

Facing Discrimination When Adopting in America

The adoption process can be lengthy and exhausting for anyone, but it's even worse if you identify as LGBTQ.

By Abigail Bassett JUN 29, 2020

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Adopting a child is a difficult process. It's often expensive, time-consuming, emotionally exhausting, and stressful. Yet, it's even more difficult when you are among a sexual and gender minority, like lesbian, gay, bisexual, transgender, or queer.

"Mounting research evidence suggests that sexual minorities are vulnerable to significant and seemingly unjustified obstacles in their efforts to become foster and adoptive parents," writes

Abbie Goldberg, a Professor of Psychology at Clark University, in her co-authored published study from 2019. Over the last 15 years, Goldberg has followed more than 150 gay and lesbian couples through their adoption journey.

Her studies have shown that LGBTQ+ couples and individuals often face both overt and subtle discrimination that makes their journey to become parents seem insurmountable.

The Winding Path of Parenthood

There are several ways that families who decide they want to adopt a child in America can become parents. These include working with an adoption lawyer, going through an adoption agency, or working through the foster system. Couples or individuals can also look internationally to adopt a baby or child from abroad. Sticking to one process isn't always feasible – often people begin down one path and add or change paths to broaden their chances of finding a child.

LGBTQ+ families looking to adopt appear to have longer waits, which would mean that the costs of adopting are could be higher.

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There are a variety of pros and cons to each path, including costs and the length of time it can take to connect with a birth mother or find a child. Data on the costs and the length of time that couples or individuals wait to become adoptive parents is limited and varies widely regardless of whether adoptive parents are heterosexual or LGBTQ+. The Family Equality Council published a paper in December of 2019 that shows that the cost of domestic adoption can range anywhere from \$20,000 to \$45,000 according to their survey of 500 adults who identified as LGBTQ+. That's roughly on par with the average cost that Adoptive Families Magazine found when they surveyed 1,100 people who adopted back in 2016 and 2017. Their report says that the average cost of domestic adoption is around \$43,000.

Professor Goldberg says that it does seem that LGBTQ+ families looking to adopt appear to have longer waits, which would mean that the costs could be higher.

In addition to the high costs, there are plenty of legal hurdles for LGBTQ+ families to surmount. Currently, ten states across the country allow for state and local welfare agencies to refuse to place children with LGBTQ+ couples looking to adopt, too, according to the Movement Advancement Project, an LGBTQ+ think tank. They include Texas, Oklahoma, Kansas, South Dakota, North Dakota, Michigan, Tennessee, Alabama, South Carolina, and Virginia.

An exhausting process

When Kelly Cheever and her wife, Aubrey, decided that they wanted to become parents, they never thought it would take so long. The couple sought a child for more than four years before finally adopting.

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There's plenty of research showing that same-sex couples can raise and adopt children in ways that are really positive. Children do not show negative outcomes because they are raised by two moms or two dads.

"We are basically the middle-class couple who had a nice chunk of savings, which was enough for an adoption, to buy a house, or to pursue IVF," Cheever says. "We chose to pursue adoption." Cheever, a Los Angeles-based private chef, estimates that she and her wife spent more than \$30,000 in their effort to adopt their baby boy, Milo.

Paul Trudel-Payne, the owner of Casa Consult & Design, real estate design firm in San Diego, says he knew he wanted to be a dad since he was 19 years old, and when he married his

husband, Jamie, in 2014, they decided to begin the adoption process immediately. It took more than \$60,000 and nearly two years to finally adopt their little boy, Ander, who's now three.

"The minute we got married, we thought, 'Let's do this!' We considered surrogacy, but it became really clear that adoption would be a better path. It wasn't important to us that we shared DNA with a child. We wanted to have a family," he says.

Trudel-Payne says that the process took longer than expected and was far more expensive than anticipated. The couple is currently trying to adopt a second child through Lifelong Adoptions, an agency that specializes in placing children with LGBTQ+ families. "It's a lot like dating," he says. "I check the website every day to see who the new adoptive parents might be, who's looked at our profiles, and who's requested more information about us."

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Though Cheever and her wife initially began their search by working with an adoption lawyer, Trudel-Payne and his husband chose the agency route to become parents. Both say they faced

unexpected and difficult paths to becoming parents, peppered with what they each say is anecdotal evidence of discrimination that ranged from basic individual prejudice to structural bias built into the system.

Cheever and her wife were told by the lawyer they initially worked with that, in general, lesbian couples were “chosen last” by birth mothers and that they should broaden their search to increase their chances of being matched with a child. Trudel-Payne and his husband were unable to adopt a child at the last minute when the birth mother decided that she wasn’t comfortable giving her baby to a gay male couple.

LGBTQ+ people face multiple types of discrimination

“Sometimes queer and gay couples can be told that they are undesirable; that they are not the optimal adoptive couple,” Goldberg says. “There are several different issues that come into play across the board. We have laws in certain states that allow agencies to discriminate against LGBTQ+ as people they perceive as gender non-conforming. Certain agencies can say that they don’t have to take you, but what’s much more common, is implicit discrimination. I talked to many folks who say that the ways that social workers wrote up their home study make them less appealing to a social worker who is trying to match a child, or that makes them look less desirable to birth parents.”

A home study is a screening performed by social workers that examines the homes and lives of potential adopters.

Goldberg says that there are multiple and complex factors at play in the discrimination that LGBTQ+ couples and individuals face: Everything from prejudice and misconceptions about what kind of parents LGBTQ+ people can be, to structural discrimination that currently allows religious adoption agencies to turn down adoptive parents based on the gender and sexual identification. More subtle forms of discrimination can include things like a social worker asking a gay couple how long they have been married.

“A home study may say that a gay or lesbian couple just got married last year. It ignores the fact that gay marriage has only been legal for a short period of time,” Goldberg points out. Gay marriage was legalized just five years ago, in June of 2015.

She also says that “a lot of same-sex couples talk about the suspicion of discrimination, too. They look by-and-large the same as their middle-class hetero friends who are getting tons of calls, and they don’t know if this is because the birth parents aren’t open to same-sex couples or if it’s due to something else. There are so many unclear factors that weigh into it. A lot of

times, LGBTQ+ couples wait for calls that never come, and they don't know why that's happening."

Laws in certain states allow agencies to discriminate against LGBTQ+ people during the adoption process.

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"Sometimes, queer and gay couples can be told that they should relax their expectations to include characteristics they may not have been interested in when adopting a child. In particular, lesbian couples are more open to adopting transracially; they are more open to adopting a child with special needs; they are open to a lot of characteristics. They are also often told that if you aren't open to these things, they won't be able to adopt," Goldberg says.

Discrimination against LGBTQ+ people throughout the adoption process has become so problematic that it has reached the highest court in the land. The U.S. Supreme Court is due to hear arguments over whether city and state authorities can exclude adoption agencies that refuse to work with same-sex couples from their foster programs in Fulton vs. Philadelphia (No. 19-123) this October.

LGBTQ+ advocates like Elizabeth Schwartz, a family and adoption lawyer based in Miami, Florida, are keeping a close watch on what comes out of the Supreme Court. Schwartz is a nationally recognized advocate for legal rights for the lesbian, gay, bisexual, and transgender

community who also worked as part of a team of lawyers to overturn Florida's ban on gay marriage and adoption back in 2010. Florida was the last state in the U.S. to finally lift its statewide ban prohibiting same-sex couples from adopting or fostering.

“There’s the discrimination that an expectant mama might be exercising in choosing adoptive parents, then there’s the entire universe of social entities and private entities that are engaging with federally funded discrimination,” Schwartz says. “We can’t live in a society that condones discrimination of any sort.”

What you can do if you’ve faced discrimination

Adoption is a complicated process with laws and regulations that can vary from state-to-state and city-to-city. Schwartz says that while there’s not much to be done when a birth mother decides to choose a heterosexual couple over an LGBTQ+ couple or individual, there are still things that anyone who feels they’ve been discriminated against should do. First, and foremost, she says that those facing discrimination from an agency, lawyer, social worker, or other professional involved in the adoption process, need to report it to the proper state and local agencies.

Research shows that same-sex couples can raise and adopt children in ways that are really positive.

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“Many times, I hear stories about couples going to an agency or a lawyer and facing some form of subtle or even overt discrimination or bias. Most of the time, they just move on to another agency. I think that people don't report it because of retaliatory fear. They just want to build their family. The reality is that nothing is going to change if we don't lift our voices,” Schwartz says.

“Fine. Go to the other agency but report what happened with the process. Without that, what ultimately happens when you get to something like *Fulton v.s Philadelphia*, you don't have any record of discrimination because people have just not reported it.”

Schwartz also suggests reaching out to the NCLR or National Center for Lesbian Rights, which can offer remediation options in your particular jurisdiction. The NCLR works to advance human and civil rights for the LGBTQ+ community. You can also seek legal counsel from lawyers who specialize in family and adoption law by finding someone through the Academy of Adoption and Assisted Reproduction Attorneys.

Goldberg says that education and protection for LGBTQ+ couples are imperative to prevent the kind of discrimination her studies have unveiled.

“When you have a hetero couple and a same-sex couple, and they are equivalent in their resources, emotional stability and their deliberateness and thoughtfulness, you can't discriminate against the same-sex couple because you don't think it's good to have kids grow up with two dads or two moms,” she says. “Gay dads tend to have more education and better income; they offer more resources; they tend to be a highly resourced group. A lot of it is around education; a lot is around helping people to identify stereotypes and biases.”

She also advocates for dismantling some of the more typical gender roles within the family unit, too.

“There's plenty of research showing that same-sex couples can raise and adopt children in ways that are really positive. Children do not show negative outcomes because they are raised by two moms or two dads,” Goldberg says. “We need the same kinds of federal protections not only for employment but discrimination against those who are hopeful adopters, too.”

Abigail Bassett is an Emmy-winning journalist, writer and producer who covers wellness, tech, business, cars, travel, art and food. Abigail spent more than 10 years as a senior producer at CNN.

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