, and several board members resigned in protest. A similar challenge in San Francisco led Catholic Charities there to end its small adoption program. The agency has shifted its efforts to promoting the need for adoptive homes generally and providing information and referral to an adoption agency which serves all families, including those led by same-sex couples.

At least one state has enacted a law allowing private, faith-based agencies to exclude gays and lesbians from consideration as adoptive parents. In 2003, following a highly publicized case of adoption by two men, North Dakota approved legislation that allows agencies to refuse to place children with adoptive families whom they reject on religious grounds, including gay/lesbian prospective parents. This policy acknowledges the rights of agencies to provide services in accordance with their religious tenets, but one consequence is that it narrows the pool of prospective adoptive parents who will be considered for each child for whom the agency has responsibility.

### Strengthening Agency Policy and Practice

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Agency policy and practice regarding the recruitment, assessment, preparation, and support of gay and lesbian adoptive parents – in order to expand the pool of qualified adoptive families for children in foster care – can be strengthened in several areas. The following describes steps agencies can take to systematically assess their policies and practices; effectively recruit from the gay and lesbian community; implement appropriate practices in assessing gay and lesbian applicants; prepare gay and lesbian families for adoption; and recruit social work staff members who have the skills to work effectively with these families. Best practice standards in engaging, preparing, and supporting gay and lesbian prospective adoptive parents/families continue to evolve, and research is needed to assess the effectiveness of various approaches. The Human Rights Campaign, a pre-eminent gay-rights organization, has recently launched a nationwide initiative called “All Children – All Families” that is aimed at educating agencies, providing them with resources, and increasing this population of potential parents. Independently, the Adoption Institute is engaged in a study of agency practices in serving gay and lesbian adopters, which will add to the knowledge base in this area. Even as such ambitious efforts unfold, there clearly is much agencies can do to begin strengthening their practices.

***Systematic assessment of policy and practice.*** Strong agencies engage in regular and systematic assessments of the congruence of their missions, policies, and practices – in part to assure that all effective resources are utilized to find families for waiting children. These agencies determine what images they present, what language they use, and whether those images and language are inclusive and convey acceptance. Involving gay and lesbian community leaders and former clients in reviewing agency policy and practice are important safeguards. Appendix E contains a list of questions to help agencies assess their policies and practices.

### **Recommendations**

To maximize the number of prospective adoptive parents for waiting children, agencies should develop and make clear their commitment to inclusiveness.

Agencies should systematically assess their efforts to combat homophobia and heterosexism<sup>15</sup> as evidence of their commitment to reaching out to prospective gay and lesbian adoptive parents.

***Recruitment of gay and lesbian adoptive families.*** Concerted efforts are needed to increase the pool of families for children waiting in foster care, including through active and effective recruitment of lesbian and gay parents. The knowledge base regarding the most effective ways to recruit such parents continues to develop and requires more practice-based research. In one of the few studies of lesbian adopters during the adoption process, Goldberg, Downing & Sauck (2007) found that a philosophy of inclusiveness and validation, as well as explicit and specific “gay friendly” practice, was critical to these women pursuing adoption. The researchers cited practices such as stating a commitment to openness in agency materials, being known in the gay community, using images of gay- or lesbian-headed families in materials, and using forms that were inclusive or non-heterocentric as markers of supportive agencies. Such practices minimized the stress that adopters felt as members of a cultural minority. Agencies can develop and test strategies, in consultation with members of the targeted community, for recruiting prospective gay and lesbian adopters.

### **Recommendations**

To ensure concerted efforts to increase the pool of prospective families for waiting children, agencies should identify cultural and practice barriers to the recruitment of gay and lesbian parents and, in consultation with members of the targeted community, implement effective outreach, retention and training strategies.

Agencies should develop mechanisms for assessing their success in connecting with and recruiting gay- and lesbian-headed adoptive families.

#### **Reaching Out to Gay and Lesbian Families: N.Y.C’s Administration for Children’s Services**

New York City’s Administration for Children’s Services (ACS) is an example of a public agency that recognizes the importance of outreach to gay and lesbian prospective parents. ACS engages prospective parents from the gay and lesbian community in a variety of ways. The agency regularly has a booth at the city’s Gay Expo, providing information on the needs of waiting children, the agency’s openness to gay and lesbian adopters, and the process for becoming a foster or adoptive parent. In addition, ACS hosts a workshop at the New York City Adoption Conference on gay and lesbian adoption and holds an annual adoption fair at the LGBT community center. The agency’s “Circles of Support” for adoptive families across the city include at least one support group specifically for gay or lesbian headed families.

***Assessment of gay and lesbian prospective adoptive families.*** Much remains to be learned about culturally sensitive assessments for gay and lesbian adoption applicants, a topic that has only recently been addressed by research (Mathews & Cramer, 2006). Several studies, however, have found that agency policy and practice, as well as individual workers’ attitudes, often negatively impact adoption assessment of such applicants (Downs & James, 2006; Goldberg, Downing, & Sauck, 2007; Ryan, 2000; Ryan, Bedard, & Gertz, 2007; Ryan, Perlmutter, & Groza, 2004).

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<sup>15</sup> Refers to the set of beliefs – societal, cultural, institutional, and personal – associated with the assumption that heterosexuality is the only healthy, normal, or acceptable sexual orientation. This assumption is often the basis for discrimination.

Brooks and Goldberg (2001) conducted focus groups with key staff members recruited from a GLB (Gay, Lesbian, Bisexual) Concerns Committee of a public child welfare agency and with gay and lesbian adoptive and foster parents. The focus group participants reported that gay and lesbian adopters often were subject to heightened scrutiny in the assessment process.

There are no clear tests of who will be a good parent or the “right” parent for a particular child. Criminal background checks and examinations of adoptive applicants’ homes are required. Most of the decision-making about a family’s qualifications to adopt, however, is based on the home study, an assessment process that probes motivation for adoption, parent relationships, attitudes about discipline, and a host of other psychological and social factors. The home study also should be an educational process intended to teach prospective parents about the unique aspects of their families and to explore their lived experiences – both positive and challenging – that have led them to this type of parenthood. Much of the assessment is subjective and, as a result, the biases of individual social workers, sometimes unconsciously, can influence decisions about a family’s appropriateness for a waiting child from foster care.

For a variety of reasons, from a sincere effort not to discriminate to political correctness or simple uncertainty about good practice, some agencies have policies prohibiting their social workers from ascertaining an applicant’s sexual orientation. That can lead them to shy away from examining important aspects of gay/lesbian identity and coping. “Not asking,” or not acknowledging, can mask challenges the family will have to maneuver or strengths that make it the right family for a particular child. “Not asking” may also lead to inadequate preparation and support that would benefit such families and their children. Mallon (2007) points to the value of assessing the whole person in context, arguing that such practice acknowledges that gays and lesbians have different experiences that will influence their parenting. In addition, agencies may resist “knowing” or even encourage parents to withhold this information. Mathews and Cramer (2006) note that when agency staff members do not explore the issue of minority sexual orientation, they miss the opportunity to help lesbian and gay clients deal with issues such as identity development, managing differences, and utilizing their particular strengths in parenting their children.

An important issue for these prospective parents is the degree to which they are “out” about their sexual orientation. Most states do not provide protection from discrimination on this basis; consequently, in asking applicants to disclose this information, the agency may be placing them in a position that could jeopardize their employment or housing, as well as complicate relationships. Determining the areas of life where clients are “out” is important for protecting their confidentiality. Becoming a parent, however, will often force the issue as children cannot and should not be expected to keep such secrets.

### **Recommendations**

Agencies should use culturally sensitive practices in engaging gay and lesbian prospective adoptive parents in the assessment process.

Agency policies should ensure that issues of sexual orientation are addressed in the assessment process and that they provide gay and lesbian prospective parents with opportunities to explore the impact of adoption on the degree to which they are “out.”

### **Specializing in Gay/Lesbian Adoption: Families Like Ours**

Families Like Ours (FLO) is a relatively small organization with a large reach, primarily through the Internet. Begun in Washington State in 2000, the FLO website serves as a clearinghouse for information specific to gay and lesbian adoption, linking prospective parents to agencies and providing referrals to those with non-discrimination statements. FLO has over 1,000 visitors a day to its website, recruits more than 200 new foster-adopt families in Washington State alone each year, partners with over 50 agencies nationwide, and has nearly 2,000 registered families in its community. Ninety percent of the adoptions FLO guides are of children in the custody of public child welfare agencies. Although FLO serves any interested family, its primary focus is gays and lesbians seeking to adopt. FLO also provides information and support to workers and trainers, and works with agencies that pledge not to discriminate. Partner agencies sign an agreement stating: “Our pre and post placement family services and programs are available without discrimination to qualified, approved families wishing to adopt or foster domestically, regardless of age, gender, marital status, disability, income, race, sexual orientation and ethnic background.” Agencies also must report on their own non-discrimination policies. FLO trains both gay and lesbian and heterosexual prospective parents and offers assistance to support groups across the country.

***Preparation of gay and lesbian adoptive families.*** Gays and lesbians who adopt and have not had children before will face many of the same tasks as any new parent, but they also will face unique challenges (Goldberg, Downing, & Sauck, 2007). Standard preparation for adoptive parents does not address the particular issues that gay- or lesbian-headed families may have to address. They also interact with a variety of professionals – pediatricians and other health care providers, teachers and other school personnel and, possibly, mental health professionals – who may not expect or fully understand the structure of their family lives. Agencies must be aware of the range of supports in their communities that have been specifically developed to meet the needs of gay- and lesbian-headed families. Of particular benefit may be support groups for gay or lesbian adoptive families, support or recreational groups for their children, chapters of Children of Lesbians and Gays (COLAGE), and connections to welcoming mental health, health and legal professionals.

### **Recommendations**

Agencies should evaluate their training curricula for foster and adoptive parents (PRIDE, MAPP, or others<sup>16</sup>) to determine if they need to be amended to be welcoming for gays and lesbians. Agency staff should ensure trainers are sensitive to the needs of these parents and can conduct trainings in ways that acknowledge and promote acceptance of all family types.

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<sup>16</sup> PRIDE (Parent Resources for Information, Development and Education) and MAPP (Model Approaches to Partnerships in Parenting) are two widely used curricula for training foster and adoptive parents.

Agencies should develop strong relationships with service providers in their communities that can provide ongoing supports to gay- and lesbian-headed families.

**Promoting Inclusion and Developing Expertise: Family Builders by Adoption, Oakland, CA**

Family Builders by Adoption in Oakland, California, has a reputation for welcoming gay and lesbian prospective adopters. The agency sees its commitment to cultural competence as a commitment to the values, knowledge, and skills that serve diverse families, including those led by non-heterosexual parents. Executive Director Jill Jacobs has found such parents to be valuable resources for waiting children, many of whom present challenges. The agency strives to be welcoming in many ways: gay/lesbian-headed families are prominent in the agency's materials; a special section on the its website is for such prospective adopters; and it offers a support group specific to these families that is held at the local Lesbian Gay Bisexual Transgender Center and provides child care while parents meet. In its trainings, Family Builders ensures that all presenters are sensitive to and competent in addressing relevant issues, and seeks to hire staff members who are experienced and comfortable in working with a wide range of families, including lesbian- and gay-headed ones. Because homophobia and heterosexism may be subtle and unrecognized by those who hold such views, the agency uses supervision, in-house training, and reviews of home studies and other documents to identify possible staff bias. Family Builders by Adoption has worked to expand the pool of parents for waiting children for many years and has recruited, trained, and supported gay and lesbian parents for over a decade. These parents have made up 50 to 60 percent of the agency's adoptions each year.

**Agency staffing.** One strategy that agencies have utilized to improve their cultural competence in effectively reaching racial or ethnic minority groups is to enhance the sensitivity and expertise of their own staffs for working with these groups, including seeking to hire minority employees. Too often, however, social services agencies do not or, in some cases, cannot hire sufficiently diverse workers with expertise in working with gay and lesbian individuals. Just as most agencies believe it is important to strengthen their ability to create a knowing and welcoming environment for families of color, they need to do the same in reaching prospective gay and lesbian parents. To the extent possible – through job ads in newsletters and on websites targeted to gays/lesbians, relationships with organizations that serve this community, word of mouth, and other networking – agencies can hire adoption professionals who are gay or lesbian, who have special expertise in working with this population, or who can serve as consultants to enhance their staffs' knowledge. Such expertise can be a boon to developing and implementing effective policies and practices, and to creating a more welcoming atmosphere for maximizing the agency's effectiveness in serving waiting children.

Supervision is another important method for helping social workers confront their biases in relation to gay and lesbian adoptive families. Clinical supervision can aid social workers in carefully reviewing decisions about which families are suitable for a waiting child and exploring whether parental sexual orientation is considered inappropriately. Supervision also can provide an opportunity to safely explore the concerns that workers may have about placing children with gay or lesbian parents.

### **Recommendations**

Agencies should build diverse staffs of social workers and supervisors, including employees with expertise in serving gay and lesbian families, in order to effectively recruit and retain more parents for waiting children.

Agencies should train and support social workers and supervisors so that they develop expertise in working with gay and lesbian prospective adoptive parents and gay- and lesbian-headed families.

### Research to Strengthen Agency Policy and Practice

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Much more needs to be learned to provide agencies with clear guidance on quality policy and practice in recruiting, assessing, preparing, and supporting gay/lesbian foster and adoptive parents.

### **Recommendation**

Research is needed to enrich our understanding of:

- Most effective ways to reach out to and recruit gay/lesbian foster and adoptive parents
- Culturally sensitive and effective practices for the assessment of gay and lesbian prospective foster and adoptive parents
- How training of prospective foster and adoptive parents should be adapted to be welcoming to and effective for gays and lesbians
- How best to prepare agency staff to work effectively with gay/lesbian foster and adoptive applicants and gay- and lesbian-headed families

## CONCLUSION

Children in foster care who are awaiting adoption deserve the careful consideration of every resource that might provide them with a permanent family. Denying these children access to qualified adoptive parents simply because of the applicants' sexual orientation cannot be justified. Each prospective family should be individually assessed to determine its suitability to adopt and whether it can meet a particular child's needs. Banning gay and lesbian individuals based on pre-judgments of their capacity to parent disadvantages children and youths in need of safe, loving, and permanent homes.

Recent statutes and court decisions offer insights into the evolution of societal thinking about adoption by gays and lesbians. Colorado's 2007 law allowing joint adoption (and a companion law outlawing discrimination on the basis of sexual orientation), as well as the 2007 decision by Maine's highest court to recognize joint adoption by a same-sex couple, are two important examples. Successful challenges to policies excluding gay and lesbian adults from fostering children and the failure of efforts to further restrict adoption or fostering by such parents further attest to a shifting attitude. There clearly is growing awareness that tens of thousands of children in foster care need families; that youths who leave foster care without a family face significant obstacles to becoming healthy, productive adults; and that lesbian and gay parents can provide nurturing homes for boys and girls waiting for the safety, security, and stability of families for life.

Implementing the recommendations in this report will play an important role in increasing the number of adoptive families for children waiting in foster care. These recommendations provide assertive, practical legal and agency policy and practice strategies to ensure that far more children who need homes get them and that fewer "graduate" from foster care without permanent family relationships. Efforts to find families for these boys and girls must expand and intensify – and gay and lesbian adults are part of the solution. As one adoption researcher (Ryan, 2000, p. 527) has noted:

The casualties of ... the status quo are the children who can ill afford to remain in unchanging situations. By not expanding the definition of family, agencies will not be able to meet the demand for homes and thus will continue to bear the costs of maintaining children in foster care and will incur lawsuits for failure to provide permanency for children. However, the most unfortunate effect is that children will languish longer in foster care.

## ADDITIONAL RESOURCES

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## APPENDIX A

### Research on Gay and Lesbian Parenting

The table below includes examples of major studies on parenting outcomes for children raised by lesbian or gay parents that are cited in this report. The table is included because of ongoing concerns raised by those who oppose adoption by gay/lesbian individuals or same-sex couples. While this list is not exhaustive, it includes many central studies, including four (indicated with asterisks) that address many of the methodological concerns raised about research on this topic (Meezan & Rauch, 2005). Because there is so little research on gay/lesbian adopters, we consider the literature on gay and lesbian parenting as providing valuable insights into the issue of the relationship of children's well-being and family type.

Acknowledging research limitations does not diminish the general findings of every methodologically sound, peer-reviewed study to date. As noted by Stacey & Bilbarz (2001), who have critiqued many of the studies in this field, to dismiss this body of evidence due to these limitations is to "dismiss virtually the entire discipline of psychology." The study of relatively small populations, particularly those who have experienced discrimination and prejudice, poses significant challenges and inherent limitations (Anderssen, Amlie, & Ytteroy, 2002; Meezan & Rauch, 2005). Meezan and Rauch (2005) note that researchers, particularly in the early days of studying lesbian and gay parenting, have faced difficulties in:

- Finding representative samples. There is no master list of lesbian/ gay parents from which to sample. Finding subjects has often required using snowball sampling, connecting to gay/lesbian organizations, word of mouth, and other tools that may not draw from the broad array of families. Indeed, most participants have been white, out about their orientation, clustered geographically, and relatively comfortable financially. We cannot know if these are representative of the population of lesbian/gay headed families as a whole.
- Small sample sizes. Finding samples, as well as finding financial support to study lesbian/gay parents, are challenges. Most studies examine fewer than 30 children in gay/lesbian households compared to a like number in families headed by heterosexual parents. As the authors note, the smaller the sample, the less likely it is that differences will be detected.
- Complicated comparisons. To learn how children raised in lesbian/gay-headed households fare, it is useful to compare them on a number of measures to children raised in other family types. But which ones? As Meezan and Rauch ask, should we compare families headed by single lesbian mothers to two-parent heterosexual families? Two-parent lesbian-headed households to mother/stepfather families? Several studies, particularly the earlier ones, mix family types in comparison groups. The meaning of such comparisons is thus clouded. Further, the field needs to reach consensus on what the comparisons should be.
- Heterogeneity of subject groups. The more similar groups are in central characteristics, the more likely that differences (or lack of them) mean something of import. When the pool from which a sample is drawn is small, achieving homogeneity of subjects in groups being compared is difficult. For example, in lesbian-headed families, we might include women who gave birth when in an opposite-sex relationship, but who with a subsequent lesbian partner are raising children (who may or may not have relationships with their fathers), women who

conceived children through artificial insemination (both partnered and single), and women who adopt together. Again, such heterogeneity makes comparisons difficult.

- Measurement concerns. Meezan and Rauch note that some studies examine child well-being or other issues without collecting data from children themselves. They rarely observe child behavior or parent/child relationships. They may use non-standardized instruments or ones with poor or unreported reliability and validity.
- Statistical controls. It is common in research to have non-identical groups under study and to use statistical methods to control for differences. Such control requires larger samples than most of those in studies to date.
- Very limited data on children raised by gay fathers. Most studies to date have been on lesbian parenting. The outcomes for children raised by a single gay father or by a gay couple have been much less studied.

Meezan and Rauch note that these problems must be considered in context. The authors concur with the American Psychological Association’s position, which states: “There is no scientific basis for concluding that lesbian mothers or gay fathers are unfit parents on the basis of their sexual orientation” and “overall, results of research suggest that the development of, adjustment and well-being of children with lesbian and gay parents do not differ markedly from that of children with heterosexual parents” (APA, 2004, [www.apa.org/pi/lqbc](http://www.apa.org/pi/lqbc)). They further note newer studies are more rigorous, lending further credence to the position that the children of same-sex parents fare well.

TOPIC: <b>How children raised by gay/lesbian parents fare</b>	Findings	Sample size/ limitations
Anderssen, Amlie & Ytteroy, 2002	Systematic review of 23 empirical studies on nonclinical children published between 1978 and 2000- 20 on lesbian-headed families and three on gay father-headed families. Found emotional functioning, stigma, behavioral adjustment, and cognitive functioning did not systematically differ from comparison children.	<p>Studies examined 615 offspring of lesbian/gay parents and 387 children in comparison groups raised by heterosexual parents.</p> <p>Limitations (below) often inherent in studies on hidden or stigmatized groups. Representative samples of lesbian/gay-headed families are unattainable, but newer studies have sample sizes with more statistical power. Several studies use measure with known reliability/validity (e.g. Child Behavior Checklist, WISC-R) or have demonstrated validity/reliability of other measures. More than half of studies used blinding procedures. All converged on the finding that there were no substantive differences, despite sample size, measure, comparability of groups and procedures.</p> <p>Limitations of studies reviewed:                      Samples typically are snowball samples or self-selection, potentially biasing samples to more advantaged families.                      - samples were small, increasing chance that “no differences” findings might not hold up if sample sizes larger (external validity)</p>

TOPIC: <b>How children raised by gay/lesbian parents fare</b>	Findings	Sample size/ limitations
		- poorly matched comparison groups Measures – uncertain validity of some measures, especially gender identity and sexual orientation. Blinding procedures and response bias – not all collection, coding and interpretation was blind. Reliance on self-reported recall data is problematic. Focus – few studies conducted on gay fatherhood.
* Chan, Raboy & Patterson, 1998	Examining social competence and behavior problems, found no differences between group of children born to lesbians and those born to heterosexual parents.	Sample drawn from families formed using same sperm bank (thus control for effect of biological relatedness). Compared 34 lesbian couple families, 21 single lesbian families, 16 heterosexual couples and nine single heterosexual families. Used standardized measures from both parents and teachers. Sample size sufficient to identify large to medium, but not small effects. Limitations: Comparability - lesbians more likely to participate, lesbians had more education and two-parent families (lesbian or heterosexual) had more income.
Flaks, Ficher, Masterpasqua & Joseph, 1995	Found no differences in child cognitive functioning or behavioral adjustment	Compared children age 3-9 in 15 lesbian-headed couple families formed through donor insemination and 15 matched heterosexual couple families with birth children using standardized measures. Limitations: small sample size, non-representative sample
Golombok, Spencer & Rutter, 1983	Found no differences on most measures of emotional, behavioral or relationship well-being. Found somewhat more psychiatric problems among children in single heterosexual mother households.	Compared 37 school-aged children in 27 lesbian households to 38 such children in 27 heterosexual households. Limitations: small sample size, non-random sample, sample compares single hetero mothers to lesbian couples, samples vary on potentially important variables such as educational level. Non-standardized instruments used.
Tasker & Golombok, 1995	Young adults raised by lesbian mothers or heterosexual single mothers functioned equally well in	Longitudinal study of 25 young adults raised by lesbian mothers and 21 raised by heterosexual single mothers. Used combination of interview and standardized measures Limitations: small sample size, non-representative sample, partnered status of lesbian mothers unclear.

TOPIC: <b>How children raised by gay/lesbian parents fare</b>	Findings	Sample size/ limitations
	terms of psychological well-being, family identification and family relationships	I.e. to be included single hetero mothers could not be living with a male partner. Study does not specify whether lesbian mothers were currently partnered.
* Golombok et al, 2003	Children raised by lesbian mothers function well and don't experience negative psychological consequences. Children in single-headed families had more difficulty overall than children in dual-headed families regardless of type of parental sexual orientation.	Sample of 39 lesbian mother households (both coupled and single) compared to 74 heterosexual couple families and 60 heterosexual single female-headed families. Used standardized measures and interviews coded by raters unaware of household structure. Limitations: small sample size, only partially representative sample
* Wainright, Russell & Patterson, 2004	No difference in psychosocial adjustment of youth self-esteem, depression, anxiety, school performance. Youth in lesbian-headed families felt more connected to school. Held that quality of youth-parent relationship, rather parental sexual orientation is associated with adjustment. Children from two-parent families (whether same or opposite sex) did better than single	Sampling from nationally representative sample of 12,105 adolescents (National Study of Adolescent Health) compared 44 youth raised by female same-sex couples to 44 youth matched child for child raised by hetero couples. Used standardized instruments & multivariate analysis, controlling for other factors. One of the strongest studies methodologically to date.

TOPIC: <b>Sexual orientation/ gender behavior of children raised by gay/lesbian parents</b>	Findings	Sample size/ limitations
* Golombok et al, 2003	Children in lesbian-headed families did not differ in gender-typed behavior from peers in heterosexual-headed households	Semi-representative sample (drawn from study of 14,000 mothers) identified 18 lesbian mother families and added 21 more through other means (but additions were largely similar to first sample) compared to 74 heterosexual couple families and 60 single hetero mother families. Used standardized instruments and interviews coded by those blind to family type. Limitations: non-representative sample
Tasker & Golombok, 1995	Young adults raised by lesbian mothers or heterosexual single mothers did not vary in sexual orientation. While each group had similar rates of same-gender attraction, children of lesbians were more likely to have had same gender relationships.	Longitudinal study of 25 young adults raised by lesbian mothers and 21 raised by heterosexual single mothers. Limitations: small sample size, non-representative sample
Anderssen, Amilie & Ytterboy, 2002	Systematic review of 23 studies – 20 examining lesbian motherhood and 3 examining gay fatherhood. Found children of lesbian mothers and gay fathers did not differ systematically on sexual preference, gender role behavior and gender identity compared with children raised by heterosexual parents.	Studies examined 615 offspring of lesbian/gay parents and 387 children in comparison groups raised by heterosexual parents. Limitations (below) often inherent in studies on hidden or stigmatized groups. Representative samples of lesbian/gay headed families are unattainable but newer studies have sample sizes with more statistical power. Several studies use measure with know reliability/ validity (e.g. Child Behavior Checklist, WISC-R) or have demonstrated validity/reliability of other measures. More than half of studies used blinding procedures. All converged on the finding that there were no substantive differences, despite sample size, measure, comparability of groups and procedures.

		<p>Limitations:                  Samples - typically snowball sample or self-selection potentially biasing samples to more advantaged families.                  - were small, increasing chance that “no differences” findings might not hold up if sample sizes larger (external validity)                  - poorly matched comparison groups                  Measures – uncertain validity of some measures, especially gender identity and sexual preference                  Blinding procedures and response bias – not all collection, coding and interpretation was blind. Self-reported recall data is problematic.                  Focus – few studies conducted on gay fatherhood.</p>
* Wainwright, Russell & Patterson, 2004	Youth in lesbian/gay headed families are more connected to school.	<p>Sampling from nationally representative sample of 12,105 adolescents (National Study of Adolescent Health) compared 44 youth raised by female same-sex couples to 44 youth matched child for child raised by hetero couples. Used standardized instruments &amp; multivariate analysis, controlling for other factors.                  One of the strongest studies methodologically to date.</p>
* Brewaeys et al (1997)	Children did not differ in emotional and behavioral adjustment.	<p>Compared 30 lesbian couple families and 38 heterosexual couple families formed through donor insemination (from same clinic) to 30 heterosexual families who conceived naturally. 100% of sampled lesbian couple families agreed to participate vs. 53% of matched hetero DI families and 60% of naturally conceived recruited parents.                  Statistical analyses controlled for demographic differences, standardized measures used.                  Limitations: Non random sample. Response rates for all groups good, but lesbian co-mothers more likely to respond than fathers.</p>
<b>TOPIC: Children of lesbian/gay parents fare better on some measures</b>	Findings	Limitations
* Wainwright et al, 2004	Children of lesbians have greater school involvement than peers from hetero-headed families	See above
* Chan, Raboy & Patterson, 1998	Examining social competence and behavior problems, found no differences between group of children born to	<p>Sample drawn from families formed using same sperm bank (thus control for effect of biological relatedness). Compared 34 lesbian couple families, 21 single lesbian families, 16 hetero couples and 9 single hetero families.                  Used standardized measures from both parents and teachers.</p>

	<p>lesbians and those born to heterosexual parents.</p> <p>However, in children with two lesbian mothers both parents have more involvement with child, exhibiting more equality in parenting.</p>	<p>Limitations: lesbians more likely to participate, lesbians had more education and two-parent families (lesbian or hetero) had more income.</p>
* Golombok et al (2003)	<p>The only significant difference in the groups was that fathers in hetero couples more likely to hit children than co-mothers in dual lesbian couples.</p>	<p>Semi-representative sample (drawn from study of 14,000 mothers) identified 18 lesbian mother families and added 21 more through other means (but additions were largely similar to first sample) compared to 74 heterosexual couple families and 60 single hetero mother families.</p> <p>Used standardized instruments and interviews coded by those blind to family type.</p> <p>Limitations: Not truly representative, but close approximation according to authors.</p>
* Brewaeys et al (1997)	<p>Only “striking difference”: nonbiological lesbian mothers (partners to woman who gave birth) showed greater interaction with their children than did fathers</p>	<p>Compared 30 lesbian couple families and 38 heterosexual couple families formed through donor insemination (from same clinic) to 30 heterosexual families who conceived naturally. 100% of sampled lesbian couple families agreed to participate vs. 53% of matched hetero DI families and 60% of naturally conceived recruited parents.</p> <p>Statistical analyses controlled for demographic differences, standardized measures used.</p> <p>Limitations: Response rates for all groups good, but lesbian comothers more likely to respond than fathers. Children young (8 and younger).</p>

## APPENDIX B

### Overview of Policy Statements on Adoption by Gay/Lesbian Parents by Professional Groups

Organization	Purpose/Membership	Nature of Statement
American Academy of Child and Adolescent Psychiatry	National association of 7,500 psychiatrists who treat and aim to improve quality of life for children, adolescents and their families with mental, behavioral, and developmental disorders.	Notes gay, lesbian and bisexual individuals face more scrutiny regarding their right to be parents and states its opposition to discrimination based on sexual orientation against individuals in custodial or adoptive parenting.  [Does not specifically speak to joint or second-parent adoption.]
American Academy of Family Physicians	National medical organization of over 94,000 physicians and physicians in training.	Passed resolution that promotes psychological and legal security for all children, including adoptive children, regardless of the sexual orientation of parents.
American Academy of Pediatrics	National organization of some 60,000 pediatricians dedicated to the health, safety, and well-being of infants, children, adolescents and young adults.	Calls for legal recognition of both parents in same- or opposite-sex families.  Specifically calls for legal recognition of second parent.  Calls for advocacy to establish permanency for children of same-sex couples through second-parent adoption.  [Does not speak specifically to issue of adoption by lesbian or gay individuals, but this is implied by its thorough support for recognition of both partners in a same-sex headed family].
American Bar Association	National organization of lawyers with membership of 400,000. Develops initiatives to improve the legal system, accredits legal education, educates the public about the law, and develops programs to assist judges and attorneys.	Opposes legislation and policies that prohibit, limit or restrict foster or adoptive placement of any child on basis of sexual orientation of proposed parents.  Supports enactment of laws and policies that adoption shall not be denied based on sexual orientation.  Supports state and territorial laws and statutes that permit legal parent-child relationships through joint adoptions and second-parent adoptions by unmarried persons functioning as child's parents.

<b>Organization</b>	<b>Purpose/Membership</b>	<b>Nature of Statement</b>
American Medical Association	The nation's largest physicians' organization with over 240,000 members. Seeks to promote public health and promote art and science of medicine.	States AMA will support adoption of a child by same-sex or opposite-sex, non-married partner.  [Does not speak specifically to issue of adoption by gay or lesbian individuals, but this is implied by its support for recognition of both partners in same-sex-headed families.]
American Psychiatric Association	National organization of 35,000 psychiatrists	Asserts that gay and lesbian couples and individuals should be allowed to be parents through adoption and fostering, "subject to the same types of screening" used for heterosexual persons.  Specifically supports second-parent adoption, and states that such adoptions should not be prohibited because parents are the same gender.  Holds that custody decisions after dissolution of gay relationships be made similarly to those in custody decisions of heterosexual partners.
American Psychoanalytic Association	National organization of 3,000 members promoting education, research, and professional standards.	Asserts that the evaluation of individuals or couples for parenting, including adoption, "should be determined without prejudice regarding sexual orientation."
American Psychological Association	National organization of over 150,000 members.	Extensive statement on many issues relating to gay/lesbian-headed families, including: <ul style="list-style-type: none"> <li>- statement deploring all discrimination against gays and lesbians and urging repeal of all discriminatory legislation</li> <li>- specifically opposes discrimination in adoption and foster care on the basis of sexual orientation</li> <li>- supports protection of parent-child relationships through joint and second-parent adoption</li> <li>- encourages psychologists to act to eliminate all discrimination based on sexual orientation in adoption and foster care</li> <li>- commits APA to a leadership role in opposing such discrimination</li> <li>- commits the APA to providing scientific and educational resources to inform public discussion regarding such discrimination</li> </ul>
Child Welfare League of America	National association of over 800 public and private child welfare organizations.	Affirms that gay, lesbian, and bisexual parents are as well-suited to rear children as heterosexual parents.

Organization	Purpose/Membership	Nature of Statement
	Sets standards and advances policy and practice that promote well-being of children, youth and families.	<p>Asserts that applicants for adoption “should be assessed on parenting abilities and not race, ethnicity or culture, income, age, marital status, religion, appearance, differing lifestyle or sexual orientation.”</p> <p>Argues for individual assessment based on capacity to meet needs of particular child.</p> <p>[Does not specifically speak to joint or second parent adoption.]</p>
National Adoption Center	Organization that pioneered national photolistings of waiting children in foster care. Selected by the US Department of Health and Human Services to develop adoptive family recruitment nationally, which led to the current AdoptUsKids Program	Based on the belief that every child has the right to a loving, nurturing, and permanent family, and that people from a variety of life experiences offer strengths for these children, the National Adoption Center has as its policy that no person should be denied consideration in the adoption process solely based on marital status, sexual orientation, lifestyle, disability, physical appearance, race, gender, age, religion, or size of family.
National Association of Social Workers	National organization with over 150,000 members with emphasis on social justice as well as professional standards.	States barriers to foster care and adoption due to sexual orientation “must be removed.”
North American Council on Adoptable Children	Organization of 1,100 parents, professionals and organizations representing the needs of children awaiting homes and the families that adopt them.	<p>States children should not be denied homes in permanent families due to sexual orientation of prospective parents.</p> <p>Holds that all prospective parents should be considered fairly and equally, regardless of sexual orientation.</p> <p>Opposes rules that restrict consideration based on sexual orientation.</p>
Voices for Adoption	Organization of adoption agencies and advocacy groups that seek to shape public debate about adoption and promote awareness of the needs of waiting children.	<p>Asserts that ruling out parents due to sexual orientation unnecessarily reduces their chances for permanency.</p> <p>Supports making decisions about adoption on a case-by-case basis.</p>

## APPENDIX C

### **The American Psychological Association: 2004 Resolution on Sexual Orientation, Parents and Children**

There is no scientific basis for concluding that lesbian mothers or gay fathers are unfit parents on the basis of their sexual orientation. ... On the contrary, results of research suggest that lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children. ...Overall, results of research suggest that the development, adjustment, and well-being of children with lesbian and gay parents do not differ markedly from that of children with heterosexual parents.

WHEREAS APA supports policy and legislation that promote safe, secure, and nurturing environments for all children

WHEREAS APA has a long-established policy to deplore all public and private discrimination against gay men and lesbians and urges the repeal of all discriminatory legislation against lesbians and gay men.

WHEREAS discrimination against lesbian and gay parents deprives their children of benefits, rights, and privileges enjoyed by children of heterosexual marital couples

WHEREAS some jurisdictions prohibit gay and lesbian individuals and same-sex couples from adopting children, notwithstanding the great need for adoptive parents

WHEREAS there is no scientific evidence that parenting effectiveness is related to parental sexual orientation: lesbian and gay parents are as likely as heterosexual parents to provide supportive and health environments for their children

WHEREAS research has shown that the adjustment, development, and psychological well-being of children is unrelated to parental sexual orientation and that children of lesbian and gay parents are as likely as those of heterosexual parents to flourish;

THEREFORE BE IT RESOLVED that the APA opposes any discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care and reproductive healthier services;

THEREFORE BE IT FURTHER RESOLVED that the APA believes that children reared by a same-sex couple benefit from legal ties to each parent;

THEREFORE BE IT FURTHER RESOLVED that the APA supports the protection of parent-child relationships through the legalization of joint adoptions and second parent adoptions of children being reared by same-sex couples;

THEREFORE BE IT FURTHER RESOLVED that APA shall take a leadership role in opposing all discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care and reproductive health services;

THEREFORE BE IT FURTHER RESOLVED that APA encourages psychologists to act to eliminate all discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care, and reproductive health services;

THEREFORE BE IT FURTHER RESOLVED that the APA shall provide scientific and educational resources that inform public discussion and public policy development regarding discrimination based on sexual orientation in matters of adoption, child custody and visitation, foster care, and reproductive health services and that it assist its members, divisions, and affiliated state, provincial, and territorial psychological associations.

## APPENDIX D

### Adoption by Lesbian or Gay Persons: Law as May 2008

Source: Human Rights Campaign, 2008; National Conference of State Legislatures, 2008;  
 American Civil Liberties Union, 2008

STATE	Allows adoption by gay/lesbian individuals (1)	Statute or Appellate Court ruling permits joint adoption by gay/lesbian couples	Statute or Appellate Court ruling permits second parent adoption by gay/lesbian couples	Notes:
Alabama	Yes	No	No	Has allowed second-parent adoption at trial court level.
Alaska	Yes	No	No	Has allowed second-parent adoption at trial court level.
Arizona	Yes	No	No	
Arkansas	Yes	No	No	Although court has not addressed same sex adoption, in 2006 the Supreme Court of Arkansas affirmed that a regulation prohibiting gay/lesbian people from serving as foster parents was unconstitutional.
California	Yes	Yes	Yes	Statute
Colorado	Yes	No	Yes	Statute
Connecticut	Yes	Yes	Yes	Statute
Delaware	Yes	No	No	Has allowed second-parent adoption at trial court level
Florida	No	No	No	Prohibits adoption by statute. Does allow gay/lesbian individuals and couples to be foster parents.
Georgia	Yes	No	Unclear	Has allowed second-parent adoption at trial court level
Hawaii	Yes	No	No	Has allowed second-parent adoption at trial court level
Idaho	Yes	No	No	

<b>STATE</b>	<b>Allows adoption by gay/lesbian individuals (1)</b>	<b>Statute or Appellate Court ruling permits joint adoption by gay/lesbian couples</b>	<b>Statute or Appellate Court ruling permits second parent adoption by gay/lesbian couples</b>	<b>Notes:</b>
Illinois	Yes	Yes	Yes	Appellate Court ruling
Indiana	Yes	Yes	No	Appellate Court ruling
Iowa	Yes	No	No	Has allowed second-parent at trial court level
Kansas	Yes	No	No	
Kentucky	Yes	No	No	
Louisiana	Yes	No	No	Has allowed second-parent adoption at trial court level
Maine	Yes	Yes	No	
Maryland	Yes	No	No	Has allowed second-parent adoption at trial court level.
Massachusetts	Yes	Yes	Yes	Mass. Gen. Laws Ch. 210 §1; <i>Adoption of Tammy</i> , 619 NE 2d 315 (Mass. 1993).
Michigan	Yes	No	No	Has allowed second-parent adoption at trial court level.
Minnesota	Yes	No	No	Has allowed second-parent adoption at trial court level
Mississippi	Yes	No	No	Statute expressly prohibits adoption by couples of the same gender.
Missouri	Yes	No	No	
Montana	Yes	No	No	
Nebraska	Yes	No	No	Appellate court ruling against second-parent adoption. In addition, policy of public child welfare department does not allow gay or lesbian individuals to be foster parents.
Nevada	Yes	No	No	Has allowed second-parent adoption at trial court level
New Hampshire	Yes	No	No	Some judges have permitted a same-sex couple to petition to adopt in some circumstances
New Jersey	Yes	Yes	Yes	Appellate Court ruling
New York	Yes	Yes	Yes	Appellate Court ruling

<b>STATE</b>	<b>Allows adoption by gay/lesbian individuals (1)</b>	<b>Statute or Appellate Court ruling permits joint adoption by gay/lesbian couples</b>	<b>Statute or Appellate Court ruling permits second parent adoption by gay/lesbian couples</b>	<b>Notes:</b>
New Mexico	Yes	No	No	Has allowed second-parent adoption at trial court level
North Carolina	Yes	No	No	Has allowed second-parent adoption at trial court level
North Dakota	Yes	No	No	
Ohio	Yes	No	No	Appellate court ruling against second-parent adoption
Oklahoma	Yes	No	No	
Oregon	Yes	Yes	No	Has allowed second-parent adoption at trial court level
Pennsylvania	Yes	No	Yes	Appellate court ruling
Rhode Island	Yes	No	No	Has allowed second-parent adoption at trial court level
South Carolina	Yes	No	No	
South Dakota	Yes	No	No	
Tennessee	Yes	No	No	
Texas	Yes	No	No	Has allowed second-parent adoption at trial court level
Utah	Yes	No	No	Statute prohibits adoption by unmarried, cohabitating persons
Vermont	Yes	Yes	Yes.	Appellate Court ruling and statute
Virginia	Yes	No	No	
Washington	Yes	No	No	Has allowed second-parent adoption at trial court level
West Virginia	Yes	No	No	
Wisconsin	Yes	No	No	Court ruling prohibits same sex second-parent adoption
Wyoming	Yes	No	No	
District of Columbia	Yes	Yes	Yes	Appellate Court ruling

## APPENDIX E

### **SERVING GAY AND LESBIAN HEADED ADOPTIVE FAMILIES: A GUIDE TO AGENCY SELF-ASSESSMENT**

For each of the following questions, agency directors or supervisors need to consider what evidence supports their response.

1. Do we expressly state our support for adoption by lesbian/gay parents?  
Where does such information appear? Is it apparent throughout our agency materials?  
Is it clear on our website?  
  
Do we show a variety of family types in our materials and on our website, including gay/lesbian couples and their children?  
  
Is our position well-known among gay and lesbian organizations?
2. How do we assure that agency workers – from the Executive Director and Board through supervisors, social workers and office staff – share the belief that gay and lesbian adoptive parents are valuable resources for waiting children?
  - a) Is our position clear in our orientation for new workers?
  - b) Is our position clear in training?
  - c) Do we reference the Code of Ethics of the National Association of Social Workers or the position statements of other professional organizations?
3. Do we conduct ongoing evaluation of attitudes and assumptions about gays and lesbians through orientation, training and supervision?
4. Do we truly select the best family for a child or do we have a hierarchy favoring opposite-sex couples or heterosexual individuals?
5. Do we engage in outreach to gay and lesbian organizations in our community?
  - a) Do we present information about our services to gay- and lesbian-focused organizations?
  - b) Are we present at community events sponsored by or popular with gays and lesbians in our community?
  - c) Do we have representatives from the gay and lesbian community on our Board or advisory committees?
6. Are we “culturally literate” in serving gay and lesbian families? Are our workers trained about the impact of homophobia, or on the coming out process and its relationship to lesbian/gay identity?
  - a) What stereotypes and concerns do workers have?
  - b) How do we prevent overemphasis on sexual orientation while recognizing the special challenges our gay/lesbian parents may have?

- c) Do our materials (home study and licensing forms, training materials, etc.) reflect diversity and are they inclusive?
- d) Who are our cultural guides in doing this work?
- e) How do we address adoption by gay or lesbian parents with birthparents, other original family members, and/or older children?
- f) How do we help gay/lesbian adults consider and prepare for managing the differences of being a family through adoption and being a family with same-sex parents?