

PURPOSE AND RECOMMENDATIONS

Background

Individual members of the lesbian, gay, bisexual and transgender (LGBT) community are in unique family situations. We have been caring for each other, living in long-term relationships, bringing up children, tending to each other's health and well-being – doing just about everything that traditional families do – but mostly without the support and protection that traditional families receive.

Society supports interdependent relationships through public and private means such as family health insurance, pensions, survivorship funds, the power of attorney, sick leave, caregiver tax rebates and inheritance, to name just a few. LGBT people function within this society, but our community, our families and support systems have been excluded from most of these safety nets.

For the most part, government depends on the family to be the primary caregiver for not only children but also for people in the late aging process. Rather than shouldering the primary responsibility for the care of these vulnerable citizens, government has taken the approach of creating mechanisms to assist or supplement families in their caregiving roles.

This model of relying on families related by blood or marriage to provide support in times of need often creates special challenges for LGBT New Yorkers. Many LGBT people have had to sacrifice close ties with our biological families in order to live as gay men and lesbians and now live without the support of parents, siblings or children. Even the term “family” is troubling for some members of the LGBT community because it has frequently been used against us in the cultural battle over morals and values. For this reason, some members of the LGBT community have strongly resisted applying this term to our own relationships.

Nonetheless, LGBT people have created strong families and support systems that include a blend of life partners, life friends, children, selected relatives from our families of birth, and volunteer and paid caregivers. Government has not only been slow to recognize these unique family structures, it has also failed to catch up with the major shift in the LGBT community that occurred in the 1990's when efforts moved from focusing solely on securing individual rights to also securing the rights associated with family relationships through domestic partner benefits, adoption rights and same-sex marriage. This change has only recently begun to have an impact on New York State government.

Whether government will play a role in helping the families of LGBT people help themselves, as it does with traditional families, will first depend on how “family” is

defined. Mainstream service providers and state agencies that define families exclusively as married couples, blood relatives or biological and adopted children fail to provide LGBT New Yorkers with programs that meet their needs by overlooking the fact that we define our families more broadly. Statutes, governmental rules and regulations that define family narrowly can restrict LGBT people's access to such basic governmental and non-profit services as: adoption and parenting opportunities; domestic violence shelters; homeless shelters; public assistance; mental health facilities and programs; substance abuse and alcohol treatment services; as well as access to such state operated, federally funded programs as the Home Energy Assistance Program, which provides financial grants to low-income families.

The problems that come with being left out of government's vision of what makes a family can be especially acute for LGBT people experiencing multiple oppressions, such as people of color, immigrants and the disabled, as well as seniors. Transgender individuals and their families in particular experience exceedingly high levels of hostility and discrimination and are routinely denied medical care and basic social services.

Purpose

The State of the State Report 2003: Valuing Our Families seeks to create awareness among legislators, policymakers and service providers about how LGBT individuals across the state have created families and support systems to care for each other. In this report, we define our families in a broad sense – as a blend of life partners, life friends, children, selected relatives from our families of birth and cared-for members of the LGBT community. The door to recognition of our relationships is just now beginning to open, but we must open it wider and keep it open. It is vital that our families receive just and equal consideration in line with all other families in this state.

This report provides an overview of the nature of our relationships and families by looking at the expanding and dynamic definition of family in Section II. Section III examines what the data in research, polls and surveys tell us about societal attitudes toward granting marriage and family rights to LGBT people as well as how LGBT people themselves prioritize these rights. Section IV contains a legal examination of same-sex rights and responsibilities cobbled together by the state Legislature, state courts and the Executive Branch. Through pictures and interviews, Section V illustrates the different types of family structures we have created in the absence of governmental support. As a reference, the appendices provide a list of common terms used in the LGBT community as well as a list of members of the New York State Lesbian, Gay, Bisexual and Transgender Health and Human Services Network.

Next Steps

In addition to the more than 1,049 protections, benefits and obligations available at the federal level, New York State gives approximately 700 rights to married couples that are unavailable to same-sex partners. In the interests of fairness, efficiency and consistency, New York State government should treat the families of LGBT people equally and empower them with the same rights, responsibilities and access to services and benefits that are available to all other families across the state. New York State can achieve this goal by beginning to expand to same-sex couples the same protections of law given to married couples through statutes, policies and regulations. It is also vital for the state to recognize that many LGBT New Yorkers raise children and these families need and deserve protection. Steps to accomplish these ends include:

- Providing for inheritance rights
- Including domestic partners in Workers' Compensation and state pensions
- Clarifying insurance regulations so that insurance companies of all sizes are encouraged to offer domestic partner coverage
- Insuring that senior citizens in care providing situations, including nursing homes, are not denied the companionship of their partners
- Giving domestic partners equal access to family court for relief from domestic violence
- Allowing domestic partners to have control of a deceased partner's remains
- Encouraging private entities to treat domestic partners equally to married spouses in the provision of health care benefits, as well as bereavement and medical leave
- Allowing access to children's school records for both parents
- Protecting transgender parents from being discriminated against in custody and adoption

Ultimately, comprehensive recognition of our family responsibilities with the concurrent rights including those mentioned above is the key to protecting our families.