

October 2011

LGBT FAMILIES:

FACTS AT A GLANCE



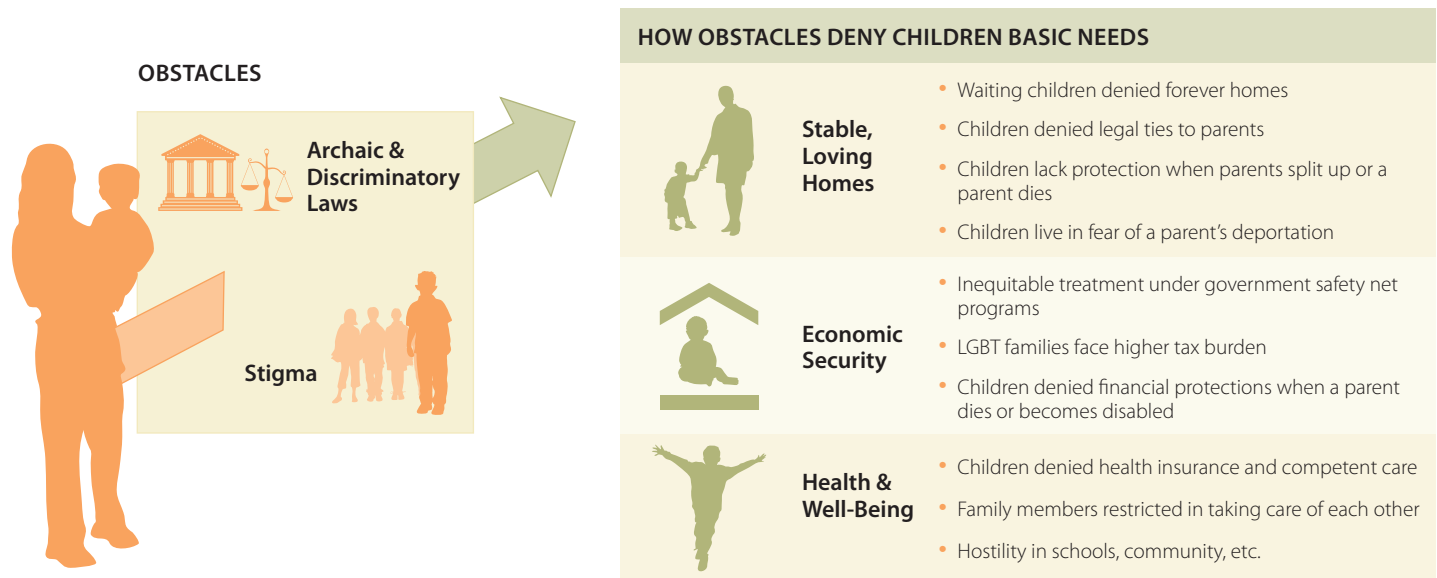
OVERVIEW: THE IMPACT OF DISCRIMINATORY LAWS AND STIGMA

Today's American families are increasingly diverse. Yet archaic and discriminatory laws ignore modern realities, with devastating consequences. These laws deny children the protection of having a legal connection to a parent who cares for them. They undermine families' economic strength by denying access to safety net programs, family tax credits, and health insurance and care. Antiquated laws leave children destitute if a parent dies

or becomes disabled. They wrest children away from loving parents when relationships dissolve.

LGBT families—like all families—simply want equal opportunities to provide stable, loving homes to their children, to ensure economic stability, and to raise healthy children who become integral parts of their communities. The figure below shows how discriminatory laws and stigma make this more difficult for LGBT families (families where lesbian, gay, bisexual or transgender parents are raising children).

Bad Laws and Stigma Deny Children Their Basic Needs



KEY FACTS

| LGBT Families Are Part of the American Fabric | | | | | | | | | | | | | | | | | |
|---|--|---|--------------------|--|--|----------------|-------------|-------------|-------------|------------|----------|-----------|------------------|-----------|--------------|------------|--------------------|
| A Growing Population | <ul style="list-style-type: none"> An estimated 2 million children are being raised in LGBT families, and that number is expected to grow in the coming years. More than one-third of lesbians without a child want to have children, and three-quarters of bisexual women without children want to have children. Of gay men who have not had children, 57% want to have children as do 70% of bisexual men. Of transgender Americans, a recent survey finds that 38% of respondents identify as parents. | | | | | | | | | | | | | | | | |
| Geographically Diverse | <ul style="list-style-type: none"> 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. <table border="1"> <thead> <tr> <th colspan="4">The 12 States in Which More Than 25% of Same-Sex Couples are Raising Children</th> </tr> </thead> <tbody> <tr> <td>1. Mississippi</td> <td>4. Arkansas</td> <td>7. Oklahoma</td> <td>10. Montana</td> </tr> <tr> <td>2. Wyoming</td> <td>5. Texas</td> <td>8. Kansas</td> <td>11. South Dakota</td> </tr> <tr> <td>3. Alaska</td> <td>6. Louisiana</td> <td>9. Alabama</td> <td>12. South Carolina</td> </tr> </tbody> </table> <p>Source: Gary J. Gates and Abigail M. Cooke, Census 2010 Snapshot Series, The Williams Institute, 2011.</p> | The 12 States in Which More Than 25% of Same-Sex Couples are Raising Children | | | | 1. Mississippi | 4. Arkansas | 7. Oklahoma | 10. Montana | 2. Wyoming | 5. Texas | 8. Kansas | 11. South Dakota | 3. Alaska | 6. Louisiana | 9. Alabama | 12. South Carolina |
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| 3. Alaska | 6. Louisiana | 9. Alabama | 12. South Carolina | | | | | | | | | | | | | | |
| Racially and Ethnically Diverse | <ul style="list-style-type: none"> 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. 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. | | | | | | | | | | | | | | | | |
| Positive Parenting Outcomes | <ul style="list-style-type: none"> 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. 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. | | | | | | | | | | | | | | | | |

Children Raised in LGBT Families Are Denied Permanent Homes and Legal Ties To Parents

LGBT Foster Families

~115,000 children need forever homes

As of 2009, there were more than 423,000 children in foster care; with ~115,000 of these awaiting adoption. An estimated 14,000 foster children, or 3% of all foster children, currently live with LGB foster parents.

LGBT foster parents face uncertainty

- Only a handful of states restrict or ban fostering by LGBT individuals or couples. Most state laws are silent, creating uncertainties about whether LGBT families will be able to foster.
- Even where no bans exist, many individuals or couples may be disqualified from fostering due to bias or discrimination by agencies and frontline workers.

Adoption by LGBT Parents

Joint Adoption Law



Single LGBT Parents Can Adopt

Theoretically, all states allow single LGBT individuals living alone to adopt, yet some states prioritize married couples or bar individuals from adopting if they are unmarried and living with a partner.

LGBT Parents Often Cannot Adopt Jointly

Joint adoption for same-sex couples is allowed in 17 states and D. C., effectively banned in 5 states, and the law is silent in 28 states, creating uncertainty for families.

LGBT Stepparents Usually Also Cannot Adopt

In the 15 states and D.C. that offer marriage or comprehensive relationship recognition, a same-sex partner can seek a stepparent adoption. In the 35 remaining states, this option does not exist.

2nd-Parent Adoption is Available in Some States

Similar to a stepparent adoption, a second-parent adoption allows the second parent to adopt a child without the legally-recognized parent losing any parenting rights. While available in all 15 states and D.C. with marriage or comprehensive relationship recognition, only four additional states (CO, IN, ME, PA) offer this option.

Adoptions are Secure and Hold Across State Lines

Since adoption results in a court-issued adoption judgment, the "full faith and credit clause" of the U.S. Constitution protects these judgments, making parental ties secure nationwide.

LGBT Parents & Donor Insemination

Parental Recognition for Same-Sex Couples Using Donor Insemination



** The 15 states include all states with marriage or comprehensive relationship recognition, except Iowa, plus New Mexico. Two states and DC have both parental presumption and consent to inseminate.

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| Some States Have Parenting Presumption Laws | In the 15 states and D.C. that offer marriage or comprehensive relationship recognition (except Iowa), both the birth mother and her partner are presumed to be (and legally recognized as) parents of a child born using donor insemination. Elsewhere, the non-biological mother is generally considered a legal stranger. |
| Consent-to-Inseminate Laws Uncommon | Only three states (Oregon, New Mexico and Washington), plus the District of Columbia, have specific consent-to-inseminate laws that allow a same-sex couple to secure legal recognition for both parents. |
| Surrogacy | |
| Surrogacy is Complicated For All Families | Only a handful of states with surrogacy-friendly laws also have laws that are LGBT-friendly, creating extra challenges to ensuring both intended parents can become legal parents. |
| Parenting | |
| “De Facto” Parenting Law Limited | Over a dozen states have de facto parenting laws that can grant some parenting rights and responsibilities in cases of custody disputes, yet only Delaware and Washington have statutes that allow same-sex couples to proactively extend full parenting rights to a non-legally recognized parent based on de facto status and the legal parent’s consent. |
| Parentage Judgments | A patchwork of statutory and case law creates deep uncertainty for LGBT families. In some states, LGBT parents may secure their parenting ties through a judgment in family court. However, this is most likely in states which already have laws that support LGBT parents. |







Children Raised in LGBT Families Are Slipping Through the Safety Net

| Many LGBT Families Live in Poverty | <ul style="list-style-type: none"> Contrary to stereotypes, children being raised by same-sex couples are twice as likely to live in poverty as children being raised in married heterosexual households. The average household income for same-sex couples raising children lags that of heterosexual couples raising children by more than \$15,500, or 20%. Same-sex couples of color raising children are more likely to be poor than white same-sex couples raising children. | <p>Percent of Families Raising Children Who Live in Poverty</p> <table border="1"> <thead> <tr> <th>Family Type</th> <th>Percent of Families</th> </tr> </thead> <tbody> <tr> <td>Married Different-Sex Couples</td> <td>9%</td> </tr> <tr> <td>Male Same-Sex Couples</td> <td>21%</td> </tr> <tr> <td>Female Same-Sex Couples</td> <td>20%</td> </tr> </tbody> </table> <p>Source: Randy Albelda, M.V. Lee Badgett, Alyssa Schneebaum and Gary J. Gates, “Poverty in the Lesbian, Gay and Bisexual Community,” The Williams Institute, 2009.</p> | Family Type | Percent of Families | Married Different-Sex Couples | 9% | Male Same-Sex Couples | 21% | Female Same-Sex Couples | 20% |
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| Access to Safety Net Programs is Limited | Most safety net programs use a narrow definition of family, which means that cash assistance, health insurance, child care assistance, educational loans and other forms of assistance may not be available to LGBT families. | | | | | | | | | |
| Temporary Assistance for Needy Families (TANF) Inaccurately Counts LGBT Families | Considers only the legal parents of a child as part of the “assistance unit,” the group of individuals whose needs and resources are counted when determining eligibility, which can result in the unfair denial of TANF benefits. | | | | | | | | | |
| Food and Nutrition Assistance Programs (SNAP, School Lunch, WIC) Provide Equal Access | Eligibility is generally based on household size and economic resources, and can include a person or group of people living together who buy food and make meals together, with no requirement that applicants be related legally or by blood. These programs provide equal access to LGBT families. | | | | | | | | | |
| Public Housing and Housing Assistance Provide Equal Access, But Discrimination Still Occurs | <ul style="list-style-type: none"> Housing assistance programs consider “two or more persons related by blood, marriage, adoption” or “two or more persons who are not so related but will live together in a stable relationship and share resources.” This definition of family covers many different living situations and accurately counts LGBT families. Even so, housing discrimination still routinely occurs. Documented discrimination in housing means that LGBT families of color and transgender people face an even greater challenge when trying to use housing vouchers. | <p>Percent of Transgender Americans Reporting Housing Discrimination</p> <table border="1"> <thead> <tr> <th>Discrimination Type</th> <th>Percent of Transgender Americans</th> </tr> </thead> <tbody> <tr> <td>Refused a home</td> <td>19%</td> </tr> <tr> <td>Evicted</td> <td>11%</td> </tr> <tr> <td>Became homeless</td> <td>19%</td> </tr> </tbody> </table> <p>Source: Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, “Injustice At Every Turn: A Report of the National Transgender Discrimination Survey,” National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.</p> | Discrimination Type | Percent of Transgender Americans | Refused a home | 19% | Evicted | 11% | Became homeless | 19% |
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| Medicaid and Children’s Health Insurance Program (CHIP) Inaccurately Count LGBT Families | Considers only a child’s legal parents when calculating income and household size. States may recognize same-sex partners if they choose, although few do since the federal government withholds funds for families falling outside of federal guidelines, even among states that extend marriage or comprehensive relationship recognition to LGBT couples. | | | | | | | | | |

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| Supplemental Security Income Inaccurately Counts LGBT Families | Considers only the resources of the legal parents of a minor applicant or a federally-recognized spouse of an adult applicant to determine eligibility. Even if a same-sex couple is legally married or in another valid union, the federal government will not recognize that relationship because of DOMA. |
| Child Care and Early Childhood Education Programs (CCAP, Head Start, Early Head Start) Inaccurately Count LGBT Families | Considers only the economic resources of parents or guardians who are related "by blood, marriage or adoption" are considered. The lack of legal recognition can result in unfair denial of this assistance for LGBT families, depending on the family's circumstances. |
| Federal Educational Loans Inaccurately Count LGBT Families | Considers only legally-recognized parents and stepparents in determining household size and income. Even if the child's parents are married, a same-sex partner cannot be considered a stepparent for the purposes of completing the FAFSA, since the federal government is prohibited by DOMA from recognizing the marriage of the child's parents. |

LGBT Families Face A Higher Tax Burden

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| Unequal Taxation of LGBT Families | LGBT Families cannot file a joint federal tax return and LGBT parent who are not legally recognized are denied tax deductions and credits available to other households. |
| Dependency Exemption Denied | Non-recognized LGBT parents cannot take this exemption, which would currently reduce taxable income by \$3,650 for each qualifying child or relative. |
| Child Tax Credit Denied | Non-recognized LGBT parents cannot use this credit, which would currently reduce taxes by \$1,000 for each qualifying child under the age of 17. |
| Earned Income Tax Credit Denied | Only a legal parent can claim the credit and only that parent's income is considered. An LGBT family could be unfairly denied the EITC OR could receive a credit that would be denied were the entire family recognized. |
| Child and Dependent Care Credit Unfairly Denied | Only a legal parent can claim this credit, which reduced taxes due by up to \$1,050 for one dependent or \$2,100 for two or more. |
| Education Deduction Denied | Non-recognized LGBT parents usually cannot claim the deduction, which can reduce taxable income by as much as \$4,000 in tuition expenses for children or dependents. |
| Adoption Credit Allows Two Claims Per Household | Since the federal government does not recognize the relationships of same-sex couples, both LGBT parents can claim full adoption-related expenses, allowing two claims per household (unlike married heterosexual couples who can only take one adoption credit per household). This can reduce taxes by as much as \$13,170 per claimant. |
| Gift and Estate Tax Exemption Denied | Only transfers from legally-recognized spouses are tax-free, so same-sex couples pay a higher tax than other, similarly situated families. |

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| <p>Combined Impact of Unfair Tax Burdens on LGBT Families</p> <ul style="list-style-type: none"> The tax code's different treatment of LGBT families has a real and substantial impact on economic security for LGBT families and their children. The cumulative impact of unfair taxation on LGBT families can be significant. One analysis shows a difference of over \$2,200 in annual tax burden for a family of four with a household income of \$45,000. | <p>Taxes Owed on \$45,000 Household Income</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 50%;"> <p>Married Heterosexual Couple (Filing Jointly)</p>  <p>\$50 refund</p> </td> <td style="text-align: center; width: 50%;"> <p>Same-Sex Couple (Filing Separately)</p>  <p>\$2,165 due</p> </td> </tr> </table> <p style="font-size: small;">Source: MAP analysis as detailed in <i>All Children Matter: How Legal and Social Inequalities Hurt LGBT Families (Full Report)</i>, 2011, page 72.</p> | <p>Married Heterosexual Couple (Filing Jointly)</p>  <p>\$50 refund</p> | <p>Same-Sex Couple (Filing Separately)</p>  <p>\$2,165 due</p> |
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Children With LGBT Parents Are Denied Economic Protections When A Parent Dies or Is Disabled

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| Social Security and Survivors and Disability Benefits Denied | Denies children benefits if a non-recognized parent dies, even if the children were financially dependent on the parent. This denies benefits for children of parents who are not biological or adoptive and children of non-adoptive stepparents, even if the parents are legally married in their state. Surviving same-sex spouses are also denied survivor benefits. |
| Inheritance via Intestacy Restricted | As many as 65% of all deaths result in a distribution of assets via state intestacy statute. Since intestacy laws prioritize the surviving spouse for distribution of assets, and since same-sex partners are not recognized as spouses in most states, most same-sex partners cannot inherit via these laws. Children of non-legally recognized parents generally cannot inherit via these laws either. |
| Lack of Standing for Wrongful Death Suits | In most states, same-sex partners cannot sue for the wrongful death of a partner and children cannot sue for the wrongful death of a non-legally recognized parent (even if financially dependent on that parent). |

LGBT Families Face Health Disparities, Unequal Access To Health Insurance, Unwelcoming Health Care Environments, and Restrictions in Providing Care To Each Other

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| Health Disparities | Disparities between LGBT adults and the general population can be seen in access to care, the incidence of HIV/AIDS, and chronic physical conditions such as diabetes, obesity, and arthritis. Contributing factors include high rates of stress due to systemic harassment and discrimination. |
| Limited Access to Health Insurance | Because most employee benefits are regulated under the federal Employee Retirement Income Security Act (ERISA), which does not recognize same-sex couples because of DOMA, most employers are not required to offer health benefits to the partners or non-recognized children of LGBT workers, even if those workers are legally married in their state. LGBT families also face unequal COBRA access for continuing health coverage when losing or changing jobs. |
| Taxation on Health Benefits | When employers electively offer extended health benefits for same-sex partners and non-related children, families who use these benefits are taxed on their value, costing the average employee with domestic partner benefits \$1,069 more per year in taxes than a heterosexual employee. |
| Less Health Insurance Coverage | LGBT adults have much lower rates of health insurance coverage than heterosexual adults and researchers believe that children raised by LGBT parents are also less likely to have health insurance. |
| Unwelcoming Health Care Environments | Health care environments are often inhospitable to LGBT families, with providers who may be hostile, discriminatory, or unaware of LGBT families' unique health needs. |
| Hospital Visitation Can Be Denied | Many states give same-sex couples the same or substantially similar hospital visitation rights as heterosexual couples, yet many LGBT families still face discrimination and delay when staff are uncertain or opposed to policies that explicitly address LGBT families. |

Medical Decision-Making For Children and Couples



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| Excluded from Routine and Emergency Decisions | A non-legally recognized LGBT parent often will be unable to make routine or emergency medical decisions for a child. In many states, unless an LGBT adult has specific legal documents in place, his or her partner may be excluded from medical decision-making as well. |
| Family Leave To Care For Children; Not For LGBT Spouses | In 2010, the Department of Labor issued a clarification indicating that a worker who is acting (or intends to act) as a parent may take leave under FMLA, even if the worker is not recognized as a legal parent under state law. FMLA is not similarly broad in allowing workers to take care of a same-sex partner or spouse. |



Children raised in LGBT Families Confront Social Stigma and Discrimination

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| Unique Pressures That Come with Bias and Discrimination | LGBT families cope with inappropriate questions, the politicization of their families, and anxiety about the lack of legal recognition—stressors which are heightened for LGBT families of color and children of transgender parents who face additional discrimination. |
| Community Choices Limited | Many LGBT parents feel constrained when it comes to choosing where to live, vacation, work, and worship, and carry thick packets of paperwork just to make sure they will be recognized as a legitimate family when they travel or relocate. |
| Unwelcoming Schools | Although efforts to prevent bullying of LGBT youth in schools have grown, less attention has been paid to the children of LGBT parents. A 2008 survey of LGBT parents and their school-age children found that 40% of students with LGBT parents reported being verbally harassed because of their families and three-quarters reported hearing derogatory terms about LGBT people at school. |
| Added Challenges for Families of Color | LGBT community organizations are often based in LGBT neighborhoods, but many LGBT people of color do not live in these areas, resulting in inadequate access to support and resources offered by LGBT organizations. |

What Does All this Mean for LGBT Families?

While LGBT families and families headed by heterosexual married couples may experience the same set of life events, unequal laws and social stigma can have a damaging impact on LGBT families. The example below explores the very different outcomes of two families experiencing the same sequence of events. The only difference is that one family is headed by a heterosexual married couple (Darren and Angela) and the

other by a lesbian couple (Jennifer and Katie). Because Angela is heterosexual, she and her children are left with substantial income support, college savings, the family home, and a supportive community following the death of her husband. Because she is a lesbian, when Katie's partner dies, Katie and her children are left homeless and poor, struggling to make ends meet on a part-time income while living in a community that does not support her or her family.

| Two American Families, Two Different Outcomes | | |
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|  <p>Darren & Angela + Two Children</p> |  <p>Jennifer & Katie + Two Children</p> | <p>Added Financial Burden for Jennifer & Katie Over 18 Years of Raising Children</p> |
| <p>Giving birth using donor insemination...</p> | | |
| <ul style="list-style-type: none"> • Darren and Angela are the legal parents of their two children. | <ul style="list-style-type: none"> • Only Katie (the biological parent) is legally recognized as a parent. Jennifer is a legal stranger. | |
| <p>Securing health insurance coverage...</p> | | |
| <ul style="list-style-type: none"> • Entire family receives health insurance through Darren's employer-sponsored plan. | <ul style="list-style-type: none"> • Jennifer's employer-sponsored health insurance does not extend to domestic partners or non-legally recognized children. • The family purchases private health insurance for Katie and both children, costing \$3,105 more per year. | <p>\$55,890 (\$3,105 per year across 18 years)</p> |
| <p>Applying for their children's Social Security cards...</p> | | |
| <ul style="list-style-type: none"> • Darren and Angela listed as father and mother; cards arrive without problems. | <ul style="list-style-type: none"> • Application with both parents is rejected. Only Katie can be listed on the form. | |
| <p>Entering children into a neighborhood child care program...</p> | | |
| <ul style="list-style-type: none"> • Program is welcoming and friendly. • Family is eligible for \$6,000 child care tax credit, saving (when combined with other credits and deductions for children) \$2,215 in taxes each year. | <ul style="list-style-type: none"> • Family encounters hostile child care providers; only Katie drops off and picks up children. • Family is ineligible for \$6,000 child care tax credit and other child-related deductions and credits, and pays \$2,215 more in taxes each year. | <p>\$33,340</p> |
| <p>Visiting the ER after child breaks arm...</p> | | |
| <ul style="list-style-type: none"> • Darren takes daughter to the emergency room, consents to medical care and is permitted to stay with her. | <ul style="list-style-type: none"> • Jennifer takes daughter to the emergency room, but cannot consent to medical care and must wait for Katie to arrive because she is not the legal parent. | |
| <p>Entering children in elementary school...</p> | | |
| <ul style="list-style-type: none"> • Teachers and staff are welcoming and supportive; Jennifer serves on the PTA. • The children easily make friends. | <ul style="list-style-type: none"> • Administration is hostile; teachers are not adequately addressing bullying. • The children report being teased; some classmates kept by parents from playing at the children's home. | |
| <p>Dealing with the death of the primary breadwinner (Darren and Jennifer)...</p> | | |
| <ul style="list-style-type: none"> • Angela inherits house and savings despite Darren's lack of a will. • Family receives \$27,936 in annual financial support from Social Security which pays for living expenses. • Receives support from community. | <ul style="list-style-type: none"> • Katie loses home and savings, which go to Jennifer's parents. • Katie and the children are legal strangers to Jennifer and therefore receive no Social Security survivor benefits; family struggles to make ends meet on Katie's part-time salary. • Family gets little support from school and community. | <p>\$130,032 in lost Social Security survivor benefits</p> |
| <p>TOTAL DIFFERENCE IN FINANCIAL BURDEN</p> | | |
| <ul style="list-style-type: none"> • Adequate income • Sufficient savings • Keep home • Have support | <ul style="list-style-type: none"> • No income • No savings • No home • No support | <p>\$219,262</p> <p>Extra financial burden in health insurance, lost tax credits and lost Social Security benefits. Excludes loss of house and savings due to inequitable estate tax law.</p> |

POLICY SOLUTIONS

The list of legal, policy and cultural solutions detailed below, if taken together, could virtually eliminate the legal disparities that pose harm to the two million children being raised by LGBT families. Many of these recommendations would also help other children, including those with unmarried parents and those awaiting adoption.

Legally Recognize LGBT Families

- Pass comprehensive parental recognition laws at the state level to fully protect children in LGBT families.
- Legalize and federally recognize marriage for gay and lesbian couples.
- Provide pathways to immigration and citizenship for binational LGBT families.

Provide Equal Access to Government-Based Economic Protections

- Recognize LGBT families and children across government safety net programs.
- Revise the IRS tax code to provide equitable treatment for LGBT families.

- Provide equitable economic protections when a parent dies or is disabled.
- Advance equal access to health insurance and care.
- Enable LGBT family members to provide care to one another.
- Pass state anti-bullying laws and laws barring discrimination in employment, adoption, custody and visitation, health services, housing and credit.
- Educate and provide cultural competency training to a wide array of professionals.
- Create stronger support services for LGBT families, particularly families of color, low-income families and transgender parents.

Expand Research on LGBT Families

- Expand research and education on LGBT families and parenting, with emphasis on filling gaps in data on families of color, low-income families and transgender parents.
- More detailed recommendations are available in the full report found at www.lgbtmap.org/lgbt-families or on any of our co-authors' websites.

ABOUT THIS BRIEF

This brief is based on content from *All Children Matter: How Legal and Social Inequalities Hurt LGBT Families*, a report which provides one of the most comprehensive portraits to date of the wide range of obstacles facing LGBT families in America. It also offers detailed recommendations for eliminating or reducing inequities and improving the lives of children with LGBT parents. For more information, visit www.lgbtmap.org/lgbt-families, www.familyequality.org or www.americanprogress.org.



governance advancement project ▶

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