



**TESTIMONY OF GLBTQ LEGAL ADVOCATES & DEFENDERS  
IN SUPPORT OF H. 5706**

Rhode Island House Committee on Judiciary  
March 20, 2019

Submitted by:  
Patience Crozier  
Senior Staff Attorney

Dear Representative Craven, Chair, Representative Shanley, First Vice-Chair, Representative McEntee, Second Vice-Chair, and Members of the House Committee on Judiciary,

Thank you for the opportunity to submit testimony in support of H. 5706 – An Act Relating to Domestic Relations – Adoption of Children.

GLBTQ Legal Advocates and Defenders (“GLAD”) is a nonprofit organization working within New England and nationally to end discrimination based on sexual orientation, gender identity and expression, and HIV status through litigation, public policy advocacy, and education. GLAD has a particular interest in the formation and protection of Rhode Island families and, accordingly, supports H. 5706.

All children in Rhode Island need and deserve a secure legal relationship with both parents. LGBTQ co-parents in Rhode Island and elsewhere continue to face the reality that other states may discriminate against them and not recognize their legal status as parents. This leaves both parents and children vulnerable to harm when traveling in or moving to another state. For this reason, LGBTQ couples must complete adoptions of children born to them through assisted reproductive technology in order to obtain a court judgment that will be respected throughout the United States and internationally.

H 5706 advances Rhode Island's vital interest in the security of legal parent-child relationships. It eliminates burdensome and costly barriers in the adoption process for couples who planned for and built their families through assisted reproductive technology.

Rhode Island has a distinct interest in creating family laws that ensure positive, clear, and consistent outcomes for all families. As of 2016, approximately 4% of individuals living in Rhode Island identified as LGBTQ.<sup>1</sup> According to Centers for Disease Control and Prevention, in 2017 43.9% of all births in Rhode Island were to unmarried women.<sup>2</sup> Further, in 2015 2.4% of infants born in Rhode Island (approximately 268) were born through assisted reproductive technology.<sup>3</sup>

Since many LGBTQ families have their children through assisted reproductive technology, LGBTQ parents find themselves in the odd situation of having to adopt their own children. This is a situation not ordinarily faced by non-LGBTQ parents.

It is important for LGBTQ individuals to adopt their own children to prevent complications imposed by conflicting state laws. Not all states protect the rights of same-sex parents, particularly those who are unmarried. Accordingly, same-sex parents are often encouraged to adopt their children to ensure that their rights as parents are respected in every state.<sup>4</sup> If parents are unable to adopt their children, their parentage may not be recognized outside of their home state. Adoption, however, provides assurance that parents are recognized no matter where they go. Adoption itself is a judgment by the court that retains full faith and credit, despite another state's individual laws.<sup>5</sup>

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<sup>1</sup> Gary J. Gates, *Vermont Leads States in LGBT Identification*, GALLUP (Feb. 6, 2017), <https://news.gallup.com/poll/203513/vermont-leads-states-lgbt-identification.aspx>.

<sup>2</sup> *Percentage of Births to Unmarried Mothers by State*, CENTERS FOR DISEASE CONTROL AND PREVENTION, (last updated, January 15, 2019), <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>.

<sup>3</sup> Saswati Sunderam et al., *Assisted Reproductive Technology Surveillance – United States, 2015*, CENTERS FOR DISEASE CONTROL AND PREVENTION, Table 3, (February 16, 2018), <https://www.cdc.gov/mmwr/volumes/67/ss/ss6703a1.htm>.

<sup>4</sup> *Legal Recognition of LGBT Families*, NATIONAL CENTER FOR LESBIAN RIGHTS, 2 (2019) [http://www.nclrights.org/wp-content/uploads/2013/07/Legal\\_Recognition\\_of\\_LGBT\\_Families.pdf](http://www.nclrights.org/wp-content/uploads/2013/07/Legal_Recognition_of_LGBT_Families.pdf); see *V.L. v. E.L.*, 136 S.Ct. 1017 (2016) (holding that Alabama had to afford full faith and credit to a second-parent adoption in Georgia).

<sup>5</sup> *Id.* at 3.

Rhode Island's adoption process contains a number of barriers that are a deterrent to vital adoptions by same-sex couples. A recent case litigated by GLAD, *In re Parentage of a Minor Child*, demonstrates some of the obstacles LGBTQ couples face that this bill will address. In that case, GLAD secured an order of parentage for a non-biological mother who sought to adopt the child that she and her partner planned and had together, through assisted reproduction.<sup>6</sup> The Rhode Island Family Court division required that the couple post an advertisement, alerting the sperm donor of the adoption, in the newspaper.<sup>7</sup> That case provides one example of the challenges that couples in Rhode Island face with the current adoption procedures.

Adoptions of this sort in Rhode Island still require home studies and notice to donors. Home studies can be time consuming, invasive, and costly for Rhode Island families, and mandatory notification of gamete donors can lengthen the adoption process and raise fear in families that an unknown donor may step forward to claim parentage. The current adoption process discourages families from adopting which leaves children vulnerable and uncertain of their legal parentage. This is particularly true for unmarried partners. For LGBTQ couples who plan, with intention, to create families by having children, the adoption process should come with ease. These individuals seek to use the adoption system to confirm their rightful parentage.

Substantively, H. 5706 addresses and remedies many of these concerns related to adoption. The bill creates ease in adoption by eliminating the required home visit and donor notification requirements. Specifically, section (f) states that if the petitioners conceived through assisted reproductive technology with donor gametes, they are not required to notify the donor of the adoption.<sup>8</sup> Section (g) notes that, unless court ordered for good cause, petitioners under this Act shall not be subject to an investigation or home study.<sup>9</sup>

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<sup>6</sup> *In re Parentage of a Minor Child*, Family Court Case No. 2015-0877-1, at \*1–2 (2015).

<sup>7</sup> *Id.*

<sup>8</sup> See H. 5706(f), 2016 Leg., Reg. Sess. (R.I. 2019).

<sup>9</sup> See H. 5706(g)(2).

Additionally, the bill protects unmarried partners who gave birth through assisted reproductive technology. Section (h) provides that adoptions should be granted for non-marital parents when the person who gave birth and the non-marital parent consented to the assisted reproductive technology and there are no other competing claims of parentage.<sup>10</sup> Essentially, H. 5706 protects individuals who planned for and built their families through assisted reproduction.

By considering the provisions of this Act, Rhode Island is addressing an urgent need for parents in the state to secure rightful parentage through the adoption process. Notably, California has adopted a similar law that provides ease in the adoption process for families giving birth through assisted reproductive technology.<sup>11</sup> The California statute has increased access to adoption and has led more families to complete adoptions in the state.

This bill provides critical protections for children in Rhode Island. GLAD strongly supports H. 5706.

Respectfully submitted,



Patience Crozier, Senior Staff Attorney  
GLBTQ Legal Advocates & Defenders  
pcrozier@glad.org  
(617) 778-6969

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<sup>10</sup> See H. 5706(h)(2).

<sup>11</sup> Cal. Fam. Code § 7613 (West 2017).