

## SNAPSHOT: LGBTQ+ ADOPTION AND FOSTER CARE PARENTING IN MISSISSIPPI

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.

### Mississippi

#### Adoption Figures:

- In 2021, of the more than 391,000 youth in foster care in the U.S., 3,540 of them resided in Mississippi, 1,139 of whom were waiting to be adopted at the end of the fiscal year.
- In 2021, 566 children were adopted from the foster care system in Mississippi.
- In Mississippi, 99,000 people identify as LGBTQ+, 3.5% of the total population. Of the LGBTQ+ adult population, 34% are raising children.

#### Foster Care and Adoption Laws:

- Mississippi law allows any unmarried adult or a married person jointly with their spouse to petition for adoption. Miss. Code Ann. § 93-17-3(4).
- In 2016, a federal court ruled that Mississippi's statute prohibiting married same-sex couples from adopting (Miss. Code Ann. § 93-17-3(5)) was unconstitutional, thus granting all married same-sex couples the right to adopt jointly. *Campaign for Southern Equality v. Mississippi Dep't of Human Svcs.*, 175 F.Supp. 3d 691 (S.D. Miss. 2016).
- State law permits any married person to adopt the child of their spouse via stepparent adoption. Miss. Code Ann. § 93-17-3. Mississippi 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.
- In 2016, the Mississippi state legislature passed a sweeping "conscience clause" law that explicitly allows state-funded child placement agencies to discriminate against LGBTQ youth and prospective parents on the basis of a "sincerely held religious belief or moral conviction." Miss. Code. Ann. § 11-62-5. The law singles out LGBTQ individuals, defining "sincerely held religious beliefs or moral convictions" to be the belief or conviction that "(a) Marriage is or should be recognized as the union of one man and one woman; (b) Sexual relations are properly reserved to such a marriage; and (c) Male (man) or female (woman) refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth." Miss. Code. Ann. § 11-62-3. The law went into effect in October 2017 after the U.S. Court of Appeals for the Fifth Circuit reversed -- on standing grounds -- a lower court's injunction against implementation of the law. *Barber v. Bryant*, 860 F.3d 345 (5th Cir. 2017).
- Mississippi regulations prohibit discrimination against youth in care based on sexual orientation or gender identity. Code Miss. R. 18-006:101. Mississippi does not, however, 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.**
- **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.**

*Fact Sheet Updated May 2023*



## EVERY CHILD DESERVES A FAMILY ACT

To cosponsor in the Senate contact [Anna\\_Song@gillibrand.senate.gov](mailto:Anna_Song@gillibrand.senate.gov) in Sen. Kirsten Gillibrand's office.

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