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Gay Adoption

by Kristen Kreisher

Until the 1950s and '60s, adoption was predominately used to place healthy white babies in the homes of middle class, married couples. In the decades since, adoption practices have changed dramatically, and adoption has become a way for increasingly diverse populations to form families.

According to the Adoption and Foster Care Analysis and Reporting System, on September 30, 1999, 127,000 children in the public child welfare system were waiting to be adopted. The median age of children in this group was 7.7 years, and many had spent more than 36 continuous months in foster care. That same year, 46,000 children were adopted from public child welfare agencies. Some were infants. Some were teenagers. Many were Latino. Many more were white or black. Adoptive parents were equally diverse-31% were single women, 2% were single men, and 1% were unmarried couples. Among these adoptive parents were gay and lesbian individuals and partners.

Adoption professionals acknowledge agencies nationwide are placing children with gay parents, but little data is available on how many children are placed with gay, lesbian, or transgendered individuals. "Many agencies are making these placements, but not necessarily talking about them," says Ada White, CWLA Director of Adoption Services. "Agencies are not tracking it and don't intend to track it."

Madelyn Freundlich, Policy Director with Children's Rights Inc. in New York City, and former Director of the Evan B. Donaldson Adoption Institute, says numbers are hard to come by because "questions on sexual orientation are often not posed and recorded."

Laws and Practices

Federal and state laws govern adoption, but practices within states often vary from region to region-and even from agency to agency and judge to judge. By researching state laws and analyzing court records, the Human Rights Campaign (HRC), the nation's largest gay and lesbian organization, have determined 21 states and the District of Columbia are "open" to gay adoption. "More and more states recognize gay and lesbian adoption as a fine thing," says Lisa Bennett, Deputy Director of HRC's FamilyNet. "Some have explicit, welcoming language."

New Jersey was the first state to specify that sexual orientation and marital status cannot be used to discriminate against couples who are seeking to adopt. The state also allows second-parent adoption, a legal procedure by which a coparent can adopt the biological or adopted child of his or her nonmarital partner. New York also grants second-parent adoptions statewide and forbids discrimination in adoption decisions. California recently enacted a new domestic partnership law that legalizes second-parent adoption.

A limited number of states, however, absolutely preclude gays and lesbians from adopting. Most notable among them is Florida, where a federal judge in August upheld the state's

1977 law banning gay adoption. Steven Lofton and Douglas Houghton challenged the law after being refused the right to adopt the children in their care. Lofton is the foster parent of a 10-year-old boy he has raised since infancy. The state allows homosexuals to be foster parents. Houghton is the guardian of a 9-year-old boy who has been in his care for five years.

In his ruling, Federal District Court Judge James King wrote, "Plaintiffs have not asserted they can demonstrate that homosexual families are equivalently stable, are able to provide proper gender identification, or are no more socially stigmatizing than married heterosexual families."

Utah prohibits adoption by any unmarried couple or individual. And while Mississippi does not explicitly ban gay and lesbian individuals from adopting, it does prohibit adoption by same-sex couples, and the climate is reported as unwelcoming.

The policies in most states, however, are unwritten, and experts assume they will stay that way. Freundlich doesn't believe more states will codify policies for or against gay adoption, but will "continue along informal lines." According to Joan Heifetz Hollinger, a visiting professor at the University of California Berkeley School of Law and a leading scholar on adoption law and practice, much of the decisionmaking in adoption cases "happens behind public view, without much scrutiny."

Informal, variable policies are the rule in most states. Louisiana, for example, restricts adoption to married couples and single individuals and has no reported cases of gays adopting. CWLA's White, previously a Louisiana social worker and state adoption director, however, says, "I myself placed kids with gay parents," stressing that many were already foster parents to the children and her decisions were based purely on their "ability to parent."

The new permanency guidelines in the Adoption and Safe Families Act of 1997 have led to an increased number of children in the child welfare system who need homes, and a growing acceptance of nontraditional families who want to adopt. Freundlich says agencies want to "maximize adoptive family resources without drawing attention to the specific characteristics of who those families are."

A Suitable Home

Historically, adoption has provided a service to adults who wanted a child. The intent of modern adoption practice, however, has become providing a service to children. "The focus needs to stay on children, not the rights of adults to adopt," says Freundlich, who stresses that children needing families should not become a civil rights issue. Complicating the matter is that both those in favor of and against the right of gays to adopt feel they are focusing on the best interests of children. The question then becomes how to determine the best adoptive resource for a child. Who should be considered? Who should not?

CWLA's Standards of Excellence for Adoption Services state, "Applicants should be assessed on the basis of their abilities to successfully parent a child needing family membership and not on their race, ethnicity or culture, income, age, marital status, religion, appearance, differing lifestyles, or sexual orientation." Further, applicants for adoption should be accepted "on the basis of an individual assessment of their capacity to understand and meet the needs of a particular available child at the point of adoption and in the future."

The task handed to social workers, state agencies, and judges is to determine what is a

suitable home for a child in the public child welfare system. But, as Hollinger points out, "there are no tests of suitability. Where is the standard? Where is the evidence that certain parents do better?"

Florida does not consider Steven Lofton and Douglas Houghton to be suitable adoptive parents for the boys they have been raising for several years. Lofton, a pediatric nurse who once won the Children's Home Society's outstanding foster parenting award, is caring for three children who tested positive at birth for HIV. Houghton, also a nurse, took on the care of a 9-year-old boy whose biological father left him with Houghton when he was 4. Although Judge King acknowledged "the existence of strong emotional bonds between plaintiffs" in his ruling, he wrote that the state's ban on gay adoption is in the best interest of Florida's children.

King is not alone in believing gay, lesbian, and transgendered people should not adopt. "It is wrong to intentionally deprive a child of a mother and a father," says Kristin Hansen, spokes-person for the Family Research Council (FRC), a conservative, pro-family public service organization that opposes gay adoption. FRC believes it best to move children into permanent homes with married parents. "Children deserve the best possible homes, especially children in the child welfare system who have special emotional and psychological needs."

Proponents of gay adoption agree the well-being of children in the child welfare system, many of whom have special needs, is primary, but argue that gays and lesbians can be excellent resources for children who have had difficult childhood experiences. "Often, people who themselves have had a difficult time being accepted or have faced criticism have special insight or empathy," Hollinger says. "Rather than excluding, one might consider that some people, because of their sexual orientation, may be better able to serve these children."

Hansen, however, says the promiscuous nature of gay relationships, higher suicide rates among gays and lesbians, and the shorter life expectancies of gay men make "homosexual households an at-risk situation" where children are at "greater risk for emotional, social, and sexual identity problems." "They are free to believe that," Hollinger responds, "but where's the evidence? There is no evidence that it is an unhealthy environment or that certain categories of people are better than others at being parents."

"There is no ideal family form anymore," says HRC's Bennett, who points to the diversity of family structures revealed by new census data. "There are many forms of family."

Researching Family Life

Studies examining children raised by a gay parent or parents have shown no difference in developmental outcomes as compared with children raised by heterosexual parents. Critics, however, contend these studies are politicized with sample sizes that are too small to be conclusive.

In an April 2001 article in the *American Sociological Review*, researchers Judith Stacey and Timothy Biblarz of the University of Southern California reported the results of their examination of 21 studies on gay parenting. Stacey and Biblarz found that although "the authors of all 21 studies almost uniformly claim to find no differences in measures of parenting or child outcomes," their examination of the data suggests that the children of gay parents demonstrate some differences in gender behavior and preferences. Lesbian mothers reported their children, especially daughters, are less likely to conform to cultural gender norms in dress, play, and behavior, and are more likely to aspire to nontraditional gender

occupations, such as doctors, lawyers, or engineers. They also discovered that although the children of gay and lesbian parents are no more likely to identify themselves as gay, lesbian, or bisexual than the children of heterosexual parents, they are more likely to consider or experiment with same-sex relationships during young adulthood.

Stacey and Biblarz also found that the children of homosexual parents show no difference in levels of self-esteem, anxiety, depression, behavior problems, or social performance, but do show a higher level of affection, responsiveness, and concern for younger children and "seem to exhibit impressive psychological strength."

Gay parents were found to be more likely to equally share child care and household duties, and the children of gay partners reported closer relationships to the parent who was not their primary caregiver than did the children of heterosexual couples. "These findings imply that lesbian coparents may enjoy greater parental compatibility and achieve particularly high quality parenting skills, which may help explain the striking findings on parent-child relationships."

Stacey and Biblarz point out that the differences they found should not be considered deficits. "They either favor the children with lesbian parents, are secondary effects of social prejudice, or represent 'just a difference' of the sort democratic societies should respect and protect." They go on to stress that categorizing parents as gay or heterosexual "erroneously impl[ies] that a parent's sexual orientation is the decisive characteristic of his or her parenting." They suggest that sexual orientation only matters because homophobia and discrimination say it matters.

Gay Parents or No Parents

With so many children in the public child welfare system in need of permanent homes, gay parents are sometimes seen as resources for hard-to-place children. Bennett says, "So many gay and lesbian parents are adopting from the child welfare system. They are so interested in becoming parents that they are willing to take children others are not." She says an "unspoken hierarchy" exists in adoption practice, and one of the great ironies of the debate is that gay and lesbian parents often adopt the children with the greatest need.

In a New York Times editorial responding to the Florida decision, Dan Savage, an author, syndicated columnist, and adoptive father, wrote, "The real choice for children waiting to be adopted in Florida and elsewhere isn't between gay and straight parents, but between parents and no parents."

By prohibiting gay and lesbian people from adopting, there are unquestionably fewer potential adoptive homes for children. "If people are going to hold a narrow opinion of who can adopt," Bennett says, "they are sentencing some children to a life without a loving home."

Michael Colberg, a lawyer and social worker who lectures on adoption issues and maintains a private counseling practice in New York, cautions, "You don't want to give the impression that these are B-list parents adopting B-list children. We can't afford to have that discussion. The discussion needs to be who is in the best position to support these children."

Colberg urges any parent looking into adoption to learn about the special needs of adoptees and assess what kind of parents they can be and what kind of child they can parent well. He asserts, however, "Gay and lesbian people can be in a particularly good position to adopt," because of their own exposure to being viewed as different. "Most minorities are socialized

into their minority status by their parents," but both gays and adoptees must face being a minority alone. "If parents really do their work, they can mentor their kids."

Raising Rachel

In the late 1980s, Colberg, who is gay, and his partner adopted a baby girl through a private agency and faced a string of court battles to retain custody and obtain a second-parent adoption. "We faced a lot of discrimination all the way along the line," he says.

The family is now settled in New York City, where Rachel attends sixth grade. Colberg says they picked her program by watching the kids come out of different schools at the end of the day, observing how the kids interacted with one another.

He describes his daughter as well-adjusted, alert to the world, strong-willed, and mature. While her father is on the phone, Rachel comes into the room, kisses her dad, and announces she knows whom she wants to invite to her upcoming party. "Rachel is a city kid, a live wire."

Colberg writes, "Adolescence inherently brings discomfort. For adoptees, the search for identity is magnified. For adoptees with homosexual parents, additional concerns may be present." He acknowledges that parenting is always a learning process, and raising a soon-to-be teenage daughter is a challenge. He says they just stay focused on her needs.

"Nothing is more important than raising a child," he says. "Nothing is harder. There is nothing you're less trained for."

Kristen Kreisher is Managing Editor of Children's Voice.