



Barring Judges in Custody Cases from Considering the Sexual Orientation or Gender Identity of Parents (S.996-Hoylman)

Memorandum of Opposition

Bill S.996-Hoylman would bar judges in child custody cases from taking the sexual orientation or gender identity of parents into account when determining the best interests of a child. Furthermore, the bill would prevent judges from ordering parents in child custody cases to refrain from undergoing “gender reassignment” surgeries.

The bill memorandum makes several questionable assertions. The memo states that a parent’s sexual orientation and gender identity are irrelevant in determining the best interests of that parent’s child. In similar fashion, the memo asserts that “young children, relative to older people, are better able to cope with and digest” events like “gender reassignment” surgeries. The memo does not provide data or research in support of these contentions. Also, while the memo indicates that judges in some divorce cases have “categorically denied a person’s right to pursue” “gender reassignment” surgery, no instances of such denials are mentioned.

Some research indicates that parental sexual orientation has little impact upon child development.¹ However, other research suggests that the lives of children are affected by parental sexual orientation, and that the adult children of parents with same-sex partners report more negative outcomes than are reported by adult children whose biological parents are married to one another.² Regarding parental transgender identification, there may not be enough information available to make reliable conclusions about child outcomes. Unless and until information on these topics becomes more clear and more definitive, it would be wise for the Legislature to let judges evaluate these sensitive situations on a case-by-case basis instead of passing a bill that takes a one-size-fits-all approach.

¹ See Patterson, C. J. (2017). “Parents’ sexual orientation and children’s development.” *Child Development Perspectives*, 11(1), 45–49.

² See Regnerus, M. (2012). “How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study.” *Social Science Research*, 41(4), 752–770.