

## SNAPSHOT: LGBTQ+ ADOPTION AND FOSTER CARE PARENTING IN NEW YORK

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.

### New York

#### Adoption Figures:

- In 2021, of the more 391,000 youth in foster care in the U.S., 14,657 resided in New York, and 3,570 were waiting to be adopted as the end of the fiscal year.
- In 2021, 1,145 children were adopted from the foster care system in New York.
- In New York, 913,000 people identify as LGBTQ+, 5.1% of the total population. Of the LGBTQ+ adult population, 22% are raising children.

#### Adoption Laws:

- New York law allows an unmarried adult or a married couple jointly to petition to adopt. N.Y. Dom. Rel. § 110. After the passage of marriage equality in New York in 2011, and since marriage equality is recognized nationwide, married same-sex couples can jointly adopt, and an individual may adopt the child of their same-sex spouse using stepparent adoption.
- While the statute itself does not explicitly address the issue of adoption by unmarried LGBTQ individuals, the state regulation implementing the adoption law prohibits “[a]uthorized agency staff and volunteers [from]...discrimination or harassment against prospective foster parents, foster parents or foster children on the basis of...sexual orientation, gender identity or expression, [or] marital status.” N.Y. Comp. Codes R. & Regs. tit. 18, § 441.24(a).
- Second-parent adoption is permitted in New York, per a 1995 New York Appeals Court ruling that a same-sex co-parent could adopt her partner’s child or child of the relationship. *In the Matter of Jacob*, 660 N.E.2d 397 (N.Y. 1995).
- New York regulations prohibit child welfare agencies from discriminating against prospective foster parents, foster parents, or foster children based on their sexual orientation or gender identity or expression. N.Y. Comp. Codes R. & Regs. tit. 18, §§ 441.24 & 421.3.
- New York regulations prohibit staff and volunteers of agencies providing preventive services from discriminating against families receiving preventive services based on sexual orientation or gender identity or expression. N.Y. Comp. Codes R. & Regs. tit. 18, § 423.4.
- New York law prohibits licensed mental health professionals from engaging in sexual orientation change efforts (conversion therapy) on minors. NY CLS Educ § 6509-e.

### 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.**



## EVERY CHILD DESERVES A FAMILY ACT

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