

Silberman School of Social Work

Are We Still Talking About This?

**Update on LGBTQ Issues in Child
Welfare**

**CSWE Annual Meeting
Dallas, Texas**

October 20, 2017

Ancient History

In the entire professional literature, there was one article written in 1979 – Audrey Steinhorn “Lesbians in Residential Treatment”

Discussions, if they were had at all, focused on gay youth who were runaway or homeless.

Ancient History

In the mid to late 80's gay men and lesbians began to *quietly*, without official sanction, foster and adopt children. Despite their partnered status this occurred as “single” individuals with a “roommate” or “friend”

Leake & Watts, “allowed” gay men and lesbians to foster and adopt HIV+ babies because no one wanted to care for them.

Ancient History

After 1991, some changes in NYC (Green Chimneys), LA (GLASS), informal changes initiated by LGBT professionals

Everything was informal, no written policies, big question was: How many are there?

Ancient History

Child Welfare League of America. (1991). Serving the needs of gay and lesbian youths: The role of child welfare agencies. Recommendations of a Colloquium - January 25-26, 1991. Washington, DC: Child Welfare League of America.

Mallon, G. P. (1992). Gay and no place to go: Assessing the needs of gay and lesbian adolescents in out-of-home care settings. Child Welfare, 71(6), 547-556.

Ancient History

Martin, A. (1993). The lesbian and gay parenting handbook: Creating and raising our families. New York: Harper Perennial.

Sullivan, A. (Ed.). (1995). Issues in gay and lesbian adoption: Proceedings of the Fourth Annual Pierce-Warwick Adoption Symposium. Washington, D.C.: Child Welfare League of America.

Clinton/Bush Administration

Clinton Administration (1993-2001) – some more openness, not much

Bush administration (2001-2009)– total shut down - Adopt US Kids, no focus, weren't allowed to focus.

Faith based initiatives, bible readings at federal child welfare conferences

Clinton/Bush Administration

Movement to stop single women and men from fostering and adoption. Movement toward ban on LGBT people from fostering and adoption

Workshops on LGBT issues at Conferences were forbidden.

Obama Administration (2008-2016)

The issuance of an Informational Memorandum (IM-11-03) from then Commissioner Bryan Samuels in May of 2011 was a major change.

To State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations: Lesbian, Gay, Bisexual, Transgender and Questioning Youth in Foster Care, the first IM to ever address LGBT issues by the Children's Bureau

“I urge child welfare agencies to continue to explore the ways in which they may improve daily life and outcomes for young people who are involved in the foster care system and who are LGBTQ.”

Obama Administration (2008-2016)

- Major changes in attitudes toward LGBTQ people
- Marriage
- Foster Care and Adoption laws opened

Obama Administration (2008-2016)

- Military ban lifted
- Focus on Trans youth protections
- Greater change than in any other administration

The Current Nightmare Administration (2017)

Lies and fake news

Fear, mistrust, uncertainty

But thank God we have Jerry Milner

The Texas Bill

Texas House passed a bill, HB 3859 –, signed into law in June, 2017 “an act relating to protection of the rights of conscience for child welfare service providers” – **that does just the opposite**

(<http://www.legis.state.tx.us/tlodocs/85R/billtext/pdf/HB03859I.pdf>)

The Texas Bill

HB 3859 would prohibit the state, or any person that contracts with the state, from taking adverse action against a child welfare services provider on the basis that the provider declines to provide a child care service that conflicts with the sincerely held religious beliefs of the provider.

The Texas Bill

The law prohibit a child welfare services provider from being required to provide any services that conflict with the provider's sincerely held religious beliefs.

The law allows child welfare providers the right to discriminate in, or refuse, the services they offer (such as child placement, counseling, and abuse assistance) to LGBTQ families and children.

The Bill

Lawmakers say this bill is necessary to “protect” these agencies from potential lawsuits that would force them to behave in a non-discriminatory fashion. In other words, the law prevents the government - who provide taxpayer funding - from examining their policies to determine if they are actually serving the best interests of children.

The Bill

The law also prevents the government from prohibiting the turning away of otherwise qualified families based on discriminatory criteria. And, the law gives them the right to sue the State or any state agency if they feel that they have been subjected to “adverse action,” such as denial of a contract, because they have refused or will refuse to provide services that conflict with the provider’s “sincerely held religious beliefs.”

Think About It

Think about that for a minute. Even the bill itself talks about the rights of the providers, and not the rights of the children in care.

The bill is designed – *designed!* – to allow agencies to turn qualified families away. It isn't designed to identify and recruit such families and thus reduce the number of children in care.

Protects Agencies, Not Children

HB 3859 protects discrimination, not children.

Consequently, many professional child welfare organizations have opposed this bill. Family Equality Council and many other LGBTQ organizations have also done so. So, what is *not* supposed to be a political issue – the welfare of the state’s most vulnerable children – has become exactly that.

National child welfare organizations such as the Child Welfare League of America, the Donaldson Adoption Institute, North American Council on Adoptable Children and Voice for Adoption [have condemned this bill in a letter to lawmakers.](#) This law will most harm children in the system who are awaiting placement in qualified, loving homes and are instead forced to remain in care. Child welfare services should be guided by the overarching principle that guides all family law: all determinations should be in the “best interest of the child.” It isn’t in the best interest of a child to deny them a qualified, loving family simply because that family doesn’t share all of the tenets of the placing agency’s faith.

Emphasis on What is Good for Children, Not Agencies

Children need families. Not facilities. At the very least, HB 3859 does little more than create an atmosphere of confusion and discouragement for families who potentially want to foster or adopt in a state that desperately needs more families to do so. At it's worst, it will rob children of their livelihoods by unduly denying LGBT, single or non-Christian parents opportunities to save children from the cycle of abuse and neglect they will almost certainly encounter growing up in the Texas foster care.

Mississippi's New Law

Mississippi's new law that protects the "moral conviction" of people who uphold marriage as being between one man and one woman will take effect.

As it is defined, [the law](#) (HB 1523) provides "broad protection of free exercise of religious beliefs and moral convictions," and would shield people in government and the private sector from having to engage in or facilitate transactions they view as immoral, such as catering for gay marriages, renting rooms to gay couples, or assisting homosexuals to adopt children.

Mississippi's New Law

The law also protects persons who do not want to participate in or facilitate the adoption of children in a way that violates their beliefs, or in any way assist with sex-reassignment counseling, treatment or surgery.

Virginia, North Dakota and Michigan Also Passed New Discriminatory Law

Virginia, North Dakota and Michigan have all passed “conscience clause” laws, which allow foster care and adoption providers to exclude LGBT parents based on religious or moral objections. Michigan’s was just signed into law this year. Arizona and Utah require preference to be given to a “married man and woman” for foster and adoptive placements.

What's Good?

Family Equality Council and Gender Justice Nevada are pleased to release a [new legal guide for lesbian, gay, bisexual, transgender and queer \(LGBTQ\) families living in Nevada](#). This resource provides sex/gender diverse and LGBTQ-headed families with detailed and accessible explanations of the current status of federal and state, including recognition of same-sex marriages, parental rights, adoption, applying for documentation for children, nondiscrimination protections, school policies, healthcare, parental leave, and more. The guide also includes a list of legal documents it is recommended that all LGBTQ families secure in order to ensure their rights and wishes are respected.

Download a PDF copy of this free resource here:

<https://form.familyequality.org/nevada-lgbtq-family-law-guide/>

What's Good?

Adopt Us Kids Publications

Engaging LGBT Families

Recruiting and Retaining LGBT Families

Perspectives of Youth Adopted from Foster Care by
Lesbian and Gay Parents

Webcasts/Webinars

What's Good?

The All Children–All Families project promotes LGBTQ cultural competency among child welfare agencies through innovative resources.

<https://www.hrc.org/resources/all-children-all-families-about-the-initiative>

What's Good?

- Family Builders, Oakland, CA helps to find permanent, loving families for children and youth in the foster care system - that's our only goal.
- Family Builders welcomes traditional families; single-parent families; both men and women; gay, lesbian, bisexual and transgender families; transracial and multiracial families; and all other families as prospective adoptive parents. Family Builders is committed to serving all families equally with dignity and respect.
- We do not discriminate on the basis of the fact or perception of a person's race, creed, color, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity or expression, domestic partner status, parental status, marital status.

What's Good?

National Quality Improvement Center for LGBTQ Youth in Foster Care

The grant, recently awarded by the U.S. Department of Health and Human Services, [Administration for Children and Families' Children's Bureau](#), will allow the institute and participating partners to establish a National Quality Improvement Center (QIC) on Tailored Services, Placement Stability and Permanency for LGBTQ children in foster care.

The intent of the project is to work with four to six sites nationally, in partnership with state child welfare systems, to implement promising and evidence-based practices that improve placement stability, well-being, and permanency. These sites will be identified as part of the LGBTQ QIC process. These interventions will be designed to enhance staff, caregiver, and provider knowledge, skills, and competency in providing safe, affirming, and supportive environments for LGBTQ youth in foster care.

What's Good? – Mainstream Agencies

Spence-Chapin promotes equal opportunity for all clients by complying with local, state and federal laws and regulations. We do not exclude, deny applicants, or otherwise discriminate on the basis of race, ancestry, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, disability, citizenship, military service obligation, veteran status or any other basis protected by federal, state or local laws. Our policies and practices are intended to ensure that all clients are treated equally.

What's Good?

Louisiana's DCFS has made a huge commitment to changing all child welfare policies and practices to be more LGBTQ affirming.

Major commitment to training, coaching, changing the culture of the State toward LGBTQ children, youth, and families affected by child welfare.

What's Good?

What did I miss?

What's good for LGBTQ children, youth, and families in your State or Locality?

Final Thought

The bottom line is simple. No state today can prevent LGBT adults from becoming fathers and mothers, because they can do so by taking other routes (such as surrogacy and alternative insemination) or by simply moving to less-restrictive places. So all a state does when it imposes restrictions is shrink its pool of prospective foster and adoptive parents and, as a result, decrease the odds that children in its custody will ever live in permanent, loving and successful families.

Contact Information

Gerald P. Mallon, DSW, LCSW

**Julia Lathrop Professor of Child Welfare
Associate Dean of Scholarship & Research**

**Silberman School of Social Work
at Hunter College**

(917) 940-5455

gmallon@hunter.cuny.edu