

TO: Senator A. Donald McEachin
9th District, Commonwealth of Virginia

FROM: Gary J. Gates, PhD
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RE: Children and Families Impacted and Fiscal Impact of Virginia HB 189/SB 349

House Bill 189 and Senate Bill 349, “Child-placing agency; conscience clause” would allow all agencies licensed to make foster care or adoption placement decisions in the state of Virginia to do so in accordance with their own religious or moral beliefs. The state would be prohibited from denying or revoking a license based on the failure to comply with rules if the agency cites a religious or moral objection to the rules.

Lesbian and gay individuals could be among the potential foster parents or adoptive parents for whom placements would be refused under this proposed legislation. This memo provides estimates for the number of children being raised by gay and lesbian individuals and unmarried couples in Virginia, along with estimates of the potential fiscal impact for each child that these bills cause to be in a less favorable placement.

Using US Census Bureau data, we estimate that 1,700 adopted children and 300 foster children are being raised by single lesbians and gay men in Virginia. According to our estimates, 40,000 lesbians and gay men may be prospective adoptive parents in Virginia. These individuals play an important role in providing adoptive homes and foster care for children in the state. If this legislation were to pass, families such as these may find it more difficult to serve as adoptive or foster parents, resulting in more children in congregate care or more children remaining in foster care for longer periods of time.

In addition, current Virginia law prohibits all unmarried couples from adopting. Census Bureau data indicate that more than 400 adopted children and more than 70 foster children are being raised by same-sex couples. The data also show that more than 500 adopted children and almost 700 foster children are being raised by unmarried different-sex couples. Evidence suggests that more than 50,000 unmarried different-sex couples would consider being adoptive parents in the state if the laws would permit them to do so.

This memo provides evidence suggesting that there may be financial and social impacts on the State if HB 189/SD 349 were to pass. If private child-placing agencies refuse to place children for foster care or adoption with qualified individuals or couples based on religious or moral beliefs, several outcomes are possible:

- More children may be placed in state care if private-child placing agencies are unable to find appropriate homes. Given the lack of prospective foster and adoptive parents, this is a concrete possibility. If appropriate foster and adoptive homes cannot be identified, foster children and children waiting adoption may be placed in congregate care, which increases the annual cost to the state by about \$2,000 per child.

- Fewer children will be adopted from private child-placing agencies, and these children will remain in foster care. The state saves nearly \$30,000 per year for each child adopted out of the foster care system.

I. Adopting and Fostering by Gay and Lesbian Individuals and Unmarried Couples in Virginia

Gay and lesbian individuals, unmarried heterosexual couples, and same-sex couples play an important role in providing adoptive and foster care homes for children in Virginia.

Adoption

The most recent data from the Census Bureau finds that many adopted children in Virginia are being raised by lesbians and gay men, who could be legally turned away from adoption if HB 189/SB 349 passes, and by unmarried couples currently prohibited from adopting in the state. Specifically, as shown in Table 1, an estimated 1,683 adopted children living in Virginia are being raised by single lesbians and gay men. Had HB 189/SB 349 been in place when these children were being placed for adoption, these families could have been turned away by some agencies and some of these children would have remained in foster care for a longer period of time awaiting placement. Further, an estimated 425 adopted children are being raised by same-sex couples and 506 adopted children are being raised by unmarried different-sex couples, despite state laws that prohibit adoption by unmarried couples.

Table 1. Adoptive Children in Virginia by Family Type

Family Type	# of Adoptive Children
Single lesbians and gay men ¹	1,683
Unmarried different-sex couples	506
Same-sex couples	425
TOTAL	2,614

SOURCE: Census 2010; 2010 American Community Survey; 2008-2010 American Community Survey.

¹ To calculate the number of single lesbians and gay men with adopted children, we assume that the fraction of single lesbians and gay men with adopted children is the same as the fraction of same-sex couples raising adopted children (2.72%) observed in the American Community Survey (ACS), 2008-2010. Estimates of the total lesbian and gay population in the US (nearly 4 million) are derived from Gates, Gary J., [How Many People are Gay, Lesbian, Bisexual, and Transgender?](#) Williams Institute, UCLA School of Law, April 2011. The number of lesbians and gay men in Virginia (an estimated 84,842) is calculated by assuming that the fraction of all US same-sex couples who live in the state (14,243 same-sex couples out of 646,646, or 2.2%) is the same as the fraction of all US lesbians and gay men living in Virginia. Single lesbians and gay men (an estimated 56,356) in the state are derived by subtracting the number of individuals in same-sex couples from the total number of lesbians and gay men. To calculate the number of adopted and fostered children being raised by lesbians and gay men, the estimated number of those raising adopted and fostered children is multiplied by the average number of adopted and foster children in same-sex couple households in the state (1.1 and 1.0, respectively) based on ACS 2008-2010 data.

Approximately half of lesbians and a third of unmarried women with different-sex partners in a recent national survey say that they would consider adoption.² The survey also found that similar portions of gay men and lesbians (44%) say they want to have children some day. If they have similar intentions with regard to adoption, then as many as 40,000 lesbians and gay men in Virginia may be potential adoptive parents. Lesbians and gay men who are interested in adopting may not apply out of fear of being disqualified simply for their sexual orientation. Among unmarried different-sex couples, the figures imply that more than 50,000 would consider adoption. These individuals are all currently barred from adopting unless they choose to marry.

Foster Care

As of November 1, 2011 (the most recent data available), there were 5,532 children in foster care through the Virginia Department of Social Services (VDSS).³ The majority of these children were placed in non-relative foster homes (61%), while 8% were placed in institutions and 5% in group homes.⁴ Currently, an estimated 293 foster children are living with single lesbians or gay men (see Table 2). These children have been placed in these homes because an agency worker has deemed them to be the best placements for an individual child's needs. It is possible that some of these foster parents may wish to adopt the children for whom they are providing foster care. Under HB 189/SB 349, private agencies would be able to deny children in such situations a permanent home with an adoptive parent falling into one of these categories. Additionally, the law could discourage qualified individuals from considering foster care. Thinking retrospectively, had the law been in effect when these children were being considered for placement, some of the 293 foster children current living with these parents may have needed to stay in congregate care due to the shortage of qualified foster homes.

Estimates also show that 682 unmarried different-sex couples and 74 same-sex couples are raising foster children in Virginia. State law bars all of these couples from adopting these children.

² U.S. Department of Health and Human Services, National Survey of Family Growth, 2006-2008.

³ Virginia Department of Social Services, "Foster Care Children Demographic Report for October 2011," <http://www.dss.virginia.gov/geninfo/reports/children/fc.cgi>.

⁴ Virginia Department of Social Services, "Snapshot of Children in Foster Care in Virginia," October 2011," http://www.dss.virginia.gov/files/about/reports/children/foster_care/2011/monthly_snapshot/snapshot_fc_2011_10_01.pdf.

Table 2. Foster Children in Virginia by Family Type

Family Type	# of Foster Children
Single lesbians and gay men ⁵	293
Unmarried different-sex couples	682
Same-sex couples	74
TOTAL	1,049

SOURCE: Census 2010, 2010 American Community Survey; 2008-2010 American Community Survey

II. Fiscal Impact of HB 189/SB 349

The State of Virginia Department of Planning and Budget issued a 2012 Fiscal Impact Statement stating that this legislation would have no fiscal impact on the State because it would only affect private child-placing agencies and their placement of children.⁶ The Department of Planning and Budget stated the legislation “is not expected to impact existing staff workloads in the Department of Social Services.”⁷ However, based on our analysis, we find that for every child that remains in a less desirable placement as a result of HB 189/SB 349, there will be also a negative fiscal impact on the State.

Cost of Caring for Children in Foster Care

A combination of federal and state funds pay “maintenance costs” for children currently in foster care. Some of the funds come from the federal government through the Title IV-E of the Social Security Act. Payment rates are as follows: \$448 per month for a child ages 0-4; \$525 for a child age 5-12; and \$666 for a child age 13 and over.⁸ On average, the state estimates it spends \$584 per month in payments to foster care parents.⁹ Additionally, the federal and state governments provide other assistance to children in foster care, including health insurance. The total annual federal and state expenditure for one year of foster care for a child in state care is \$43,844.¹⁰

Adoption Assistance

Families who adopt children from state care may qualify for adoption assistance. In 2011, 5,981 children and their families received adoption assistance from either the state or the federal government. Families received,

⁵ The calculations of foster children follow the same procedure described for adopted children in footnote 11.

⁶ Virginia Department of Planning and Budget, “2012 Fiscal Impact Statement: Bill HB 189,” January 12, 2012, <http://leg1.state.va.us/cgi-bin/legp504.exe?121+oth+HB189F122+PDF>.

⁷ Ibid.

⁸ Virginia Department of Social Services, “Child and Family Services Manual, E. Foster Care,” July 2011, http://www.dss.virginia.gov/files/division/dfs/fc/intro_page/guidance_manuals/fc/section_14.pdf.

⁹ Virginia Department of Social Services, “Foster Care Home Rates,” http://www.dss.virginia.gov/geninfo/reports/agency_wide/asr.cgi.

¹⁰ Virginia Department of Social Services, “Foster Care VI-E and State and Local Expenditures,” http://www.dss.virginia.gov/geninfo/reports/agency_wide/asr.cgi.

on average, \$1,251 per month, or \$15,012 annually, in assistance.¹¹ Note that not all children adopted from state care receive adoption assistance.

Cost of Putting Children in Congregate Care vs. In-Home Foster Care

The cost of caring for a child in “in-home” foster care differs from the cost of caring for a child in congregate foster care. A 2007 study found that congregate care in Virginia costs an additional \$1,897 per child per year than in-home foster care.¹²

Cost of Children Staying in Foster Care vs. Adoption

Studies find that children who are adopted have far better physical, mental, and educational outcomes compared to children who remain in foster care. Permanency is an important goal for children. Putting these benefits aside, there are also financial benefits of adoption for the State. Comparing the annual costs of caring for a child in foster care versus the costs of adoption assistance, we find that the state saves \$28,832 for every child adopted. This assumes that every child adopted from foster care receives adoption assistance, which is a generous assumption. Not all children receive adoption assistance, so the potential savings to the state of encouraging adoption could be higher. Finally, the federal government gives adoption incentives to states that meet or exceed their goals for the number of children adopted from foster care. In 2010, Virginia received \$14,172 in such incentive payments.¹³ By restricting the pool of adoptive parents, Virginia could risk losing such incentive payments.

¹¹ Virginia Department of Social Services, “Adoption Assistance Trends,” http://www.dss.virginia.gov/geninfo/reports/agency_wide/asr.cgi.

¹² Gary J. Gates, M.V. Lee Badgett, Jennifer Ehrle Macomber, and Kate Chambers, “Adoption and Foster Care by Gay and Lesbian Parents in the United States,” The Williams Institute and the Urban Institute, March 2007, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-Badgett-Macomber-Chambers-Final-Adoption-Report-Mar-2007.pdf>.

¹³ U.S. Department of Health and Human Services, Administration for Children and Families, “FY 2010 Adoption Incentive Awards Based on FY 2009 Earning Year,” September 2010, http://www.acf.hhs.gov/news/press/2010/fy10_adoption_incentive_awards.htm.