

SNAPSHOT: LGBTQ+ ADOPTION AND FOSTER CARE PARENTING IN FLORIDA

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.

Florida

Adoption Figures:

- In 2021, of the more than 391,000 youth in foster care in the U.S., 23,507 of them resided in Florida, 9,046 of whom were waiting to be adopted at the end of the fiscal year.
- In 2021, 3,938 children were adopted from the foster care system in Florida.
- In Florida, 886,000 people identify as LGBTQ+, 4.6% of the total population. Of the LGBTQ+ adult population, 24% are raising children.

Foster Care and Adoption Laws:

- Florida law permits an unmarried adult to adopt. Fla. Stat. §63.042. Florida was one of the last states to repeal its ban on adoption by LGBTQ individuals, which had been in effect since 1977. In 2004, Martin Gill and his partner became foster parents to 2 brothers. Gill filed a lawsuit challenging the Florida law, and on November 25, 2008, a juvenile court judge granted the adoption, finding the statutory prohibition violated the Florida Constitution. The district court of appeals upheld this ruling on September 22, 2010. Following this ruling, the state attorney general declined to appeal, effectively invalidating Florida's ban on adoption by gay people. In July 2015, the Florida legislature repealed the adoption ban.
- Florida law allows a "husband and wife" to adopt jointly. Fla. Stat. §63.042(2)(a). Since marriage equality is recognized nationwide, same-sex married couples should be permitted to jointly adopt.
- State law permits a married person to adopt the child of their spouse via stepparent adoption, which should include married same-sex couples. Fla. Stat. §63.042(2)(c). Florida statutes do not address second parent adoption, which is the adoption of a child by an additional parent without the first parent losing parental rights and without requiring the additional parent to be a spouse.
- Several Florida regulations prohibit sexual orientation, gender identity, and gender expression-based discrimination against youth in child-caring agency facilities and requires direct care staff to obtain training in sexual orientation, gender expression, and gender identity. Fla. Admin. Code R. 65C-46.009(3)(h); Fla. Admin. Code R. 65-C 46.011(9)(c)(6); Fla. Admin. Code R. 65C-46.012.
- Florida regulations regarding the placement of children reiterates the obligation of a child-placing agency to place each child in a home that best meets their individual needs. These regulations also provide that child-placing agencies cannot refuse service base on gender, gender expression, sexual orientation, or transgender identity. An agency is required to consider the safety, emotional well-being, preference of transgender youth when pursuing a placement option, as well as the recommendation of the child's therapist, guardian, and case manager. Fla. Admin Code 65C-46.012(5); 65C-46.012(4)(f).



FAMILY EQUALITY

EVERY CHILD DESERVES A FAMILY ACT

- Florida regulation requires LGBTQ-inclusive cultural competency training for staff working directly with children (Fla. Admin. Code R. 65C-46.011).
- Florida does not have a statewide ban against the discredited practice of so-called “conversion therapy.”

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.**



FAMILY

EQUALITY

**EVERY CHILD DESERVES A
FAMILY ACT**

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.

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