

ALL CHILDREN MATTER

How Legal and Social Inequalities Hurt LGBT Families

Executive Summary

October 2011



MAP

movement advancement project ▶

**FAMILY
EQUALITY
COUNCIL**

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Foreword

EXECUTIVE SUMMARY

Public discussion about American families often assumes the nation is largely made up of married heterosexual couples raising their biological children. Yet less than a quarter of all U.S. households fall into this category. Today's children may be raised by grandparents, single parents, stepparents, aunts, uncles or foster parents. Their parents may be married or unmarried; they may be heterosexual or lesbian, gay, bisexual or transgender (LGBT).

Unfortunately, public policy has not kept up with the changing reality of the American family. Indeed, our laws and discourse largely ignore the roughly two million children being raised by a parent or parents who are LGBT. They also ignore children in other family configurations, such as those with unmarried heterosexual parents. As a result, most Americans are probably unaware of the many ways in which unequal treatment and social stigma harm the millions of children whose families do not fit into a certain mold.

In The Report

The content herein is an Executive Summary of the full report, "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families."

The full report paints one of the most complete portraits to date of the wide range of obstacles facing LGBT families in America. It is there that readers can find expanded discussions, detailed tables and figures, full citations, references, attributions and clarifications.

Key Findings

LGBT Families are Numerous and Diverse

- **The number of children with LGBT parents is significant.** Roughly two million children are being raised by LGBT parents.
- **LGBT families are more likely to be poor.** Contrary to stereotypes, children being raised by same-sex couples are twice as likely to live in poverty as children being raised by married heterosexual households. Same-sex couples of color raising children are more likely to be poor than white same-sex couples raising children.

- **Same-sex couples raising children are more racially and ethnically diverse than married different-sex couples raising children.** In all, 59% of same-sex couples with children identify as white compared to 73% of married different-sex couples with children. Same-sex couples of color are more likely to raise children than white same-sex couples.
- **LGBT families are geographically diverse.** LGBT families live in 96% of U.S. counties, and same-sex couples in the South are more likely to be raising children than those in other regions of the country.
- **LGBT families are more likely to be binational than heterosexual-headed households.** Among same-sex couples, 6% are binational compared to 4.6% of married heterosexual couples. Nearly half (46%) of binational, same-sex couples are rearing children compared to 31% of same-sex couples in which both partners are U.S. citizens.

Children in LGBT Families Fare as Well as Other Children

- **Research uniformly shows positive outcomes for children in LGBT families.** More than 30 years of rigorous social science research shows that children raised by LGBT parents are just as happy, healthy and well-adjusted as children raised by heterosexual parents. This is why every major authority on child health and welfare has determined that sexual orientation has nothing to do with the ability to be a good, effective parent.

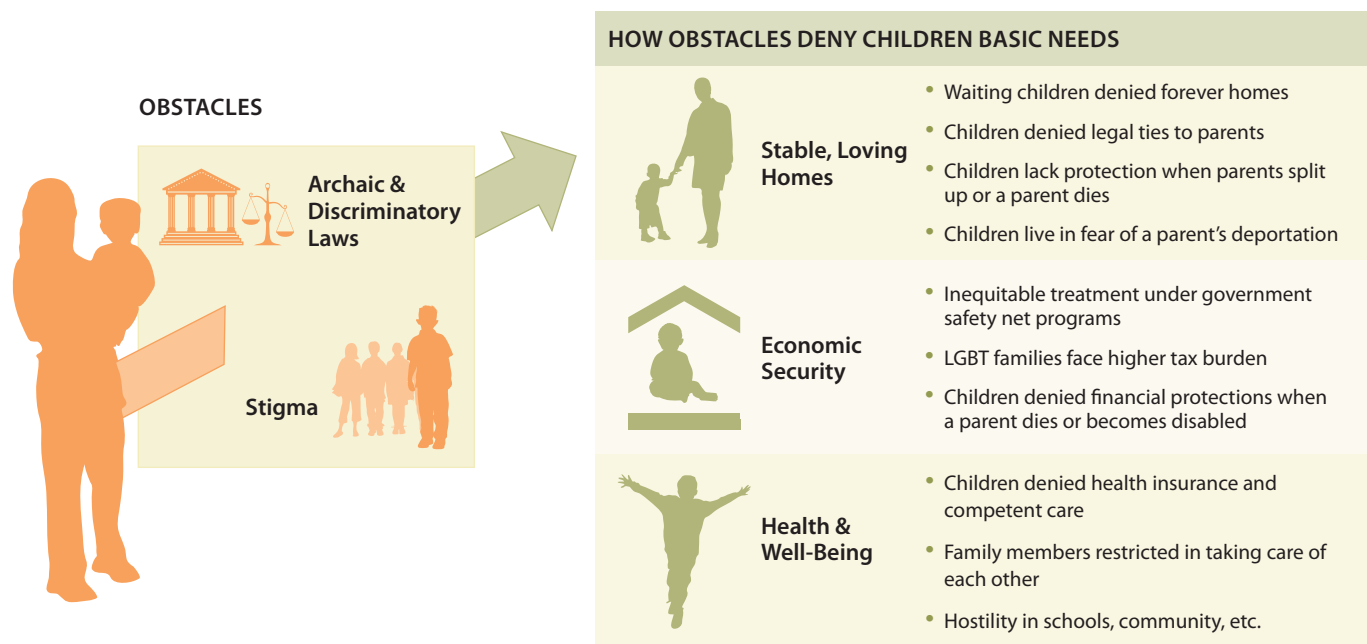
Laws and Stigma Hurt Children with LGBT Parents

As shown in *Figure 1* on the next page, archaic and discriminatory laws, combined with social stigma, create obstacles to stable, loving homes; economic security; and health and well-being. The full report examines the ways in which inequities interfere with these needs and consequently harm children with LGBT parents.

Laws and Stigma Create Obstacles to Stable, Loving Homes for Children

State and federal laws and practices often deny children legal ties to loving, responsible parents. In many states, LGBT adults face restrictions in adoption or fostering—even though roughly 115,000 children are awaiting forever homes. Also, when a child is born to a

Figure 1: Bad Laws and Stigma Deny Children Their Basic Needs



married heterosexual couple, that child generally enjoys the essential security of being the legal child of both parents. By contrast, a child born to (or raised by) two LGBT parents may have one parent deemed a legal stranger by law, threatening to undercut family permanency. Today's legal and social climate creates barriers to achieving loving, stable homes for children in the following ways:

- **Children denied permanent homes.** Some states and agencies still refuse to place children with same-sex couples despite research consistently showing that children of LGBT parents fare just as well as other children.
- **Children denied legal ties to their parents.** A child living with two parents of the same sex can be assured that her relationship to her parents will be recognized by law in fewer than half of the U.S. states. For example, if a child is born using donor insemination, the partner of the birth mother may be a legal stranger to the child, despite acting as a parent from birth.
- **Children lack protection when their parents' relationship dissolves or a parent dies.** An LGBT parent who is not recognized as a parent by the law can lose custody or visitation rights even in instances when that parent is the most suitable caregiver and has acted as a parent for the child's entire life.

- **Children live in fear that their families could be torn apart by a parent's deportation.** Children being raised in same-sex binational families are denied the protections of family unity under federal immigration law. LGBT Americans cannot sponsor a same-sex spouse or partner for permanent residency or citizenship, a right that heterosexual Americans can exercise.

Laws and Stigma Create Obstacles to Economic Security for Children

Government-based economic protections, ranging from safety net programs to tax deductions to inheritance laws, help families meet children's basic needs, including obtaining food, shelter and clothing. Yet different treatment under the law creates barriers to economic security for LGBT families in the following ways:

- **Children fall through the safety net.** Because many safety net programs apply antiquated definitions of family, a child with LGBT parents might be denied benefits provided to a peer with heterosexual parents—simply because the child's parents are LGBT. Most government safety net programs use a narrow definition of family tied to marital status, which often excludes same-sex partners and non-legally recognized parents and children. The result is that financially struggling families with LGBT or

unmarried parents cannot accurately reflect their household size or economic resources and may be denied adequate assistance.

- **LGBT families face a higher tax burden.** A series of tax credits and deductions are designed to help all families, regardless of economic circumstance, ease the financial costs of raising children. However, tax law also uses a narrow definition of family which excludes LGBT families. This exclusion usually results in a significantly higher tax burden for LGBT families.
- **LGBT families are denied financial protections when a parent dies or is disabled.** Social Security benefits and inheritance laws aim to protect families when a parent dies or becomes disabled. However, because the federal government fails to recognize LGBT families, such families may be denied critical Social Security death and disability benefits typically provided to heterosexual families. Also, if a married heterosexual parent dies without a will, all the couple's assets transfer tax-free to the surviving spouse (and/or children); and if a parent dies a wrongful death, minor children and legal spouses may be able to sue. Yet in states where their family ties are not legally recognized, LGBT families have no such protections.

Laws and Stigma Create Obstacles to Physical and Mental Health and Well-Being

Government policies aim to help ensure that children are physically and mentally healthy, and that they can access the basic resources they need to thrive, including quality and welcoming child care, education and health care. Yet children with LGBT parents face additional obstacles to achieving optimal health and well-being:

- **LGBT families face health coverage disparities and unequal access to health insurance.** The Defense of Marriage Act (DOMA) prevents the federal government from recognizing the marriages of same-sex couples. This lack of recognition means that employers do not need to extend health insurance benefits to the partners of LGBT employees, or to the children of these partners (assuming the employee is a legal stranger to the children). Even when employers choose to offer extended health insurance benefits, an LGBT family will be taxed on the value of the benefit while a married heterosexual family will not.

- **LGBT families face unwelcoming health care environments.** Many professional caregivers—from physicians to counselors to the receptionists at medical facilities—are not accepting of or trained to work with LGBT families. Some medical providers have even refused to treat LGBT people, citing religious or personal reasons.
- **LGBT family members are restricted in taking care of each other.** When an LGBT parent lacks legal recognition, he or she may be denied visitation rights as well as the ability to make medical decisions for his or her child. In addition, the federal Family and Medical Leave Act (FMLA) does not require employers to grant leave to a worker taking care of a same-sex partner or spouse, even while heterosexual workers have this right.
- **LGBT families face social stigma and discrimination.** Many of the challenges LGBT families face stem from a society that assumes that everyone is heterosexual and comes from a family with two married heterosexual parents. The stresses resulting from these expectations are heightened for LGBT families of color, who also have to contend with additional disparities as racial and ethnic minorities. Transgender parents and their children also face added strains.

Recommendations

The full report presents a detailed and comprehensive set of legal, policy and cultural solutions to address the disparities outlined above. Below we summarize key recommendations which, taken together, could virtually eliminate the legal inequities that harm the two million children with LGBT parents. Many of the recommendations would also help an array of other children, including those with unmarried parents and those awaiting adoption.

Legally Recognize LGBT Families

1. **Pass comprehensive parental recognition laws at the state level to fully protect children in LGBT families.** State parentage and adoption statutes should allow joint adoption by LGBT parents, recognize LGBT parents using assisted reproduction in the same manner as heterosexual parents, and provide avenues such as second-parent adoption and de facto parenting to allow children to gain full legal ties to their parents.

2. **Legalize and federally recognize marriage for same-sex couples.** Marriage for same-sex couples would help strengthen legal ties of the entire family, including those between a child's parents and between the child and his or her parents. Married LGBT parents would be recognized as legal parents upon a child's birth, and would also have access to joint and stepparent adoption. If recognized by the federal government, marriage would also allow accurate representation of LGBT families for the purposes of safety net programs, tax credits and deductions, inheritance and Social Security protections, immigration sponsorship and other benefits; and make it easier to obtain family health protections, including health insurance, medical decision-making, visitation and family leave.
3. **Provide pathways to immigration and citizenship for binational LGBT families.** This should include legislation such as the Uniting American Families Act, which would add the category "permanent partner" to the list of family members already entitled to sponsor a foreign national for U.S. immigration.

Provide Equal Access to Government-Based Economic Protections

4. **Recognize LGBT families and children across government safety net programs.** Broadening the definition of "family" would allow LGBT families to accurately reflect their household across numerous government programs and protections. Forms and application procedures should also accommodate the reality of LGBT and other 21st century families.
5. **Revise the Internal Revenue Service (IRS) tax code to provide equitable treatment for LGBT families.** The IRS should create a "permanent partner" designation to identify a person who would be treated as a spouse for tax code purposes. The IRS should allow not just legal parents but also de facto parents to claim a "qualifying child" on their tax filing.
6. **Provide equitable economic protections when a parent dies or is disabled.** First, broaden Social Security's definition of family to allow an LGBT worker's permanent partner and children to access survivor and disability benefits in the same manner as a heterosexual worker's spouse and children. Next, states should change inheritance laws to treat LGBT permanent partners as spouses, and ensure children can inherit from a de facto parent when the parent dies without a will. Last,

states should permit the filing of a wrongful death suit by any individual who can show economic dependence on a deceased person.

Provide Equal Access to Health Care

7. **Advance equal access to health insurance and care.** Pass laws ensuring that LGBT families have access to health insurance on equal terms with heterosexual families, including eliminating unfair taxation of these benefits. Encourage private employers to offer domestic partner benefits. Work to ensure the Affordable Care Act defines "family" broadly.
8. **Enable LGBT family members to care for one another.** Pass or revise state hospital visitation and medical decision-making laws to be inclusive of LGBT families and de facto parents. Work with hospitals and other medical facilities and providers to enact LGBT-friendly policies related to visitation, advanced healthcare directives and related issues. Revise the federal FMLA to allow same-sex partners to care for one another.

Protect LGBT Families with Anti-Discrimination Laws, Anti-Bullying Laws and Outreach

9. **Pass state anti-bullying laws and laws barring discrimination in employment, adoption, custody and visitation, health services, housing and credit.** Legislation prohibiting bullying and harassment in schools and universities should explicitly protect students based on their sexual orientation, gender identity and expression, and association with LGBT people. Non-discrimination laws should include similar protections.
10. **Expand education and cultural competency training on LGBT families.** Education and cultural competency training for a wide array of professionals should include outreach to adoption agencies and child welfare departments, judges and law students, government agency workers, health service providers, schools, and faith communities.

Provide Education and Services Support to Help LGBT Families

11. **Create stronger support services for LGBT families, particularly families of color, low-income families and transgender parents.** Advocates should target LGBT families with focused outreach and

services, including opportunities to participate in social and support groups. Advocates should also educate LGBT families about the need to establish parentage ties and other legal protections, and provide assistance in doing so.

Expand Research on LGBT Families

- 12. Expand research on LGBT families and parenting, with an emphasis on filling gaps in data on families of color, low-income families and transgender parents.** This should include lobbying for expanded private and government research and data on LGBT families and parenting in areas such as demographics, income, health and mental health.

About the Report

Both condensed and full versions of this report, entitled “All Children Matter: How Legal and Social Inequalities Hurt LGBT Families,” are available online through www.lgbtmap.org/lgbt-families or through any of the co-author or partner websites.

We suggest the following citation for this report: Movement Advancement Project, Family Equality Council and Center for American Progress, “All Children Matter: How Legal and Social Inequalities Hurt LGBT Families,” October 2011.

This report incorporates information that was current as of October 1, 2011.

For legal updates, please see the Movement Advancement Project’s Equality Maps at www.lgbtmap.org/equality-maps.

The report was authored by:

Movement Advancement Project

The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen their efforts for maximum impact. MAP also conducts policy research to inform the public and policymakers about the legal and policy needs of LGBT people and their families. For more information, visit www.lgbtmap.org.

Family Equality Council

Family Equality Council works to ensure equality for LGBT families by building community, changing public opinion, advocating for sound policy and advancing social justice for all families. Family Equality Council provides support and resources to LGBT-headed families, and leverages the power of families by sharing their stories and driving change in communities and states across the nation. Family Equality Council educates members of government, schools, faith-based communities, healthcare institutions and other social systems about how they can promote family equality. Family Equality Council also partners with other LGBT and broader social justice organizations to provide the greatest positive impact and to maximize resources. For more information, visit www.familyequality.org.

Center for American Progress

The Center for American Progress (CAP) is a think tank dedicated to improving the lives of Americans through ideas and action. CAP combines bold policy ideas with a modern communications platform to help shape the national debate. CAP is designed to provide long-term leadership and support to the progressive movement. CAP's policy experts cover a wide range of issue areas, and often work across disciplines to tackle complex, interrelated issues such as national security, energy, and climate change. For more information, visit www.americanprogress.org.

The report was developed in partnership with:

COLAGE

COLAGE is a national movement of children, youth and adults with lesbian, gay, bisexual, transgender or queer (LGBTQ) parents. COLAGE builds community and works toward social justice through youth empowerment, coalition building, leadership development, education and advocacy. COLAGE views youth and families as powerful agents of social, political and cultural change, and supports youth leadership development through mentorship between people with LGBTQ parents across economic status, religion and culture. The COLAGE network helps children in LGBTQ families to become strong advocates for themselves and their families and to gain the recognition, rights and respect that every family deserves. For more information, visit www.colage.org.

Evan B. Donaldson Adoption Institute

The Evan B. Donaldson Adoption Institute, a national not-for-profit, is the leading research, policy and education organization in its field. The Institute's mission is to provide leadership that improves laws, policies and practices—through sound research, education and advocacy—in order to better the lives of everyone touched by adoption. To achieve its goals, the Institute conducts and synthesizes research, offers education to inform public opinion, promotes ethical practices and legal reforms, and works to translate policy into action. For more information, visit www.adoptioninstitute.org.

National Association of Social Workers

National Association of Social Workers (NASW) is the largest membership organization of professional social workers in the world, with 145,000 members. NASW works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies. The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty. For more information, visit www.socialworkers.org.

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