

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

SYLVIA SAMUELS and DIANE GALLAGHER,
HEATHER McDONNELL and CAROL SNYDER, AMY
TRIPPI and JEANNE VITALE, WADE NICHOLS and
HARNG SHEN, MICHAEL HAHN and PAUL
MUHONEN, DANIEL J. O'DONNELL and JOHN
BANTA, CYNTHIA BINK and ANN PACHNER,
KATHLEEN TUGGLE and TONJA ALVIS, REGINA
CICCHETTI and SUSAN ZIMMER, ALICE J. MUNIZ
and ONEIDA GARCIA, ELLEN DREHER and LAURA
COLLINS, JOHN WESSEL and WILLIAM
O'CONNOR, and MICHELLE CHERRY-SLACK and
MONTEL CHERRY-SLACK,

Plaintiffs,

v.

The NEW YORK STATE DEPARTMENT OF HEALTH
and the STATE OF NEW YORK,

Defendants.

Index No. 1967-04

**MEMORANDUM OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS
AND THE NEW YORK CITY AND STATE CHAPTERS OF THE
NATIONAL ASSOCIATION OF SOCIAL WORKERS AS *AMICUS CURIAE*
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Marc De Leeuw
Jeffrey T. Scott
125 Broad Street
New York, NY 10004-2498
(212) 558-4000

*Attorneys for the National Association of
Social Workers, the New York City Chapter
of the National Association of Social
Workers and the New York State Chapter of
the National Association of Social Workers*

August 16, 2004

TABLE OF CONTENTS

	<u>Page</u>
INTEREST OF AMICUS CURIAE	1
PRELIMINARY STATEMENT	3
ARGUMENT	4
I. SOCIAL SCIENCE RESEARCH DEMONSTRATES THAT LESBIANS AND GAY MEN CAN BE AND ARE GOOD PARENTS WHO RAISE CHILDREN WHO ARE AS WELL-ADJUSTED AS THE CHILDREN OF HETEROSEXUAL COUPLES	4
II. THE LEADING EXPERTS — CHILD WELFARE AND MENTAL HEALTH PROFESSIONALS — AGREE THAT LESBIAN AND GAY PARENTS ARE AS CAPABLE AND SUCCESSFUL AT RAISING WELL- ADJUSTED CHILDREN AS HETEROSEXUAL PARENTS.....	11
III. MARRIAGE WILL BENEFIT CHILDREN OF SAME-SEX COUPLES AND ENHANCE THE STABILITY OF THEIR FAMILIES.....	15
CONCLUSION.....	16

TABLE OF AUTHORITIES

	<u>Page(s)</u>
AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY, <i>Policy Statement on Gay, Lesbian and Bisexual Parents</i> (June 1999), available at http://www.aacap.org/publications/policy/ps46.htm	14
AMERICAN PSYCHOANALYTIC ASSOCIATION, <i>Position Statement on Gay and Lesbian Parenting</i> (MAY 16, 2002), available at http://www.apsa-co.org/ctf/cgli/parenting.htm	14
AMERICAN PSYCHOLOGICAL ASSOCIATION, <i>Lesbians and Gay Parenting: A Resource for Psychologists</i> 8 (1995), available at http://www.apa.org/pi/parent.html	14
Robert L. Barrett & Bryan E. Robinson, <i>Gay Dads</i> , in REDEFINING FAMILIES: IMPLICATION FOR CHILDREN'S DEVELOPMENT (Adele E. Gottfried & Allen W. Gottfried eds., 1994).....	6, 7
Jerry J. Binger & Frederick W. Bozett, <i>Parenting by Gay Fathers</i> , 14 MARRIAGE & FAM. REV. 155 (1990).....	7
Jerry J. Binger & R. Brooke Jacobsen, <i>Adult Responses to Child Behavior and Attitudes Towards Fathering: Gay and Nongay Fathers</i> , 23 J. HOMOSEXUALITY 99 (1992)	4, 5
Philip Blumstein & Pepper Schwartz, AMERICAN COUPLES (1983).....	15
Federick W. Bozett, <i>Children of Gay Fathers</i> , in GAY AND LESBIAN PARENTS (1987)..... 0X.....	5
Federick W. Bozett, <i>Gay Fathers</i> , in GAY AND LESBIAN PARENTS (1987).....	4, 5
Federick W. Bozett, <i>Gay Fathers: A Review of the Literature</i> , in HOMOSEXUALITY AND THE FAMILY (Frederick W. Bozett ed., 1989).....	5
Frederick W. Bozett, <i>Heterogeneous Couples in Heterosexual Marriages: Gay Men and Straight Women</i> , 8 J. MARITAL & FAMILY THERAPY 81 (1982).....	5
A. Brewaeys, <i>et al.</i> , <i>Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families</i> , 12 HUMAN REPRODUCTION 1349 (1997).....	7

A. Brewaeys & E.V. Van Hall, <i>Lesbian Motherhood: The Impact on Child Development and Family Functioning</i> , 18 J. PSYCHASM. OBSTETRIC GYNECOLOGY 1 (1997).....	8
Raymond W. Chan, <i>et al.</i> , <i>Psychological Adjustment Among Children Conceived via Donor Insemination by Lesbian and Heterosexual Mothers</i> , 69 CHILD DEVELOPMENT 443 (1998).....	5, 6, 7
CHILD WELFARE LEAGUE OF AMERICA, CWLA STANDARDS OF EXCELLENCE FOR ADOPTION SERVICES (2000)	12
<i>Collins v. Collins</i> , 1988 WL 30173 (Tenn. Ct. App. Mar. 30, 1988).....	10
<i>Constant A. v. Paul C.A.</i> , 496 A.2d 1 (Pa. Super. Ct. 1985)	10
John J. Conger, <i>Proceedings of the American Psychological Association, Incorporated, for the Year 1976</i> , 32 AM. PSYCHOL. 408 (1977)	13
Patricia J. Falk, <i>Lesbian Mothers: Psychological Assumptions in Family Law</i> , 44 AM. PSYCHOLOGIST 941 (1989)	6, 8
David K. Flaks, <i>Research Issues, in CHILD WELFARE LEAGUE OF AMERICA, ISSUES IN GAY AND LESBIAN ADOPTION (Anne Sullivan ed., 1995)</i>	4, 5, 6
David K. Flaks, <i>et al.</i> , <i>Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children</i> , 31 DEV. PSYCHOL. 105 (1994).....	4, 6, 7
Elizabeth D. Gibbs, <i>Psychosocial Development of Children Raised by Lesbian Mothers</i> , 8 WOMEN & THERAPY 65 (1988)	6
Susan Golombok, <i>et al.</i> , <i>Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal</i> , 24 J. CHILD PSYCHOL. PSYCHIATRY 551 (1985).....	8, 9
Susan Golombok, <i>et al.</i> , <i>Children Raised in Fatherless Families from Infancy: Family Relationships and the Socioemotional Development of Children of Lesbian and Single Heterosexual Mothers</i> , 38 J. CHILD PSYCHOL. & PSYCHIATRY & ALLIED DISCIPLINES 783 (1977)	8

Erica Goode, <i>Group Backs Gays Who Seek To Adopt a Partner's Child</i> , N.Y. TIMES, Feb. 4, 2002, at A17	11
Julie S. Gottman, <i>Children of Lesbian and Gay Parents</i> , 14 MARRIAGE & FAM. REV. 177 (1990).....	6, 7, 8
Richard Green, M.D., <i>et al.</i> , <i>Lesbian Mothers and Their Children: A Comparison with Solo Parent Heterosexual Mothers and their Children</i> , 15 ARCHIVES SEXUAL BEHAV. 167 (1986)	6, 9
G. Dorsey Green & Frederick W. Bozett, <i>Lesbian Mothers and Gay Fathers</i> , in HOMOSEXUALITY: RESEARCH IMPLICATIONS FOR PUBLIC POLICY 198 (John C. Gansiorek & James D. Weinrich eds., 1991).	6
Mary B. Harris & Pauline H. Turner, <i>Gay & Lesbian Partners</i> , 12 J. HOMOSEXUALITY 101 (Winter 1985/86)	5
Beverly Hoeffler, <i>Children's Acquisition of Sex-Role Behavior in Lesbian- Mother Families</i> , 51 AM. J. ORTHOPSYCHIATRY 536 (1981).....	4
Mary E. Hotvedt & Jane B. Mandel, <i>Children of Lesbian Mothers</i> , 12 HOMOSEXUALITY: SOCIAL, PSYCHOLOGICAL AND BIOLOGICAL ISSUES 275 (1982)	9
Sharon L. Huggins, <i>A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers</i> , 18 J. HOMOSEXUALITY 123 (1989)	6, 9
Martha Kirkpatrick, <i>Clinical Implications of Lesbian Mother Studies</i> , 14 J. HOMOSEXUALITY 201 (1987)	4, 9
Martha Kirkpatrick, <i>et al.</i> , <i>Lesbian Mothers and Their Children: A Comparative Survey</i> , 51 AM. J. ORTHOPSYCHIATRY 545 (1981).....	5, 6, 8
David Kleber, <i>et al.</i> , <i>The Impact of Parental Homosexuality in Child Custody Cases: A Review of the Literature</i> , 14 BULL. AM. ACAD. PSYCHIATRY L. 81 (1986)	6
Sally L. Kweskin & Alicia S. Cook, <i>Heterosexual and Homosexual Mothers' Self-Described Sex-Role Behavior and Ideal Sex-Role Behavior in Children</i> , 8 SEX ROLES 967 (1982)	4

Michael E. Lamb, <i>et al.</i> , <i>Parent-Child Relationships: Development in the Context of the Family</i> , in DEVELOPMENTAL PSYCHOLOGY: AN ADVANCED TEXTBOOK (4th ed. 1999)	10
Karen G. Lewis, <i>Children of Lesbians: Their Point of View</i> , 25 SOCIAL WORK 198, 203 (1980)	10
K.F. McNeil, <i>et al.</i> , <i>Families & Parenting: A Comparison of Lesbian & Heterosexual Mothers</i> , 82 PSYCHOL. REP. 59 (1998)	4
Barbara McCondish, <i>Against All Odds: Lesbian Mother and Family Dynamics</i> , in GAY AND LESBIAN PARENTS 23 (Frederick W. Bozett ed., 1987)	8
Brian Miller, <i>Gay Fathers and Their Children</i> , 28 FAM. COORDINATOR 544 (1979).....	5
Judith Ann Miller, <i>et al.</i> , <i>The Child's Home Environment for Lesbian vs. Heterosexual Mothers: A Neglected Area of Research</i> , 7 J. HOMOSEXUALITY 49 (1981)	4
NATIONAL ASSOCIATION OF SOCIAL WORKERS, <i>Lesbian, Gay, and Bisexual Issues</i> , SOCIAL WORK SPEAKS (2000).....	13
NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN, <i>Policy Statements: Gay and Lesbian Foster and Adoptive Parenting</i> (Mar. 14, 1998), available at http://www.nacac.org/about_policystatements.html	13
Ann O'Connell, <i>Voices From the Heart: The Developmental Impact of a Mother's Lesbianism on Her Adolescent Children</i> , 63 SMITH & STUD. IN SOC. WORK 281 (1993).....	9
Cheryl A. Parks, Ph.D., <i>Lesbian Parenthood: A Review of the Literature</i> , 68 AM. J. ORTHOPSYCHIATRY 376 (1998).....	4
Charlotte J. Patterson, <i>Adoption of Minor Children by Lesbian and Gay Adults: A Social Science Perspective</i> , 2 DUKE J. GENDER L. & POL'Y 191 (1995).....	4

Charlotte J. Patterson, *Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts, and Sex-Role Identity*, in CONTEMPORARY PERSPECTIVE ON LESBIAN & GAY PSYCHOLOGY: THEORY, RESEARCH, & APPLICATION 156 (B. Green & G. Herek eds., 1994)..... 8, 15

Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, 19 ADVANCES IN CLINICAL CHILD PSYCHOLOGY 235 (Thomas H. Ollendick & Ronald J. Prinz eds., 1995) 5, 8

Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, 63 CHILD DEVELOPMENT 1025 (1992)..... 5-6

Charlotte J. Patterson, *Lesbian Mothers and Their Children: Findings from the Bay Area Family Study*, in LESBIAN AND GAYS IN COUPLES AND FAMILIES: A HANDBOOK FOR THERAPISTS 420 (J. Laird & R.J. Green eds., 1996) 8

Charlotte J. Patterson & Raymond W. Chan, *Gay Fathers and Their Children*, in TEXTBOOK OF HOMOSEXUALITY AND MENTAL HEALTH 371 (Robert P. Cabaj & Terry Stein eds., 1996)..... 7

Ellen C. Perrin, M.D., *Children Whose Parents Is/Are Lesbian or Gay*, in SEXUAL ORIENTATION IN CHILD AND ADOLESCENT HEALTH CARE 105 (2002)..... 8, 10

Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, *Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 339 (2002), available at <http://aappolicy.aappublications.org> 12

Ellen C. Perrin, M.D. & the Committee on Psychological Aspects of Childhood and Family Health, American Academy of Pediatrics, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 341 (2002), available at <http://aappolicy.aappublications.org> *passim*

Cheri A. Pies, *Lesbians and the Choice to Parent*, 14 MARRIAGE & FAM. REV. 137 (1989)..... 9

S. v. S., 608 S.W.2d 64 (Ky. Ct. App. 1980) 10

	<u>Page(s)</u>
Judith Stacey & Timothy J. Bilbarz, <i>(How) Does the Sexual Orientation of Parents Matter?</i> , 66 AM. SOCIOLOGICAL REV. 159 (2001).....	5, 6, 10
Fiona L. Tasker & Susan Golombok, <i>Children Raised by Lesbian Mothers: The Empirical Evidence</i> , 21 FAM. L. 184 (1991).....	6
FIONA L. TASKER & SUSAN GOLOMBOK, GROWING UP IN A LESBIAN FAMILY: EFFECTS ON CHILD DEVELOPMENT (1997).....	5, 6, 8, 9

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

SYLVIA SAMUELS and DIANE GALLAGHER,
HEATHER McDONNELL and CAROL SNYDER, AMY
TRIPPI and JEANNE VITALE, WADE NICHOLS and
HARNG SHEN, MICHAEL HAHN and PAUL
MUHONEN, DANIEL J. O'DONNELL and JOHN
BANTA, CYNTHIA BINK and ANN PACHNER,
KATHLEEN TUGGLE and TONJA ALVIS, REGINA
CICCHETTI and SUSAN ZIMMER, ALICE J. MUNIZ
and ONEIDA GARCIA, ELLEN DREHER and LAURA
COLLINS, JOHN WESSEL and WILLIAM O'CONNOR,
and MICHELLE CHERRY-SLACK and MONTEL
CHERRY-SLACK,

Plaintiffs,

v.

The NEW YORK STATE DEPARTMENT OF HEALTH
and the STATE OF NEW YORK,

Defendants.

Index No. 1967-04

**MEMORANDUM OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS
AND THE NEW YORK CITY AND STATE CHAPTERS OF THE
NATIONAL ASSOCIATION OF SOCIAL WORKERS AS *AMICUS CURIAE*
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

The National Association of Social Workers and the New York City and State Chapters of the National Association of Social Workers respectfully submit this memorandum as *amicus curiae* in support of plaintiffs' motion for summary judgment.

INTEREST OF AMICUS CURIAE

The issue raised in this case is the constitutionality of New York's exclusion of lesbians and gay men from civil marriage. One of the arguments sometimes raised in the debate concerning marriage by same-sex couples is the assertion that being raised by such couples

adversely affects children, and thus, this family structure should not be encouraged through state endorsement of same-sex relationships. The *amicus* organizations submit this memorandum to explain, should the Court believe it relevant, that children raised by lesbians and gay men develop as well as children raised by heterosexuals, and therefore, there is no child welfare justification for barring same-sex couples from marriage.

The *amicus* organizations have a common and vital interest in the welfare of children. 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 New York City Chapter has approximately 10,000 members and the NASW New York State Chapter has approximately 12,000 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.” 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 parents.”

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. In 2004, NASW reaffirmed its policy supporting same-sex marriage.

PRELIMINARY STATEMENT

It has sometimes been argued that the prohibition of marriage by lesbian or gay couples can be justified as a means of promoting the interests of children in being raised by a heterosexual couple. But the assumption that children are better off with heterosexual parents has no empirical basis. To the contrary, all the social science research studying same-sex parenting has reached the same, unequivocal result: Lesbian and gay couples raise children who are as healthy, happy and well-adjusted as those raised by others. On all the measures by which child development is analyzed, there is no meaningful distinction between children raised by same-sex couples and children raised by heterosexual couples.

In light of this scientific consensus, all the major child welfare and mental health professional organizations (including the *amici*) have issued policies and statements opposing restrictions on parenting by lesbians and gay men as both baseless and contrary to the best interests of children.

Lesbians and gay men in New York and across the country are already forming families with children. Civil marriage benefits children by promoting family stability and providing a range of supports to families. Excluding lesbian and gay parents from the institution of civil marriage denies their children these important benefits. Thus, not only is there no child welfare basis to exclude gay couples from civil marriage, but child welfare concerns strongly support the removal of barriers to civil marriage by same-sex couples.

ARGUMENT

I. SOCIAL SCIENCE RESEARCH DEMONSTRATES THAT LESBIANS AND GAY MEN CAN BE AND ARE GOOD PARENTS WHO RAISE CHILDREN WHO ARE AS WELL-ADJUSTED AS THE CHILDREN OF HETEROSEXUAL COUPLES.

Over the last twenty years, a considerable body of social science research has established that lesbian and gay parents have parenting skills that are at least equivalent to those of heterosexual parents.¹ Studies consistently show the absence of differences between gay and heterosexual parents on every meaningful measure of parenting ability.² For example, there are

¹ See, e.g., David K. Flaks, et al., *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children*, 31 DEV. PSYCHOL. 105, 111 (1994) [hereinafter “*Choosing Motherhood*”]; David K. Flaks, *Research Issues*, in CHILD WELFARE LEAGUE OF AMERICA, ISSUES IN GAY AND LESBIAN ADOPTION 27 (Anne Sullivan ed. 1995) [hereinafter “*Research Issues*”]; Charlotte J. Patterson, *Adoption of Minor Children by Lesbian and Gay Adults: A Social Science Perspective*, 2 DUKE J. GENDER L. & POL’Y 191, 198 (1995); Jerry J. Binger & R. Brooke Jacobsen, *Adult Responses to Child Behavior and Attitudes Toward Fathering: Gay and Nongay Fathers*, 23 J. HOMOSEXUALITY 99, 109 (1992); Frederick W. Bozett, *Gay Fathers*, in GAY AND LESBIAN PARENTS 15 (1987); Beverly Hoeffler, *Children’s Acquisition of Sex-Role Behavior in Lesbian-Mother Families*, 51 AM. J. ORTHOPSYCHIATRY 536, 542-543 (1981); Judith Ann Miller, et al., *The Child’s Home Environment for Lesbian vs. Heterosexual Mothers: A Neglected Area of Research*, 7 J. HOMOSEXUALITY 49, 55-56 (1981).

² See, e.g., Cheryl A. Parks, Ph.D., *Lesbian Parenthood: A Review of the Literature*, 68 AM. J. ORTHOPSYCHIATRY 376, 380, 386 (1998) (a critical examination of 17 peer-reviewed studies published between 1980 and 1992 concluded that “few differences” exist between heterosexual and lesbian mothers); *Choosing Motherhood*, *supra* note 1, at 111-12 (no differences between lesbian and heterosexual parents); Sally L. Kweskin & Alicia S. Cook, *Heterosexual and Homosexual Mothers’ Self-Described Sex-Role Behavior and Ideal Sex-Role Behavior in Children*, 8 SEX ROLES 967, 971 (1982) (lesbian mothers and heterosexual mothers have comparable attitudes towards sex roles); Martha Kirkpatrick, *Clinical Implications of Lesbian Mother Studies*, 14 J. HOMOSEXUALITY 201, 210 (1987) (lesbian mothers no different from heterosexual mothers in lifestyle, parenting style, or social support system); K.F. McNeill, et al., *Families & Parenting: A Comparison of Lesbian & Heterosexual Mothers*, 82 PSYCHOL. REP. 59, 59 (1998) (finding no differences in parenting behaviors or sex role characteristics between lesbian and heterosexual mothers); Ellen C. Perrin, M.D. & the Committee on Psychological Aspects of Child and Family Health, American Academy of Pediatrics, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 341, 342 (2002), available at <http://aappolicy.aappublications.org> (“no differences” between gay and heterosexual fathers in providing appropriate recreation, encouraging autonomy, or “dealing with general problems of parenting”); J. Binger & Jacobsen, *supra* note 1, at 99, 109 (almost no differences between gay and non-gay fathers in

(continued)

no differences in terms of child-rearing practices, commitment to parenting, self-esteem and psychological adjustment between lesbian mothers and heterosexual mothers.³ Similarly, studies have also shown no discernible differences between the parenting skills of gay fathers and heterosexual fathers.⁴ “Empirical evidence reveals . . . that gay fathers have substantial evidence of nurturance and investment in their parental role and no differences from heterosexual fathers in providing appropriate recreation, encouraging autonomy, or dealing with general problems of parenting.”⁵

Moreover, there is scientific consensus that children of lesbian and gay parents are not disadvantaged in any respect (except that the State will not let their parents marry).⁶

(continued from previous page)

providing recreation, involvement, problem-solving and parenting styles); Mary B. Harris & Pauline H. Turner, *Gay & Lesbian Parents*, 12 J. HOMOSEXUALITY 101, 112 (Winter 1985/86) (comparing gay fathers, non-gay fathers, lesbian mothers and non-lesbian mothers and finding no significant differences in the parents' relationship with their children).

³ Perrin, *supra* note 2, at 342 (citing FIONA L. TASKER & SUSAN GOLOMBOK, *GROWING UP IN A LESBIAN FAMILY: EFFECTS ON CHILD DEVELOPMENT* (1997)); Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, 19 *ADVANCES IN CLINICAL CHILD PSYCHOLOGY* 235 (Thomas H. Ollendick & Ronald J. Prinz eds., 1995); Martha Kirkpatrick, *et al.*, *Lesbian Mothers and Their Children: A Comparative Survey*, 51 *AM. J. ORTHOPSYCHIATRY* 545, 550 (1981).

⁴ Binger & Jacobsen, *supra* note 1, at 109; Bozett, *supra* note 1, at 15; Frederick W. Bozett, *Gay Fathers: A Review of the Literature*, in *HOMOSEXUALITY AND THE FAMILY* 137 (Frederick W. Bozett ed., 1989); Frederick W. Bozett, *Children of Gay Fathers*, in *GAY AND LESBIAN PARENTS* 47; Frederick W. Bozett, *Heterogeneous Couples in Heterosexual Marriages: Gay Men and Straight Women*, 8 *J. MARITAL & FAM. THERAPY* 81, 88 (1982); Brian Miller, *Gay Fathers and Their Children*, 28 *FAM. COORDINATOR* 544, 551 (1979).

⁵ Perrin, *supra* note 2, at 342 (footnotes and citations omitted).

⁶ See Judith Stacey & Timothy J. Bilbarz, *(How) Does the Sexual Orientation of Parents Matter?*, 66 *AM. SOCIOLOGICAL REV.* 159, 164 (2001) (surveying studies and reporting no deficits in children raised by lesbians concerning self-esteem, anxiety, depression, behavioral problems, performance in sports, school and friendships, use of counseling, sociability, hyperactivity or emotional difficulty); Raymond W. Chan, *et al.*, *Psychological Adjustment Among Children Conceived via Donor Insemination by Lesbian and Heterosexual Mothers*, 69 *CHILD DEVELOPMENT* 443 (1998); TASKER & GOLOMBOK, *supra* note 3; *Research Issues*, *supra* note 1, at 33-34 (citing Charlotte J. Patterson, *Children of Lesbian and Gay*

(continued)

Numerous studies conducted by respected child development researchers consistently show that children raised by lesbians or gay men demonstrate no deficits in intellectual development, social adjustment or psychological well-being in comparison to children raised by heterosexual parents.⁷ As one study concluded, “[t]he research is extraordinarily clear in its finding about lesbian and gay parents and their children: they look remarkably like their heterosexual counterparts and their children.”⁸

There is no relationship between parental sexual orientation and *any* measure of a child’s healthy development. All studies conclusively show that there is no relationship between parental sexual orientation and measures of children’s cognitive ability or intelligence.⁹

(continued from previous page)

Parents, 63 CHILD DEVELOPMENT 1025, 1026-42 (1992)); Robert L. Barrett & Bryan E. Robinson, *Gay Dads*, in REDEFINING FAMILIES: IMPLICATIONS FOR CHILDREN’S DEVELOPMENT 157, 168 (Adele E. Gottfried & Allen W. Gottfried eds., 1994); Fiona L. Tasker & Susan Golombok, *Children Raised by Lesbian Mothers: The Empirical Evidence*, 21 FAM. L. 184, 186 (1991); Julie S. Gottman, *Children of Gay and Lesbian Parents*, 14 MARRIAGE & FAM. REV. 177, 186-92 (1990); Patricia J. Falk, *Lesbian Mothers: Psychological Assumptions in Family Law*, 44 AM. PSYCHOLOGIST 941, 943-947 (1989); Elizabeth D. Gibbs, *Psychosocial Development of Children Raised by Lesbian Mothers*, 8 WOMEN & THERAPY 65, 66-74 (1988); David Kleber, *et al.*, *The Impact of Parental Homosexuality in Child Custody Cases: A Review of the Literature*, 14 BULL. AM. ACAD. PSYCHIATRY L. 81, 86 (1986).

⁷ See Perrin, *supra* note 2, at 342-43 (citations omitted); Chan, *supra* note 6; TASKER & GOLOMBOK, *supra* note 3; *Research Issues*, *supra* note 1, at 29; Sharon L. Huggins, *A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers*, 18 J. HOMOSEXUALITY 123 (1989); Kirkpatrick, *supra* note 3, at 547-49.

⁸ G. Dorsey Green & Frederick W. Bozett, *Lesbian Mothers and Gay Fathers*, in HOMOSEXUALITY: RESEARCH IMPLICATIONS FOR PUBLIC POLICY 198 (John C. Gansiorek & James D. Weinrich eds., 1991).

⁹ See Stacey & Bilbarz, *supra* note 6, at 172 (“across studies, no relationship has been found between parental sexual orientation and measures of children’s cognitive ability. Moreover, to our knowledge no theories predict such a link”); *Choosing Motherhood*, *supra* note 1, at 109 (found no correlation between parental sexual orientation and the children’s scores on cognitive functioning tests); Richard Green, M.D., *et al.*, *Lesbian Mothers and Their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children*, 15 ARCHIVES SEXUAL BEHAV. 167, 174-79 (1986) (no difference in intelligence or cognitive functioning); Kirkpatrick, *supra* note 3, at 547 (same).

As two leading scientists observed:

[N]o reason exists for concern about the development of children living in the custody of gay fathers; on the contrary, there is every reason to believe that gay fathers are as likely as heterosexual fathers to provide home environments in which children grow and flourish.¹⁰

Indeed, significant research demonstrates beyond dispute that children raised by gay men are not disadvantaged.¹¹

Similarly, several studies compared children born to lesbian mothers and heterosexual mothers, each of whom had been conceived through donor insemination. The research confirmed that there are no differences in behavioral adjustment or social or psychological functioning among the children and, in fact, determined that “it was impossible to distinguish” at all between either group.¹² There also has been no difference in the rate of psychiatric, emotional or behavioral difficulty among children of lesbians and heterosexual

¹⁰ Charlotte J. Patterson & Raymond W. Chan, *Gay Fathers and Their Children*, in TEXTBOOK OF HOMOSEXUALITY AND MENTAL HEALTH 371, 388 (Robert P. Cabaj & Terry Stein eds., 1996).

¹¹ Jerry J. Binger & Frederick W. Bozett, *Parenting by Gay Fathers*, 14 MARRIAGE & FAM. REV. 155, 163 (1990) (“There is no evidence of any kind that demonstrates that living with a homosexual parent has any significant negative effects on children”; gay fathers are as effective “and may be even more so in some ways than nongay parents”); Gottman, *supra* note 6, at 186 (“In general, none of the above studies on children of lesbian mothers and gay fathers reported negative effects on children”); Barrett & Robinson, *supra* note 6, at 90-91 (“[c]hildren of homosexual fathers do not differ significantly from children raised in more traditional families”).

¹² Chan, *supra* note 6, at 445 (“It was impossible to distinguish between children born to and brought up by lesbian versus heterosexual parents,” and concluding that the results refute the idea that “only heterosexual parents can raise healthy children”); see also A. Brewaeys, *et al.*, *Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families*, 12 HUMAN REPRODUCTION 1349, 1356 (1997) (no differences in behavioral adjustment of children in comparison groups and concluding that “children in lesbian mother families have been growing up for the first years of their lives in a warm and secure family environment, just like children in the heterosexual control groups”); *Choosing Motherhood*, *supra* note 1, at 105, 112 (donor insemination study finding remarkable similarity between the children of lesbian and heterosexual parents with respect to behavioral adjustment).

parents.¹³ The findings of no differences in emotional health and psychosocial adjustment hold true universally in studies comparing children born to lesbian mothers with those born to heterosexual mothers,¹⁴ and comparing children of divorced lesbian mothers with those of divorced heterosexual mothers.¹⁵

¹³ Ellen C. Perrin, M.D., *Children Whose Parents Is/Are Lesbian or Gay*, in *SEXUAL ORIENTATION IN CHILD AND ADOLESCENT HEALTH CARE* 105, 118 (2002) (“no differences were found between the children with lesbian and those with heterosexual mothers in the number or type of psychiatric difficulties”); Susan Golombok, *et al.*, *Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal*, 24 *J. CHILD PSYCHOL. PSYCHIATRY* 551, 565, 567 (1983) (lesbian mothers strongly endorse child-centered attitudes and commitment to their maternal roles; researchers found no significant differences between the children of lesbian mothers and those of heterosexual mothers with respect to emotional difficulties, conduct difficulties, unsociability, or hyperactivity); TASKER & GOLOMBOK, *supra* note 3, at 134-44 (in a longitudinal study, researchers found no difference between the children raised by a lesbian mother and those raised by a heterosexual mother with respect to anxiety or depression, and no significant differences with respect to mental health problems of mothers); Falk, *supra* note 6, at 944 (“[N]o evidence exists for a direct relationship between a mother’s sexual orientation and the mental health of her offspring”); Barbara McCondish, *Against All Odds: Lesbian Mother and Family Dynamics*, in *GAY AND LESBIAN PARENTS* 23, 24 (Frederick W. Bozett ed., 1987) (“lesbian and gay parents provide effective parenting for their children, and observing that “children of gay and lesbian parents have no more frequent psychiatric problems and gender dysfunction than do the children of heterosexual parents”).

¹⁴ A. Brewaeys & E.V. Van Hall, *Lesbian Motherhood: The Impact on Child Development and Family Functioning*, 18 *J. PSYCHOSOM. OBSTET. GYNECOL.* 1, 13 (1997) (results of studies of children raised from birth by lesbian mothers “do not seem to suggest that different early childhood experiences with respect to the absence of a father and with respect to the presence of two lesbian mothers had any effect on child development”); Charlotte J. Patterson, *Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts, and Sex-Role Identity*, in *CONTEMPORARY PERSPECTIVES ON LESBIAN & GAY PSYCHOLOGY: THEORY, RESEARCH, & APPLICATION* 156, 167-68 (B. Green & G. Herek eds., 1994) (children of lesbian mothers found to be similar to the normative sample on social competence, social behavior, self-esteem, sociability, and aggressiveness); Charlotte J. Patterson, *Lesbian Mothers and Their Children: Findings From the Bay Area Families Study*, in *LESBIANS AND GAYS IN COUPLES AND FAMILIES: A HANDBOOK FOR THERAPISTS* 420, 434 (J. Laird & R.J. Green eds., 1996) (results show “child development is proceeding normally”); Patterson, *supra* note 3, at 255 (“social competence among children with lesbian mothers was rated as normal”); Susan Golombok, *et al.*, *Children Raised in Fatherless Families from Infancy: Family Relationships and the Socioemotional Development of Children of Lesbian and Single Heterosexual Mothers*, 38 *J. CHILD PSYCHOL. & PSYCHIATRY & ALLIED DISCIPLINES* 783, 789 (1997) (finding no negative impact on children’s psychological development when growing up with lesbian parents).

¹⁵ Gottman, *supra* note 6, at 189-90 (daughters of lesbian mothers scored higher than daughters of non-remarried heterosexual mothers with respect to the individuals’ sense of security in the world and in relationships); Kirkpatrick, *supra* note 3, at 547-48 (researchers found no differences in the type or

(continued)

The research also is clear that children of lesbians and gays are socially well-adjusted. For example, there are no significant differences in the quality of peer relationships between children of lesbian and heterosexual parents,¹⁶ and studies show strong self-esteem and assessments of popularity among adolescent children of lesbians and gays.¹⁷

While it nonetheless is unavoidable that children whose parents are lesbian or gay “undoubtedly contend with a degree of social stigma even under the best circumstances, the similarity seen repeatedly in children’s outcomes suggests the presence of some compensatory

(continued from previous page)

frequency of pathology “by any measure ... available” between the children living with divorced lesbian mothers and the ones living in similar households with divorced heterosexual mothers); Green, *supra* note 9, at 182 (children raised from early childhood by a lesbian mother are not different on parameters of psychosexual and psychosocial development from children raised by heterosexual mothers); Kirkpatrick, *supra* note 2, at 207 (“[T]he comparative studies completed so far have not identified any damaging consequences to the children’s development of growing up in a lesbian household”); Ann O’Connell, *Voices From the Heart: The Developmental Impact of a Mother’s Lesbianism on Her Adolescent Children*, 63 SMITH & STUD. IN SOC. WORK 281, 284 (1993) (identifying numerous studies using various methods and samples across age groupings, which all report “no major differences in psychological or social development” between children of heterosexual and lesbian single parents); Cheri A. Pies, *Lesbians and the Choice to Parent*, 14 MARRIAGE & FAM. REV. 137, 140 (1989) (referring to growing body of studies of children of lesbian parents and concluding that “children raised by lesbians have an equally good chance of developing into healthy, happy human beings as do children raised in heterosexual homes”); Huggins, *supra* note 7, at 131 (study found no significant statistical differences in self-esteem scores of adolescent children with divorced lesbian mothers and adolescent children with divorced heterosexual mothers).

¹⁶ See, e.g., Golombok, *supra* note 13, at 567; see also TASKER & GOLOMBOK, *supra* note 3, at 88 (follow-up study found that children of lesbians did not recall more teasing regarding their families than those raised by single heterosexual parents).

¹⁷ Huggins, *supra* note 7, at 131-32 (no significant difference in self-esteem among the two groups of adolescents); Green, *supra* note 9, at 178 (no significant differences between the children of lesbian and heterosexual mothers with respect to the children’s self-ratings of popularity or the mothers’ descriptions of the children’s popularity); Mary E. Hotvedt & Jane B. Mandel, *Children of Lesbian Mothers, in HOMOSEXUALITY: SOCIAL, PSYCHOLOGICAL AND BIOLOGICAL ISSUES* 275, 282 (1982) (no differences in peer group relationships among boys of lesbian or heterosexual mothers, and, in fact, daughters of lesbian mothers reported that they were more popular than daughters of heterosexual women).

processes in these families.”¹⁸ Importantly, “if ostracism, isolation, and teasing are problems for those children, neither the problem nor the solution can appropriately be located within these children or their families.”¹⁹ (This is, of course, also true when children are subjected to ignorance or bias based on race, religion, or other factors.)²⁰

In short, lesbian and gay parents are able to raise children who are as well adjusted as those of heterosexual parents because the factors associated with a child’s positive adjustment have no relation to the parent’s sexual orientation.²¹ These factors include, among other things, secure attachments between the parent and child, emotionally stable parents, an authoritative (not authoritarian) parenting style (*i.e.*, warmth, approval and emotional empathy coupled with a willingness to impose rules, structure and limits when necessary), and parents with realistic expectations, well-developed behavior management, coping and good listening skills, flexible family roles and a strong support network.²² Lesbian and gay parents can and do

¹⁸ Perrin, *supra* note 13, at 129; *see also* Stacey & Biblarz, *supra* note 6, at 172 (noting that the fact that children of lesbians and gays do as well as children of heterosexuals in spite of being subjected to some teasing indicates that “children in these studies seem to exhibit impressive psychological strength”).

¹⁹ Perrin, *supra* note 13, at 124.

²⁰ Three early state law decisions have incorrectly relied on a snippet from one NASW social work article to deny lesbian mothers custody (or expanded custody) of their children. *Collins v. Collins*, 1988 WL 30173 (Tenn. Ct. App. Mar. 30, 1988); *S. v. S.*, 608 S.W.2d 64 (Ky. Ct. App. 1980); *Constant A. v. Paul C.A.*, 496 A.2d 1 (Pa. Super. Ct. 1985). The courts misused the NASW article by claiming that the author of the article concluded that children suffer adverse consequences if raised by lesbian mothers. To the contrary, the author concluded that the “parent’s sexual preference does not matter as much as the love, caring, and maturity of the adults and their effort to help their children become self-reliant and self-assured.” Karen G. Lewis, *Children of Lesbians: Their Point of View*, 25 SOCIAL WORK 198, 203 (1980). It is beyond dispute that the discrimination and prejudice of others is not a rational basis upon which to deny rights to lesbian and gay parents.

²¹ *See* Michael E. Lamb, *et al.*, *Parent-Child Relationships: Development in the Context of the Family*, in DEVELOPMENTAL PSYCHOLOGY: AN ADVANCED TEXTBOOK 32-42 (4th ed. 1999).

²² *See id.* at 7-10, 26-29, 42-43.

provide these parental attributes. Thus, it is not surprising that lesbian and gay parents are just as likely as heterosexual parents to be able to provide for the best interests of children.

II. THE LEADING EXPERTS — CHILD WELFARE AND MENTAL HEALTH PROFESSIONALS — AGREE THAT LESBIAN AND GAY PARENTS ARE AS CAPABLE AND SUCCESSFUL AT RAISING WELL-ADJUSTED CHILDREN AS HETEROSEXUAL PARENTS.

Given the scientific consensus regarding the parenting abilities of lesbians and gay men and the positive outcomes for their children, all of the major children's welfare organizations and mental health professionals, including *amici*, have issued policies and statements opposing restrictions on parenting by lesbians and gay men as both baseless and contrary to the best interests of children.

For instance, the American Academy of Pediatrics ("AAP"), which represents over 50,000 pediatricians and offers guidance to parents on child-rearing issues, stated "that children with parents who are homosexual can have the same advantages for health, adjustment and development as can children whose parents are heterosexual."²³ After reviewing more than two decades of studies, the AAP "found that children of gay or lesbian parents were as well adjusted socially and psychologically as the children of heterosexual parents."²⁴ The AAP has adopted a formal policy declaring that "children who grow up with 1 or 2 gay and/or lesbian parents *fare as well* in emotional, cognitive, social, and sexual functioning as do children whose

²³ See Erica Goode, *Group Backs Gays Who Seek To Adopt a Partner's Child*, N.Y. TIMES, Feb. 4, 2002, at A17.

²⁴ See *id.*

parents are heterosexual . . . *No data have pointed to any risk to children as a result of growing up in a family with 1 or more gay parents.*”²⁵

According to the AAP, the keys to positive outcomes are the quality of the parent-child relationship and the quality of the parents’ own relationship, not the gender or sexual orientation of the parents. The AAP explains:

Children in *all family constellations* have been described by parents and teachers to have more behavioral problems when parents report more personal distress and more dysfunctional parent-child interactions. In contrast, children are rated as better adjusted when their parents report greater relationship satisfaction, higher levels of love, and lower interparental conflict regardless of their parents’ sexual orientation. Children are apparently more powerfully influenced by family processes and relationships than by family structure.²⁶

Numerous other organizations, after considering these same issues, have also concluded that lesbian and gay parents are as capable and successful at raising well-adjusted children as heterosexual children. Thus, for example, the Child Welfare League of America (“CWLA”), which sets national child-welfare standards, has issued a Standards of Excellence for Adoption Services that states that “[a]pplicants should be assessed on the basis of their abilities to successfully parent a child needing family membership and not on their . . . sexual orientation.”²⁷

²⁵ Perrin, *supra* note 2, at 341-42 (emphasis supplied); *see also* Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, *Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 339, 339 (2002), available at <http://aappolicy.aappublications.org> (policy statement accompanying Technical Report). Through its policies and educational materials, the AAP offers guidance to parents and others on child-rearing issues.

²⁶ Perrin, *supra* note 2, at 343 (emphasis supplied).

²⁷ CHILD WELFARE LEAGUE OF AMERICA, CWLA STANDARDS OF EXCELLENCE FOR ADOPTION SERVICES (2000)

The NASW has affirmed that “same-gender sexual orientation should be afforded the same respect and rights as other-gender orientation.”²⁸ Accordingly, the “NASW encourages adoption of laws that recognize . . . child custody . . . and other rights in lesbian, gay and bisexual relationships.”²⁹ The NASW 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.³⁰

The North American Council on Adoptable Children states that “[e]veryone with the potential to successfully parent a child in foster care and adoption is entitled to fair and equal consideration regardless of sexual orientation or differing life style or physical appearance.”³¹

As early as 1976, the American Psychological Association (“APA”) affirmed that “[t]he sex, gender identity, or sexual orientation of natural or prospective adoptive or foster parents should not be the sole or primary variable considered in custody or placement cases.”³²

In 1995, the APA, which represents more than 155,000 psychologists, reach the same conclusions in a thorough research review:

Not a single study has found children of gay parents to be disadvantaged in any significant report relating to children of

²⁸ NATIONAL ASSOCIATION OF SOCIAL WORKERS, *Lesbian, Gay, and Bisexual Issues*, SOCIAL WORK SPEAKS 224, 228 (2003).

²⁹ *Id.* at 230.

³⁰ *Id.* at 225.

³¹ NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN, *Policy Statements: Gay and Lesbian Foster and Adoptive Parenting* (Mar. 14, 1998), available at http://www.nacac.org/about_policystatements.html.

³² John J. Conger, *Proceedings of the American Psychological Association, Incorporated, for the Year 1976*, 32 AM. PSYCHOL. 408, 432 (1977).

heterosexual parents. Indeed, the evidence suggests that home environments provided by gay and lesbian parents are as likely as those provided by heterosexual parents to support and enable children's psychological growth.³³

The American Psychoanalytic Association also has been unequivocal in support of gay and lesbian parenting:

Gay and lesbian individuals and couples are capable of meeting the best interest of the child and *should be afforded the same rights and should accept the same responsibilities* as heterosexual parents.³⁴

The American Academy of Child & Adolescent Psychiatry, which represents over 6,500 psychiatrists, concurs.³⁵

All of the organizations who have the mission of promoting children's welfare have recognized that lesbians and gay men can provide healthy child-rearing environments, and that their children adjust just as well as other children. For these reasons, there is no basis to disfavor parenting by lesbians and gay men.

³³ AMERICAN PSYCHOLOGICAL ASSOCIATION, *Lesbians and Gay Parenting: A Resource for Psychologists* 8 (1995), available at <http://www.apa.org/pi/parent.html>.

³⁴ AMERICAN PSYCHOANALYTIC ASSOCIATION, *Position Statement on Gay and Lesbian Parenting* (May 16, 2002), available at <http://www.apsa-co.org/ctf/cgli/parenting.htm> (emphasis supplied).

³⁵ See AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY, *Policy Statement on Gay, Lesbian and Bisexual Parents* (June 1999), available at <http://www.aacap.org/publications/policy/ps46.htm> ("Outcome studies of children raised by parents with a homosexual or bisexual orientation, when compared to heterosexual parents, show no greater degree of instability in parental relationship or developmental dysfunction in children").

III. MARRIAGE WILL BENEFIT CHILDREN OF SAME-SEX COUPLES AND ENHANCE THE STABILITY OF THEIR FAMILIES.

Whether lesbian and gay couples should raise children is not an issue. Lesbians and gay men have parented for a long time, and research indicates they will continue to do so in greater numbers.³⁶ Given this reality, ending the exclusion of same-sex couples from marriage will advance the State's important child welfare policies by providing for the "best interests" of this growing population of children.

Ending the exclusion of same-sex partners from marriage will enhance the emotional health, well-being, and security of children of lesbians and gays. The AAP has advised that children of gays and lesbians need and deserve the same permanence and security in parental relationships as children of opposite-sex parents.³⁷ That parental breakup can be a difficult, and often destructive, experience for children is not seriously disputed.³⁸ Marriage will fortify committed relationships between same-sex parents raising children, and thereby enhance the stable care-taking, permanence, and security that come from having two available parents.

³⁶ The increase in the number of children raised by lesbians outside the context of heterosexual relationships has been well documented in the literature. *See, e.g.*, Patterson, *supra* note 14, at 156 (citing numerous studies and noting that the numbers of lesbians bearing or adopting children in the context of their lives as lesbians are consistently described as growing). In addition, recent studies of gay men have found that more than half who were not fathers indicated that they would like to rear a child. Patterson, *supra* note 6, at 1058.

³⁷ Perrin, *supra* note 2, at 339.

³⁸ While many same-sex couples thrive in long-term committed relationships even without the legal, economic and social supports accompanying marriage, research suggests that marriage, and the protections, supports and obligations that accompany that status, can fortify long-term committed relationships. Comparisons of committed cohabiting couples and married couples consistently demonstrate that the latter group is more likely to stay together. *See, e.g.*, Philip Blumstein & Pepper Schwartz, *AMERICAN COUPLES* 307-08 (1983) (only 4 percent of married couples in sample broke up during an 18-month period, in contrast to 17 percent of heterosexual cohabiting couples).

CONCLUSION

Lesbians and gay men raise children that are as healthy, happy and well-adjusted as any other parents. It does not further children's interest to exclude same-sex couples from marriage. Indeed, excluding gay people from marriage serves only to deny their children the stability and other important benefits that marriage affords to families.

Dated: August 16, 2004
New York, New York

Respectfully submitted,



Marc De Leeuw
Jeffrey T. Scott
125 Broad Street
New York, NY 10004-2498
(212) 558-4000

*Attorneys for the National Association of
Social Workers, the New York City Chapter
of the National Association of Social
Workers and the New York State Chapter of
the National Association of Social Workers*

CERTIFICATE OF SERVICE

I, Marc De Leeuw, hereby certify that I caused to be served a copy of the foregoing Memorandum of the National Association of Social Workers and the New York City and State Chapters of the National Association of Social Workers as *Amicus Curiae* in Support of Plaintiffs' Motion for Summary Judgment by overnight courier on this 16th day of August 2004, on:

James B. McGowan, Esq.
Assistant Attorney General
OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL
The Capitol
Albany, NY 12224-034; and

Roberta A. Kaplan, Esq.
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019.



Marc De Leeuw