

**IN THE SUPREME COURT OF ARKANSAS**

**DEPARTMENT OF HUMAN SERVICES, et al.**

**APPELLANTS**

**v.**

**No. 05-814**

**MATTHEW HOWARD, et al.**

**APPELLEES**

**APPEAL FROM THE SIXTH DIVISION CIRCUIT COURT  
OF PULASKI COUNTY**

**THE HONORABLE TIMOTHY DAVIS FOX  
CIRCUIT JUDGE**

**BRIEF OF AMICI CURIAE AMERICAN PSYCHOLOGICAL ASSOCIATION;  
ARKANSAS PSYCHOLOGICAL ASSOCIATION;  
NATIONAL ASSOCIATION OF SOCIAL WORKERS; AND  
NATIONAL ASSOCIATION OF SOCIAL WORKERS, ARKANSAS  
CHAPTER, IN SUPPORT OF PLAINTIFFS-APPELLEES**

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## **IDENTITY AND INTEREST OF *AMICI CURIAE***

The American Psychological Association is a nonprofit scientific and professional organization founded in 1892. The Association has more than 155,000 members and affiliates, including the majority of psychologists holding doctoral degrees from accredited universities in this country. Among the Association's major purposes is to increase and disseminate knowledge regarding human behavior and to foster the application of psychological learning to important human concerns. Human sexuality and familial relationships are professional concerns of a substantial number of the Association's members, either as researchers or as clinicians. In July 2004, the Association's Council of Representatives adopted a *Resolution on Sexual Orientation, Parents, and Children*, which is relevant to this case. The Association recognized that "There is no scientific evidence that parenting effectiveness is related to parental sexual orientation: lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children." Am. Psychol. Ass'n, *Resolution on Sexual Orientation, Parents, and Children* (2004), available at <http://www.apa.org/pi/lgbcpolicy/parents.html>. In its Resolution, the Association resolved to provide scientific and educational resources, such as this *amicus* brief, to inform public discussion and understanding of these issues.

The Arkansas Psychological Association is a non-profit scientific and professional organization founded in 1949. The Association has more than 180 members and affiliates, including a significant number of psychologists holding doctorate degrees from accredited universities in the U.S. The Association's major purposes include the increase and dissemination of knowledge regarding human behavior as well as the application of psychological learning to important human concerns. Familial relationships, child development, and human sexuality are professional concerns of many of the Association's members, as either researchers, educators, or clinicians.

The National Association of Social Workers (“NASW”) was established in 1955 as a nonprofit professional association dedicated to the practice and interests of the social work profession. It is the largest social work association in the world, with 153,000 members. The NASW Arkansas Chapter has approximately 750 members. In furtherance of its purposes to develop and disseminate high standards of social work practice, NASW promulgates professional standards and criteria, conducts research, publishes studies of interest to the profession, provides continuing education and enforces the NASW Code of Ethics. NASW policy on foster care and adoption supports the right of every child “to a permanent, continuous, and nurturing relationship with a parenting person or people who convey to the child an enduring sense of love and care.” Nat’l Ass’n Social Workers, *Policy Statement: Foster Care and Adoption*, reprinted in *Social Works Speaks: NASW Policy Statements* 144, 146 (6th ed. 2003). Thus, NASW policy supports the removal of barriers that prevent children from permanent placements, such as resistance to “nontraditional family patterns (including lesbian and gay, bisexual, and transgender parents) as potential foster care and adoption resources.” *Id.* at 148. NASW has adopted a policy statement on gay issues in 1977, which was subsequently revised and expanded in 1987, 1993 and 1996; that policy prohibits social workers from discriminating on the basis of sexual orientation, as does the NASW Code of Ethics.

### **SUMMARY OF ARGUMENT**

*Amici*, the nation’s and state’s leading associations of psychology professionals, behavioral scientists, and social workers, have prepared this brief to provide the Court with a comprehensive, fair, and balanced review of the scientific and professional literature pertinent to the issues before the Court. In preparing this brief, *amici* have been guided solely by criteria relating to the scientific rigor and reliability of studies and literature, not by whether a given study supports or undermines a particular conclusion.

The Child Welfare Agency Review Board (the “CWARB” or “Board”) rule barring persons with adult homosexuals living in their households from serving as foster parents rests on assertions inconsistent with the scientific evidence on homosexuality, gay and lesbian parents, and gay and lesbian relationships. Scientific research has firmly established that homosexuality is not a disorder or disease, but rather a normal variant of human sexual orientation. The vast majority of gay and lesbian individuals lead happy, healthy, well-adjusted, and productive lives.

Indeed, a person’s sexual orientation tells nothing about that person’s suitability to be a foster parent. Empirical research has consistently shown that it is the quality of parenting that predicts children’s psychological and social adjustment, not the parents’ sexual orientation or gender. Such research has consistently failed to find differences between heterosexual and lesbian and gay parents in their parenting skills. Nor have the children of homosexuals been found to manifest any deficits compared to children raised by heterosexual parents. Moreover, to the extent that household stability is a factor in foster care placements, sexual orientation is not an indicator of a couple’s stability or commitment. Many gay and lesbian people are already in same-sex relationships that are equivalent to heterosexual relationships in essential respects. The trial court’s findings are thus consistent with the scientific consensus that lesbian and gay parents are as capable as heterosexual parents.

## **ARGUMENT**

### **I. The Nature of Scientific Evidence and Its Presentation in this Brief.**

This brief has been prepared and reviewed by expert members of *amici* – the nation’s and state’s leading associations of psychological professionals, psychological researchers, and social workers – who are thoroughly familiar with current scientific theory, research methods, empirical findings, and clinical techniques concerning sexual orientation and child-rearing. Counsel has assisted *amici* in identifying issues potentially relevant to this case, presenting

scientific information herein in a manner that will assist the Court, and preparing the brief for filing with the Court in compliance with applicable rules. In preparing this brief, however, *amici* and its expert members, not counsel, have taken sole responsibility for reviewing the scientific literature and summarizing the conclusions to be drawn therefrom. A selection of the large body of literature used to prepare this brief is listed in the Table of Authorities.

In the informed judgment of *amici*, this brief presents an accurate and balanced summary of the current state of scientific and professional knowledge about these issues. To further assist the Court, we briefly explain the professional standards we have followed for selecting individual studies and literature reviews for citation and for drawing conclusions from research data and theory.

(1) We are ethically bound to be accurate and truthful in describing research findings and in characterizing the current state of scientific knowledge.

(2) We rely on the best empirical research available, focusing on general patterns rather than any single study. Whenever possible, we rely on original empirical studies and literature reviews that have been peer-reviewed and published in reputable academic journals. Not every published paper meets this standard because academic journals differ widely in their publication criteria and the rigor of their peer review. We rely on chapters, academic books, and technical reports, which typically are not subject to the same peer-review standards as journal articles, when they report research employing rigorous methods, are authored by well-established researchers, and accurately reflect professional consensus about the current state of knowledge. In assessing the scientific literature, we have been guided solely by criteria of scientific validity, and have neither included studies merely because they support, nor excluded credible studies merely because they contradict, particular conclusions.

(3) Before relying on any study, we critically evaluate its methodology, including the reliability and validity of the measures and tests it employed, and the quality of its data-collection procedures and statistical analyses. We also evaluate the adequacy of the study's sample, which must always be considered in terms of the specific research question posed by the study. To confidently describe the prevalence or frequency with which a phenomenon occurs in the population at large, for example, it is necessary to collect data from a probability sample (often referred to in common parlance as a "representative sample"). By contrast, simply to document that a phenomenon occurs, case studies and nonprobability samples are often adequate. For comparisons of different populations, probability samples drawn from each group are desirable but not necessary and rarely feasible. Hence, researchers often rely on nonprobability samples that have been matched on relevant characteristics (e.g., educational level, age, income). Some groups are sufficiently few in number — relative to the entire population — that locating them with probability sampling methods is extremely expensive or practically impossible. In the latter cases, the use of nonprobability samples is often appropriate; when numerous studies with different samples reach similar conclusions, we place greater confidence in those conclusions than when they are derived from a single study. We therefore rely as much as possible on empirical findings that have been replicated in multiple studies by different researchers.

(4) No empirical study is perfect in its design and execution. All scientific studies can be constructively criticized, and scientists continually try to identify ways to improve and refine their own work and that of their colleagues. When a scientist identifies limitations or qualifications to a study's findings (whether the scientist's own research or that of a colleague), or when she or he notes areas in which additional research is needed, this should not necessarily

be interpreted as a dismissal or discounting of the research. Rather, critiques are part of the process by which science is advanced.

(5) Scientific research cannot prove that a particular phenomenon never occurs or that two variables are never related to each other. When repeated studies with different samples consistently fail to establish the existence of a phenomenon or a relationship between two variables, researchers become increasingly convinced that, in fact, the phenomenon does not exist or the variables are unrelated. In the absence of supporting data from prior studies, if a researcher wants to argue that two phenomena are correlated, the burden of proof is on that researcher to show that the relationship exists.

## **II. Sexual Orientation and Homosexuality.**

### **A. The Nature of Sexual Orientation.**

Sexual orientation refers to an enduring pattern of or disposition to experience sexual, affectional, or romantic attractions primarily to men, to women, or to both sexes. It also refers to an individual's sense of personal and social identity based on those attractions, behaviors expressing them, and membership in a community of others who share them. As used in this brief, "gay" refers to men and women whose social identity or sexual orientation is based on their primary erotic, affectional, and romantic attraction to members of their own sex, and "lesbian" refers to women who are gay.

Although sexual orientation ranges along a continuum from exclusively heterosexual to exclusively homosexual, it is usually discussed in terms of three categories: *heterosexual* (having sexual and romantic attraction primarily or exclusively to members of the other sex), *homosexual* (having sexual and romantic attraction primarily or exclusively to members of one's own sex), and *bisexual* (having a significant degree of sexual and romantic attraction to both men and women). In this brief, we focus specifically on persons with a homosexual orientation – gay men

and lesbians. It should be noted that some of the research we rely on concerns bisexual as well as homosexual persons. It should also be noted that sexual orientation is distinct from other components of sex and sexuality, including *biological sex* (the anatomical, physiological, and genetic characteristics associated with being male or female), *gender identity* (the psychological sense of being male or female), and *social gender role* (adherence to cultural norms defining feminine and masculine behavior).

**B. Homosexuality Is a Normal Expression of Human Sexuality.**

In 1952, when the American Psychiatric Association published its first *Diagnostic and Statistical Manual of Mental Disorders*, homosexuality was included as a mental disorder, i.e., “a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful symptom) or disability (i.e., impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.” Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders* xxxi (4th ed. text rev. 2001). Almost immediately, however, that classification was subjected to critical scrutiny in research funded by the National Institute of Mental Health. That study and subsequent research consistently failed to provide any empirical or scientific basis for regarding homosexuality as a disorder or abnormality, rather than a normal and healthy sexual orientation. As results from such research accumulated, professionals in medicine, mental health, and the behavioral and social sciences reached the conclusion that the classification of homosexuality as a mental disorder was incorrect and that it reflected untested assumptions based on once-prevalent social norms as well as on clinical impressions from unrepresentative samples comprising patients seeking therapy and individuals whose conduct brought them into the criminal justice system.

In recognition of the scientific evidence, the American Psychiatric Association removed homosexuality from its *Diagnostic and Statistical Manual of Mental Disorders* in 1973. The Psychiatric Association's Resolution stated that "homosexuality *per se* implies no impairment in judgment, stability, reliability, or general social or vocational capabilities." Am. Psychiatric Ass'n, *Position Statement on Homosexuality and Civil Rights* (1973), printed in 131 Am. J. Psychiatry 497 (1974). After a thorough review of the scientific data, the American Psychological Association adopted the same position in 1975, and urged all mental health professionals to help dispel the stigma of mental illness that had long been associated with homosexual orientation. See Am. Psychol. Ass'n, *Minutes of the Annual Meeting of the Council of Representatives*, 30 Am. Psychologist 620, 633 (1975). The National Association of Social Workers has adopted a similar policy. See Nat'l Ass'n of Soc. Workers, *Policy Statement on Lesbian and Gay Issues* (1993) (approved by NASW Delegate Assembly), reprinted in *Social Works Speaks: NASW Policy Statements* 224 (6th ed. 2003).

Thus, mental health professionals and researchers have long recognized that being homosexual poses no inherent obstacle to leading a happy, healthy, and productive life, and that the vast majority of gay and lesbian people function well in the full array of social institutions and interpersonal relationships. With particular relevance to the issues before the Court in this case, such functioning includes the capacity to raise healthy and well-adjusted children and to form stable intimate relationships with another person of the same sex.

### **III. Sexual Orientation Does Not Affect A Person's Suitability to Raise Children.**

The CWARB regulation was premised partially on the Board's belief that a "homosexual household is an inferior family structure in terms of promoting the best interests of a child." See *Howard Mem. Op.* at Add. 883 (summarizing testimony of CWARB witness). This belief has no basis in fact. Quite to the contrary, many same-sex couples are currently raising children, and

the scientific evidence demonstrates that gay and lesbian parents are just as capable as heterosexual parents. Moreover, the scientific evidence demonstrates that gay men and lesbians are successful in forming stable, committed, and healthy same-sex relationships. The appellants' contention that homosexual relationships are unstable and therefore unsuitable for children is therefore also inaccurate. In rejecting the CWARB's contentions, the trial court's conclusions accurately reflect the scientific consensus. *See id.* at Add. 866-67, 892.

**A. Many Same-Sex Couples Are Currently Raising Children.**

A large and ever increasing number of gay and lesbian couples, like their heterosexual counterparts, raise children together. Although data are not available to indicate the exact number of lesbian and gay parents in the United States, the 2000 Census found that, among heads of household who reported cohabiting with a same-sex partner, 33% of women and 22% of men had a son or daughter under 18 years living in their home. These percentages correspond to approximately 65,600 gay fathers and 96,000 lesbian mothers who are heads of household, have at least one child under 18 living with them, and are cohabiting with a partner. If one includes noncohabiting and single parents, parents of offspring 18 years or older, and parents who chose not to disclose to the Census Bureau that they live with a same-sex partner, researchers estimate that considerably more, perhaps millions, of American parents today identify themselves as gay, lesbian, or bisexual. They further suggest that the sons and daughters of gay, lesbian, and bisexual parents in the United States today are likely to number more than one million.

Families comprising same-sex couples and their children have diverse origins and take a variety of forms. Some couples have children conceived in one partner's prior heterosexual marriage (or nonmarital heterosexual relationship) predating that individual's present same-sex relationship. In these cases, the biological parent's same-sex partner often assumes the role of *de facto* step-parent. In addition, a growing number of same-sex couples are becoming parents

through methods including donor insemination (with either an anonymous or known donor), assistance of a surrogate mother, and adoption. The children in many, if not most, families headed by same-sex couples have a legal relationship with only one of the parents, either through birth or adoption. However, both members of the couple typically function as parents for the children, even if they are not legally recognized as such. In addition, the legal trend toward allowing second-parent adoption by same-sex couples is resulting in an increasing number of families wherein both members of the same-sex couple are legally recognized as the parents of their children.

**B. Gay and Lesbian Parents Are as Fit and Capable as Heterosexual Parents, and Their Children Are as Psychologically Healthy and Well Adjusted.**

Although the CWARB intimated before the trial court that heterosexual couples are inherently better parents than same-sex couples and that the children of lesbian or gay parents fare worse than children raised by heterosexual parents, those assertions find no support in the scientific research literature. The research literature on gay, lesbian, and bisexual parents includes more than two dozen empirical studies. These studies vary in the quality of their samples, research design, measurement methods, and data analysis techniques. However, they are impressively consistent in their failure to identify any deficits in the development of children raised in a lesbian or gay household.

When comparing the outcomes of different forms of parenting, it is critically important to make appropriate comparisons. For example, differences resulting from the *number* of parents in a household cannot be attributed to the parents' *gender* or *sexual orientation*. Research in households with heterosexual parents generally indicates that – all else being equal – children do better with two parenting figures rather than just one. The specific research studies typically cited in that regard do not address parents' sexual orientation, however, and therefore do not

permit any conclusions to be drawn about the consequences of having heterosexual versus non-heterosexual parents, or two parents who are of the same versus different genders.

Indeed, the scientific research that has directly compared outcomes for children with gay and lesbian parents with outcomes for children with heterosexual parents has been remarkably consistent in showing that lesbian and gay parents are every bit as fit and capable as heterosexual parents, and their children are as psychologically healthy and well-adjusted as children reared by heterosexual parents. Empirical research over the past two decades has failed to find any meaningful differences in the parenting ability of lesbian and gay parents compared to heterosexual parents. Most research on this topic has focused on lesbian mothers and refutes the stereotype that lesbian parents are not as child-oriented or maternal as non-lesbian mothers. Researchers have concluded that heterosexual and lesbian mothers do not differ in their parenting ability. Indeed, some studies have found that a child with two lesbian parents may enjoy some advantages over a child raised by a biological mother and a stepfather. For example, some studies find that nonbiological lesbian comothers tend to be more skilled at parenting and more involved with the children than are stepfathers. Additionally, lesbian partners in the two-parent families studied enjoy a greater level of synchronicity in parenting than do heterosexual partners. Studies examining gay fathers are fewer in number, but those that exist find that gay men are similarly fit and able parents, as compared to heterosexual men.

Turning to the children of gay parents, researchers reviewing the scientific literature conclude that studies “provide no evidence that psychological adjustment among lesbians, gay men, their children, or other family members is impaired in any significant way,” C.J. Patterson, *Family Relationships of Lesbians and Gay Men*, 62 *J. Marriage & Fam.* 1052, 1064 (2000), and that “every relevant study to date shows that parental sexual orientation per se has no measurable

effect on the quality of parent-child relationships or on children's mental health or social adjustment." J. Stacey & T.J. Biblarz, (*How) Does the Sexual Orientation of Parents Matter?*, 66 Am. Soc. Rev. 159, 176 (2001). A comprehensive survey of peer-reviewed scientific studies in this area reported no differences between children raised by lesbians and those raised by heterosexuals with respect to the factors that matter: self-esteem, anxiety, depression, behavioral problems, performance in social arenas (sports, school and friendships), use of psychological counseling, mothers' and teachers' reports of children's hyperactivity, unsociability, emotional difficulty, or conduct difficulty. *Id.*

Nor does empirical research support the misconception that having a homosexual parent has a deleterious effect on children's *gender identity* development -- that is, on the child's psychological sense of *being* male or female. Studies concerning the children of lesbian mothers have not found any difference from those of heterosexual parents in their patterns of gender identity. As a panel of the American Academy of Pediatrics concluded on the basis of their examination of peer-reviewed studies, "[n]one of the more than 300 children studied to date have shown evidence of gender identity confusion, wished to be the other sex, or consistently engaged in cross-gender behavior." E.C. Perrin & Committee on Psychosocial Aspects of Child and Family Health, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 Pediatrics 342 (2002).

Similarly, most published studies have not found reliable differences in *social gender role* conformity between the children of lesbian and heterosexual mothers. As noted above, social gender role refers to adherence to cultural norms defining feminine and masculine behavior. One group of researchers found that daughters of lesbian mothers were significantly less conforming to stereotypical social gender roles in some respects, e.g., daughters of lesbian

mothers were more likely than daughters of heterosexual mothers to aspire to non-traditional occupations for women, such as doctor, astronaut, lawyer, or engineer. However, the majority of published studies have not found meaningful differences in this regard. As for gay fathers, data have not been reported on the gender identity development or gender role orientation of the sons and daughters of gay men. In the absence of supporting data, the burden of proof rests on those who wish to assert that the children of gay fathers differ from other children in this respect.

As noted in Section II.B *supra*, homosexuality is neither an illness nor a disability, and the mental health professions do not regard a homosexual orientation as harmful, undesirable, or requiring intervention or prevention. The factors that cause an individual to become heterosexual, homosexual, or bisexual — including possible biological, psychological, or social effects of the parents' sexual orientation — are not well understood. However, the available evidence indicates that the vast majority of lesbian and gay adults were raised by heterosexual parents and the vast majority of children raised by lesbian and gay parents eventually grow up to be heterosexual.

*Amici* emphasize that the abilities of gay and lesbian persons as parents and the positive outcomes for their children are *not areas where credible scientific researchers disagree*. The trial court's conclusions in this case thus reflect the scientific consensus agreed upon by the leading associations of experts in this area. For instance, after careful scrutiny of decades of research in this area, the American Psychological Association concluded in its recent *Resolution on Sexual Orientation, Parents, and Children*: "There is no scientific evidence that parenting effectiveness is related to parental sexual orientation: Lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children" and that "Research has shown that adjustment, development, and psychological well-being of children is

unrelated to parental sexual orientation and that the children of lesbian and gay parents are as likely as those of heterosexual parents to flourish.” Am. Psychol. Ass’n, *Resolution on Sexual Orientation, Parents, and Children* (2004), available at <http://www.apa.org/pi/lgbc/policy/parents.html>. Similarly, the American Academy of Pediatrics, the nation’s preeminent pediatric authority with 57,000 pediatrician members, has adopted a formal policy declaring that “Children who grow up with one or two gay and/or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual . . . . No data have pointed to any risk to children as a result of growing up in a family with one or more gay parents.” E.C. Perrin & Committee on Psychosocial Aspects of Child and Family Health, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 *Pediatrics* 342 (2002). And the National Association of Social Workers has determined that “The most striking feature of the research on lesbian mothers, gay fathers, and their children is the absence of pathological findings. The second most striking feature is how similar the groups of gay and lesbian parents and their children are to heterosexual parents and their children that were included in the studies.” Nat’l Ass’n of Soc. Workers, *Policy Statement: Lesbian, Gay, and Bisexual Issues, in Social World Speaks* 193, 194 (1997). Most recently, the American Psychiatric Association observed that “no research has shown that the children raised by lesbians and gay men are less well adjusted than those reared within heterosexual relationships.” Am. Psychiatric Ass’n, *Position Statement: Support of Legal Recognition of Same-Sex Civil Marriage* (2005), available at [http://www.psych.org/edu/other\\_res/lib\\_archives/archives/200502.pdf](http://www.psych.org/edu/other_res/lib_archives/archives/200502.pdf).

These statements by the leading associations of experts in this area reflect professional consensus that children raised by lesbian or gay parents do not differ in any important respects

from those raised by heterosexual parents. No credible empirical research suggests otherwise. It is the quality of parenting that predicts children's psychological and social adjustment, not the parents' sexual orientation or gender.

**C. Gay Men and Lesbians Form Stable, Committed Relationships That Are Equivalent to Heterosexual Relationships in Essential Respects.**

Appellants further contend that the rule in question is in “the best interest of Arkansas children” because homosexual relationships are unstable. Appellants’ Br. at 5. This assertion is also inconsistent with the scientific evidence. Like their heterosexual counterparts, substantial numbers of gay men and lesbians desire to form stable, long-lasting, committed relationships. Many are successful in doing so. Empirical studies using nonrepresentative samples of gay men and lesbians show that the vast majority of participants have been involved in a committed relationship at some point in their lives, that large proportions are currently involved in such a relationship (across studies, roughly 40 - 70% of gay men and 45 - 80% of lesbians), and that a substantial number of those couples have been together 10 or more years. Recent surveys based on more representative samples of gay men, lesbians, and bisexuals support these findings and indicate that many same-sex couples are cohabiting. A preliminary analysis of data from the 2000 US Census reported that same-sex couples headed more than 594,000 households in the United States, with at least one cohabiting same-sex couple in 99% of the nation’s counties. Indeed, these findings necessarily represent a low estimate of the number of same-sex couples in the United States because the Census form identified couples only when they included the head of the household (referred to by the Census as the “householder”) and excluded couples who were not living together. In addition, because of concerns about stigma, as well as lack of widespread information about this portion of the Census form, it is likely that not all cohabiting same-sex couples identified themselves as such.

Empirical research demonstrates that the psychological and social aspects of these committed relationships between same-sex partners strongly resemble those of heterosexual partnerships. Like heterosexual couples, same-sex couples form deep emotional attachments and commitments. Heterosexual and same-sex couples alike face similar challenges concerning issues such as intimacy, love, equity, loyalty, and stability, and they go through similar processes to address those challenges. Empirical research examining the quality of intimate relationships also shows that gay and lesbian couples do not differ from heterosexual couples in their satisfaction with the relationship. A review of the literature on gay and lesbian couples in 1991 concluded that “most lesbians and gay men want intimate relationships and are successful in creating them. Homosexual partnerships appear no more vulnerable to problems and dissatisfactions than their heterosexual counterparts.” L.A. Peplau, *Lesbian and Gay Relationships, in Homosexuality: Implications for Public Policy* 195 (J.C. Gonsiorek & J.D. Weinrich eds., 1991). Accordingly, the appellants’ argument that gay and lesbian households are unstable and therefore unfit for foster children belies the scientific research.

### **CONCLUSION**

Laws barring all persons living in households with a homosexual member from becoming foster parents have no scientific basis.

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## CERTIFICATE OF SERVICE

I, George R. Wise, Jr., certify that on December 19, 2005, I caused the foregoing Brief to be served by U.S. mail, postage pre-paid, on the following persons at the addresses indicated:

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