

Symposium on *Lofton* and the Future of Lesbian and Gay Adoption

On October 28, 2005, the Marriage and Family Law Research Grant of Brigham Young University Law School, and Stetson University Law School will co-sponsor a one-day symposium on “*Lofton* and the Future of Lesbian and Gay Adoption.” Stetson will host the conference at their university conference facility in Tampa.

The subject of “lesbigay” adoption (adoption of children by gay or lesbian couples in particular) has become a major issue in constitutional law and adoption legal policy. Last year, a three-judge panel of the U.S. Court of Appeals for the 11th Circuit affirmed a district court ruling that upheld a Florida adoption law provision that bars homosexual from adopting children. *Lofton v. Sec’y of Dept. of Children and Family Servs.*, 358 F.3d 804 (11th Cir. 2004), *aff’g* *Lofton v. Kearney*, 157 F. Supp.2d 1372 (S.D. Fla. 2001). Later, the equally divided circuit, sitting en banc, declined to review that decision, *Lofton v. Sec’y Dep’t C’ren & Fam. Servs.*, 377 F.3d 1275 (11th Cir. 2004), and in January, 2005, the Supreme Court of the United States declined to review that decision. *Lofton v. Sec’y Dep’t C’ren & Fam. Servs.*, 73 U.S.L.W. 3247 (U.S. Jan. 10, 2005) (No. 04-478) (denying certiorari).

Florida is not the only state which restricts or bars adoption by persons who engage in homosexual relations. At least three states have such legislation, while at least five states have enacted legislation specifically allowing “lesbigay” adoption. Perhaps the most sophisticated approach is taken by Utah which prohibits adoption by any couples – heterosexual or same-sex cohabitants – who are not married.) Similarly, courts in five state have interpreted adoption statutes to bar lesbigay adoptions, while courts in eight other states have interpreted adoption laws to allow lesbigay adoptions.

Lesbigay adoption is closely linked to the same-sex marriage issue. Every court (Hawaii, Vermont, and Massachusetts) that has ruled in favor of same-sex unions (marriage or marriage-equivalent civil unions) has noted that the state allows lesbigay adoptions, has argued that gays and lesbians are just as good parents as heterosexual couples, and, finding that marriage is linked to childrearing, has concluded that if the state allows lesbigay couples to adopt, it has no rational or compelling justification to prevent them from enjoying the benefits of marriage as well, in part for the sake of the children.

The St. Thomas University Law Journal has committed to publishing papers presented at the conference in a symposium issue of the law journal.

Legal scholars, students, and professionals, and other professionals interested in adoption and related issues are invited to attend the conference. Stetson University Law School will charge a nominal fee (to cover each person’s actual costs, such as food and supplies). For further information please contact:

Camille Williams
Marriage and Family Law Research Grant
BYU Law School
801-422-3623
csw3@lawgate.byu.edu

or

Professor Michael Allen
Stetson University College of Law
1401 61st St.

South Gulfport, FL 33707

727-562-7360

EM: allen@law.stetson.edu