



MARYLAND

FAMILY POLICY IMPACT SEMINAR

State Gay Adoption Laws and Permanency for Foster Youth

The mission of the United States' child welfare system is to promote safety, permanency and well-being. For youth in foster care, permanency often means adoption into a new family. One option is placement with gay or lesbian parents, but state policies vary in whether or not gay men and lesbians are allowed to adopt. This brief analyzes national data to begin exploring the relationship between state gay adoption laws/policies and permanency for foster youth.

Over 520,000 children in the United States are currently in the foster care system.¹ Twenty percent of youth in care have adoption as their primary case goal because they cannot return to their biological families.¹ Fewer than 50,000 youth were successfully adopted from foster care in 2003, while over 100,000 youth were still waiting in foster care for a permanent home at year-end.¹ Currently, over 110,000 children in the U.S. are in foster care waiting to be adopted.¹

Adoption Laws and Policies

Over the last two decades, Federal policies have attempted to promote adoption for foster youth. The *Multiethnic Placement Act* (1994) outlawed discrimination based upon the race of prospective adoptive parents. The *Adoption 2002 Initiative* (1996) provided tax breaks and financial incentives for adoptive parents. The *Adoption and Safe Families Act* (1997) mandates petitions to terminate the rights of biological parents to free foster children for adoption. Despite these Federal efforts to encourage adoption, some state legislatures and agencies have tightened adoption requirements by restricting potential adoptive parents based on sexual orientation or relationship status.

Most U.S. states seem to allow gay men and lesbians to become adoptive parents. Sixty percent of the nation's adoption agencies have accepted applications from gay and lesbian couples, and 40% of U.S. agencies have placed children in homes with gay or lesbian parents.² Eleven states (CA, CT, IL, IN, MD, MA, NV, NJ, NY, PA, VT) and the District of Columbia have "gay-friendly" adoption laws, statutes, and/or high-court decisions which guarantee gay and lesbian individuals the opportunity to be considered as prospective adoptive parents.³ Meanwhile, five states (FL, MI, MS, NE, UT) have "anti-gay" adoption laws or policies that prohibit or restrict adoption by gay and lesbians individuals or couples.⁴

Gay Men and Lesbians as Adoptive Parents

Between 1 and 9 million American children under age 18 have at least one gay or lesbian parent.⁵ Children with gay and lesbian parents have no higher incidence of psychological, social, or developmental problems than children with heterosexual parents.⁶ In fact, there may be some unique, positive outcomes as a result of growing up in a gay or lesbian family, such as being open-minded and accepting of differences in others.⁵ The American Academy of Pediatrics, the American Psychological Association, the Child Welfare League of America, and other professional organizations have issued statements affirming that gay and lesbian parents are just as likely to raise happy, well-adjusted children as heterosexual parents.⁷

According to the U.S. Census, same-sex couples are more likely to adopt than either married or unmarried heterosexual couples.⁸ Same-sex couples are also more likely than their heterosexual counterparts to be raising children with disabilities⁸, indicating that gay men and lesbians may be more willing to adopt "hard-to-place" youth from foster care, such as those with physical or mental disabilities.⁹

Purpose of Study

The purpose of this study was to begin exploring the potential relationship between state adoption laws/policies and exits from foster care to adoption. Its focus was on the proportion of foster youth waiting for adoption and on the likelihood of adoption from foster care. States were categorized based on state policies, laws, statutes, and/or high court decisions at the time of data collection (2002). *Anti-gay* states prohibited adoption by gay and lesbian individuals or couples. *Gay-friendly* states guaranteed the opportunity for gay and lesbian individuals to be considered as adoptive parents. *Neutral* states did not expressly permit or bar gay adoption.

AFCARS Data

The Adoption and Foster Care Analysis and Reporting System is an administrative dataset containing demographic and placement information for all children in foster care. A 10% random sample of cases with adoption as a permanency goal was selected from 2002 data (N=12,732).

Bivariate Analysis

Results of the chi-square analysis are presented in Table 1. There was a significantly larger proportion of children lingering in foster care and waiting for adoption in “anti-gay” states than “neutral” or “gay-friendly” states.

Table 1. Proportion of foster youth waiting for adoption

Anti-gay	Neutral	Gay-friendly
.82	.74	.72

$\chi^2=57.700, p=.000$

Multivariate Analysis

Child age, race, gender, special needs, and biological parental rights were used as controls in a probit model predicting successful adoption from foster care. Estimates were corrected for clustering around states. A predicted probability of successful adoption was estimated for each child using this model. Table 2 summarizes the effect of state gay adoption policy on likelihood of adoption, using the average predicted probability for all demographic groups by policy type.

Table 2. Predicted Probability of Successful Adoption

Anti-gay	Neutral	Gay-friendly
.17	.26	.32

The probability of being adopted from foster care was low across all state policy categories. According to the model, the chance of adoption for a foster child living in a “gay-friendly” state was almost twice that of a foster child living in an “anti-gay” state.

Summary and Implications

State anti-gay policies were associated with fewer adoptions and a significantly reduced likelihood of children being adopted from foster care. This suggests that state anti-gay adoption policies may work against the Federal priority of adoption from foster care by precluding a population of effective and willing parents from adopting, although more research is needed to further support this conclusion. Potential consequences for moving foster children into permanent homes should be included in debates about gay and lesbian adoption laws and policies.

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See also the companion Deliberative Discussion Guide by Bonnie Braun, PhD

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