

Senator John J. Cullerton
Senator 6th District & President of the Senate
4237 N. Lincoln Avenue
Chicago, IL 60618

April 12, 2011

Re: Amendment 1 of Illinois Senate Bill 1123 Harms Children, Unlawfully Discriminates and Should Be Opposed

Dear Senator Cullerton:

Lambda Legal Defense & Education Fund (Lambda Legal) is a national legal organization committed to advancing the civil rights of lesbian, gay, bisexual and transgender (LGBT) individuals and those living with HIV through impact litigation, public policy advocacy and education. Lambda Legal's Youth in Out-of-Home Care Project aims to eradicate discrimination against LGBT youth and adults involved in child welfare, juvenile justice and homeless systems of care. We strongly oppose Amendment 1 of Senate Bill 1123 because allowing religiously-affiliated government-funded child welfare agencies to discriminate against same-sex couples in civil unions is contrary to the best interests of the many children in need of nurturing foster and adoptive parents and violates constitutional and other non-discrimination principles.

- Far from advancing child welfare goals, singling out same-sex couples in civil unions for discriminatory treatment diminishes the already critically inadequate pool of prospective foster and adoptive parents. Amendment 1 of Senate Bill 1123 will discourage and deter many same-sex couples who would be well-suited to care for children in need from becoming foster or adoptive parents. It would, for example, allow a religiously-affiliated agency to block a child's placement with a loving aunt or grandparent just because that relative is in a civil union. Nor does the bill's provision for routing same-sex couples in a civil union to other providers make the discrimination acceptable or offer a practical, expeditious and workable means to ensure that eligible same-sex couples are not deterred or prevented from fostering or adopting children in need. Amendment 1 of Senate Bill 1123 does not serve the best interests of waiting foster children in Illinois and will not help them achieve permanency.
- Amendment 1 of Senate Bill 1123 sends a harmful message to LGBT youth in care that the government believes it appropriate to enact laws that restrict the ability of same-sex couples to parent through foster care or adoption because there is something inherently wrong in being gay or lesbian and in a same-sex committed relationship. This stigmatizing message will have a devastating impact on the self-esteem and psychological well-being of LGBT youth and should not be written into Illinois law.
- Decades of social science data show that children raised by lesbian and gay adults fare just as well as other children. Every leading professional child welfare organization in this country strongly supports licensing lesbian and gay people as foster and adoptive parents according to the same

criteria applied to all other applicants. Efforts to prohibit lesbian and gay people from serving as foster and adoptive parents are contrary to the expert professional consensus on the subject.¹

- Moreover, singling out same-sex couples in civil unions for discriminatory treatment is violative of equal protection and due process guarantees. In 2010, a Florida appellate court struck down a ban on adoption by gay and lesbian adults as violative of the state guarantee of equal protection and as not furthering any rational government interest.² Very recently, the Arkansas Supreme Court upheld a lower court's ruling that struck down an Arkansas law banning cohabiting unmarried couples living together from adopting or fostering children because the law directly and substantially infringed the fundamental right of adults to maintain intimate cohabiting relationships.³
- Amendment 1 of Senate Bill 1123 is also violative of Establishment Clause principles because it allows government funds to be used to discriminate against same-sex couples in civil unions and to deny needed placements for children based on religious beliefs.
- It similarly runs afoul of the 2010 Presidential Executive Order regulating faith-based social service providers, which provides that “[a]ll organizations that receive Federal financial assistance under social service programs should be prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief.”⁴ Amendment 1 of Senate Bill 1123 does precisely that.

This measure is harmful to Illinois children, singles out committed gay and lesbian couples in civil unions for discrimination, and violates constitutional principles. We strongly urge that it be defeated.

Very truly yours,

Lambda Legal Defense & Education Fund, Inc.

¹ Am. Academy of Child & Adolescent Psychiatry, “Gay, Lesbian, Bisexual, or Transgender Parents Policy Statement” (2008); Child Welfare League of Am., “Position Statement on Parenting of Children by Lesbian, Gay, and Bisexual Adults” (2005); Nat’l Assoc. of Soc. Workers, “Lesbian, Gay and Bisexual Issues,” *Social Work Speaks: National Association of Social Workers Policy Statements 2003-2006* (6th ed. 2003); Comm. on Psychosocial Aspects of Child and Family Health, Am. Acad. of Pediatrics, *Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 *Pediatrics* 339 (2002); Child Welfare League of Am., *Standards of Excellence for Adoption Services* § 4.7 (2000); Child Welfare League of Am., *Standards of Excellence for Family Foster Care Services* § 3.18 (1995).

² Fla. Dep’t of Children & Families v. Adoption of X.X.G. & N.R.G., No. 3D08-3044, 2010 Fla. App. LEXIS 14014 (Fla. Dist. Ct. App. Sept. 22, 2010).

³ Arkansas Dept. of Human Serv. v. Cole, 2011 Ark. 145, 2011 WL 1319217 (Ark. Apr. 7, 2011).

⁴ Exec. Order No. 13559, 75 Fed. Reg. 224 § 2(d) (Nov. 22, 2010).