

SNAPSHOT: LGBTQ+ ADOPTION AND FOSTER CARE PARENTING IN KANSAS

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.

Kansas

Adoption Figures:

- In 2021, of the more than 391,000 youth in foster care in the U.S., 7,085 of them resided in Kansas, 2,464 of whom were waiting to be adopted at the end of the fiscal year.
- In 2021, 840 children were adopted from the foster care system in Kansas.
- In Kansas, 92,000 people identify as LGBTQ+, 3.3% of the total population. Of the LGBTQ+ adult population, 33% are raising children.

Foster Care and Adoption Laws:

- Kansas law allows any adult or “married adult couple jointly” to petition to adopt. Kan. Stat. Ann. § 59-2113. There are no state law provisions explicitly prohibiting a single LGBTQ individual from petitioning to adopt or offering explicit nondiscrimination protections for LGBTQ people seeking to adopt.
- State law permits any married person to adopt the child of their spouse via stepparent adoption, Kan. Stat. Ann. § 59-2113, and same-sex couples should also be able to use this provision to establish a legal parent-child relationship between the child and the non-biological or non-gestational parent. While Kansas statutes do not address second-parent adoption for unmarried couples, prior to nationwide marriage equality, the Kansas Supreme Court recognized the rights of unmarried same-sex couples to both be recognized as legal parents of children they are raising together. *Frazier v. Goudschaal*, 295 P.3d 542 (Kan. 2013). The Court explained that “[d]enying the children an opportunity to have two parents, the same as children of a traditional marriage, impinges upon the children's constitutional rights” to equal protection. *Frazier*, 295 P.3d at 557. Now that marriage equality is available in Kansas, it is unclear whether Kansas will continue to allow unmarried same-sex couples to adopt.
- The Kansas Adoption Protection Act, enacted in 2018, provides that child placement agencies are not required to “perform, assist, counsel, recommend, consent to refer or otherwise participate...” in the placement of a child if doing so conflicts with the agency’s sincerely held religious beliefs. Kan. Stat. Ann § 60-5322. This is particularly harmful LGBTQ+ prospective adoptive and foster parents who can be denied the opportunity to provide a loving home to foster youth and, especially, LGBTQ+ foster youth.
- Kansas does not have any laws or regulations that explicitly protect youth in the child welfare system from discrimination based on sexual orientation or gender identity, nor does Kansas have a statewide ban on 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 in Sen. Kirsten Gillibrand's office.

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