

Ontario
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

B E T W E E N:

HEDY HALPERN and COLLEEN ROGERS
MICHAEL LESHNER and MICHAEL STARK
MICHELLE BRADSHAW and REBEKAH ROONEY
PETER MAGEE and DAVID BRIGGS
DAWN ONISHENKO and JULIE ERBLAND
CAROLYN ROWE and CAROLYN MOFFATT
BARBARA McDOWALL and GAIL DONNELLY
ALISON KEMPER and JOYCE BARNETT

Applicants

- and -

THE ATTORNEY GENERAL OF CANADA
THE ATTORNEY GENERAL OF ONTARIO
NOVINA WONG, THE CLERK OF THE CITY OF TORONTO

Respondents

AFFIDAVIT OF DR. JERRY J. BIGNER
(Sworn November 15, 2000)

I, **Dr. Jerry J. Bigner**, of the City of Ft. Collins, in the State of Colorado, United States of America, **MAKE OATH AND SAY:**

1. I am a tenured full professor of child and family development and early childhood education in the Department of Human Development and Family Studies at Colorado State University. My professional duties include: (a) Instruct undergraduate and graduate courses in lifespan individual and family development, parent-child relations, child development, early

Affidavit of Dr. Jerry J. Bigner

childhood education, administration, child guidance, socialization, developmental theory, family theory, and research methodology; (b) guide thesis research; (c) serve on department, college, and University committees; (d) advise undergraduate students.

2. I have been certified as an expert witness on child development and parenting in providing testimony in four cases in Colorado:

Myles vs. Bolcourt, Case #87 DR 3012, Denver County District Court

Renn vs. Renn, Case #92 DR 100, Douglass County District Court

Gassman vs. Gassman, Case #86 DR 1144, Larimer County District Court

Zink vs. Zink, Case #98 DR 2168 Div.Q, Jefferson County District Court

I was also retained and called as an expert witness in *McKee vs. McKee*, Case #96 DR 682, Larimer County District Court but did not testify since sexual orientation of the defendant was ruled irrelevant to the proceedings.

3. My research focus is the parenting styles and abilities of gay fathers and lesbian mothers, therapeutic issues in working with gay fathers, and differences as well as similarities between gay or lesbian parents and heterosexual parents. My most recent *curriculum vitae* is attached hereto as **Exhibit "A"**.
4. I have been asked to review the social science research relating to lesbian and gay parenting and to discuss whether sexual orientation is a relevant variable in predicting parenting ability or social development outcomes for children. I have also been asked to give my opinion as

to whether legal recognition of the marriages of gay and lesbian couples would be in the best interests of their children.

5. In preparing this affidavit, I reviewed the Amicus Brief prepared on behalf of the Vermont Psychiatric Association, Vermont Chapter of the National Association of Social Workers and the Behavioral Medicine Services of Burlington, Vermont in *Baker et al v. State of Vermont* (the "Vermont Brief"). I am familiar with all of the studies cited in the Vermont Brief, indeed, the Brief cites a number of my own studies. In my opinion, the Vermont Brief accurately and comprehensively sets out the social science research relating to gay and lesbian parenting and the social and psychological development of children raised by gay and lesbian parents.

6. Rather than preparing a lengthy discussion of the same research, I have summarized below the evidence contained in the Vermont Brief and have included additional facts and references where necessary. I attach the Brief as **Exhibit "B"** to my affidavit and confirm that I agree with all of the facts set out therein and that the Brief accurately reflects my opinion on the issues.
 - A. **Many Same-Sex Couples Raise Healthy, Well-Adjusted Children Together**

7. As set out in section III-A of the Vermont Brief, social science research confirms that many same sex couples raise children together, that gays and lesbians have equal parenting skills to their heterosexual counterparts and that children raised by gays and lesbians are as healthy and well-adjusted as children raised by heterosexuals.

(i) **Many Same-sex Couples Raise Children Together**

8. While it is difficult to determine precise numbers, studies indicate that about one-third of lesbians and about 10% of gay men are parents.¹ As indicated in the Vermont Brief, it is estimated that between 6 million and 14 million children are being raised by lesbian and gay parents in the United States. Although most of these children were born in the context of a heterosexual relationship between parents who subsequently broke up, increasing numbers of lesbian and gay couples are raising children of their own; indeed some have described the past decade as a "lesbian baby boom".² Although not all lesbian and gay parents have custody of their children, nevertheless many children are raised by lesbian or gay male parents, often in the context of a lesbian or gay couple.³

¹ Bell, A. P., & Weinberg, M. S. (1978). *Homosexualities: A study of diversity among men and women*. New York: Simon & Schuster; Patterson, Charlotte, Children of Lesbian and Gay Parents, 63 Child. Devel. 1025 (1992).

² In the past decade, increasing numbers of children are being conceived within lesbian and gay male couples as a result of adoption or donor insemination: Faderman, Lillian. (1984). The "new gay" lesbians. *Journal of Homosexuality*, 10(3-4), 85-95; Patterson, Charlotte. (1995) Sexual orientation and human development: An overview. *Developmental Psychology*, 31, 3-11; Green, G. D. and Bozett, F. W., Lesbian Mothers and Gay Fathers, *Homosexuality: Research Implications for Public Policy* (John C. Gonsiorek and James D. Weinrich, eds, 1991); Patterson, Charlotte, Children of Lesbian and Gay Parents, 63 Child. Devel. 1025 (1992); Flaks, D. et al., Lesbians Choosing Motherhood: A comparative Study of Lesbian and Heterosexual Parents and Their Children, 31 Dev. Psychol. 105 (1995); Tasker, Fiona. (1999). Children in lesbian-led families: A review. *Clinical Child Psychology & Psychiatry*, 4(2), 153-166; Golombok, Susan; Tasker, Fiona; Murray, Clare. (1997). Children raised in fatherless families from infancy: Family relationships and the socioemotional development of children of lesbian and single heterosexual mothers. *Journal of Child Psychology & Psychiatry & Allied Disciplines*, 38(7), 783-791.

³ Hoeffler, 1981; Bozett, 1981; Moses & Hawkins, 1982; Green, G. D. and Bozett, F. W., Lesbian Mothers and Gay Fathers, *Homosexuality: Research Implications for Public Policy* (John C. Gonsiorek and James D. Weinrich, eds, 1991); Patterson, Charlotte, Children of Lesbian and Gay Parents, 63 Child. Devel. 1025 (1992); Patterson, 1995; Tasker, Fiona & Golombok, Susan. (1995). Adults raised as children in lesbian families. *American Journal of Orthopsychiatry*, 65(2), 203-215; Muzio, Cheryl. (1996). Lesbians choosing children: Creating families, creating narratives. Laird, Joan (Ed), Green, Robert-Jay (Ed), et al., *Lesbians and gays in couples and families: A handbook for therapists*. (pp. 358-369). San Francisco, CA, USA: Jossey-Bass Inc.; Bailey, J. Michael et al., Sexual Orientation of Adult Sons of Gay Fathers, 31 Dev. Psychol. 124 (1995); Bigner, J., Working with gay fathers: Developmental, post-divorce, and therapeutic issues, In R-J. Green & J. S. Laird (eds.), *Lesbian and gay*

9. The reasons why gay men and lesbian women become parents are no different from those motivations that prompt heterosexual men and women to become parents. Gay fathers and lesbian mothers value children in their lives for essentially the same reasons as reported by heterosexual mothers and fathers. For example, both homosexual and heterosexual parents value children for the opportunities parenthood provides to teach, guide, and exert a positive influence in the life of another human being. Both value the affection, pleasure, and the strengthening of relationship bonds between adult partners that arises from rearing children. Furthermore, both homosexual and heterosexual parents perceive parenthood as a means for attaining adult social status and identity in a community.⁴

(ii) Gay and Lesbian Parents Possess Parenting Skills and Abilities Comparable To Their Heterosexual Counterparts

10. Social science evidence has consistently shown that gays and lesbians, and same sex couples, are as qualified to parent as heterosexuals and that they are every bit as capable and caring parents as their heterosexual counterparts.
11. In this regard, social scientists have found that the home environments of both lesbians and gay men have been found to be as moral and as physically and psychologically healthy for children as those of heterosexuals. Similarly, the research demonstrates that lesbian and gay parents' attitudes and behaviors are very like those of heterosexual parents and that they facilitate their children's growing up in healthy, productive ways.

couple and family relationships: Therapeutic perspectives, (San Francisco: Jossey-Bass, 1996).

⁴ Bigner, Jerry and Jacobsen, R. Brooke, (1989b) Parenting Behaviors of Homosexuals and Heterosexual Fathers, 18 *J. of Homosexuality* 173; Bigner, Jerry J., & Jacobsen, R. Brooke. (1989a). The value of children to gay and heterosexual fathers. *Journal of Homosexuality*, 18, 163-172; Siegenthaler, Amanda and Bigner, Jerry, The Value of Children for Lesbian and Non-Lesbian Mothers, 39 *J. of Homosexuality* 73 (2000)

(iii) The Children of Gay and Lesbian Parents Are As Healthy and Well Adjusted as Those of Their Heterosexual Counterparts

12. Many researchers have studied the psychological development, social development, moral development and intelligence of children raised by gay and lesbian parents. While these researchers have been faced with limited sample sizes and difficulty in obtaining random samples, which limits the impact of any individual study, the collective weight of this research clearly supports the view that the children of gay or lesbian, or same-sex parents are as happy, healthy and well adjusted as their counterparts who have heterosexual or different-sex parents.

13. The evidence also indicates that there are no differences between the children of gay parents and the children of heterosexual parents in terms of gender identity or sexual orientation.

B. Legal Recognition of Marriages Between Same-sex Couples Will Benefit Children

14. As set out in section III-B of the Vermont Brief, and as supported by the evidence cited therein, legal recognition of the marriages of same-sex couples will be good for children in that:

- (i) children benefit from living in a healthy, loving home with both parents in the context of a healthy, happy intact family;
- (ii) civil marriage, and the protections, supports and obligations that accompany that status, can fortify committed relationships between parents;
- (iii) the community and social supports which accompany civil marriage, including enhancing the strength of relationships between spouses, can promote even better parenting; and

- (iv) children of gay and lesbian parents who have divorced from a heterosexual marriage or who have split up from the child's other parent are better off when the gay or lesbian parent establishes another relationship, and when that new partner is more fully woven into the child's new, post-divorce family configuration.

C. Legal Recognition of Marriages Same-sex Couples Will Help to Eliminate State-Sanctioned Stigmatization of their Children

- 15. As indicated in section III-C of the Vermont Brief, social science research indicates that, where children of gay and lesbian parents may have difficulties, those difficulties stem from the lack of social and legal support for their family structures rather than any intrinsic shortcoming of the family structure itself. To the extent that some children may experience difficulties as a result of societal reactions to their lesbian mothers or gay fathers, those difficulties could only be alleviated by legal recognition of those family structures.


D. Conclusion

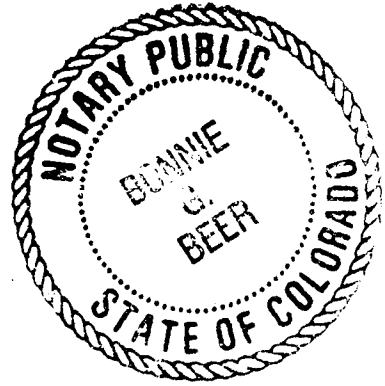
- 16. In my opinion, recognition of marriages between spouses of the same sex would benefit the children of gay and lesbian parents, as well as the individuals and couples who wish to marry. As summarized above and as set out more thoroughly in the Vermont Brief, social science research supports the conclusion that legal recognition of marriages between same-sex couples would benefit the children of gay and lesbian parents. Social science research consistently demonstrates that lesbians and gay men are as qualified parent and are as able to parent well as heterosexuals. Research also overwhelmingly shows that the children of lesbians and gay men are as healthy and well-adjusted as children raised by heterosexuals. Children are generally better off, both emotionally and materially, when their parents stay together in a healthy relationship, and recognizing marriages of same-sex parents would promote the goal of protecting and supporting children. In any event, these children deserve the same security and protections that flow from legal recognition of their parents' relationships as children of different-sex parents. Finally, all children of gay and lesbian parents, as well as gay and lesbian children and adults, would benefit from the removal of

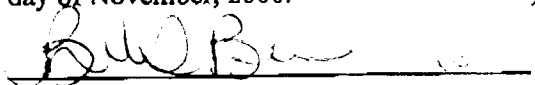
the last, but perhaps the most significant, vestige of state-sanctioned discrimination against gay and lesbian Canadians and their families.

17. I make this affidavit in support of an application and for no other or improper purpose.

SWORN before me at the City of Ft Collins)
in the State of Colorado)
this 15th day of November)
day of November, 2000.)

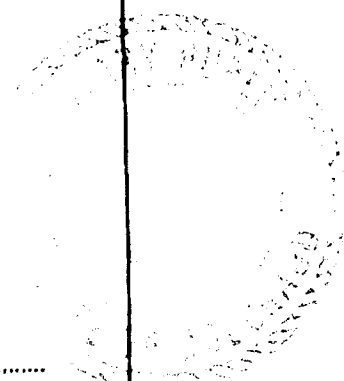

DR. JERRY J. BIGNER




Commissioner for Taking Affidavits, etc.

com capra 11/17/2000

This is Exhibit "B"
referred to in the Affidavit of
JERRY J. BIGNER
SWORN THIS 8 DAY
OF NOVEMBER, 2000


.....
A Commissioner for Taking Affidavits

INTEREST OF AMICI⁽¹⁾

Amici are organizations composed of, and individuals who are, eminent scholars and researchers of family and child issues. *Amici* have been major contributors to the research and literature concerning family relationships and childhood development, including same-gender couples. This brief is submitted to assist the Court by collecting, summarizing and discussing the social science research and literature about same-gender couples and the children they parent.

The Vermont Psychiatric Association ("VPA") represents over 100 psychiatrists in the State of Vermont. The VPA is committed to providing courts accurate and up to date information from credible scholarly research regarding issues surrounding gay and lesbian individuals, relationships, and parenting. In addition, the VPA supports full civil rights for gay and lesbian citizens, and has endorsed a resolution acknowledging that marriage is a basic human right and an individual choice, and affirming that the State should not interfere with same gender couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage.

The Vermont Chapter of the National Association of Social Workers ("NASW"), is a 455 member professional affiliate, and is composed of individuals with bachelors, masters and doctorates in social work. The chapter is guided by a Code of Ethics (NASW Delegate Assembly, 1996) and a range of policy positions that were reviewed and accepted by members in accordance with procedures set forth in the By-Laws. Social Workers, through the Code of Ethics, pledge to "enhance human well-being and help meet the basic needs of all people" and are expected to "act to prevent and eliminate domination of, exploitation of, and discrimination against any person, group, or sexual orientation, age, marital status, political belief, religion, or mental or physical disability." Members of the Vermont chapter are also expected to obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, nationality, origin, color, sex, sexual orientation, age, marital status, political belief, religion, and mental or physical disability.

Behavioral Medicine Services of Burlington, Vermont is a seven member mental health group private practice with affiliations with Fletcher Allen Health Care and the University of Vermont, College of Medicine. The Service provides assessment and clinical care for individuals suffering from mental illnesses and psychological problems. Several psychologists in the practice are trained in child and adolescent psychology, and the practice includes children, adolescents, and gay and lesbian clientele.

Esther Rothblum, Ph.D. is Professor of Psychology at the University of Vermont and was University Scholar at the University of Vermont for the 1992-1993 academic year. She is editor of the Journal of Lesbian Studies, and has written and edited several books and numerous articles on lesbian issues. She was Chair of the Committee of Lesbian and Gay Concerns of the American Psychological Association and received the 1991 Distinguished Scientific Contribution Award from the Society for the Psychological Study of Lesbian and Gay Issues.

Lynne Bond, Ph.D. is Professor of Psychology at the University of Vermont. As a Developmental Psychologist she has an extensive record of books and professional research publications and presentations pertaining to: optimizing child and family development; gender and development; and gay and lesbian development. She teaches courses on Parenting, Child Development, and Gender & Development at both undergraduate and doctoral levels. She has served as an expert witness in child custody hearings. She has been distinguished as a Fellow of the American Psychological Association and is the President of the Vermont Conference on the Primary Prevention of Psychopathology.

Jacqueline S. Weinstock, Ph.D. is an Assistant Professor in the Human Development & Family Studies Program at the University of Vermont. As a Developmental Psychologist, she is a professional researcher, writer, and teacher in the areas of child and family development; adult development; parenting; gender development; and gay, lesbian, and bisexual development. She has taught courses at the University of Vermont on gay and lesbian relationships, parenting, and families, and on the negative impact of discrimination and oppression on child and adult development.

ARGUMENT

I. INTRODUCTION

As set forth more fully below, social science research demonstrates that committed, loving relationships between two people of the same sex are comparable to committed, loving relationships between two people of different sexes. Marriages between same sex couples would be functionally equivalent to marriages between different-sex couples. Research also demonstrates that the children of same-sex couples are not detrimentally affected by being raised by same-gender parents and, further, that these children would benefit if their parents were allowed to marry.

The institution of marriage serves a variety of purposes, and individuals choose to marry for varying mixes of reasons. One common purpose underlying most marriages, and the marriage laws themselves, is the unitive goal of recognizing and protecting a committed relationship between two adults. Griswold v. Connecticut, 381 U.S. 479, 487 (1965) ("Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, . . . a harmony in living, . . . a bilateral loyalty."). A second goal of many, though by no means all, marriages, is to create a stable environment in which to raise children. Baehr v. Miike, 1996 WL 694235 (Haw. Cir. Ct., Dec 3, 1996) (concluding that civil marriage licenses should be available to couples of the same sex because, among other things, marriage would be beneficial to same sex couples who are rearing children), aff'd, 950 P.2d 1234 (Haw. 1997).⁽²⁾

In opposing same-gender marriage, the State has argued that barring them (1) unites men and women; (2) promotes child-rearing in a setting that provides male and female role models; (3) furthers the link between procreation and child-rearing; (4) preserves the historical heterosexual concept of marriage; (5) avoids conflict-of-laws issues; (6) preserves normative value judgments; and (7) minimizes the use of surrogacy contracts and thereby reduces child custody and visitation disputes. The trial court accepted the contention that allowing only heterosexual couples to marry rationally furthers a legitimate State interest in linkage between procreation and child-rearing, but rejected the rest as not serving a legitimate State interest.

Contrary to the trial court's holding, and the State's arguments, social science research demonstrates that civil marriages between partners of the same sex would serve the goals of marriage. It would serve the same unitive goals for same-sex couples as it does for different-sex couples, see section II, and would provide the benefits of civil marriage to children of same-sex couples--who are presently raising children and will continue to raise them--that it presently provides to the children of different-sex couples. See section III. Indeed, precluding same-gender marriages impedes rather than assists the State's interest in the health and welfare of children. See id.

II. COMMITTED, SAME SEX COUPLES ARE SIMILAR TO COMMITTED DIFFERENT SEX COUPLES, AND MARRIAGES BETWEEN PARTNERS OF THE SAME SEX WOULD BE FUNCTIONALLY COMPARABLE TO MARRIAGES BETWEEN PARTNERS OF

DIFFERENT SEXES

The nation's leading mental health organizations long ago rejected the suggestion that "homosexuality" is a mental disorder or pathological condition. The American Psychiatric Association, National Association of Social Workers, National Association for Mental Health, and American Sociological Association have adopted resolutions deploring discrimination based on sexual orientation. Stephen F. Morin and Esther D. Rothblum, *Removing the Stigma*, 46 *American Psychologist* 947 (American Psychological Association, September, 1991). Over twenty years ago the American Psychological Association adopted an official policy recognizing that "homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities." *Id.*; see also Patricia J. Falk, *Psychosocial Assumptions in Family Law*, 44(6) *Am. Psychologist* 941, 943 (1989) (reviewing research that confirms that lesbian women, and lesbian mothers in particular, are psychologically healthy as their heterosexual counterparts.)

Social science research confirms that many gay men and lesbian women live in committed, long term relationships, see section II A, that those relationships are characterized by the same love and satisfaction as comparable heterosexual relationships, see section II B, that partners in committed gay and lesbian couples, like married partners, take care of one another, see section II C, below; and that legal marriage would serve the same unitive purpose for same-gender couples as it does for heterosexual couples. See section II D.

A. Many Gay and Lesbian Couples Live In Stable, Long Term Relationships Contrary to common myth, many gay men and lesbian women live in long term, committed relationships.⁽³⁾ For example, researchers reported in one study that 14 percent of the 706 lesbian couples and 25 percent of the 560 gay male couples they studied had lived together for 10 or more years.⁽⁴⁾

Studies over time have confirmed that gay, lesbian and heterosexual relationships are comparable. In a short longitudinal study, two leading researchers followed a large sample of lesbian, gay male, cohabiting heterosexual, and married couples over an 18 month period. At the 18-month follow up, most couples were still together, and the differences in the rates of breakup among the different types of couples were relatively minor-- 22 percent of lesbians, 16 percent of gay male couples, 17 percent of heterosexual cohabiting couples, and 4 percent of married couples. Breakups were rarest among couples who had already been together for more than ten years-- 6 percent for lesbians, 4 percent for gay men, and 4 percent for married couples.⁽⁵⁾

B. Partners in Committed Same-Sex Relationships Experience the Same Level of Love and Relationship Satisfaction as Married Heterosexual Couples

Long term relationships between partners of the same sex form the foundation for the lives of those living in them every bit as much as heterosexual marriages do. Speaking about his partner of 46 years, one 72 year old research subject explained,

I wouldn't know what to do without Paul. . . . I thank my lucky stars every night for his persistence in sticking with me. . . . I feel like what we now have together is like a return on the investment that we've made in each other and in our relationship over all these years. We're reaping the profits from what we did and collected. The good Lord has been watching over us and still is.⁽⁶⁾

Certainly one important function of marriage is to provide life satisfaction to those who marry. Presumably, satisfying and fulfilling home lives help individuals to function as contributing members of

society. Studies show that gay and lesbian couples love one another, and *like* one another, as much as heterosexual married couples, and enjoy comparable relationship satisfaction.

In the most recent pertinent study, a leading expert on relationships evaluated between 118 and 236 married heterosexual couples, between 45 and 66 gay male couples, and between 36 and 51 lesbian couples over a five year period.⁽⁷⁾ He found that the three groups reported similar levels of relationship satisfaction at the beginning of the study, and a similar rate of change in relationship quality over the study period.⁽⁸⁾

Similarly, in a 1986 study, two psychologists assessed the relationship quality of partners in 44 married couples and 35 unmarried heterosexual, 50 gay and 56 lesbian cohabiting couples.⁽⁹⁾ The questionnaires they distributed elicited extensive information about a wide variety of factors such as the amount of activity shared by partners, agreement by partners on important issues, expectations about partners' conduct in the relationships, decision making processes within the relationships, and social support for the relationship. Controlling for demographic differences, they found that gay, lesbian and heterosexual married partners were indistinguishable from one another in terms of love for partner, liking of partner, and relationship satisfaction.⁽¹⁰⁾ Focusing on the factors that seemed to correlate to the subjects' relationship quality, the authors concluded, "The most striking finding regarding the correlates of relationship quality was the consistency obtained across the four types of partners."⁽¹¹⁾

These findings are consistent with those of a smaller study published about the same time. Evaluating responses of 25 heterosexual men, 25 heterosexual women, 25 lesbian women, and 25 gay men to similar questionnaires regarding specific rewards and costs of relationships, and their investments therein, another pair of researchers concluded,

[S]imilar general principles appear to hold true across a wide range of romantic relationships. The close relationships of lesbians, gay men, and heterosexual women and men are really quite similar, driven by similar general forces.⁽¹²⁾

These studies build on the earlier work of two researchers who, in 1980, evaluated matched samples of 50 lesbians, 50 gay men, 50 heterosexual women, and 50 heterosexual men.⁽¹³⁾ They found no significant differences among the four groups with respect to love for their partners, liking of their partners, and relationship satisfaction, with subjects in all groups rating their relationships as highly satisfying and very close.⁽¹⁴⁾ In addition, they asked the subjects to describe in their own words the best and worst things about their relationships. Systematic content analysis found no significant differences in the responses of the various groups, and panels of judges were unable to sort the responses of lesbian women, gay men, heterosexual women and heterosexual men.⁽¹⁵⁾

C. Like Married Couples, Committed Same-Sex Couples Take Care of Each Other

Moreover, like partners in a marriage, partners in committed same-sex relationships take care of one another in sickness and in health, for better or worse, benefitting not just the individuals involved, but also society as a whole.

In a landmark study of gay male couples, two researchers described a couple of 31 years, "Russ" and "Peter." Russ, 59 at the time of the study, had gradually lost his vision from progressive glaucoma three years earlier. He explained that he needed Peter more than ever, "not so much because I can't see, but because I love him more."⁽¹⁶⁾ Russ's partner, Peter, responded,

Russ has needed me more since his illness. The satisfaction I have gotten from that fact alone has been as great as anything in my life. We're closer now than ever. Russ doesn't really need me because he's blind. He could function very adequately without my eyes, but the real truth is that I need him as much as he needs me.⁽¹⁷⁾

These researchers described another male couple, "George, " and "Jerry." Recalling his 35 years to date with Jerry, George mused,

We've been with each other more than half our lives. I can hardly remember it being otherwise. . . . Jerry developed high blood pressure a few years back. I got real concerned about him and then about myself. We had to stop and realize we're not spring chickens any more. I made him promise to go easier. We started working less, taking some trips together, again, just being better to ourselves and to each other.⁽¹⁸⁾

These studies demonstrate that insofar as same-sex couples enter into relationships that are committed, loving and mutually supportive, committed relationships between same-sex couples are comparable to those of opposite-sex couples, and marriages between same-sex partners would be functionally equivalent to marriages between opposite-sex couples.

Plaintiffs are not anomalous. Their relationships are no different from heterosexual relationships in any way that is relevant to the State's policies and interests with respect to marriage, including first and foremost the State's unitive goals of supporting long term relationships. Throughout this State and country same-sex couples are living and loving one another in committed relationships built on shared values, common goals, mutual trust and respect, companionship, and deep affection for one another.

D. Legal Marriage for Same-Sex Couples Would Serve the Same Unitive Interests as it Does For Heterosexual Couples

Recognition of civil marriages between partners of the same sex would enhance the durability of such relationships. Social scientists have found that barriers to ending a relationship are a factor affecting the level of commitment of people in that relationship, and that married partners report the most barriers to leaving their relationship.⁽¹⁹⁾ Moreover, gay and lesbian couples generally report less social support for their relationships from family and society.⁽²⁰⁾ Persistent denial of their legitimacy is "perhaps the most pervasive, persistent, and profound stressor for lesbian and gay partnerships."⁽²¹⁾ As one expert on psychology and sexual orientation explained,

No matter how long a couple has been together, no matter how deep their personal commitment, they are constantly faced with the societal erasure of their relationship. They may be viewed as friends or roommates, as single adults who never "had a family," as unfortunate "old maids," as eccentric and fundamentally lonely bachelors.⁽²²⁾

To the extent that the legal protections, and obligations, of civil marriage are designed, at least in part, to support and fortify committed marital relationships, there is no reason to believe that marital relationships between partners of the same gender would not benefit from the same protections. Indeed, *Amici* submit that recognition of marriage between partners of the same sex would promote the psychological health and well-being of gay men and lesbian women. First, intimate partnership can reduce one's risk for depression.⁽²³⁾ To the extent that legal marriage may promote or reinforce

committed relationships, it may well promote the mental health of gay men and lesbian women. Second, the economic and social supports of civil marriage can promote the mental health of gays and lesbians. Third, removal of the stigma of state-sanctioned second class citizenship can only help lesbians and gay men develop a positive identity.⁽²⁴⁾

Amici respectfully submit that plaintiffs, and the numerous other same-sex couples throughout this State, should be entitled to the same legal protections and supports--and obligations--as committed heterosexual couples here in Vermont.

III. RECOGNITION OF MARRIAGES BETWEEN PARTNERS OF THE SAME SEX WOULD BENEFIT THE CHILDREN OF GAY AND LESBIAN PARENTS, AS WELL AS THE INDIVIDUALS AND COUPLES

Given that many gay and lesbian couples raise children, recognition of marriages between partners of the same sex would benefit the children of gay and lesbian parents, as well as the individuals and couples who wish to marry. Social science research supports the conclusion that legal recognition of marriages between partners of the same sex would benefit the children of gay and lesbian parents. First, many same-sex couples presently raise children that are healthy, and well-adjusted. See section III A. Second, recognition of marriages of same-gender parents would benefit their children. See section III B. Children are generally better off, both emotionally and materially, when their parents stay together in a healthy relationship, and recognizing same gender marriages would promote the goal of protecting and supporting children.⁽²⁵⁾ In any event, children of same-sex parents deserve the same security and protections that flow from legal recognition of their parents' relationships with one another as children of different-sex parents. Additionally, children of gay and lesbian parents who have divorced from a heterosexual marriage or who have split up from the child's other parent are better off when the gay or lesbian parent establishes another relationship, and when that new partner is more fully woven into the child's new, post-divorce family configuration. Finally, all children of gay and lesbian parents, as well as gay and lesbian children and adults, would benefit from the removal of the last, but perhaps the most significant, vestige of state-sanctioned discrimination against gay and lesbian Vermonters and their families. See section III C.

A. Many Same-Sex Couples Raise Healthy, Well-Adjusted Children Together

A second goal of many, though by no means all, marriages, is to create a stable environment in which to raise children. Baehr v. Miike, 1996 WL 694235, slip op. at 18 (Haw. Cir. Ct., Dec 3, 1996) (concluding that civil marriage licenses should be available to couples of the same sex because, among other things, marriage would be beneficial to same-sex couples who are rearing children), aff'd, 950 P.2d 1234 (Haw. 1997). Social science research confirms that many same-sex couples do raise children together, see section III A. 1, below; that gays and lesbians, and same sex couples, are as qualified to parent as heterosexuals, see section III A. 2, below; and that the children of gay and lesbian parents, and same-sex couples, are as healthy and well-adjusted as those of heterosexual parents. See section III A. 3, below.

1. *Many Same-Sex Couples Raise Children*

Like their heterosexual counterparts, many gay and lesbian couples raise children together. The precise number of children in this country who have gay or lesbian parents is difficult to determine, but estimates range from 6 million to 14 million.⁽²⁶⁾ Although most of these children were born in the context of a heterosexual relationship between parents who subsequently broke up, increasing numbers

of lesbian and gay couples are raising children of their own.⁽²⁷⁾ In fact, at least one writer has described the 1990s as the "lesbian baby boom."⁽²⁸⁾

Gay and lesbian couples become parents together in a variety of ways-- all requiring "a considerable amount of planning and coordination."⁽²⁹⁾ For lesbian and gay couples, "[d]eciding to become a parent is a conscious choice; it rarely happens by accident. It is often a carefully orchestrated undertaking, with focused attention to the personal, social, psychological, ethical and practical considerations."⁽³⁰⁾

In many lesbian couples, one of the partners bears a child conceived using a donor's sperm, and the other, if possible, legally adopts that child. As of 1990, one source estimated that between 5,000 to 10,000 lesbians had had children in this way,⁽³¹⁾ and the number has undoubtedly increased substantially since then.⁽³²⁾

In other cases gay and lesbian couples serve as foster parents, or choose for one or both parents to legally adopt a child.⁽³³⁾ The Vermont Supreme Court has already recognized the existence of families headed by same-sex parents in Vermont, *In re B.L.V.B.*, 160 Vt. 368 (1993)(affirming petitioner's right to adopt her same-sex partner's biological children on the same terms as any other stepparent), and the legislature has followed suit. 15A V.S.A. § 1-102(b) (1996) (codifying *In re B.L.V.B.*).

This growth in families with children headed by same-sex parents is not to be decried or discouraged: as set forth in detail below, social science research concerning such families unequivocally confirms that gay and lesbian couples are every bit as capable and caring parents as their heterosexual counterparts. See section III A.2, below. Not surprisingly, then, such research also confirms that the children of gay and lesbian couples are at least as happy, well-adjusted, intelligent, and morally developed as those raised by heterosexual parents. See section III A.3, below.

2. Gay and Lesbian Parents Possess Parenting Skills and Abilities Comparable To Their Heterosexual Counterparts

Those researchers who have studied the parenting skills and values of gay and lesbian parents have found them to be essentially the same as those of their heterosexual counterparts. Reviewing the pertinent studies of gay and lesbian parenting skills, researchers have concluded,

The home environments of lesbian and gay persons have been found to be as moral and as physically and psychologically healthy as those of non-gays. The research . . . makes it clear that lesbian and gay parents' attitudes and behaviors are very like those of other parents studied and that they facilitate their children's growing up in healthy, productive ways.⁽³⁴⁾

Social science research has supported this conclusion with respect to lesbian women and gay men.

a. Lesbian Women As Mothers

There is no evidence that lesbian mothers are less psychologically healthy than their heterosexual counterparts.⁽³⁵⁾ Moreover, study after study has confirmed that lesbian mothers are every bit as capable of effective parenting as heterosexual mothers. In one of the most recent studies comparing planned lesbian-mother families with heterosexual families, a group of researchers administered the Parent Awareness Skills Survey to 15 lesbian couples and 15 heterosexual couples with children.⁽³⁶⁾

The researchers found that "the lesbian couples were more aware of the skills necessary for effective parenting than were their heterosexual counterparts."⁽³⁷⁾

Similarly, in a 1982 study, three researchers evaluated the parenting approaches of 34 lesbian mothers and 47 heterosexual mothers.⁽³⁸⁾ The researchers presented a series of slides portraying situations involving children and asked the subjects to choose among prototypical responses. One set of responses was "adult-oriented," meaning they were characterized by assertion of adult power or control over the child; one was "child-oriented," evidencing a concern for the child's development and learning; and one was "task-oriented," meaning the responses focused on immediate problem resolution independent of the effect on either child or adult. Belying the suggestion that lesbian mothers are less interested in their children than their heterosexual counterparts, the researchers found that the mothers in the lesbian sample were more child-oriented in most responses.⁽³⁹⁾

As one team of researchers concluded, "while homosexuality may be a significant aspect of a lesbian mother's identity, her obligations to her children are likely to overshadow its expression and to mitigate the degree to which she sees her homosexuality as distinguishing her fate from that of other single mothers."⁽⁴⁰⁾ Researchers have similarly found that motherhood is the "organizing theme" for lesbian as well as heterosexual mothers, concluding, "The struggles of providing housing, child care, money, maintaining employment and raising their children, unite rather than divide lesbian and heterosexual single mothers."⁽⁴¹⁾

Moreover, research to date has demonstrated that lesbian mothers and heterosexual mothers have comparable attitudes toward sex roles. In a 1982 study, two investigators asked 22 lesbian mothers and a matched group of 22 heterosexual mothers to complete a Bem Sex Role Inventory questionnaire.⁽⁴²⁾ The mothers were also asked to complete the inventory, which is an accepted instrument for evaluating sex roles, for the ideal boy (for the half with boys) or the ideal girl (for the half with girls). Analyzing the mothers' responses, the investigators found no significant correlation between the sexual orientation of the mother and the classifications assigned to an "ideal" boy or an "ideal" girl.⁽⁴³⁾

In short, the social science research conducted to date is clear and unequivocal: lesbian women are as loving and capable as parents as their heterosexual counterparts.⁽⁴⁴⁾

b. Gay Men As Fathers

Research focusing on parenting skills and attitudes of gay fathers similarly confirms that gay men are suitable, and, indeed, admirable parents. Reviewing the applicable research concerning gay fathers, Frederick Bozett, a leading researcher in the field, reached a number of conclusions, including the following:

[B]eing gay is compatible with effective parenting; . . .

[T]he father's sexual orientation is of little importance in the overall father/child relationship; . . .

[G]ay fathers try harder to create stable home lives and positive relationships with their children than one would expect from traditional heterosexual parents; . . .

Gay fathers make efforts to provide opposite sex role models for their children; . . . and,

In comparison to heterosexual fathers . . . [g]ay fathers are more endorsing of paternal nurturance . . . less traditional in their overall paternal attitudes, have a substantial investment in the paternal role, and . . . assess themselves more positively in the performance of the paternal role.⁽⁴⁵⁾

These conclusions are consistent with various studies of gay fathers. For example, in 1992 two experts administered standard tests of parental attitudes and behaviors to 24 gay fathers and 29 non-gay fathers. Evaluating the data, they found, "[S]exual orientation of fathers is not a variable that significantly affects attitudes toward fathering nor responses to hypothetical child behavior."⁽⁴⁶⁾ The 1992 study reinforced the conclusions the same pair of researchers reached in a 1989 study in which they administered standard parent behavior tests to 33 gay fathers and 33 matched heterosexual fathers.⁽⁴⁷⁾ After analyzing the responses to those tests, the researchers concluded,

These results indicate that gay fathers tend to be more strict and consistently emphasize the importance of setting and enforcing limits on children's behavior significantly more as a group than non-gay fathers. Additionally, gay fathers state that they go to greater lengths than non-gay fathers in promoting cognitive skills of children by explaining rules and regulations to children. As such, they may place greater emphasis on verbal communications with children as compared with non-gay fathers. Gay fathers tend to be more responsive to perceived the needs of children than non-gay fathers.⁽⁴⁸⁾

These conclusions are consistent with those of a 1981 study which found that gay fathers were comparable to heterosexual fathers with respect to paternal problem solving dimensions, degree of emphasis on recreation, and encouragement of autonomy.⁽⁴⁹⁾ The gay fathers in the sample did reflect some differences: they tended to be more endorsing of paternal nurturance and less endorsing of economic providing as the principal role for a father. In addition, gay fathers demonstrated a more positive self-assessment of their performance in the paternal role than non-gay fathers, perhaps demonstrating a particular psychological investment in the paternal role.⁽⁵⁰⁾ Nothing in the study suggests that gay fathers are less suited to parent.⁽⁵¹⁾

In sum, all of the relevant research to date supports the conclusion that gay men are at least as capable and caring as fathers as their heterosexual counterparts

3. The Children of Gay and Lesbian Parents Are As Well Adjusted as Those of Their Heterosexual Counterparts

The applicable social science research bears out what Nina Beck and Stacy Jolles know to be true from their own family experiences: Children of gay or lesbian parents aren't significantly different from any other children. As one might expect, given the data consistently rating the parenting skills of gay or lesbian parents as comparable to those of heterosexual parents, "There is no evidence to suggest that psychosocial development among children of gay men or lesbians is compromised in any respect relative to that among offspring of heterosexual parents."⁽⁵²⁾ Dr. Charlotte Patterson reached this conclusion after thoroughly reviewing the dozens of studies focusing on the psychological and social development of children of gay or lesbian parents conducted prior to 1992. In an updated 1996 literature review, Professor Patterson and her co-author reiterated that "results of research to date suggest that children of lesbian and gay parents have normal relationships with peers and that their relationships with adults of both sexes are also satisfactory."⁽⁵³⁾ In fact, these experts explained, "The picture of lesbian mothers' children that emerges from results of existing research is one of general engagement in social life with peers, with fathers, and with mothers' adults friends--both male and

female, heterosexual and homosexual."⁽⁵⁴⁾

The American Psychological Association echoed this conclusion in a thorough 1995 review and summary of research on gay and lesbian parenting, and the children of gay and lesbian parents:

Not a single study has found children of gay or lesbian parents to be disadvantaged in any significant respect relative to children of 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 psychosocial growth.

Lesbian and Gay Parenting at 8 (American Psychological Association 1995).

Although limited sample sizes and the difficulty in obtaining random samples limits the impact of any individual study, the collective weight of the research unquestionably reinforces the conclusion that the children of gay or lesbian, or same-sex parents are as happy, healthy and well adjusted as their counterparts with heterosexual or different-sex parents.⁽⁵⁵⁾ Amici summarize the methods and findings of the most significant studies of children of gay and lesbian parents below.

a. Psychological Development

Only recently have researchers begun to focus on children raised from birth in planned gay or lesbian households, as opposed to children born in the context of a heterosexual marriage and then raised by a gay parent following divorce.

In the most recent such study to date, three researchers evaluated four groups of families who had conceived children through donor insemination--those formed by heterosexual couples (16), single heterosexual mothers (9), lesbian couples (34), and single lesbian mothers (21).⁽⁵⁶⁾ The researchers assessed the children's social competence and behavioral adjustment according to standard measures, relying on parent and teacher reports, and evaluated the parents' self-concepts, relationship satisfaction and parenting according to various accepted tests. The researchers found that children's outcomes were unrelated to parental sexual orientation, and that "it was impossible to distinguish children born to and brought up by lesbian versus heterosexual parents."⁽⁵⁷⁾ Instead, it was parenting stress, relationship adjustment between the parents, love between the parents, and conflict between the parents that affected the children's adjustment.⁽⁵⁸⁾ As the researchers concluded, "[O]ur results are consistent with the general hypothesis that children's well-being is more a function of parenting and relationship processes within the family...than it is a function of household composition or demographic factors."⁽⁵⁹⁾

Similarly, in another quite recent study, European researchers evaluated thirty families headed by two lesbian parents with a child aged 4 to 8 years conceived through donor insemination to matched groups consisting of thirty-eight heterosexual parent families with children of the same age who had conceived through donor insemination, and thirty heterosexual parent families with children of the same age who had not conceived through donor insemination.⁽⁶⁰⁾ The research sample of lesbian parent families was likely quite representative, as 100% of the mothers who had conceived through donor insemination at the Brussels University hospital during the relevant time period were included in the sample. The researchers found no differences in the behavioral adjustment of the children in the three groups, and noted, "The most important conclusion emerging from all these findings with regard to family functioning is 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 the children in the heterosexual control groups."⁽⁶¹⁾

In 1995, a group of researchers compared 15 lesbian couples and their 3 to 9 year old children born through donor insemination with 15 matched, heterosexual-parent families.⁽⁶²⁾ On the basis of the responses of the parents and teachers to standard testing instruments, these researchers found remarkable similarity between the children of lesbian and heterosexual parents with respect to behavioral adjustment.⁽⁶³⁾

In another recent study, Charlotte Patterson, an expert on the children of gay and lesbian parents, administered a variety of standard tests to the parents and children in 37 lesbian-headed families.⁽⁶⁴⁾ Patterson found that the children's social competence and behavior problems matched accepted norms for the general population. With respect to children's self-concepts, Patterson compared the sample group's test scores to a comparable sample of children growing up in middle-class heterosexual families. She found no differences between the children of lesbian and heterosexual mothers in self-concepts relevant to aggression, social closeness, and social potency. She did conclude that children of lesbian mothers reported greater stress reactions than children of heterosexual mothers, on the one hand, and, on the other, a greater overall sense of well-being. In other words, they more often felt angry, scared or upset, but also more often felt joyful, content and comfortable with themselves than did children of heterosexual mothers.⁽⁶⁵⁾

Another study focusing on twenty-two three to four year old children-- half raised by heterosexual couples and half raised from birth by lesbian couples, found that the presence of a female coparent, rather than a father, had no adverse effects on the separation-individuation process.⁽⁶⁶⁾

In contrast to the above studies, most research to date has compared the children of lesbian mothers, mostly divorced, to the children of divorced heterosexual mothers. By utilizing a control group of children being raised by divorced heterosexual mothers, researchers can take account of psychological issues which may arise from the fact that a child's parents have divorced rather than from the fact that the child's mother is lesbian.

For example, in a study published fifteen years ago, researchers evaluated 27 households headed by lesbian mothers, and 27 households headed by heterosexual, divorced mothers, and their 75 respective children.⁽⁶⁷⁾ The researchers did not identify any significant differences between the children of lesbian mothers and those of heterosexual mothers with respect to emotional difficulties, conduct difficulties, unsociability, or hyperactivity.⁽⁶⁸⁾ The researchers followed up with the subjects of this 1983 study in 1997, in an effort to obtain longitudinal information. Administering standard psychological tests to the available follow up subjects, the 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 interviews with the adult subjects revealed no significant differences with respect to mental health problems.⁽⁶⁹⁾

In 1985, a leading investigator employed three research groups rather than simply two, distinguishing between children whose divorced heterosexual mothers remarried and those whose mothers did not.⁽⁷⁰⁾ Evaluating 35 adult women in each group, and controlling for extraneous variables, the researcher found that the groups did not differ significantly in leadership ability, well-being, interpersonal flexibility, and self-confidence.⁽⁷¹⁾ The daughters of lesbian mothers and of remarried heterosexual

mothers scored higher than daughters of non-remarried heterosexual mothers with respect to the individuals' sense of security in the world and in relationships.⁽⁷²⁾

In 1981, a team of researchers evaluated 40 children ages 5 through 12--10 boys and 10 girls living full-time with divorced lesbian mothers, and 10 boys and 10 girls living in similar households with divorced heterosexual mothers.⁽⁷³⁾ They found no differences in the type or frequency of pathology between the two groups of children "by any measure . . . available."⁽⁷⁴⁾

Finally, there is no evidence that children of lesbian mothers feel any diminished sense of control relative to children of heterosexual mothers.⁽⁷⁵⁾

Most research to date has focused on the children of lesbian mothers, even though social scientists estimate that there are several million children of gay fathers in this country.⁽⁷⁶⁾ However, the research suggests that, "[C]hildren of homosexual fathers do not differ significantly from children reared in more traditional families. They appear to accept their fathers as gay and find ways to integrate this uniqueness into their lives."⁽⁷⁷⁾

b. Social Development and Peer Relations

The limited research to date which has focused on the peer relations of the children of gay and lesbian parents debunks the myth that such children suffer adverse effects as a result of social reactions to homosexuality.

In the first significant longitudinal study of the children of lesbian parents, noted above, a group of researchers compared 29 children of lesbian divorced mothers to 34 children of heterosexual divorced mothers.⁽⁷⁸⁾ Their study, published in 1983, detected no significant differences in the quality of peer relationships between the two groups.⁽⁷⁹⁾

Researchers followed up with as many of the subjects of that prior study as possible, and found that, as adults, children raised by lesbian mothers did not recall significantly more teasing by peers regarding their families than those raised by heterosexual single parents.⁽⁸⁰⁾

A 1989 study compared the scores on a standard instrument for measuring self-esteem of 18 adolescent children--9 boys and 9 girls--with lesbian mothers and 18 matched adolescents with heterosexual mothers.⁽⁸¹⁾ The results reflected no significant difference in self-esteem among the two groups of adolescents.

Similarly, in a 1986, a group of researchers compared 56 children of 50 lesbian mothers with a matched sample of 48 children of 40 heterosexual mothers and found no significant differences between the two groups with respect to the children's self-ratings of popularity or the mothers' descriptions of the children's popularity.⁽⁸²⁾ These conclusions are consistent with those of other researchers who have similarly found no significant difference in the quality of peer relationships between children of lesbian divorced mothers and children of heterosexual divorced mothers.⁽⁸³⁾

As the American Psychological Association concluded, "the picture of lesbian mothers' children that emerges from results of existing research is thus one of general engagement in social life with peers, with fathers, and with mothers' adult friends--both male and female, both heterosexual and

homosexual.⁽⁸⁴⁾

c. Moral Development

One researcher has administered a standard test of moral reasoning and development to matched groups of children of heterosexual and lesbian mothers.⁽⁸⁵⁾ The test instrument presented the children with a series of scenarios, ranging from a terminally ill patient wishing to hasten her own death through increased doses of painkillers to a teenage girl learning that her sister had lied to their mother about where she was one Saturday.⁽⁸⁶⁾ Scoring the children's responses according to accepted guidelines, the researcher found no significant difference in moral maturity between the two groups.⁽⁸⁷⁾

d. Intelligence

The few studies to date comparing the intellectual development of children of lesbian and heterosexual mothers found no differences in intelligence between the two groups. For example, in the most recent such study, a group of researchers found no correlation between parental sexual orientation and the children's scores on cognitive functioning tests administered to 15 children raised from birth by lesbian mothers and 15 matched children raised in heterosexual households.⁽⁸⁸⁾ This conclusion supports the findings of other researchers comparing the intelligence of children raised by divorced lesbian mothers and divorced heterosexual mothers.⁽⁸⁹⁾

e. Relations With Adults of Both Sexes

The Vermont legislature apparently recognizes the impropriety of broad generalizations about the effects on children of living with an adult of the same or different sex, unequivocally directing courts not to consider the sex of the child or the sex of the proposed custodial parent in determining the best interests of the child. 15 V.S.A. § 665(c); Hubbell v. Hubbell, ___ Vt. ___, 702 A.2d 129, 8 Vt. L. Wk. 249 (September 1997); see also In re B.L.V.B., 160 Vt. 368 (1993).

Even if courts could consider the impact on children of spending time with adults of the same sex, or of the opposite sex, social science research undermines the myth that children raised in lesbian households do not have access to positive male role models, or that children raised by gay males do not spend time with adult women. In fact, research to date comparing the habits of divorced lesbian women to those of divorced heterosexual women suggests that the former group actually makes *more* of an effort to expose children to adult males, including their fathers.⁽⁹⁰⁾

f. Gender Identity and Sexual Orientation

Belying outdated myths about children of gay or lesbian parents, contemporary social science research has not uncovered any differences between the children of gay parents and the children of heterosexual parents in terms of gender identity or sexual orientation.⁽⁹¹⁾ In a thorough 1996 literature review, two scholars reviewed four studies concerning the gender identity, eight studies concerning the gender-role behavior, and thirteen studies concerning the sexual orientation of children of gay or lesbian parents.⁽⁹²⁾ The researchers concluded,

Although studies have assessed over 300 offspring of lesbian or gay parents in many different samples, no evidence has been found for disturbances in the development of sexual identity among these

individuals. Fears about difficulties with sexual identity among children of gay and lesbian parents have not been supported by the results of empirical research.⁽⁹³⁾

In sum, in their capacity as parents, just as in their capacity as committed and devoted partners, long term, committed gay and lesbian couples are functionally equivalent to their heterosexual counterparts.⁽⁹⁴⁾ For the reasons set forth above, there is no sound basis for distinguishing, either in the interpretation of Vermont's marriage laws or in the application of Vermont's Constitution, between committed gay and lesbian couples seeking to marry and comparable heterosexual couples wishing to do so.

B. Recognition Of Marriages Between Partners of the Same Sex Will Benefit the Children of Same-Sex Parents by Creating A Legal Relationship Between the Children's Parents

1. Children Benefit When They Can Enjoy Healthy, Loving Relationships With Both Parents In The Context Of A Healthy, Happy Intact Family.

That parental breakup can be a difficult, and often destructive, experience for children is not seriously disputed. The process of divorce is, in the short run, generally difficult for children. A group of researchers followed 144 parents and their children--half non-divorced families and half post-divorce mother-custody families, and reported the following:

During the first 2 years following divorce, most children . . . experienced emotional distress; psychological, health, and behavioral problems; disruptions in family functioning; and problems in adjusting to new roles, relationships, and life changes associated with the altered family situation.⁽⁹⁵⁾

Moreover, much research suggests that adults who experienced parental divorce as children experience lower levels of well-being than do adults whose parents were continuously married. For example, in 1991 a pair of researchers conducted a statistical meta-analysis, incorporating the findings of 37 studies involving over 81,000 individuals.⁽⁹⁶⁾ They found that across a wide variety of variables, ranging from psychological adjustment to separation or divorce as adults to educational attainment to income, adults who experienced parental divorce as children enjoyed diminished well being relative to those whose parents remained married.⁽⁹⁷⁾

Researchers have identified several possible explanations for the discrepancies. First, divorce typically leads to a dramatic decline in children's standards of living. These economic pressures can affect a child's growth and opportunities in a variety of ways.⁽⁹⁸⁾ Second, some researchers have found that living with one parent rather than two yields disadvantages such as decrease in parental contact and loss of parental role models.⁽⁹⁹⁾ Finally, the trauma of the process of divorce itself, and the associated family changes, may disrupt children's schooling, relationships and development in ways that have long-lasting implications.⁽¹⁰⁰⁾

Research about the effects of parental separation on children has focused on children of opposite-sex parents. However, there is no reason to believe that parental discord and breakups are any more or less difficult for or detrimental to children of same-sex parents. The economic dislocations that flow from a parental separation, the necessary adjustment to a single parent home, and the emotional trauma of the breakup itself are apt to be very similar for children, regardless of whether their parents are of the same, or different sexes. Accordingly, it is fair to conclude that children of same-sex parents, like their counterparts with different-sex parents, are generally better off when their parents stay together in a

healthy relationship.⁽¹⁰¹⁾

2. Legal Marriage Can Fortify Committed Relationships Between Parents

Under current law, same-sex parents can both establish legal ties to the children they are raising together through stepparent adoption. 15 V.S.A. § 1-102(b). However, those same parents cannot, under current law as interpreted by the State, gain access to the protections, supports and obligations that accompany legal recognition of their relationships to one another. Although they may share a common legal status with their child or children, in the eyes of the law they remain legal strangers to one another.

Legal marriage obviously does not prevent committed partners, including parents, from breaking up, or guarantee that they will maintain a healthy, loving relationship. In fact, in this era, at least half of all heterosexual marriages will end in divorce.⁽¹⁰²⁾ Nor is legal recognition essential to a long term, committed relationship. As noted above, see section II, many same-sex couples thrive in long term committed relationships even without the legal, economic and social supports accompanying civil marriage.

Nonetheless, as noted above, research suggests that civil 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.⁽¹⁰³⁾ That may be because individuals fare better when they enjoy community and social supports,⁽¹⁰⁴⁾ or because married partners report the most barriers to their leaving their relationship, and, by inference, a greater incentive to work through difficulties.⁽¹⁰⁵⁾

The legal, economic and social supports that accompany civil marriage can only enhance the quality and hence durability of relationships between partners, and parents, of the same sex.⁽¹⁰⁶⁾ The additional stability such protections would therefore provide for the children of same-sex parents would, accordingly, benefit the children of same-sex parents.

3. The Supports of Civil Marriage, Including Stronger Partnerships With Spouses, Can Promote Better Parenting

Just as community and social supports can reinforce the relationships between parents, such supports can promote better parenting. Psychological theory predicts that social support, whether emotional, instrumental, or informational, can promote better parenting.⁽¹⁰⁷⁾ Field research has confirmed the link between social support, parenting, and child behavior. For example, a series of studies of families with babies with special needs (retarded, handicapped, premature, developmentally at-risk, or irritable babies) confirmed the correlation between social supports, including supportive intimate relationships, and mothers' adaptation and engagement with their babies.⁽¹⁰⁸⁾ Similar studies of low-income families, adolescent mothers, single-parent families, and abusive parents have similarly reinforced the conclusion that social support, including emotionally supportive relationships with partners and concrete help that reduces the number of tasks or responsibilities a parent must perform, is positively associated, likely in a causal way, with desirable parenting behavior.⁽¹⁰⁹⁾

4. Recognition of Marriages Between Partners of the Same Sex Would Also Benefit Children In the Stepfamily Context

Not all marriages and committed relationships endure forever, and individuals and parents frequently repartner after divorce. Indeed, about a quarter of all children born in the late 1960s could be expected to acquire a stepparent before reaching the age of 18, and the figure might be slightly higher for children born today.⁽¹¹⁰⁾

In contrast to research on the effects of parental divorce on children, which has, to date, focused on the children of heterosexual parents, researchers have actually investigated the effects on children when a parent divorces the other, different-sex parent and then repartners with a partner of the same sex. They have found that children of divorced, lesbian mothers who are divorced from their husbands are generally better off when their mother is repartnered with another woman than when she is single. As one researcher concluded,

Children of both lesbian mothers and heterosexual mothers had higher [self-esteem] scores if their mothers were currently living with a lover or remarried. . . . This would indicate that whether the mother was lesbian or heterosexual, these adolescents felt better about themselves if their mothers were in a stable live-in relationship.⁽¹¹¹⁾

Moreover, researchers have found that an important factor in adolescent happiness in stepfamily life, where a child's gay father is partnered with another man, is genuine inclusion of the stepfather into a stepfamily.⁽¹¹²⁾ In fact, the psychological inclusion of the stepfather into the father-child relationship and the creation of a good relationship between stepfather and stepchild appear to be more important than relations with ex-wives, money issues, family cohesion, and even the father-child relationship as determinants of happiness within stepfamilies formed by gay fathers, their children, and their partners.⁽¹¹³⁾

Thus, in the stepfamily context, as in the two-parent family context, recognition of marriages between partners of the same sex would benefit the children of gay and lesbian parents.

C. Recognition of Marriages Between Partners of the Same Sex Will Help to Eliminate State-Sanctioned Stigmatization of the Children of Same Sex Parents

Although research to date confirms that children of gay and lesbian parents are as happy and well adjusted as those of heterosexual parents, research also suggests that when children of gay and lesbian parents do have difficulties, those problems stem from the lack of social and legal support for their family structures rather than any intrinsic shortcoming of the family structure itself. To the extent that some children may experience difficulties as a result of societal reactions to their lesbian mothers or gay fathers, those difficulties could only be mitigated, rather than exacerbated, by lifting the cloud of legal second-class status that hangs over gay and lesbian headed families.⁽¹¹⁴⁾

IV. CONCLUSION

For the foregoing reasons, Amici urge this Court to extend to *all* committed couples, whether same-sex or opposite-sex, the protections, supports and legal obligations of civil marriage-- both for the benefit of the couples themselves, and for their children.

Respectfully submitted this ____ day of March, 1998.

DINSE, KNAPP & McANDREW, P.C.

By: _____

Philip C. Woodward, Esquire Karen McAndrew, Esquire

Footnotes

1. Special thanks to Esther Rothblum, Ph.D., Professor of Psychology, University of Vermont, Jacqueline S. Weinstock, Ph.D., Assistant Professor, Human Development Family Studies, University of Vermont, Lynne Bond, Ph.D., Professor of Psychology, University of Vermont, M. Brooke Barss, M.D. of the Vermont Psychiatric Association, Jeffrey Martin, Ph.D. of Behavioral Medicine Services and Luther Brown of the Vermont Chapter of the National Association of Social Workers, for their comments.
2. The role of child-rearing in marriage is sometimes overstated. The 1990 United States Census found more households headed by married couples without children living at home (29.8%) than households headed by married couples with children at home (26.3%). Sam Roberts, *Who We Are: A Portrait of America Based on the Latest U.S. Census* (Random House 1992).
3. Surveys indicate that between 45 and 80 percent of lesbian women, and between 40 and 60 percent of gay men are currently involved in a steady romantic relationship. Lawrence A. Kurdek, *Lesbian and Gay Couples*, in *LESBIAN, GAY AND BISEXUAL IDENTITIES OVER THE LIFESPAN* at 243 (Anthony R. D'Augelli & Charlotte J. Patterson, eds., 1995). The National Lesbian Health Care Survey in the mid-1980s found that 60 percent of lesbian women were involved in a primary relationship with another woman at the time of the survey-- nearly the same as the percentage of the United States adult female population that is legally married (62 percent in 1984). National Lesbian Health Care Survey, Final Report, p. 13 (National Lesbian and Gay Health Foundation, Virginia Commonwealth University).
4. A. Steve Bryant and Demian, *Relationship Characteristics of American Gay and Lesbian Couples: Findings From a National Survey*, 1(2) Soc. Services for Gay and Lesbian Couples 101, 105 (1994).
5. Philip Blumstein and Pepper Schwartz, *American Couples*, 307-08 (William Morrow and Company, Inc. 1983).
6. David P. McWhirter & Andrew M. Mattison, *The Male Couple- How Relationships Develop* at 116-17 (Prentice-Hall, 1984).
7. Lawrence A. Kurdek, *Relationship Quality in Partners from Heterosexual Married Versus Gay Cohabiting and Lesbian Cohabiting Couples*, J. of Marriage & the Fam. (forthcoming) (manuscript at 2). Participation gradually dropped off in each demographic each successive year from Year 1 to Year 5 of the study.
8. *Id.* at 23.
9. Kurdek and Schmitt, *Relationship Quality of Partners in Heterosexual Married, Heterosexual Cohabiting, and Gay and Lesbian Relationships*, 51(4) J. of Personality and Soc. Psychol. 711 (1986).
10. *Id.* at 717. (Heterosexual cohabiting couples did not differ with respect to liking of partner, but had lower scores rating love for partner and relationship satisfaction.)
11. *Id.* at 718.

12. Sally M. Duffy & Caryl E. Rusbult, *Satisfaction and Commitment in Homosexual and Heterosexual Relationships*, 12(2) *J. Homosexuality* 1, 21 (Winter 1985/86).
13. Lititia Anne Peplau and Susan D. Cochran, *A Relationship Perspective on Homosexuality*, in *HOMOSEXUALITY/HETEROSEXUALITY* at 321, 333 (David P. McWhirter, Stephanie A. Sanders & June Machover Reinisch, eds., 1990) (relying on their prior research reported in "Sex Differences in Values Concerning Love Relationships," a paper presented at the annual meeting of the American Psychological Association in Montreal, Canada in September, 1980).
14. *Id.*
15. *Id.* at 334.
16. David P. McWhirter & Andrew M. Mattison, *The Male Couple; How Relationships Develop*, *supra* note 6, at 118.
17. *Id.* at 119.
18. *Id.* at 120.
19. Lawrence A. Kurdek & J. Patrick Schmitt, *Relationship Quality of Partners in Heterosexual Married, Heterosexual Cohabiting, and Gay and Lesbian Relationships*, *supra* note 9, at 717 (1986).
20. *See, e.g., id.* at 718.
21. Janis S. Bohan, *Psychology and Sexual Orientation-Coming to Terms*, at 196 (Routledge 1996).
22. *Id.*
23. *See, e.g.,* Esther D. Rothblum, *Depression Among Lesbians: An Invisible and Unresearched Phenomenon*, 1(3) *J. of Gay & Lesbian Psychotherapy* 67, 69 (1990) ("Brown's research in England found that women who did not have an intimate, confiding relationship and who were experiencing life stress were ten times more likely to experience depression than those women who were stressed but who had an intimate partner.") (internal citations omitted).
24. Stephen F. Morin and Esther Rothblum, *Removing the Stigma*, 46 *Am. Psychologist* 947, 948 (American Psychological Association, September, 1991) (noting societal barriers to developing positive gay and lesbian identities, and work of American Psychological Association to counter or remove such barriers).
25. *Amici* do not mean to suggest that children are better off when their parents stay together in a conflict-ridden home. That would be a controversial proposition. Rather, we simply argue that children are better off when their parents maintain a stable, committed and loving relationship.
26. Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, 63 *Child Development* 1025, 1026 (1992) (citing estimates from various sources).
27. Numerous social scientists have noted an increase in the number of children conceived or adopted by lesbians outside of the context of a heterosexual relationship. *Id.*; Charlotte J. Patterson, *Children of*

the Lesbian Baby Boom, in LESBIAN AND GAY PSYCHOLOGY, at 156 (Beverly Greene & Gregory M. Herek, eds., 1994) (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); Cheri A. Pies, *Lesbians and the Choice to Parent*, 14 Marriage and Fam. Rev. 137 (1990) (growing numbers of lesbians are having, adopting and raising children after "coming out") (The entire edition of 14 Marriage and Family Review was simultaneously published as Frederick W. Bozett and Martha B. Sussman, eds, *Homosexuality and Fam. Relations* (Harrington Park 1990). Accordingly, although citations herein will refer to the Marriage and Family Review, articles cited from that journal can also be found in *Homosexuality and Fam. Relations.*); Louise Rafkin, *Different Mothers* at 9 (Cleis Press 1990) (lesbians are "smack in the middle of our own 'gayby boom'"); Alisa Steckel, *Psychosocial Development of Children of Lesbian Mothers.*, in *Gay and Lesbian Parents* at 75, 80 (Frederick W. Bozett, ed, 1987) (noting increase in numbers of lesbians having children outside the context of heterosexual relationships); Fiona L. Tasker & Susan Golombok, *Growing Up in a Lesbian Family* at 11 (The Guilford Press, 1997) ("In recent years a growing number of lesbian women have become parents after coming out.").

28. Charlotte J. Patterson, *Children of the Lesbian Baby Boom*, supra note 27, at 156.

29. Pies, *Lesbians and the Choice to Parent*, supra note 27, at 139.

30. Id.

31. This estimate was attributed to Roberta Achtenberg, then executive director of the National Center for Lesbian Rights, in Jean Seligman, "Variations on a Theme," Newsweek, Special Edition: 21st Century Family 38, 39 (Winter/Spring 1990).

32. See supra note 27, above.

33. Wendell Ricketts & Roberta Achtenberg, *Adoption and Foster Parenting for Lesbians and Gay Men: Creating New Traditions in Family*, 14 Marriage and Fam. Rev. 83, 105 (1990).

34. G. Dorsey Green & Frederick W. Bozett, *Lesbian Mothers and Gay Fathers*, in, HOMOSEXUALITY: RESEARCH IMPLICATIONS FOR PUBLIC POLICY at 197, 211 (John C. Gonsiorek & James D. Weinrich, eds., 1991).

35. See, e.g., Richard Green, Jane Mandel, Mary Hotvedt, James Gray & Laurel Smith, *Lesbian Mothers and their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children*, 15 Archives of Sexual Behav. 167, 173-4 (1986)(applying standard psychological tests to lesbian and heterosexual mothers and finding higher scores for lesbian mothers with respect to self-confidence, dominance (seeking leadership roles), and exhibition (eliciting attention from others), and higher scores for the heterosexual mothers with respect to abasement (expressing feelings of inferiority) and deference (seeking subordinate roles in relation to others); Catherine Rand, Dee L. R. Graham, & Edna I. Rawlings, *Psychological Health and Factors the Court Seeks to Control in Lesbian Mother Custody Trials*, 8(1) J. of Homosexuality 27, 32 (1982) (administering standard psychological tests to 25 lesbian mothers and finding them to be at least as psychologically healthy as the larger standardized sample).

36. David K. Flaks, Ilda Ficher, Frank Masterpasqua, & Gregory Joseph, *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and their Children*, 31

Developmental Psychol. 105 (1995).

37. *Id.* at 112.

38. Judith Ann Miller, R. Brooke Jacobsen, & Jerry J. Bigner, *The Child's Home Environment for Lesbians Vs. Heterosexual Mothers: A Neglected Area of Research*, 7(1) *J. of Homosexuality* 49, 52-56 (1981).

39. *Id.* at 55. A similar study three years earlier had found no significant differences between the responses of 34 lesbian mothers and 47 heterosexual mothers recruited from the PTA. Bonnie M. Mucklow and Gladys K. Phelan, *Lesbian and Traditional Mothers' Responses to Adult Responses to Child Behavior and Self-Concept*, 44 *Psychological Rep.* 880 (1979).

40. Ellen Lewin and Terrie A. Lyons, *Everything in Its Place, The Coexistence of Lesbianism and Motherhood*, in *HOMOSEXUALITY-SOCIAL, PSYCHOLOGICAL AND BIOLOGICAL ISSUES* at 249, 272 (William Paul, James Weinrich, John Gonsiorek & Mary Hotvedt, eds, 1982). This study involved mothers who originally conceived their children in the context of a heterosexual relationship, and who came out as gay or lesbian following a breakup. In order to factor out the effects of divorce, rather than sexuality, the researchers compared single lesbian mothers who were previously married to single heterosexual mothers who were previously married.

41. Terrie A. Lyons, *Lesbian Mothers' Custody Fears*, 2 *Women and Therapy* 231, 239 (Summer/Fall 1983) (comparing 43 lesbian women to 37 matched heterosexual women). Like the study cited above, this study compared divorced lesbian mothers to matched, divorced heterosexual mothers.

42. Sally L. Kweskin and Alicia S. Cook, *Heterosexual and Homosexual Mothers' Self-Described Sex-Role Behavior and Ideal Sex-Role Behavior in Children*, 8 *Sex Roles* 967 (1982).

43. *Id.* at 971.

44. See also P. J. Falk, *Lesbian Mothers: Psychosocial Assumptions in Family Law*, 44 *Am. Psychologist* 941, 947 (1989) ("[N]o research to date has substantiated courts' assumptions that lesbian women make poor mothers or that a gay sexual orientation weakens or undermines a woman's parenting ability."); Mary B. Harris & Pauline H. Turner, *Gay and Lesbian Parents*, 12(2) *J. Homosexuality* 101, 111 (Winter 1985/86) (finding few differences in maternal attitudes between responses of 13 anonymous lesbian mothers and 14 anonymous heterosexual mothers to questionnaire concerning parenting and family issues); Laura Lott-Whitehead & Carol T. Tully, *The Family Lives of Lesbian Mothers*, 63 *Smith College Studies in Social Work* 265, 277-78 (1993) (evaluating 45 lesbian mothers and concluding that the women were cognizant of the impact of their sexual orientation on their children, and attempted to shield their children from negative societal messages, and that the mothers were "vigilant about maintaining the integrity of their families").

45. Frederick W. Bozett, *Gay Fathers: A Review of the Literature*, 18 *J. Homosexuality* 137, 152-54 (1989).

46. Jerry J. Bigner & R. Brooke Jacobsen, *Adult Responses to Child Behavior and Attitudes Toward Fathering: Gay and Nongay Fathers*, 23(3) *J. Homosexuality* 99, 108 (1992).

47. Jerry J. Bigner & R. Brooke Jacobsen, *Parenting Behaviors of Homosexual and Heterosexual*

Fathers, 18 J. Homosexuality 173 (1989).

48. *Id.* at 180.

49. Raymond Michael Scallen, *An Investigation of Paternal Attitudes and Behaviors in Homosexual and Heterosexual Fathers*, at 46-58, unpublished doctoral dissertation, California School of Professional Psychology, Los Angeles (1981).

50. *Id.*

51. *See also* Mary B. Harris & Pauline H. Turner, *Gay and Lesbian Parents*, *supra* note 44, at 113 (1985/1986) (comparing gay fathers, non-gay fathers, lesbian mothers and nonlesbian -lesbian mothers and finding no significant differences in the parents' relationships with their children).

52. Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, *supra* note 27, at 1037 (1992).

53. Charlotte J. Patterson & Richard E. Redding, *Lesbian and Gay Families with Children: Implications of Social Science Research for Policy*, 52(3) J. of Soc. Issues 29, 41, 43 (1996).

54. *Id.* Other researchers reviewing the literature have reached the same conclusion. Jerry J. Bigner & 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"); *see, e.g.*, A. Brewaeys and E.V. Van Hall, *Lesbian Motherhood: the Impact on Child Development and Family Functioning*, 18 J. Psychosom; Obstet. Gynecol. 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"); David Cramer, *Gay Parents and Their Children: A Review of Research and Practical Implications*, 64 J. Of Counseling and Dev. 505 (April 1986) ("[T]he research seems to refute the notion that gay parents will produce gay children or disturbed children in numbers greater than might be expected of nongay parents."); Patricia J. Falk, *Lesbian Mothers: Psychosocial Assumptions in Family Law*, 44 Am. Psychologist 941, 944 (1989) ("[N]o evidence exists for a direct relationship between a mother's sexual orientation and the mental health of her offspring."); Julie Schwartz Gottman, *Children of Gay and Lesbian Parents*, 14 Marriage and Fam. Rev. 177, 186 (1990) ("In general, none of the above studies on children of lesbian mothers and gay fathers reported negative effects on children relative to their parent's sexual orientation. Children did not appear deviant in gender identity, sexual orientation, or social adjustment."); G. Dorsey Green & Frederick W. Bozett, *Lesbian Mothers and Gay Fathers*, *supra* note 34, at 198. ("[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."); Martha Kirkpatrick, *Clinical Implications of Lesbian Mother Studies*, 14 J. Homosexuality 201, 207 (1987) ("[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."); Martha Kirkpatrick, *Lesbian as Parents*, Textbook Homosexuality and Mental Health at 353, 368 (American Psychiatric Press, 1996) (reviewing research on gay and lesbian parents and their children and concluding, "Clearly, family process, rather than family structure, is the significant feature in a child's development."); Barbara McCandlish, *Against All Odds: Lesbian Mother and Family Dynamics*, in GAY AND LESBIAN PARENTS, at 23 (Frederick W. Bozett, ed. 1987) ("Available research continues to demonstrate that in spite of social and legal difficulties lesbian and gay parents provide effective parenting for their children. [citing studies]. The children of gay and lesbian parents have no more frequent psychiatric

problems and gender dysfunction than do the children of heterosexual parents."); Ann O'Connell, *Voices From the Heart: The Developmental Impact of a Mother's Lesbianism On Her Adolescent Children*, 63 *Smith College Studies in Social Work* 281, 284 (June 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); Charlotte J. Patterson & Raymond W. Chan, *Gay Fathers*, in *THE ROLE OF THE FATHER IN CHILD DEVELOPMENT*, at 245, 260 (M. E. Lamb, ed., 3rd ed., 1997) ("On the basis of existing research, we can conclude that there is no reason 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."); Saralie B. Pennington, *Children of Lesbian Mothers*, in *GAY AND LESBIAN PARENTS*, at 72 (Frederick W. Bozett, ed., 1987) ("[I]n lesbian mother families the children's problems and family psychopathology are not necessarily correlated with the mother's sexual orientation. What is most important is the quality of mothering, and the quality of the relationships in the household."); Cheri A. Pies, *Lesbians and the Choice to Parent*, 14 *Marriage and Fam. Rev.* 137, 140 (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").

55. This conclusion is further bolstered by a 1996 meta-analysis, combining the objective data of eighteen studies of children raised by gay or lesbian parents. Mike Allen & Nancy Burrell, *Comparing the Impact of Homosexual and Heterosexual Parents on Children: Meta-Analysis of Existing Research*, 32(2) *J. of Homosexuality* 19, 30 (1996). A meta-analysis can help overcome the limitations in individual studies, such as limited sample sizes, by cumulating objective data from all reported studies. This meta-analysis collated data from 18 different studies with respect to parents' ratings of child-parent interaction, parental attitude about sexual development, parental rating of child's level of satisfaction, teacher rating of child's behavior at school, children's sexual orientation, children's satisfaction with life, and children's cognitive development.

56. Raymond W. Chan, Barbara Raboy, & Charlotte J. Patterson, *Psychosocial Adjustment Among Children Conceived Via donor Insemination By Lesbian And Heterosexual Mothers*, 69 *Child Dev.* (forthcoming April 1998).

57. *Id.* at 21.

58. *Id.* at 23.

59. *Id.* at 24.

60. A. Brewaeys, I. Ponjaert, E.V. Van Hall, and S. Golombok, *Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families*, 12 *Human Reproduction* 1349 (1997).

61. *Id.* at 1356.

62. David K. Flaks, Ilda Ficher, Frank Masterpasqua, & Gregory Joseph, *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and their Children*, 31 *Developmental Psychol.* 105, 109 (1995).

63. Id. at 112.

64. Patterson, Children of the Lesbian Baby Boom, in *Lesbian & Gay Psychol.*, *supra* note 27, at 159.

65. Id. at 166-68.

66. Alisa Steckel, *Psychosocial Development of Children of Lesbian Mothers*, in GAY AND LESBIAN PARENTS, *supra* note, at 75, 81; Alisa Steckel, *Separation-Individuation in Children of Lesbian and Heterosexual Couples* at 193, unpublished doctoral dissertation, Wright Institute, Berkeley, CA (1985) ("The findings of the present study challenge the father-absence theorists who claim that a male figure is necessary for the development of a child's sense of self as separate and autonomous. Instead, what might be more relevant is to have two parenting figures available.").

67. Susan Golombok, Ann Spencer, and Michael Rutter, *Children In Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal*, 24 *J. Child Psychol. & Psychiat.* 551, 554 (1983).

68. Id. at 565-66.

69. Fiona L. Tasker & Susan Golombok, *Growing Up in a Lesbian Family*, 135-36 (The Guilford Press, 1997).

70. Julie Schwartz Gottman, *Children of Gay and Lesbian Parents*, 14 *Marriage and Fam. Rev.* 177, 188 (1990); see also Julie Schwartz, *An Exploration of Personality Traits in Daughters of Lesbian Mothers*, at 134-144, unpublished doctoral dissertation, California School of Professional Psychology, San Diego, CA (1985). Gottman did not distinguish between subjects whose divorced lesbian mothers had and had not repartnered.

71. Gottman, *Children of Gay and Lesbian Parents*, *supra* note 70, at 189.

72. Id. at 189-90.

73. Martha Kirkpatrick, Catherine Smith & Ron Roy, *Lesbian Mothers and Their Children: A Comparative Study*, 51 *Am. J. of Orthopsychiatry* 545, 546 (1981).

74. Id. at 548.

75. Two different researchers-- one focusing on elementary school children and one on teenagers-- have compared the sense of control experienced by the children of lesbian and heterosexual mothers, and neither found any evidence of differences between the two groups. Debra Lynn Puryear, *Familial Experiences: A Comparison Between the Children of Lesbian Mothers and the Children of Heterosexual Mothers*, at 53-57, unpublished doctoral dissertation, California School of Professional Psychology, Berkeley, CA (1983); Richard Louis Rees, *A Comparison of Children of Lesbian and Single Heterosexual Mothers on Three Measures of Socialization*, unpublished doctoral dissertation, California School of Professional Psychology, Berkeley, CA (1979).

76. Julie Schwartz Gottman, *The Children of Gay and Lesbian Parents*, *supra* note 70, at 183.

77. Robert L. Barrett & Bryan E. Robinson, *Children of Gay Fathers*, in *GAY FATHERS* at 90-91

(Lexington Books, 1990).

78. Susan Golombok, Ann Spencer, & Michael Rutter, *Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal*, 24 J. Child Psychol. & Psychiat. 554 (1983).

79. Id. at 567.

80. Fiona L. Tasker & Susan Golombok, *Growing Up in a Lesbian Family*, *supra* note 69, at 86.

81. Sharon L. Huggins, *A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers*, 17 J. of Homosexuality 123 (1989).

82. Richard Green, Jane B. Mandel, Mary E. Hotvedt, James Gray, & Laurel Smith, *Lesbian Mothers and Their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children*, 15 Archives of Sexual Behav. 167, 174 (1986).

83. Mary E. Hotvedt & Jane B. Mandel, *Children of Lesbian Mothers*, in HOMOSEXUALITY-SOCIAL, PSYCHOLOGICAL AND BIOLOGICAL ISSUES, at 280, 282 (comparing 58 children of 50 single lesbian mothers to a matched group of 25 children of 20 single heterosexual mothers and finding no differences in peer group relationships among boys and, if anything, that daughters of lesbian mothers reported that they were more popular than daughters of heterosexual women).

84. *Lesbian and Gay Parenting*, at 6 (Am. Psychol. Assoc. 1995)

85. Richard Louis Rees, *A Comparison of Children of Lesbian and Single Heterosexual Mothers on Three Measures of Socialization*, unpublished doctoral dissertation, California School of Professional Psychology, Berkeley, CA (1979).

86. Id. at 131-140.

87. Id. at 73-74 and Table 4.

88. David K. Flaks, Ilda Ficher, Frank Masterpasqua & Gregory Joseph, *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children*, 31 Developmental Psychol. 105, 109 (1995).

89. See, e.g., Richard Green, Jane B. Mandel, Mary E. Hotvedt, James Gray, & Laurel Smith, *Lesbian Mothers and their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children*, 15 Archives of Sexual Behav. 167, 174 (1986) (comparing 56 children of 50 lesbian women to matched control group of 48 children of 40 heterosexual women); Martha Kirkpatrick, Catherine Smith, & Ron Roy, *Lesbian Mothers and Their Children: A Comparative Study*, 51(3) Am. J. Orthopsychiatry 545, 547 (1981) (comparing 20 children of lesbian women to matched control group of 20 children of heterosexual mothers).

90. See, e.g., Susan Golombok, Ann Spencer & Michael Rutter, *Children In Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal*, 24(4) J. Child Psychol. & Psychiat. 551, 557 (1983) (relative to heterosexual mothers in the sample group, a substantially higher percentage of lesbian mothers maintained regular contact with the children's fathers). In a follow-up of

the above study, published in 1997, Susan Golombok and Fiona Tasker reported that the young adults raised by lesbian and heterosexual mothers reported comparable relationships with their respective fathers. Tasker & Golombok, *Growing Up in a Lesbian Family*, *supra* note 69, at 55; see also Martha Kirkpatrick, *Clinical Implications of Lesbian Mother Studies*, 14 J. Homosexuality 201, 204 (1987) (discussing prior research suggesting that lesbian mothers were more concerned that their children have opportunities for good relations with adult men than the heterosexual mothers, had more male family friends, and included male relatives more regularly in the children's activities).

91. In discussing this much-researched issue, *Amici* do not intend to suggest that if parental sexual orientation *did* affect children's sex role development or sexual orientation, parenting by gay or lesbian parents would be problematic. Although children exhibiting stunted moral development, difficult peer relations or psychological difficulties may raise public policy concerns, *Amici* submit that children adopting atypical sex role behavior or a same-sex sexual orientation do not present public policy concerns as long as those children are otherwise healthy and well adjusted.

92. Charlotte J. Patterson & Richard E. Redding, *Lesbian and Gay Families with Children: Implications of Social Science Research for Policy*, 52(3) J. of Soc. Issues 29, 39-41 (1996).

93. *Id.* at 41; see also Michael Bailey, David Bobrow, Marilyn Wolfe, & Sarah Mikach, *Sexual Orientation of Adult Sons of Gay Fathers*, 31(1) Developmental Psychol. 124 (1995) (studying 82 adult sons of gay fathers and finding only approximately 10% to be gay or bisexual); Susan Golombok, Ann Spencer & Michael Rutter, *Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal*, 24 J. Child Psychol. 551, 562-64 (1983) (no significant difference between children of 27 divorced heterosexual mothers and those of 27 divorced lesbian mothers with respect to gender identity, sex role behavior and sexual orientation); Susan Golombok & Fiona Tasker, *Do Parents Influence the Sexual Orientation of Their Children? Findings from a Longitudinal Study of Lesbians*, 32 Developmental Psychol. 3, 7 (1996) (only 2 of 25 adults raised by lesbian mothers and 0 of 21 adults raised by heterosexual mothers identified as gay or lesbian, although children of lesbian mothers were more apt to consider the possibility of a lesbian or gay relationship); Julie Schwartz Gottman, *Children of Gay and Lesbian Parents*, 14 Marriage and Fam. Rev. 177 (1990) (study of 70 adult daughters of lesbian mothers and 70 of heterosexual mothers finding groups comparable in terms of sexual orientation and gender identity); Richard Green, Jane S. Mandel, Mary E. Hotvedt, James Gray & Laurel Smith, *Lesbian Mothers and Their Children: A Comparison With Solo Parent Heterosexual Mothers and Their Children*, 15 Archives of Sexual Behavior 167 (1986) (no difference between 56 children of lesbian mothers and matched group of 48 children of heterosexual mothers with respect to gender identity; no difference between sons in two samples with respect to gender-role behaviors; daughters of lesbian mothers demonstrated less adherence to traditionally sex-typed standards, though are still similar to many other same-age girls); Richard Green, *Sexual Identity of 37 Children Raised by Homosexual or Transsexual Parents*, 135:6 Am. J. Psychiatry 692 (1978) (studying 21 children raised by lesbian parents and finding no appreciable difference in terms of sex roles and sexual orientation from children raised by heterosexual parents); Beverly Hoeffler, *Children's Acquisition of Sex-Role Behavior in Lesbian-Mother Families*, 51(3) Am. J. Orthopsychiatry 536 (July 1981) (administering standard toy preference tests, using neutral, masculine, and feminine "sex-typed" toys, to 20 children of heterosexual single mothers and 20 matched children of single lesbian mothers and finding no differences between the two groups); Mary Hotvedt & Jane B. Mandel, *Children of Lesbian Mothers*, in HOMOSEXUALITY-SOCIAL PSYCHOLOGICAL AND BIOLOGICAL ISSUES, *supra* note 83, at 275, 283 (no difference between sons of single lesbian and heterosexual mothers with respect to gender identity and sex role orientation, although daughters of lesbian mothers were found to be less traditionally feminine than daughters of heterosexual mothers, though still not

masculine, with respect to career choices and play); Martha Kirkpatrick, Catherine Smith & Ron Roy, *Lesbian Mothers and Their Children*, 51 Am. J. Orthopsychiatry 545 (1981) (studying 20 children of lesbian mothers and 20 of heterosexual mothers and finding no difference in the gender development of the children in the two groups); Barbara McCandlish, *Against All Odds: Lesbian Mother Family Dynamics*, in GAY AND LESBIAN PARENTS, *supra* note 54, at 23 (interviewing five lesbian mother families in depth and noting healthy gender identity and knowledge of gender differences on the part of the children); Brian Miller, *Gay Fathers and Their Children*, 28 Family Coordinator 544, 546-48 (1979) (among the 48 children of the gay fathers studied who were old enough that their sexual orientation could be assessed, only one son and three daughters were gay); Charlotte Patterson, *Children of the Lesbian Baby Boom*, in LESBIAN AND GAY PSYCHOLOGY, *supra* note 27, at 168 (sex role behaviors of 37 children raised by lesbian parents, evaluated on the basis of the sexes of their closest friends, their favorite toys and games, and their favorite media and literary characters, were "quite normal"); Julie Ann Schwartz, *An Exploration of Personality Traits in Daughters of Lesbian Mothers*, unpublished doctoral dissertation, California School of Professional Psychology, San Diego, CA (1986) (no significant differences in masculinity, femininity, androgyny or sexual orientation between daughters of lesbian mothers and daughters of heterosexual mothers).

94. For the above reasons, a Hawaii trial court rejected the suggestion that declining to recognize marriages between partners of the same sex would somehow benefit children:

[The State of Hawaii] has failed to present sufficient credible evidence which demonstrates that the public interest in the well-being of children and families, or the optimal development of children would be adversely affected by same sex marriage.

Baehr v. Miike, 1996 WL 694235, Conclusions of Law ¶ 18.

95. E. Mavis Hethrington, *Coping with Family Transitions: Winners, Losers and Survivors*, 60 Child Dev. 1, 2 (1989); *see also* Andrew J. Cherlin, *Marriage, Divorce, Remarriage*, at 78 (Harvard University Press 1992) ("almost all children experience an initial period of great emotional upset following a parental separation"); Frank F. Furstenberg, Jr., *Divorce and the American Family*, in 16 ANNUAL REVIEW OF SOCIOLOGY, at 393 (W. Richard Scott & Judith Blake, eds., 1990) ("[V]irtually all investigators believe that divorce is usually an extremely stressful event for children and that many react by displaying symptoms of distress--anxiety, acting out, diminished performance in school, and problems at home.").

96. Paul R. Amato & Bruce Keith, *Parental Divorce and Adult Well-being: A Meta-analysis*, 53 J. Marriage and the Fam. 43 (February 1991).

97. *Id.* at 48-49 and Table 1, 54-56. To be sure, the differences between adults who were children of divorce and those whose parents remained married were small, rather than large, and have decreased through time between the earliest studies and the most recent. Nonetheless, the differences are significant.

98. *Id.* at 43 (citing studies); *see also* Frank F. Furstenberg, Jr. & Andrew J. Cherlin, *Divided Families*, at 45 (Harvard University Press 1991) (citing evidence that divorce frequently plunges families and children into poverty and locks others into economic disadvantage); Furstenberg, *Divorce and the American Family*, *supra* note 95, at 394 ("Children of divorce are far more likely to grow up in poverty or with limited economic resources and hence to live in less desirable neighborhoods, attend poor-quality schools, receive less help when they encounter problems, and have more limited contacts

for gaining access to desirable higher education and good jobs. If only because divorce affects the child's economic status, it is likely to shape certain features of the life course."); Barbara Grissett & L. Allen Furr, *Effects of Parental Divorce on Children's Financial Support for College*, 22(1/2) J. Divorce and Remarriage 155, 164 (1994) (study of 192 randomly selected college students suggesting that "children from divorced families did not in fact receive adequate parental support as often as did their peers from intact families" for college tuition, room and board, insurance, and related expenses); Verna M. Keith and Barbara Finlay, *The Impact of Parental Divorce on Children's Educational Attainment, Marital Timing, and Likelihood of Divorce*, 50 J. Marriage and the Fam. 797, 799 (1988) (study of 10,659 cases demonstrates that adults whose parents divorced when they were children have diminished educational attainment, earlier marriages, and higher likelihood of divorce relative to adults raised in intact families, and argues that these effects stem from the diminished resources available to children of divorce).

99. Paul R. Amato & Bruce Keith, *Parental Divorce and Adult Well-being*, 53 J. Marriage and the Fam. 43, 44 (citing studies); Andrew J. Cherlin, *Marriage, Divorce, Remarriage*, *supra* note 95, at 73 (post-divorce single parents are strained by "responsibility overload," "task overload," and "emotional overload."); Furstenberg, *Divorce and the American Family*, *supra* note 95, at 394 ("[S]olo parents may have less capacity to shield their children from negative peer influences . . .").

100. Amato & Keith, *Parental Divorce and Adult Well-being*, *supra* note 99, at 44.

101. As noted above, *supra* at n. 25, *Amici* do not mean to imply that children are necessarily better off when their parents remain married in an unhealthy or abusive relationship. That proposition is a matter of substantial debate among mental health researchers.

102. Furstenberg, *Divorce and the American Family*, *supra* note 95, at 382.

103. See, e.g., Blumstein & Schwartz, *American Couples*, at 307-08 (William Morrow and Co., Inc., 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).

104. See, e.g., Laura J. Solomen, Esther D. Rothblum, *Stress, Coping and Social Support in Women*, 9(10) *Behav. Therapist* 199, 202-203 (1986) (reviewing studies finding that women with gender social support enjoy greater mental health).

105. Lawrence A. Kurdek & J. Patrick Scmitt, *Relationship Quality of Partners in Heterosexual Married, Heterosexual Cohabiting, and Gay and Lesbian Relationships*, 51 J. Personality and Soc. Psychol., *supra* note at 717.

106. See supra section II D.

107. Susan Crockenberg, *Social Support and Parenting*, in 4 *THEORY AND RESEARCH IN BEHAVIORAL PEDIATRICS* 141, 147-48 (Hiram E. Fitzgerald, Barry M. Lester & Michael W. Yogman, eds., 1982).

108. Id. at 150-153.

109. Id. at 153-160. Research focusing on low-risk families has likewise confirmed that "social support is associated with patterns of parenting generally considered more appropriate or beneficial for the

child's development . . ." Id. at 162.

110. Furstenberg, *Divorce and the American Family*, *supra* note 95, at 384.

111. Huggins, *A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers*, 17 J. Homosexuality 123 (1989); see also Tasker & Golombok, *Growing Up in a Lesbian Family*, *supra* note 90 above, at 148-149 (longitudinal study suggests that children fared better when their divorced, lesbian mothers had stable, long-term lesbian relationships).

112. Margaret Crosbie-Burnett & Lawrence Helmbrecht, *A Descriptive Empirical Study of Gay Male Stepfamilies*, 42 Fam. Relations 256, 259-260 (July 1993).

113. Id.

114. Some researchers have documented a reluctance by adolescent children of gay and lesbian parents to make widespread disclosure of their parent's homosexuality. See, e.g., Frederick W. Bozett, *Children of Gay Fathers*, in GAY AND LESBIAN PARENTS, at 40-41 (Frederick W. Bozett ed. 1987) (among 19 children of gay fathers, some made efforts to prevent discovery of father's homosexuality); Karen Gail Lewis, *Children of Lesbians: Their Point of View*, 25 Soc. Work 198 (1980) (identifying some difficulties for 21 interviewed children, ranging in age from 9 to 26, whose mothers "came out" following a divorce from their fathers); Ann O'Connell, *Lesbian Mothers and Children*, 63 Smith College Studies in Social Work 281 (1993) (finding that many among 11 children interviewed felt the need not to disclose their mother's lesbianism but experienced countervailing benefits ranging from an increased understanding of prejudice to a more open relationship with their mothers); Saralie B. Pennington, *Children of Lesbian Mothers*, *supra* note 54, at 62 (observing that adolescents whose mothers "come out" post-divorce may fear ostracization if their mothers' lesbianism becomes known to their peers). Perhaps significantly, none of these studies focused on children raised from birth by gay or lesbian couples-- a population likely to have far fewer problems "adjusting" to a reality they have lived from birth.