

## ACLU Nebraska Fact Sheet on LB 571

### Protecting Children through Adoption Rights

Currently, the adoption laws of Nebraska make children the victims of marriage law. The law says that only married people who are married can adopt each other's children in stepparent-like adoptions. These laws, as interpreted by the Nebraska Supreme Court, say that a parent cannot permit another person to adopt his/her child without giving up his/her rights to the child, unless s/he is married to the second person. Consequently, parents who cannot or choose not to marry cannot adopt each other's children. Even if a couple decides to have and raise a child together, but only one is a biological parent, the law recognizes only the biological parent. The other parent, despite providing all the love and care that a married parent would provide, has no rights as regards that child. This is clearly not in the best interests of the at least 1,350 minor children of same-sex parents<sup>1</sup> and unnumbered children of other unmarried couples in Nebraska.

Having two people responsible for a child is always better than only one. The American Medical Association, the American Psychological Association, the Child Welfare League of America, the American Academy of Child and Adolescent Psychiatry, the American Academy of Family Physicians, the American Academy of Pediatrics, the American Bar Association, the American Psychological Association, the National Association of Social Workers, the North American Council on Adoptable Children, and other groups all agree that children are better off with two parents. The American Psychological Association notes that there is “no scientific evidence that parenting effectiveness is related to sexual orientation.” The American Psychiatric Association stated, “Second-parent adoptions which grant full parental rights to a second, unrelated adult ... are often in the best interest of the child(ren).” The American Medical Association: “Having two fully sanctioned and legally defined parents promotes a safe and nurturing environment for children, including psychological and legal security.” The

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<sup>1</sup> There are at least a quarter of a million minor children being raised by same-sex couples in the US. The 2000 US Census collected data on same-sex families for the first time. While the numbers in the census are likely to be much lower than the actual picture—because people are understandably likely to be cautious about identifying themselves as homosexual to a hostile government—these figures are the most modest estimates. See Gary J. Gates, *The Gay and Lesbian Atlas* (Urban Institute Press, 2004) (online at <http://www.urban.org/pubs/gayatlas/>). Additionally, there are an estimated one million American children being raised by a single gay parent, though those numbers are not being officially tracked by the census yet.

American Academy of Pediatrics: “Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex.” The American Academy of Child and Adolescent Psychiatry says: "The basis on which all decisions relating to custody and parental rights should rest on the best interest of the child. ... There is no evidence to suggest or support that parents with a gay, lesbian, or bisexual orientation are per se different from or deficient in parenting skills, child-centered concerns and parent-child attachments, when compared to parents with a heterosexual orientation.”

If a child can't be adopted by his or her second parent, then that child loses many rights, including these rights:

- to inherit;
- to receive Social Security benefits;
- to receive life insurance benefits;
- to sue for wrongful death of a parent;
- to eligibility for coverage under both parents health insurance;
- to have two parents eligible to make emergency medical decisions;
- to stable family relationships;
- to get child support if one parent leaves the other parent;
- to get court-determined visitation and custody if the parents separate;
- to have the right to be in the custody of one parent if the other parent dies.

Who else allows these adoptions? Three states and the District of Columbia have laws allowing second-parent adoptions. Seven states have allowed second parent adoptions through the courts. In 15 other states, lower courts have regularly permitted such adoptions so it appears to be the common law there. Combining all of those means 25 states have found that second parent adoptions are in the best interests of children. LB 571 will make it clear that *any* two people may adopt a child, regardless of their marital status. This bill is crucial for Nebraska’s children and we count on your support.

**Contact ACLU Nebraska at (402) 476-8091 or [info@aclunebraska.org](mailto:info@aclunebraska.org)**