

March 13th, 2013

Chairman Dave Reichert
Subcommittee on Human Resources
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Ranking Member Lloyd Doggett
Subcommittee on Human Resources
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: February 27th Human Resources Subcommittee Hearing on Increasing Adoptions from Foster Care

Dear Chairman Reichert and Ranking Member Doggett:

The undersigned, who represent a diverse coalition of organizations committed to opening more homes to America's foster youth, are pleased to have the opportunity to submit testimony for this hearing on increasing adoptions from foster care. The Every Child Deserves a Family Act is a federal bill that would open more homes to foster youth by prohibiting discrimination in foster care and adoption on the basis of the potential parent's sexual orientation, gender identity, or marital status, and the sexual orientation or gender identity of the child involved.

There are 400,000 children in the U.S. foster care system, 104,000 of whom are waiting to be adopted.¹ Unfortunately, because of the lack of adoptive parents, 26,000 of these children leave foster care each year without ever finding a permanent, loving home.² Youth who age out of care without a safety net are vulnerable to drop-out, homelessness, early parenthood, and incarceration. There is a desperate lack of qualified parents willing to open their homes to foster youth. Meanwhile, there are two million potential lesbian, gay, bisexual, and transgender (LGBT) parents who would consider adopting from the public system but for state policies, practices, and procedures that prevent them from doing so.³

¹ Foster Care FY2003-FY2011 Entries, Exits, and Numbers of Children In Care on the Last Day of Each Federal Fiscal Year, U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Data current as of July 2012, *available at* <http://www.acf.hhs.gov/sites/default/files/cb/entryexit2011.pdf>.

² *Id.*

³ Gary J. Gates, M.V. Lee Badgett, Jennifer Ehrle Macomber and Kate Chambers, "Adoption and Foster Care by Gay and Lesbian Parents in the United States," The Williams Institute and Urban Institute, 2007, *available at* www.urban.org/UploadedPDF/411437_Adoption_Foster_Care.pdf.

Most states are silent on the issue of LGBT people fostering or adopting from foster care. In many of these states, this silence either results in an outright ban on foster care or adoption by same-sex couples or leaves these families vulnerable to the potential biases of individual agencies, child welfare professionals, and family court judges at the local level. Only seven states have policies explicitly prohibiting discrimination on the basis of sexual orientation in adoption.⁴ California and Rhode Island are the only states to prohibit discrimination in adoption on the basis of gender identity. Six states prohibit discrimination on the basis of sexual orientation in foster care.⁵

Meanwhile, some states continue to close doors to children in foster care looking for permanent homes. Until 2010, when a State Appellate Court found the law unconstitutional, Florida banned all lesbians and gay men from adopting, but allowed single lesbians and gay men to serve as foster parents. Arizona and Utah require that preference be given to a “married man and woman” in foster and adoptive placements. This marital preference discriminates against same-sex couples because same-sex marriages are not recognized in Arizona or Utah. Nebraska prohibits cohabiting unmarried couples from becoming foster or adoptive parents. Arkansas had a similar law overturned last year by the state supreme court. North Dakota and Virginia permit state-licensed child-placement agencies to discriminate, based on religious grounds, against children in state care and potential parents, including LGBT children and LGBT parents. These overt, explicit laws are the most extreme examples of discrimination against LGBT potential foster and adoptive parents. Most states’ silence on the issue results in a lack of training and cultural competency for child-welfare agencies, creating hostile atmospheres or a reluctance to recruit LGBT parents.

These negative laws and policies, and the hostile climates they create, do nothing to increase adoptions for foster youth. In fact, these policies are costing the federal and state governments significant resources to keep a child in foster care, rather than moving her to a loving adoptive family. According to a 2007 report by the Williams Institute, if the United States were to ban lesbians and gays from serving as foster parents it would cost the nation anywhere between \$87 - \$130 million per year,⁶ while prohibiting discrimination at the federal level would save the federal government \$17 million in the first year alone.⁷ More than 16,000 same-sex couples (13% of couples raising adopted children) are raising

⁴ California, Maryland, Massachusetts, Nevada, New Jersey, New York, and Rhode Island.

⁵ California, Massachusetts, New Jersey, Oregon, Rhode Island, and Wisconsin.

⁶ *Supra* note 3.

⁷ Federal spending from Title IV-E on fostering and adopting would be reduced by ECDF. In 2009, \$4.5 billion was used to fund 203,000 children in foster care, and \$2.3 billion was used to subsidize 430,000 adoptions from the public system. Therefore, foster care costs the federal government approximately \$22,000 per child while adoption subsidies amounted to approximately \$5,300 per child. The difference in per child cost of fostering (\$22,000) minus per child costs of adoption (\$5,300) is \$16,700 per child. If ECDF was enacted today, 2.94% of adoptions will be to LGB parents, or a total 3,366 adoptions per year (2.94% of 114,506). (*Supra* note 3. According to Brodzinsky, et al., the percent of public adoption agencies who have granted an adoption to LGB parents is 70%. We assume that the pool from which LGB parents adopted their child was only 70% of the total children available for adoption (so 70% of 114,506), or 80,154. The percentage of adoptions to LGB parents in areas that permit LGB adoptions (2,356/80,154) is 2.94%.) Subtract the existing number of LGB adoptions to get the predicted increase in adoptions if LGB restrictions are lifted (3,366-2,356), or approximately 1,000 additional adoptions of children from

an estimated 22,000 adopted children in the US. In total, 1.4% of adopted children with two parents are being raised by same-sex couples. Approximately 2,600 same-sex couples (2% of couples raising foster children) are raising 3,400 foster youth. 1.7 % percent of foster youth living with two parents are being raised by same-sex couples.⁸ LGBT parents are qualified, loving parents and are looking to provide homes for our neediest youth.

The American family comes in various shapes and sizes. Policies restricting the ability of LGBT individuals and couples to foster and adopt children reflect neither the reality of American parenthood, the opinion of the American public, nor the weight of 30 years of social science research showing that the children of lesbians, gay men, bisexual people, and same-sex parents are as healthy and well-adjusted as the children of married opposite-sex couples.⁹ In a country where only one-quarter of families are headed by married opposite-sex parents, it is time for a federal standard that places the focus where it belongs: on the best interest of children in foster care, looking for permanent, loving homes.

The Every Child Deserves a Family Act is a bill that creates a federal standard of nondiscrimination: preventing discrimination in public adoption and foster care on the basis of the potential parents' sexual orientation, gender identity, or marital status. It also prohibits discrimination on the basis of the sexual orientation and gender identity of the child involved. The Administration of Children and Families, within the Department of Health and Human Services, already promotes the recruitment of LGBT foster and adoptive parents, but lacks the mandate to enforce these policies.¹⁰ The Every Child Deserves a Family Act provides this mandate.

We very much appreciate your leadership and proactivity in calling this hearing and look forward to working together to ensure that all of our nation's foster youth can find permanent, loving homes.

the foster care system by LGB parents. Given this methodology, we arrive at our final estimate that assumes if 1,000 additional children move from foster care to adoption each year, the federal government yields a savings of approximately \$16,700 per child or \$16,700,000 per year.

⁸ Gary J. Gates, "LGBT Parenting in the United States," The Williams Institute, UCLA School of Law, 2013, *available at* <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Parenting.pdf>.

⁹ A 2002 report by the American Academy of Pediatrics found that: "A growing body of scientific literature demonstrates that children who grow up with 1 or 2 gay and/or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual. Children's optimal development seems to be influenced more by the nature of the relationships and interactions within the family unit than by the particular structural form it takes." Coparent or Second-Parent Adoption by Same-Sex Parents Committee on Psychosocial Aspects of Child and Family Health Pediatrics 2002; 109:339-340, *available at* <http://pediatrics.aappublications.org/content/109/2/339.full>. See also Child Welfare League of America, Standards of Adoption Excellence (rev. ed. 2000), § 4.7 (applicants should not be assessed based on marital status or sexual orientation); American Psychological Association, "Sexual orientation, parents and children," APA Council of Representatives, July 28 and 30, 2004, *available at* <http://www.apa.org/pi/lgbt/resources/parenting.aspx>.

¹⁰ Information Memorandum, Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Foster Care, U.S. Department of Health and Human Services, Administration for Children and Families, April 6, 2011.

For more information, please feel free to reach out to any of our organizations, or contact Emily Hecht-McGowan, Director of Public Policy at Family Equality Council, at ehocht@familyequality.org or 202-496-1285.

Sincerely,

American Civil Liberties Union
Child Welfare League of America
City Families, Inc.
Colorado Coalition of Adoptive Families
Families Like Ours
Family Equality Council
Gay, Lesbian & Straight Education Network
Global Justice Institute - Metropolitan Community Churches
Human Rights Campaign
Log Cabin Republicans
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
PROMO Missouri
Reconciling Ministries Network
The Union for Reform Judaism
Voice for Adoption
Women's Alliance for Theology, Ethics and Ritual (WATER)