

SNAPSHOT: LGBTQ+ ADOPTION AND FOSTER CARE PARENTING IN COLORADO

Across the United States, approximately 3 million lesbian, gay, bisexual, transgender, or queer (LGBTQ+) Americans have had a child, and as many as 6 million American children and adults have an LGBTQ+ parent. Among LGBTQ+ adults under 50 living alone or with a spouse or partner, 48% of women and 20% of men are raising a child under 18. Over 25% of transgender adults report being parents.

Colorado

Adoption Figures:

- In 2021, of the more than 391,000 youth in foster care in the U.S., 4,248 of them resided in Colorado, and 872 were waiting to be adopted at the end of the fiscal year.
- In 2021, 790 children were adopted from the foster care system in Colorado.
- In Colorado, 234,000 people identify as LGBTQ+, 4.6% of the total population. Of the LGBTQ+ adult population, 25% are raising children.

Adoption and Foster Care Laws:

- Colorado law allows any adult over 21 years old to petition to adopt. Colo. Rev. Stat. Ann. § 19-5-202.
- State law provides that a person with a spouse or partner in a civil union shall petition jointly. Colo. Rev. Stat. Ann. § 19-5-202.
- Colorado law permits any married person to adopt the child of their spouse via stepparent adoption. Colo. Rev. Stat. Ann. § 19-5-203. C 19-5-202(5). A person who is a partner in a civil union may adopt a child of the other partner through the stepparent adoption process. Colo. Rev. Stat. Ann. § 19-5-202(5).
- Colorado law also allows second parent adoptions, permitting a child's sole legal parent to specify a second adult to adopt a child without losing any parental rights. Colo. Rev. Stat. Ann. § 19-5-203. There is no marriage requirement, and the statute is written in gender-neutral terms, thus allowing an unmarried same-sex couple to share parental rights and responsibilities.
- In 2023, Colorado passed “Marlo’s Law,” updating access to parentage protections and streamlining the confirmatory adoption process for same-sex couples who use assisted reproduction. Colo. Rev. Stat. Ann. § 19-5-203.5.
- Colorado has a state law and numerous regulations prohibiting discrimination against youth in foster care based on sexual orientation and gender identity. Colo. Rev. Stat. Ann. § 19-7-101; 12 Colo. Code Regs. § 2509-8:7.714.31; 3 Colo. Code Regs. § 708-1:81.8; 3 Colo. Code Regs. § 708-1:81.9.
- Colorado regulations prohibit county child welfare officials from denying aid, services, benefits, or participation on the basis of sexual orientation. 12 Colo. Code Regs. § 2509-7:7.604. Colorado regulations also prohibit agencies from discriminating against prospective foster parents on the basis of sexual orientation or gender identity. 12 Colo. Code Regs. § 2509-8:7.710.34(H).
- Colorado also has a statewide-ban prohibiting so-called “conversion therapy” of youth under eighteen. Colo. Rev. Stat. Ann. § 12-240-121(ee).

Across the United States

More than 33,000 same-sex couples are raising adopted children in the U.S.

- While LGBTQ+ parents are raising children all over the U.S., the highest proportions of LGBTQ+ parents raising children reside in Mountain West, Southern, and Midwestern states – areas with the fewest protections for LGBTQ+ families.
- The states with the highest proportions of LGBTQ+ parents raising children are Idaho (44%), Utah (40%) and Oklahoma (38%).
- Same-sex couples raising children are seven times more likely than their different-sex counterparts to be raising adopted or foster children.

Approximately 5,500 same-sex couples are raising foster children in the U.S. Same-sex couples raising children are seven times more likely than their different-sex counterparts to be raising foster children.

Many states are silent on the issue of LGBTQ+ people fostering and adopting children, which leaves these families vulnerable to the potential bias of individual agencies, child welfare professionals, and family court judges at the local level. Further, although LGBTQ+ youth are disproportionately represented in the child welfare system, many states lack state-level non-discrimination protections or affirming policies for LGBTQ+ youth in care.

- Only half of the states in the U.S. have laws or regulations that explicitly prohibit discrimination on the basis of sexual orientation or gender identity.
- Only ten states ensure that individuals interested in acting as foster parents are not discriminated against based on their sexual orientation; fewer provide protections based on gender identity.
- In contrast, thirteen states – Alabama, Arizona, Kansas, Michigan, Mississippi, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia – allow an agency to turn away prospective foster and adoptive parents who do not meet the agency’s religious requirements. In at least nine of those states this is true even where an agency receives taxpayer funding. Advocates successfully defeated attempts in several other states to pass similar discriminatory laws.
- Married same-sex couples should have the same right to foster and adopt as married different-sex couples. Even with nationwide marriage equality, however, LGBTQ+ people and same-sex couples in some states may still face foster care and adoption laws, policies, or practices that permit agencies to continue to discriminate against them.
- Twenty states allow unmarried LGBTQ+ people to petition to adopt their own children through second-parent adoption.
- **Approximately 1 in 3 foster youth over the age of 12 identify as LGBTQ+.**
- **Over half of all states have no laws or regulations specifically prohibiting discrimination for LGBTQ+ youth receiving foster care and adoption services; most states provide no explicit guidance about transgender youth in the child welfare system.**
- **Only three states have passed laws or regulations that require placement of transgender youth in facilities based on their gender identity.**
- **Only six states have laws or regulations in place requiring LGBTQ+-inclusive cultural competency training for child welfare staff and/or foster parents.**



JOHN LEWIS EVERY CHILD DESERVES A FAMILY ACT

Fact Sheet Updated May 2023

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