

Anti-Gay Adoption, Foster Care Measures Fail

By Michelle Norris

During the first half of 2005, legislative attempts to discriminate against LGBT people in foster care and adoption have failed in six states. At press time, an amendment that would ban LGBT people from serving as foster parents was still pending in the Texas Legislature.

According to the Family Pride Coalition, pro-LGBT parenting measures were introduced in Florida and Michigan, but failed to secure passage. In all other states, the measures were attempts to limit or prohibit lesbian and gay people from becoming foster or adoptive parents.

Below is a breakdown of legislation and litigation focused on LGBT parents and their families.

ARKANSAS

In response to a court ruling in late 2004 that overturned the state's regulation that banned lesbian or gay people—and anyone living in a household with a gay or lesbian adult—from being foster parents, Arkansas State Representative Bob Adams (D) introduced a bill, HB 1119, that would prohibit the state from placing children in "homosexual homes."

A house committee, likely fearing a court challenge to the discriminatory measure, dropped any mention of homosexuality from the measure. Instead, the legislation has been amended to prohibit a child from being adopted by, or placed in a foster home with, any unmarried adult who is cohabitating "in a relationship that is not a legally valid and binding marriage" under the state constitution.

The revised bill defines cohabitating as residing with another person and being involved in a sexual relationship with that person but makes no mention of sexuality. The measure was passed in the House, but failed in the Senate Judiciary Committee.

ALABAMA

In Alabama, SB 57, authored by State Senator Henry E. "Hank" Erwin (R) would prohibit "homosexuals" from adopting. At press times, there had been no further action on this bill.

FLORIDA

In Florida, the legislative measure is an attempt to remove the ban on "homosexuals" adopting and define the standard as the best interest of the person to be adopted, and require an assessment of the prospective parent. SB 986 is authored by Senator Mandy Dawson, and enjoys the support of Equality Florida and Florida's Coalition for Fair Adoption.

SB 1534, authored by Senator Nan Rich (D), has also been filed, a measure that would modify Florida's ban to allow a court to consider an adoption petition by a "homosexual." If a court finds, "by clear and convincing evidence, that the adoptee resides with the person proposing to adopt ... and granting the adoptee permanency in that home is more important to the adoptee's

development and psychological needs than maintaining the adoptee in a temporary placement."

In addition, HB 633, authored by Sheri McInvale (D) provides for adoptive eligibility and preference for foster parents seeking to adopt a child after caring for the child for a specified period of time and meeting certain criteria; it provides factors to be considered by a court in determining whether to grant an adoption petition.

IDAHO

In early May, oral arguments were heard in the Idaho Supreme Court regarding child custody for a gay Idaho Falls father. Theron McGriff had appealed to the high court after a 2002 ruling stated that he could no longer see his two daughters if he lived with his same-sex partner of many years. A ruling is expected by the end of the year.

INDIANA

In the Hoosier State, two anti-gay bills were filed in the General Assembly. The first, SB 580, authored by Senator Jeff Drozda (R) would only allow married couples of the opposite sex to adopt. SB 585, authored by Senator John M. Waterman (R), would prohibit homosexuals from adopting or serving as foster parents. Both measures were referred to the judiciary committee, but have seen no further action.

MICHIGAN

The Coalition for Adoption Rights Equality announced that a second-parent adoption bill would be introduced in the Michigan House of Representatives. This measure will allow for two unmarried individuals to jointly adopt a child from the foster care system, and would also allow an already existing legal parent to directly consent to his/her partner adopting the child they are raising together.

MISSOURI

According to the State of Missouri, Lisa Johnston and Dawn Roginski are exceptionally qualified to be foster parents, but an unwritten state policy prevents them from taking children into their home because they are openly gay.

Citing an unwritten state policy, the Missouri Department of Social Services denied Johnston's application to become a foster parent. Johnston, with the backing of the American Civil Liberties Union (ACLU), is suing the state.

OREGON

In Oregon, State Representative John Lim (R-Fairview) has introduced House Bill 2401, designed to limit adoption rights for same-sex couples by requiring the State of Oregon to exercise a preference for married, heterosexual parents over same-sex parents. This bill was referred to the Health and Human Services Committee in January, but has seen no further action.

TENNESSEE

Tennessee lawmakers have filed eight bills, all designed to prohibit "homosexuals" from adopting or serving as foster parents. Senator Diane Black (R) has filed SB 829 and Representative Dewayne Bunch filed a companion measure, HB 543, to create a ban on adoption by lesbians and gay men. These bills were referred to subcommittee but have seen no further action.

HB 775, authored by Representative Chris Clem (R), and its companion measure, SB 1615, authored by Senator Jim Bryson (R), go even further. In addition to prohibiting adoption by "homosexuals," this measure also seeks to deny non-gay parents the ability to designate a "known homosexual" as the adoptive parents of their children. This measure failed in the Children and Family Affairs Committee.

Senator Doug Jackson (D) also filed SB 1930, which "prohibits homosexual persons from being eligible to adopt another person." Its companion bill, HB 2234, has also been referred to subcommittee but has seen no further action.

In addition, SB 1924 and HB 2230 (Jackson and Buck, respectively) were filed, which prohibit a person from serving as a foster parent if that person is a "homosexual" or if an adult member of that person's household is a "homosexual." The measure was referred to a Senate committee, then assigned to a subcommittee. The remaining measures are in play until adjournment.

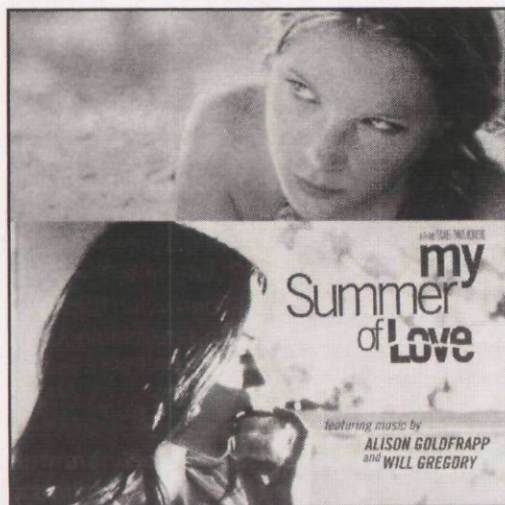
TEXAS

On April 19, the Texas House of Representatives voted to ban gay, lesbian and bisexual Texans from serving as foster parents. The legislation also authorizes the state to conduct investigations into the sexual orientation of current foster parents. Representative Robert Talton (R-Pasadena) by-passed the committee process by introducing this legislation as an amendment to the larger foster care restructuring bill, Senate Bill 6. The legislation was adopted by a vote of 81-58. At press time, the measure had been sent to conference committee for deliberation.

VIRGINIA

In Virginia, the anti-gay adoption bill was defeated in the General Assembly. The measure, HB 2921, authored by Delegate Richard Black (R), would have prohibited homosexuals from adopting.

The bill was amended to permit the circuit court making a decision about an adoption petition to inquire "whether the petitioner is known to engage in current voluntary homosexual activity or is unmarried and cohabitating with another adult to whom he is not related by blood or marriage." However, during the Courts of Justice Committee hearing, several state senators called the measure discriminatory and unnecessary before voting to kill it. **IN**



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