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IN THE SUPREME COURT OF THE
STATE OF FLORIDA

JAMES W. COX,)
)
 Petitioner,)
 vs.)
)
 DELORES DRY, DISTRICT)
 ADMINISTRATOR, DISTRICT 8,)
 STATE OF FLORIDA, DEPARTMENT)
 OF HEALTH AND REHABILITATIVE)
 SERVICES,)
)
 Respondent.)
 _____)

CASE NO. 82,967

**BRIEF OF THE RUTHERFORD INSTITUTE
AMICUS CURIAE, IN SUPPORT OF RESPONDENT**

On Review from the District Court
of Appeal, Second District
State of Florida

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TABLE OF CITATIONS

CASES/STATUTES

CASES

Alfred L. Snapp & Son, Inc. v. Puerto Rico, 458
U.S. 592 (1982)..... 22

Bachynsky v. State, 747 S.W. 2d 868 (Tex. App.--
Dallas 1988, write denied)..... 22

Bowers v. Hardwick, 478 U.S. 186, 106 S. Ct. 2841..... 15,21,42

Colaulti v. Franklin, 439 U.S. 379 (1979)..... 22

Doe v. Commonwealth's Attorney, 403 F. Supp. 1199
1202 (E.D. Va 1975)..... 21

Doe v. Minneapolis, 898 F.2d 612 (8th Cir. 1990)..... 22

Hamling v. United States, 418 U.S. 87 (1974)..... 21

Harris v. United States, 315 A. 2d 569 (D.C.
App. 1974)..... 33

Movie & Video World, Inc. v. Board of County
Commissioners, 723 F. Supp. 695 (S.D. Fla. 1989)..... 22

Pinkus v. United States, 436 U.S. 293 (1978)..... 21

State v. Walsh, 713 S.W. 2d at 512-13..... 22

United States v. McKean, 338 A. 2d 439 (D.C. App. 1975)..... 33

Ward v. Illinois, 431 U.S. 767 (1977)..... 21

Zablocki v. Redhail, 434 U.S. 374, 399 (1978)..... 15

STATUTES

Section 63.042(3), Florida Statute (1991)..... 22, 35, 38,41,42

Section 63.022(2), Florida Statute (1990).....40,41,42

OTHER AUTHORITIES

Aaron, William, Straight, Bantam Books, New York, 1972,
p. 208, cited in Joseph Nocolosi, Reparative
Therapy of Male Homosexuality, op. cit., p. 125..... 11

Alter, et al., The Changing Epidemiology of Hepatitis
B in the U.S., 263 J. AM. MED. A. 1218 (1990)..... 26

Babb, Sexually Transmitted Infections in Homosexual Men
POST GRAD. MED. J. mo. 3, at 215, 216 (1979) 26

Bass, A. Boston Globe 8/8/88..... 36

Bell, A., M. WEINBERG
7 S. HAMMERSMITH, SEXUAL PREFERENCE:
STATISTICAL APPENDIX 618 (1981) 23

HOMOSEXUALITIES: A STUDY OF DIV-
ERSITY AMONG MEN AND WOMEN 299 (1978) (54%) 33

Sexual Preference, Indiana University Press, Bloomington,
IN., 19819

Bieber, I, Homosexuality: A Psychoanalytic Study, NY:Basic
Books, 1962..... 39

Bozett, Frederick W., Gay Fathers: A Review of the Literature,
in Frederick W. Bozett, editor, Homosexuality and the
Family, Harrington Park Press, New York, 1989, p. 152..... 1

Homosexuality and the Family 16

Bradford, JMW et al The Heterogeneity/Homogeneity of
Pedophilia, Psychiatry J Interpersonal Violence 1991;
6:323-336..... 37

Cameron
Is Homosexuality Desproportionately Associated
With Murder:, THE CHRISTIAN NEWS 9-10
(January 31, 1983) 34

Effects of Homosexuality Upon
Public Health and Social Order, 64 PSYCOL. REP.
1167, 1172 (1989) 29

The Prevalence of Homosexuality,
The Psychological Reports, 1994, in press 35

Homosexual Molestation of Children/Sexual
Interaction of Teacher and Pupil. Psychological
Reports 1985;57:1227-36 36

<u>The Truth About Gay Parents, 1993-94, p. 34</u>	12
<u>Child Molestation and Homosexuality, 1986:58:327-337</u>	35
<u>The Truth About "Gay Parents: An Analysis of the American Psychological Association/National Association of Social Workers' Brief in the Virginia Court of Appeals in the Pamela Bottoms Case, Family Research Institute, 1993-1994, p. 3</u>	3
<u>Homosexual Parents, Family Research Institute, 1994, p. 10</u>	5
Virginia Court of Appeals brief op. cit.....	4
Centers For Disease Control <u>Number of Sex Partners and Potential Risk of Sexual Exposure to HIV, 37 MORB. & MORT. KKLY. REP.565 (1988)</u>	23
<u>Trends in Gonorrhea in Homosexually Active Men, 262 J. AM. MED. A. 1985 (1989)</u>	26
<u>Prevention of Acquired Immune Deficiency Syndrome, supra at 1, 2</u>	24
Child Molesting, <u>Sexual Behavior, 1971; 1:16-24</u>	36
Consiglio, Dr. <u>Homosexuality No More, p. 22.</u>	16, 19, 20, 21
Corey & Holmes, <u>Sexual Transmission of Hepatitis A in Homosexual Men, 302 NEW ENG. J. MED. 435, 437 (1980)</u>	29
Darrow, <u>Gay Report on Sexually Transmitted Diseases 71 AM. J. PUB. HLTH. 1010 (1981)</u>	29, 33
<u>supra; Cameron, Cameron et al. Effects of Homosexuality Upon Public Health and Social Disorder, 64 PSYCHOL. REP. 1167, 1172 (1989)</u>	29
Dritz, <u>Medical Aspects of Homosexuality, 302 NEW ENG. J. MED. 463 (1980)</u>	32
Dritz & Braff, <u>Sexually Transmitted Typhoid Fever, 296 NEW ENG. J. MED. 1359 (1977)</u>	32
Fay et al., <u>Prevalence and Patters of Same-Gender Sexual Contact Among Men, 243 SCIENCE 338 (1989)</u>	23
Freund, K. et al, <u>Pedophilia and Heterosexualitiy vs. Homosexuality. J Sex & Marital Therapy, 1984;10:193-200</u>	36

Golubjatnikoov, et al, <u>Homoexual Promiscuity and the Fear of AIDS</u> , 2 Lancet 681, (1983).....	29
Goode & Troiden, <u>Correlates and Accompaniments of Promiscuous Sex Among Male Homosexuals</u> , 43 PSYCHIATRY 50, 54 (1980).....	33
Hansfield, <u>Sexually Transmitted Diseases in Homosexual Men</u> , 71 AM. J. PUBL. HLTH. 989 (1981).....	26, 29
Hays, D. and A. Samuels, <u>Homosexual Women's Perceptions of Their Marriages to Bisexual and Homosexual Men</u> , F. Bozett ed., <u>Homosexuality and the Family</u> , op. cit., p. 97.....	4
Hayton, Dr. Bradley P., <u>To Marry or Not: The Legalization of Marriage and Adoption of Homosexual Couples</u> , The pacific Policy Institute, Newport Beach, CA, 1993 p. 9.....	5, 6, 11
Holmes, <u>Future Directions in Research on Sexually Transmitted Diseases in Homosexual Men</u> , 5 J. HOMOSEXUALITY 317, 321, (1980).....	27
Huggins, Sharon L. <u>A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers</u> , F. Bozett, ed., <u>Homosexuality and the Family</u> , op. cit., p. 133.....	4
Hunt, M., GAY, <u>supra</u> at 88, 86. <u>Accord</u> M. WEINBERG & C. WILLIAMS, <u>MALE HOMOSEXUALS, : THEIR PROBLEMS AND ADAPTIONS</u> 143 (1975).....	33
Hurst, Ed, <u>Development & Treatment of Homosexuality</u> , Minneapolis: Outpost, n.d., p. 1.	16
<u>Inactivated Hepatitis B Virus Vaccine</u> , 31 MORB. & MORT. WKLY. REP. 317, 318 (1982).....	31
Interview with Dr. Raymond A. Knight at his presentation, <u>Differential prevalence of Personality Disorders in Rapists and Child Molesters</u> , at Eastern Psychological Assn Cnvention, New York, 4/12/91.....	37
Jaffe et al., <u>National Case-Control Study of Kaposi's Sarcoma and Pneumocystis Carinii Pneumonia in Homosexual Men: Part I, Epidemiologic Results</u> , 99 ANNAULS INTERN. MED. 145-50 1983.....	30

Janda et al., <u>Epidemiology of Pathogenic Neisseria in Homosexual Men</u> , 5 J. HOMOSEXUALITY 289 (1980)	26
Jenny et al., <u>Developmental Approach to Preventing the Sexual Abuse of Children</u> , 78 PEDIATRICS 1034 (1986).....	34
Knight, Robert H. and Daniel S. Garcia, <u>Homosexual Adoption: Bad For Children, Bad For Society</u> , p. 5.....	1, 10, 18, 27
Kornfeld, <u>T-Lymphocyte Subpopulations in Homosexual Men</u> , 307 NEW ENG. J. MED. 729, 730, (1982)	25
Lemp, et al., <u>Projections of AIDS Morbidity and Mortality in San Francisco</u> , 263 J. AM. MED. A. 1497 (1990)	24
Levy, <u>Human Immunodeficiency Viruses and the Pathogenesis of AIDS</u> , 261 J. AM. MED. A. 2997 (1989).....	35
<u>Los Angeles Times</u> , August 25, 26, 1985.....	35
Marmor, et al., <u>Risk Factors for Kaposi's Sarcoma in Homosexual Men</u> , 1 LANCET 1083, 1084 (1982).....	25, 27
Marshall W L, et al <u>Early onset and Deviant Sexuality in Child Molesters. J Interpersonal Violence</u> 1991; 6:323-336.....	37
Mendola, Mary <u>The Mendola Report</u> , Crown, New York, 1980, p. 53.....	10
Moberly, Elizabeth R., <u>Psychogenesis: The Early Development of Gender Identity</u> , Routledge & Kegan Paul Limited, London, 1979, p. 14.....	8
Morgan, et al., <u>The Future Course of AIDS in the U.S.</u> , 263 J. AM. MED. A. 1539 (1990).....	24
Navin, <u>Medical and Surgical Risks in Handballing: Implications of an Inadequate Socialization Process</u> , 6 J. HOMOSEXUALITY 67, 71 (1981).....	30
Nicolosi, Joseph, <u>Reparative Therapy of Male Homosexuality</u> , Jason Aronson Inc., Northvale, New Jersey, 1991, pp.	8
Orlando Sentinel, <u>Judle Says Homosexuals Can Adopt</u> , March 19, 1991	41
Owen, <u>Sexually Transmitted Disease and Traumatic Problems in Homosexual Men</u> , LANCET 1083, 1084 (1982).....	27

Peery, <u>op. cit.</u> p. 10	5
<u>Children: Controversial Issues</u> , Mason and Gambrill, eds., Sage, in press.....	2
<u>Possible Transfusion-Associated Acquired Immune Deficiency Syndrome (AIDS) - California</u> , 31 MORB. & MORT. WKLY. REP. 644 (1982).....	31
Possible Transmission of HIV to a Patient During an Invasive Dental Procedure, 264 J. AM. MED. A. 1092 (1990).....	31
Sorokin, Pitirim, <u>The American Sex Revolution</u> , Porter Sargent Publisher, Boston, 1956.....	6
Rees J T & Usill H V, <u>They Stand Apart</u> , 1956 NY:Mac- millan, pp. 28-29.....	38
Resiman, Judith A., Ph.D., Affidavit, p. 3.....	2
<u>Rocky Mountain News</u> , January 10, 1991, cited in Cameron, Virginia Court of Appeals Brief, <u>op. cit.</u> , p. 4.....	3
Rolfs et al., <u>Epidemiology of Primary and Secondary Syphilis in the U.S.</u> , 264 J. AM. MED. A. 1432 (1990); Henderson, <u>Improving Sexually Transmitted Disease Health Services for Gays: A National Perspective</u> , 4 SEX. TRANS. DIS. 58, 60 (1977) (46%); Bolan, <u>Sexually Transmitted Diseases in Homosexuals: Focusing the Attack</u> , 8 SEX. TRANSM. DIS. 293, 294 (1981) (49%); Owen, <u>Sexually Transmitted Diseases and Traumatic Problems in Homosexual Men</u> , 92 ANN. INT. MED. 805 (1980).....	25
Saghir, M. and E. Robins <u>Males and Female Homosexuality</u> , Williams & Wilkins, Baltimore, 1973, p. 225; L.A. Peplau and H. Amaro, <u>Understanding Lesbian Relation- ships</u> , in J. Weinrich and W. Paul, eds., <u>Homosexuality: Social, Psychological, and Biological Issues</u> , Sage, Beverly Hills, California, 1982	10
Saia, Michael, <u>Counseling the Homosexual</u> (Minneapolis: Bethany, 1988) at 80.	21
Schmerin et al., <u>Giardiasis: Association With Homosexuality</u> , 88 ANN. INT. MED. 801, 802 (1978).....	26
<u>supra</u> at 802	28

Schreeder, et al., <u>Epidemiology of Hepatitis B Infection in Gay Men</u> , 5 J. HOMOSEXUALITY 307, 309 (1980).....	27
Siegel, <u>Severe Acquired Immunodeficiency in Male Homosexuals, Manifested by Chronic Perianal Ulcerative Herpes Simplex Lesions</u> , 305 NEW ENG. J. MED. 1439, 1443 (1981).....	25
Siegel, JM et al <u>The Prevalence of Childhood sexual Assault</u> , <u>Amer J Epidemiology</u> , 1987; 126:1141-53.....	35
Socarides, Charles, M.D. affidavits of. Submitted in appendix to BRIEF AMICI CURIAE OF CERTAIN TEXAS LEGISLATORS on behalf of The State of Texas, the Appellant, in The State of Texas v. Linda Morales	15, 17, 21
<u>Homosexuality in the Male: A Report of a Psychiatric Study Group</u> , 11 INTL. J. PSYCH. 461 (1973).....	17
<u>Sexual Politics and Scientific Logic: The Issue of Homosexuality</u> , <u>The Journal of Psycho- history</u> , Vol. 10, No. 3, Winter, 1992, p. 318.....	9
Spencer, et al., <u>Sexual Abuse of Boys</u> , 78 PEDIATRICS 133 (1986).....	34
Stewart, Sally Ann, <u>AIDS Aftermath: Fewer Sex Partners Among Gay Men</u> , <u>USA Today</u> , November 21, 1984; A.P. Bell and M.S. Weinberg, and Schuster, New York, 1978, pp. 308-309; A.P. Bell, M.S. Weinberg, and S.K. Hammersmith, <u>Sexual Preference</u> , Indiana University Press, Bloomington, IN., 1981.....	9
Sullivan, T. & P. MAIKEN, <u>KILLER CLOWN</u> (1983).....	34
<u>Update on Acquired Immune Deficiency Syndrome (AIDS) Among Patients With Hemophilia A</u> , 31 MORB. & MORT. WKLY. REP. 644 (1982).....	31
Voth, Harold M. Affidavits of psychiatrists. Submitted in appendix to BRIEF AMICI CURIAE OF CERTAIN TEXAS LEGISLATURES on behalf of The State of Texas, the Appellant, in The State of Texas v. Linda Morales...16, 17, 18	
Wasserman, J. et al <u>Adolescent Sex Offenders - Vermont</u> , 1984. <u>American Medical Assn</u> , 1986; 255:181-2.....	37
YOUNG, JAY & A., <u>THE GAY REPORT</u> 239 (1979) (57%).....	33

INTEREST OF AMICUS CURIAE

This case addresses Section 63.042(3), Fla. Stat. (1991) which prohibits homosexuals from adopting children. Amicus submits this brief to bring to this Court's attention the importance of placing a child in a secure family environment where he may be nurtured in the best interest of his mental, emotional, spiritual and sexual capacities. Amicus believes the history of America demonstrates that our perspectives on the family often change in response to new cultural conditions and thinking. Nonetheless, stable families are possible only if society and the courts are willing to restrict its definition of family in order to combat threats to its existence. Amicus believes when it is clearly and narrowly defined, the family retains its strength and influence. Amicus believes the decision of the District Court of Appeals was determined in the best interest of the families and children of Florida.

Amicus Curiae is a non-profit religious corporation named for Samuel Rutherford, a 17th-century Scottish minister and Rector at St. Andrew's University. Through its headquarters in Charlottesville, Virginia, six regional offices and international offices, The Rutherford Institute undertakes to assist litigants throughout the United States and internationally, to participate in significant cases relating to Free Speech and Religion Clauses.

SUMMARY OF ARGUMENT

Section 63.022, Fla. Stat. (1990) directs courts to enter orders as deemed necessary and suitable to promote and protect the best interest of the person to be adopted. The principal body of impartial psychosexual and scientific knowledge pertinent to the questions posed in this case show conclusively that placing a child in a homosexual household is not in the best interest of the one being adopted.

This brief does not attempt to debate the constitutional arguments asserted in the Petitioner's brief which focuses on the rights of perspective adoptive parents. Amicus adopts the December 1, 1993 Opinion in The District Court of Appeal of Florida Second District for that purpose. Amicus believes the State's interests in the morality, decency, health, safety, and welfare of its citizens, especially the children, clearly constitute compelling and legitimate State interests sufficient to sustain Section 63.042(3) even if the right of privacy, due process, and equal protection claims apply.

This brief documents the results of unbiased scientific research, investigating and comparing children raised in homosexual households with children raised in heterosexual households. The research conclusively establishes that homosexual households present an unhealthy, insecure environment for children.

As demonstrated by the objective social science data, there is valid basis for concluding that a heterosexual child raised by a homosexual parent will indeed suffer from that experience, especially during the child's psychosexual development.

This brief will present the social science research showing impartial statistical evidence confirming that homosexuality is a mental and emotional disorder; and that homosexuals are, for the most part, incapable of sustaining stable, long-term relationships suitable for raising children.

This brief will also document that homosexuals are not born with uncontrollable tendencies and that the homosexual lifestyle continues to the detriment of the traditional family unit and society as a whole.

ARGUMENT

I. HOMOSEXUAL PARENTING

A. Most Studies on Homosexual Parenting Are Biased and Seriously Flawed.

Studies on the effects of homosexual parenting of children are scant, highly politicized, and conducted largely by lesbian researchers in very limited samples.¹ Researcher Frederick W. Bozett, who contends that children raised by homosexual fathers are no more likely to become homosexual than children raised in normal households, acknowledges in Homosexuality and the Family: "Most studies of gay fathers are based on nonrandom small sample sizes, with subjects who are Caucasian, middle to upper-class, well educated with occupations commensurate with their education, who come mostly from urban centers, and who are relatively accepting of their homosexuality. There is severely limited knowledge of gay fathers who vary from these demographics. Moreover, the validity and reliability of the instruments used in the studies reported are not always addressed."²

Many sexuality professionals are either employed by the sex industry (pornographers) or are producers of commercial "educative" pornography. Sexuality professionals regularly testify in favor of an end to various sex-crime laws, and they are on record as

¹ Robert H. Knight and Daniel S. Garcia, Homosexual Adoption: Bad For Children, Bad For Society, p.2.

² Frederick W. Bozett, Gay Fathers: A Review of the Literature, in Frederick W. Bozett, editor, Homosexuality and the Family, Harrington Park Press, New York, 1989, p. 152.

desiring to make sodomy legal.³

Other shortcomings of homosexual parenting studies, according to psychologist J. Craig Peery, include: "unsuitable philosophical approaches, logical inconsistencies, inappropriate theoretical models, limitations on sample size, sample selection, control groups, data collection and analysis, and lack of a longitudinal perspective."⁴ Even within these biased studies, greater risks to children raised in homosexual households are evident. To begin with, most of the studies compare children in homosexual households to those in single-parent households instead of mom-and-dad households. Research shows that children in single-parent households are at higher risk for susceptibility to peer pressure, early sexual activity, drug abuse, delinquency and other problems. Again, not all children raised in single-parent households suffer from such problems, but they are statistically at a higher risk. For researchers to compare homosexual households with single-parent households is a way to avoid the obvious, documentable desirability of the mom-and-dad household.⁵

Although activists claim that homosexual households have no discernible impact on sexual identities of the children raised in them, the aggregate data in several studies indicate that children in such households are "about four times more apt to produce

³ Judith A. Reisman, Ph.D., Affidavit, p. 3.

⁴ J. Craig Peery, Children: Controversial Issues, Mason and Gambrill, eds., Sage, in press.

⁵ Robert H. Knight and Daniel S. Garcia, Homosexual Adoption: Bad For Children, Bad For Society, p. 2.

homosexual children," according to Dr. Paul Cameron.⁶ A close look at the data reveals:

B. CHILDREN RAISED IN HOMOSEXUAL HOUSEHOLDS ARE MORE LIKELY TO BECOME HOMOSEXUAL

Contrary to "research" initiated mostly by lesbians and homosexuals, an alarmingly higher percentage of children raised in homosexual households become homosexual. Data analyzed by Dr. Cameron show that 8.9 percent of children in homosexual households became homosexual while only 2.4 percent of the children raised in heterosexual households became homosexual.⁷ In a subset of those studies, extracted because they reflect developed, not merely developing, homosexual orientation, 13.9 percent of children raised in homosexual households became homosexual.⁸

Dr. Jerry Binger, a homosexual parent and a co-investigator with Frederick Bozett, writes: "Twelve percent [of children raised in homosexual households] tend to develop a homosexual orientation."⁹

Forty seven percent of those raised by at least one homosexual parent reported a less than exclusively heterosexual orientation.

In a 1989 survey of women once married to men who practice

⁶ Paul Cameron, The Truth About "Gay Parents": An Analysis of the American Psychological Association/National Association of Social Workers' Brief in the Virginia Court of Appeals in the Pamela Bottoms Case, Family Research Institute, 1993-1994, p. 3.

⁷ Id.

⁸ Id.

⁹ Rocky Mountain News, January 10, 1991, cited in Cameron, Virginia Court of Appeals Brief, op. cit., p. 4.

homosexuality, nearly twelve percent report homosexual behavior in their children.¹⁰ Considering that homosexuals make up less than two percent of the general population, these numbers show a dramatically elevated risk.

C. CHILDREN RAISED IN HOMOSEXUAL HOUSEHOLDS EXPERIENCE EMOTIONAL PROBLEMS ASSOCIATED WITH THEIR PARENTS' HOMOSEXUALITY.

The 1989 study of women once married to men who practice homosexuality also showed that one in three mothers with older children report that their children have "problems in relationships with members of the opposite sex."¹¹

Another study in Homosexuality and the Family showed that five out of nine daughters of divorced lesbians had "felt negatively about their mothers' lesbianism."¹²

Dr. Cameron also found that "Fifty eight percent of the children of lesbians and 21.1 percent of the children of homosexual fathers experience relationship problems with other people because of their knowledge of their parents' homosexuality."¹³

D. CHILDREN RAISED IN HOMOSEXUAL HOUSEHOLDS SHARE GREATER

¹⁰ D. Hays and A. Samuels, Homosexual Women's Perceptions of Their Marriages to Bisexual and Homosexual Men, F. Bozett, ed., Homosexuality and the Family, op. cit., p. 97.

¹¹ Id., p. 96.

¹² Sharon L. Huggins, A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers, F. Bozett, ed., Homosexuality and the Family, op. cit., p. 133.

¹³ Cameron, Virginia Court of Appeals brief, op. cit.

RISK OF SOCIAL OR PSYCHOLOGICAL PROBLEMS.

A disproportionate number of the children reared in homosexual households experienced gender dissatisfaction, and other problems associated with their family environment.¹⁴ These problems include:

- * children feeling betrayed by their parents;
- * divorce and single parenthood;
- * children being orphaned due to short homosexual life span

According to psychologist Brad Hayton, children from homosexual households:

...fear being labeled a homosexual themselves, fear ostracism from peers, experience much confusion and withdrawal from family and peers. Boys feel left out, girls increasingly worry about their own sexual identity, and many children simply reject their parents' lifestyle. The rotating partners of homosexuals cause many children to compete for the affection of their mothers and feel left out of their families."¹⁵

There is a large body of research showing that children grow up to be much like their parents, according to psychologist J. Craig Peery of Brigham Young University. "Children from large families are more likely to have large families"... "Children's educational attainment, career choice, etc. are similar to their parents'. Children who experience their parents' divorce are more likely to become divorced."¹⁶ Children of alcoholics often become alcoholics

¹⁴ Dr. Paul Cameron and Dr. Kirk Cameron, Homosexual Parents, Family Research Institute, 1994, p. 10.

¹⁵ Dr. Bradley P. Hayton, To Marry or Not: The Legalization of Marriage and Adoption of Homosexual Couples, The Pacific Policy Institute, Newport Beach, CA, 1993, p. 9.

¹⁶ Peery, op. cit. p. 10.

themselves. Children who suffer child abuse often become child abusers. It is reasonable to assume that children raised in homosexual households would be more likely either to become homosexual themselves or to become sexually promiscuous, and the little research available bears this out.¹⁷

E. WHAT CHILDREN SEE IN HOMOSEXUAL HOUSEHOLDS

Homosexual households are incapable of providing adequate role modeling for several relationships that are crucial to the formation of healthy, stable families. These are the interactions between:

- * Husbands and wives
- * Mothers and fathers
- * Men and women

The mom-and-dad family is the natural environment for child rearing, and is the foundation of civilization. This is reflected in cultures the world over.¹⁸ As noted by the late Harvard sociologist Pitirim Sorokin:

"Marriage is a social evidence of the physical, mental, emotional, spiritual, and civic maturity of the individual. It involves the momentous transformation of a boy into a husband-father, and of a girl into a wife-mother, with corresponding changes in their social position, privileges, and responsibilities."¹⁹

Despite all of the new technology of contraception, it takes two opposite sex people to create children. It takes two opposite sex

¹⁷ Hayton, op. cit.

¹⁸ Pitirim Sorokin, The American Sex Revolution, Porter Sargent Publisher, Boston, 1956.

¹⁹ Id. p. 5.

people to nurture and raise children properly until they can care for themselves. In terms of sexual development: Boys need fathers so they can develop their own sexual identity; they need mothers so they can learn how to interact with the opposite sex. Girls need mothers so they can learn what it is to be a woman; they need fathers so they know how to interact with the opposite sex.

In single-parent families, children are already at a disadvantage in terms of viewing the crucial relationships between the sexes; in homosexual households they are at far greater risk because not only is one of the sexes absent but the children view aberrant sexuality on a daily basis. Their understanding of sexuality is seriously distorted through the homosexual lens, as is attested by some who have grown up in homosexual households and are now speaking out.²⁰

"Homosexuality...is fundamentally a problem of gender identity, rather than of sexuality as such"... "The homosexual's love for men is but the boy's thwarted love for his father, i.e. it is a masculine and an identificatory love which is intimately linked with the building of the boy's gender identity. Hence it is in no way analogous to the love of the female for the male, since this latter kind of love does not aim at fulfilling an incomplete gender identity, but rather presupposes the completion of the

²⁰ Robert H. Knight and Daniel S. Garcia, Homosexual Adoption: Bad for Children, Bad for Society, p. 5.

identificatory process."²¹

Since homosexual love is quite different from the love a wife gives to her husband, a wife cannot simply be replaced by a male partner without a monumental change in the entire psychology of the household. It is unreasonable to assume that the sexuality of the partners makes no difference, and that children in a homosexual household will see, hear and experience what they would in a husband-wife household.

Dr. Joseph Nicolosi, who counsels homosexuals who want to recover their heterosexual identities, has found homosexuality to be "an alienation from males -- in infancy from father, and in later life from male peers. By eroticizing what he feels disenfranchised from, the homosexual man is still seeking this initiation into manhood through other males."²²

Advocates of reparative therapy to overcome homosexual temptations include the National Association of Research and Treatment of Homosexuality (NARTH), a professional organization formed in 1992 to protect the right of homosexuals to seek therapy designed to restore heterosexuality.

Founding NARTH member Charles W. Socarides, a New York psychiatrist, sees homosexual behavior as a way that people with gender-identity problems reduce anxiety about their own ambivalence

²¹ Elizabeth R. Moberly, Psychogenesis: The Early Development of Gender Identity, Routledge & Kegan Paul Limited, London, 1979, p. 14.

²² Joseph Nicolosi, Reparative Therapy of Male Homosexuality, Jason Aronson Inc., Northvale, New Jersey, 1991, pp. 7-38.

toward their own sexuality.²³ Homosexual behavior is destructive in that it postpones the eventual coming to terms with the real problem, which largely stems from a failure to bond with the same-sex parent during early childhood.

In brief, people who are emotionally insecure and confused about something as basic as their own gender roles are not in the best position to be parental role models for children, regardless of their good intentions or other fine qualities.

F. MOST HOMOSEXUAL PARENTS UNABLE TO PROVIDE EMOTIONAL STABILITY TO THEIR CHILDREN.

Because homosexual relationships are characteristically unstable, they are less likely to provide children the security they need. While there are some homosexuals who have stable, monogamous relationships and live what appear to be relatively normal lives, most:

a. Show a High Degree of Promiscuity. The average male homosexual has fifty sex partners each year. One study found that forty three percent of white male homosexuals estimated that they had sex with five hundred or more partners, and twenty eight percent with one thousand or more. Only two percent of homosexuals could be considered monogamous.²⁴

²³ Charles W. Socarides, Sexual Politics and Scientific Logic: The Issue of Homosexuality, The Journal of Psychohistory, Vol. 10, No.3, Winter, 1992, p. 318.

²⁴ Sally Ann Stewart, AIDS Aftermath: Fewer Sex Partners Among Gay Men, USA Today, November 21, 1984; A.P. Bell and M.S. Weinberg, Homosexualities: A Study of Diversity Among Men and Women, Simon and Schuster, New York, 1978, pp. 308-309; A.P. Bell, M.S. Weinberg, and S.K. Hammersmith, Sexual Preference, Indiana

b. Have an Unhealthy Attitude Toward the Opposite Sex.

Lesbian culture is rife with anti-male sentiment, as evidenced by hostility toward men in lesbian publications and in public references. Even where such hostility does not exist or is concealed, the lesbian social milieu consists of people who are largely hostile to men, the very people that a boy needs to observe to develop a secure gender identity. Likewise, a homosexual male household is missing a proper appreciation of the feminine, generally ignoring it or identifying with exaggerated portrayals of "vamp" femininity such as Madonna.²⁵

c. Have Fleeting Relationships. The average male homosexual live-in relationship lasts between two and three years.²⁶ Before living together, sixty four percent of homosexuals knew each other for less than a year. A mere twenty six percent believe that commitment is most important in a marriage relationship.²⁷

d. Experience Extracurricular Relationships. Even in so-called "monogamous" relationships. Former homosexual William Aaron explains:

"In the gay life, fidelity is almost impossible. Since

University Press, Bloomington, IN., 1981.

²⁵ Knight and Garcia, Homosexual Adoption: Bad for Children, Bad for Society, p. 8.

²⁶ M. Saghir and E. Robins, Male and Female Homosexuality, Williams & Wilkins, Baltimore, 1973, p. 225; L.A. Peplau and H. Amaro, Understanding Lesbian Relationships, in J. Weinrich and W. Paul, eds., Homosexuality: Social, Psychological, and Biological Issues, Sage, Beverly Hills, California, 1982.

²⁷ Mary Mendola, The Mendola Report, Crown, New York, 1980, p. 53.

part of the compulsion of homosexuality seems to be a need on the part of the homophile to 'absorb' masculinity from his sexual partners, he must be constantly on the lookout for [new partners]. Constantly the most successful homophile 'marriages' are those where there is an arrangement between the two to have affairs on the side while maintaining the semblance of permanence in their living arrangement."²⁸

On the issue of homosexual "marriage," Dr. Brad Hayton writes:

"Homosexuals...model a poor view of marriage to children. They [children] are taught by example and belief that marital relationships are transitory and mostly sexual in nature. Sexual relationships are primarily for pleasure rather than procreation. And they [children] are taught that monogamy in a marriage is not the norm [and] should be discouraged if one wants a good 'marital' relationship."²⁹

G. CHILDREN RAISED IN HOMOSEXUAL HOUSEHOLDS HAVE A GREATER RISK OF SEXUAL INVOLVEMENT WITH A PARENT.

Twenty nine per cent of children raised by a homosexual parent reported sex with the homosexual parent. The incest-with-a-parent risk to individuals being raised by heterosexuals would appear to be about 0.6 per cent. From this perspective, homosexual parent(s) appear to increase the risk of incest with a parent by a factor of about fifty.

H. WHAT ARE THE EFFECTS OF HOMOSEXUAL PARENTING?

1) Parental model experiences would make a child more apt to engage in homosexuality and therefore become homosexual, 2) increase the probability of various forms of childhood sexual

²⁸ William Aaron, Straight, Bantam Books, New York, 1972, p. 208, cited in Joseph Nicolosi, Reparative Therapy of Male Homosexuality, op. cit., p. 125.

²⁹ Hayton, op. cit.

victimization from the parent and from his associates, and 3) because the parent's world-view and behavior standards are disturbed, the child would be more apt to be socially and psychological disturbed than children raised by non-homosexual parents. It also appears that children raised by a homosexual are unusually susceptible to having both homosexual and heterosexual relations with other authority figures. Males, as compared to females, appeared to fare especially poorly in terms of experiencing sexually undesirable events when parented by a homosexual.³⁰

The first child placed with openly homosexual foster parents in Washington, D.C., committed suicide at age thirty (Washington Blade, October 28, 1988). At least two children born in the current wave of artificial insemination amongst lesbian couples have been murdered by one of their parents (Houston Post, 4/16/92; Associated Press 4/17/92). Additionally, one of the first single men to adopt children in Florida, David Lindsey, received a fifteen year prison term for homosexually abusing at least three of his eleven adopted sons.

I. MYTHS OF HOMOSEXUAL ADOPTION

In making their case, advocates for homosexual adoptions often make unsubstantiated claims or arguments.

Examples:

Assertion: Research shows that homosexual households produce children every bit as "normal" as mom-and-dad households.

³⁰ Cameron, P., The Truth About Gay Parents, 1993-94, p. 34.

Actuality: The "research" is highly biased, conducted mostly by homosexual researchers and by design screens out any "problem" households. Most scientists feel that placing a child in a homosexual household is an unwarranted risk, and they would not do so willingly for the sake of scientific experimentation. Those that have reservations about such an arrangement would be unable to develop a rapport with homosexual parents and thus gain the data necessary for a study. So the field is left to homosexual activists, who already support the notion of homosexual adoption.

Assertion: If a parent loves the child, what difference does it make whether the parent is homosexual or heterosexual?

Actuality: The good intentions of would-be homosexual parents are not being challenged here. But the character, behavior and the biological sexuality of parents are extremely important to a child's development. In a homosexual household, children miss out on seeing three important relationships between: mothers and fathers, men and women, and husbands and wives, not to mention personal relationships both sexes have with their children. Children need role models of both sexes in order to have the best chance to develop healthy, confident sexual identities.

Assertion: Let's say a loving homosexual couple wants to adopt a child who is now living with an alcoholic mother and an abusive father. Wouldn't the child be better off with the gay couple?

Actuality: Scenarios of situations in which children are in danger do not validate homosexual households as havens. Purely for debate, one could imagine literally thousands of situations, such

as: a child is in a burning building; wouldn't he be better off over in the gay household which is not burning? The question should be: what is best for children in terms of placement? The research, and common sense, tell us that children do best in mom-and-dad households. And given the fact that 2 million heterosexual couples are waiting to adopt, there is no excuse for validating homosexual adoption when there are healthier alternatives.

Assertion: You can't ignore millions of gay households. By sheer numbers, they need and will gain legal acceptance.

Actuality: According to the most recent reliable surveys, homosexuals comprise less than two percent of the population (not the inflated ten per cent from the discredited Kinsey studies), and homosexual couples comprise a microscopic portion of that subset. Besides, numbers alone would not dictate whether this was a healthy development. If ninety per cent of people in a community were smoking two packs of cigarettes a day, it would not be healthy. Just because many people exhibit certain behaviors does not mean that they should gain social acceptance based on that behavior; they have acceptance and civil rights based on other characteristics shared by all, including homosexuals.

II. A LOOK AT HOMOSEXUALITY

A. Homosexual Conduct is Per Se Contrary to Society's Morality and Decency.

The Supreme Court has consistently held that homosexuals

constitute a clearly defined deviant sexual group. In Mishkin v. New York, 383 U.S. 502 (1966), the Court specifically identified homosexuals, explicitly including lesbians, as "a clearly defined deviant sexual group" and held that pictorial depictions of "such deviations as sado-masochism, fetishism, and homosexuality" certainly represented "calculated purveyance of filth." 383 U.S. at 505, 512.

More recently, Justice Powell summarized a state's legislating power over such social, moral evils as homosexual conduct:

"The State, representing the collective expression of moral aspirations, has an undeniable interest in ensuring that its rules of domestic relations reflect the widely held values of its people....State regulation has included bans on incest, bigamy, and homosexuality..."³¹

Most significantly, Justice White held, regarding this country's historic treatment of homosexual sodomy as immoral, that to claim that a right to engage in such conduct is "deeply rooted in this Nation's tradition" or "implicit in the concept of ordered liberty" is "at best, facetious."³²

B. Homosexuality is a Disorder

The causes of homosexuality are well-known, and have been described in detail in both textbooks and periodicals for many years.³³

Homosexuality is sexual interest in, activity with, and many

³¹ Zablocki v. Redhail, 434 U.S. 374, 399 (1978) (concurring).

³² Bowers v. Hardwick, 478 U.S. 186, 106 S.Ct. 2841, 2846.

³³ Socarides, Charles, W., M.D., Affidavit, p. 6.

times, strong emotional attachment to a person of the same sex.³⁴ Some inborn factors may contribute to the development of homosexual attractions and identity but that (1) they are not sufficient in themselves to produce homosexuality; (2) they do not always produce homosexuality; (3) homosexual attractions and identity that are partially rooted in inborn causes are not irreversible.³⁵

Contrary to allegations submitted by briefs on behalf of the Petitioner³⁶, homosexuality is a psychiatric psychopathological condition not innate but acquired, resulting in certain abnormal and perverse behavior, and a disorder from mental health.³⁷ The homosexual, no matter his or her level of adaptation and function in other areas of life, is severely handicapped in the most vital

³⁴ Dr. William Consiglio, Homosexual No More, Victor Books, p. 58.

³⁵ Ed Hurst, Development & Treatment of Homosexuality, Minneapolis: Outpost, n.d., p. 1.

³⁶ Researcher Frederick W. Bozett, contends that children raised by homosexual fathers are no more likely to become homosexual than children raised in normal households, acknowledges in Homosexuality and the Family that:

"Most studies of gay fathers are based on nonrandom small sample sizes, with subjects who are Caucasian, middle to upper-class, well educated with occupations commensurate with their education, who come mostly from urban centers, and who are relatively accepting of their homosexuality. There is severely limited knowledge of gay fathers who vary from these demographics. Moreover, the validity and reliability of the instruments used in the studies reported are not always addressed."

³⁷ Affidavits of psychiatrists Harold M. Voth, M.D. and Charles W. Socarides, M.D. submitted in appendix to BRIEF AMICI CURIAE OF CERTAIN TEXAS LEGISLATORS on behalf of The State of Texas, the Appellant, in The State of Texas v. Linda Morales.

area-interpersonal relations.³⁸ The major international resource for disease information, the INTERNATIONAL CLASSIFICATION OF DISEASES (9th ed.), lists homosexuality with the code number 302.0 as a sexual deviation or disorder.³⁹ The only reason the American Psychiatric Association ("APA") has delisted homosexuality as a mental disorder is the relentless intimidation and political pressure applied to the APA by militant homosexual activists. No new scientific or clinical findings gave credence to this political action. Subsequent polling of large numbers of psychiatrists within the American Medical Association have, in fact, revealed that up to seventy per cent of the practicing psychiatrists disagree and do not find homosexuality to be a normal variation, but a pathological adaptation.⁴⁰ The APA political decision was an abandonment of many who suffer and need treatment, which, when sought, can be very successful and present a favorable prognosis to ones who have often surrendered in despair.⁴¹

Homosexuality is a psychiatric psychopathological condition, acquired as a result of disturbed family constellations and interactions between the parents and between the parents and their children, resulting in certain anti-social and perverse behavior, and which can be treated or cured when the patient is motivated to

³⁸ Socarides, Charles W., M.D., Affidavit, p. 3.

³⁹ Socarides et al., Homosexuality in the Male: A Report of a Psychiatric Study Group, 11 INTL. J. PSYCH. 461 (1973).

⁴⁰ Socarides Affidavit at 5; Voth Affidavit at 3.

⁴¹ Socarides, Affidavit, p. 6.

change.⁴² The great pioneers of psychiatry all acknowledged that homosexuality was pathological and a disorder of mental health. The bulk of research from the time of these pioneers to present reconfirms that homosexuality is a pathological condition.⁴³ Research has failed to demonstrate any biological imperative underpinning obligatory homosexuality despite repeated attempts to do so. If homosexuality were a normal condition and biologically determined, it should appear in all cultures, and it does not.⁴⁴ Chromosomal or other genetic studies and chemical analysis have not demonstrated a biological basis for homosexuality.⁴⁵

No credible evidence exists that homosexuality has a genetic link. Seventy years of studies and therapeutic experience clearly indicates that homosexuality is an aberrancy that is unhealthy and treatable and that environmental factors are paramount in the formation of sexual identity. Masters and Johnson report a seventy one percent success rate in therapy for homosexuals wanting to change their orientation, and thousands of homosexuals have been freed through therapy. More than 200 ex-gay organizations around the United States report regular successes.⁴⁶ People have not only left the lifestyle, but they have recovered heterosexual desires.

⁴² Harold M. Voth, M.D., Affidavit, p. 3.

⁴³ Voth, Affidavit, p. 3.

⁴⁴ Voth, Affidavit, p. 5.

⁴⁵ Voth, Affidavit, p. 6.

⁴⁶ Knight, R. and Garcia, D. Homosexual Adoption: Bad for Children, Bad For Society, p. 10.

Heterosexual feelings and desires do return. Homosexual attractions do decline and diminish.⁴⁷

What is always seen in homosexual orientation are other environmental or developmental factors such as the behavior of the other sex parent, medical handicaps or problems, the impact of the birth order, sibling sex ratios, dysfunctional family relationships, early sexual abuse or exploitation, emotional abuse and rejection, dissatisfying peer relationships.⁴⁸

These factors conspire to effect an emotional wounding which leaves the child with:

Low Self-Esteem (LSE); It arises from some form of dysfunctional family upbringing. It has to do with an inability to accept oneself emotionally.

Gender Emptiness (GE); a gender identity insecurity or inadequacy. A fear of male aggressiveness.

Gender Attraction (GA); Because the young preadolescent is GE, he experiences an emotional deprivation which makes him very needy or hungry for other males to accept, approve, and be close to him. The young male looks to other males for his identity since his own is insecure. He forms an attraction and an attachment to other same gender persons in an intense way.

Sexual Attraction (SA); LSE led to GE and GE led to GA. All those attractive features with which the GE-GA boy identifies and seeks for himself now become sexualized and eroticized.

⁴⁷ Consiglio W., Homosexual No More, p. 34.

⁴⁸ Ibid., p. 59.

Homosexual Reinforcement (HR); The LSE-GE-GA-SA youngster begins to engage in those sexual activities which reinforce and habituate his homosexual disorientation. He begins to masturbate with continuous homosexual or male fantasies; he buys pornography, watches erotic videos, and reads erotic literature. He begins seeking other same gender people with whom he forms emotional attachments and becomes sexually involved.

Homosexual Identity (HI); The final stage in the development of the homosexual disorientation. Because he must come to some peace about his sexual identity and orientation, he begins to justify his lifestyle of homosexual behavior and forms an identity as a homosexual or "gay" person. Once this identity is consolidated and he begins to associate with a gay community and companions, he becomes very defensive about his choice and will not allow anyone to convince him of a change in his identity.⁴⁹

Most homosexually oriented men do not enter relationships with other men just to have sex. Rather, they are trying to fulfill their needs for unconditional love and a sense of identity. But sex often plays a part in these relationships, and after a while confusion may occur. The man will begin to think sex will meet his basic needs, so he attempts to satisfy his needs in that way. Since sex is such a powerful, pleasurable experience, it can quickly reinforce any behavior associated with it. This is how habit patterns of thinking (sexualization) and behavior (promiscuity) can so quickly become entrenched in the homosexual's

⁴⁹ Dr. W. Consiglio, Homosexuality No More, p. 63.

life.⁵⁰

Homosexuality is not an alternative sexuality, but an emotional disorientation caused by arrested or blocked emotional development in the stream of heterosexuality.⁵¹ The psychological conflicts which lead to the development of homosexuality, the anguish of the homosexual himself and the damage to his family and close associates produces tragic consequences as well as behaviors.⁵²

C. No Expert or Other Testimony Necessary at Trial.

Many homosexual obscenity cases expressly hold that no expert or other testimony is necessary at trial to prove that homosexual conduct is obscene and immoral.⁵³ In fact, one Supreme Court case unequivocally establishes that, in a constitutional attack by a homosexual against a state sodomy statute, "the State is not required to show that moral delinquency actually results from homosexuality" to uphold the legislation. Doe v. Commonwealth's Attorney, 403 F. Supp. 1199, 1202 (E.D. Va. 1975), aff'd mem., 425 U.S. 901 (1976). Indeed, in Bowers v. Hardwick, the Court held that "the presumed belief of a majority of the electorate in Georgia that homosexual sodomy is immoral and unacceptable" was

⁵⁰ Michael Saia, Counseling the Homosexual (Minneapolis: Bethany, 1988), at 80.

⁵¹ Dr. Consiglio, Homosexuality No More, p. 22.

⁵² Socarides, Charles, W., M.D., Affidavit, p. 6.

⁵³ E.g., Pinkus v. United States, 436 U.S. 293 (1978); Ward v. Illinois, 431 U.S. 767 (1977); Hamling v. United States, 418 U.S. 87 (1974).

sufficient to uphold the statute. 106 S.Ct. at 2846.

Since the case law pronounces homosexual conduct per se immoral and requires no such proof whatsoever, and since the plaintiff unashamedly admits to being homosexual, the Circuit Court did not error in upholding Fla. Stat. Section 63.042(3) based upon the compelling, legitimate state interests in morality and decency, and the best interest of the children of the State of Florida.

III. HOMOSEXUALITY VS. HEALTH AND SAFETY

Innumerable federal and state cases have clearly announced that the health and safety of its citizens constitute compelling and legitimate state interest, in constitutional challenges to state statutes.⁵⁴ In fact, a number of recent cases have upheld the constitutionality of a ban on homosexual sodomy and similar statutes specifically on the basis of protecting public health and safety from the potential transmission of dangerous sexually transmitted diseases ("STDs").⁵⁵

⁵⁴ Alfred L. Snapp & Son, Inc. v. Puerto Rico, 458 U.S. 592 (1982); Colautti v. Franklin, 439 U.S. 379 (1979); Bachynsky v. State, 747 S.W. 2d 868 (Tex. App.--Dallas 1988, writ denied).

⁵⁵ State v. Walsh, 713 S.W. 2d at 512-13 (Missouri homosexual sodomy statute upheld to protect public from spread of AIDS, since legislature "could have reasonably concluded that the general promiscuity characteristic of the homosexual lifestyle made such acts particularly deserving of regulation"); Movie & Video World, Inc. v. Board of County Commissioners, 723 F. Supp. 695 (S.D. Fla. 1989); Doe v. Minneapolis, 898 F.2d 612 (8th Cir. 1990) (city ordinance mandating removal of doors from booths at "adult bookstores" upheld because of significant governmental interest in combating spread of AIDS through reducing high-risk sexual conduct).

A. Specific Diseases and Modes of Transmission.

The general homosexual community both in Florida and across the nation represents a great reservoir of dangerous transmissible diseases. The number of different communicable diseases prevalent in the homosexual community and their extremely high incidences are staggering. The high U.S. incidence rate of these diseases attributable to homosexuals is further highlighted by the fact that the homosexual population of the U.S. is extremely small compared to the total population. That is, the most recent and authoritative scientific sexual preference surveys indicate that only approximately 1.5 percent to 2 percent of the total U.S. population is actively homosexual.⁵⁶

The following will describe the most important of these diseases, present the large percentage of total U.S. incidence of the diseases attributable to homosexuals, demonstrate the high percentage of homosexuals themselves that harbor such diseases, and then explain the specific acts that transmit these diseases, namely, the acts of homosexual oral and anal sodomy. Appendix Items provide citations of more than 360 studies of these homosexual STDs and copies of the most pertinent medical and social science references.

a. Acquired Immune Deficiency Syndrome (AIDS) -- Of all

⁵⁶ A. BELL, M. WEINBERG 7 S. HAMMERSMITH, SEXUAL PREFERENCE: STATISTICAL APPENDIX 618 (1981); Fay et al., Prevalence and Patterns of Same-Gender Sexual Contact Among Men, 243 SCIENCE 338 (1989); Centers For Disease Control, Number of Sex Partners and Potential Risk of Sexual Exposure to HIV, 37 MORB. & MORT. WKLY. REP. 565 (1988). Judith A. Reisman, Ph.D., Affidavit, p. 4.

the many diseases rampant in the homosexual community, AIDS is decidedly the most disturbing. This disease, first noted in U.S. homosexual males in 1979, progresses into more serious opportunistic infections and certain types of rare cancer (Kaposi's sarcoma), and very many of those affected die within one to three years; the fatality rate exceeds sixty percent for cases diagnosed over one year previously. CDC, Prevention of Acquired Immune Deficiency Syndrome (AIDS): Report of Inter-Agency Recommendations, 32 MORB. & MORT. WKLY. REP. 101, 102 (1983).

Unquestionably the largest percentage of total U.S. incidence of AIDS has been reported in homosexual males. Originally, ninety two percent of the AIDS symptoms and cases were reported in homosexuals.⁵⁷ More recently, since AIDS has been spread to more segments of the general public, seventy two to seventy five percent of the total AIDS cases are homosexuals.⁵⁸ The accepted medical explanation for the pathogenesis of AIDS is that it results from a transmissible viral agent, the human immunodeficiency virus or HIV.⁵⁹ This viral agent has been closely associated with another

⁵⁷ Lemp et al., Projections of AIDS Morbidity and Mortality in San Francisco, 263 J. AM. MED. A. 1497 (1990). Centers for Disease Control (CDC), Special Report: Epidemiologic Aspects of the Current Outbreak of Karposi's Sarcoma and Opportunistic Infections, 306 NEW. ENG. J. MED. 248, (1982).

⁵⁸ Lemp, et. al., Projections of AIDS Morbidity and Mortality in San Francisco, 263 J. AM. MED. A. 1497 (1990); Morgan et al., The Future Course of AIDS in the U.S., 263 J. AM. MED. A. 1539 (1990).

⁵⁹ CDC, Prevention of Acquired Immune Deficiency Syndrome, supra at 1, 2; Levy, Human Immunodeficiency Viruses and the Pathogenesis of AIDS, 261 J. AM. MED. A. 2997 (1989).

known virus, cytomegalovirus (CMV).⁶⁰ Significantly, an extremely high percentage of homosexual males continuously harbor CMV.⁶¹

b. Syphilis -- AIDS, however, is merely the tip of the homosexual disease iceberg. The more traditional venereal disease, syphilis, is also widespread in the male homosexual community. Although homosexuals constitute only approximately two percent of the total U.S. population, they account for approximately fifty percent of the cases of male infectious syphilis.⁶²

In light of this extremely large nationwide incidence, it is not surprising that a very significant percentage of homosexual men themselves have or have had syphilis. In one scientific investigation of homosexual men, thirty five percent to sixty percent of them reported a history of syphilis.⁶³ Another study of homosexual men demonstrated that twenty nine percent had a

⁶⁰ Siegal, Severe Acquired Immunodeficiency in Male Homosexuals, Manifested by Chronic Perianal Ulcerative Herpes Simplex Lesions, 305 NEW ENG. J. MED. 1439, 1443 (1981).

⁶¹ Kornfeld, T-Lymphocyte Subpopulations in Homosexual Men, 307 NEW ENG. J. MED. 729, 730 (1982) (97% of homosexuals had CMV; only 25% of heterosexuals had it).

⁶² Rolfs et al., Epidemiology of Primary and Secondary Syphilis in the U.S., 264 J. AM. MED. A. 1432 (1990); Henderson, Improving Sexually Transmitted Disease Health Services for Gays: A National Prospective, 4 SEX. TRANSM. DIS. 58, 60 (1977) (46%); Bolan, Sexually Transmitted Diseases in Homosexuals: Focusing the Attack, 8 SEX. TRANSM. DIS. 293, 294 (1981) (49%); Owen, Sexually Transmitted Diseases and Traumatic Problems in Homosexual Men, 92 ANN. INT. MED. 805 (1980).

⁶³ Marmor et al., Risk Factors for Kaposi's Sarcoma in Homosexual Men, 1 LANCET 1083, 1084 (1982).

previous history of infectious syphilis.⁶⁴ A very thorough medical survey of over 4,200 homosexuals also ties homosexual syphilis to specific sex acts.⁶⁵

c. Hepatitis B -- Hepatitis B is one of several diseases that until fairly recently were thought to be transmitted almost solely through the food or water chain. Now, however, the medical community recognizes that such diseases are being sexually transmitted among, practically exclusively, homosexuals. In one study, at least forty three percent of all reported cases of Hepatitis B occurred in homosexuals.⁶⁶

In one of the most thorough studies of homosexual diseases to date involving over 4,000 homosexuals from five different cities, sixty one percent of the homosexuals tested positively for

⁶⁴ Schmerin et al., Giardiasis: Association With Homosexuality, 88 ANN. INT. MED. 801, 802 (1978). See also Rolfs, supra (similar figures for 1981 - 1989).

⁶⁵ Similarly, very high percentages of homosexuals carry gonorrhea of the anus-rectum, the mouth, and the urethra. Marmor, supra at 1084 (72 to 85%); Babb, Sexually Transmitted Infections in Homosexual Men, POST GRAD. MED. J. no. 3, at 215, 216 (1979) (44%); Felman & Nikitas, supra at 713 (25%); Janda et al., Epidemiology of Pathogenic Neisseria in Homosexual Men, 5 J. HOMOSEXUALITY 289 (1980) (21%). See also CDC, Trends in Gonorrhea in Homosexually Active Men, 262 J. AM. MED. A. 2985 (1989). Moreover, the authorities unequivocally state: "As was the case with syphilis, gonorrhea was closely associated with age, years as a practicing homosexual, and specific sexual activities, especially anal intercourse." Darrow, supra at 1006.

⁶⁶ Handsfield, Sexually Transmitted Diseases in Homosexual Men, 71 AM. J. PUBL. HLTH. 989 (1981). See also Alter et al., The Changing Epidemiology of Hepatitis B in the U.S., 263 J. AM. MED. A. 1218 (1990).

Hepatitis B virus (HBV).⁶⁷ In a separate study of homosexual men from 1979 through 1981, sixty five percent of both symptomatic and healthy homosexuals reported a history of Hepatitis.⁶⁸ In yet another medical test of homosexual men, fifty percent of those investigated had not merely a past history of Hepatitis B, but chronic active Hepatitis.⁶⁹

d. Enteric Diseases -- A large number of enteric diseases formerly thought to be passed only through the food and water chain are now being transmitted among homosexuals exclusively, including salmonella infection, shigellosis, giardiasis, and amebiasis. On a nationwide basis, the medical authorities confirm the sexual incidence of these diseases solely in homosexuals: "To date, venereally acquired enteric protozoal diseases seem to be largely present in the gay community alone." William, The Sexual Transmission of Parasitic Infections in Gay Men, 5 J. HOMOSEXUALITY 291, 292 (1980). This situation has caused these colonic and rectal conditions to be termed the "gay bowel syndrome."⁷⁰ As with the above-explained diseases, the total U.S. incidences of these enteric diseases attributable to homosexuals

⁶⁷ Schreeder et al., Epidemiology of Hepatitis B Infection in Gay Men, 5 J. HOMOSEXUALITY 307, 309 (1980).

⁶⁸ Marmor et al., Risk Factors for Karposi's Sarcoma in Homosexual Men, LANCET 1083, 1084 (1982).

⁶⁹ Holmes, Future Directions in Research on Sexually Transmitted Diseases in Homosexual Men, 5 J. HOMOSEXUALITY 317, 321 (1980).

⁷⁰ Owen, Sexually Transmitted Diseases and Traumatic Problems in Homosexual Men, 92 ANN. INT. MED. 805.

are extremely high, and a very large percentage of homosexuals themselves either carry or have contracted these diseases.⁷¹

B. Homosexual Practices Threaten the Individuals' and the Public's Health.

a. Homosexual Practices -- In addition to the specific acts of oral and anal homosexual sodomy herein shown to be dangerous to the individuals committing the acts, there are several other popular homosexual practices that spread these noxious diseases even further among the homosexual community and, eventually, to the general public. That is, the specific acts of oral and anal homosexual sodomy merely begin the chain of events that has led to epidemic proportions of numerous contagions in the homosexual community which have, in certain instances, broken out into the general public.

One such homosexual custom is the multiplicity and anonymity of sexual partners for a large percentage of homosexuals. Social science studies disclose that almost sixty percent of homosexual males have had between 250 and 1,000 different (usually anonymous) sexual partners, while approximately thirty percent of such homosexuals have had more than 1,000 such sexual contacts.⁷²

⁷¹ Schmerin, supra at 802 (excluding foreign travelers, 100% of giardiasis patients were homosexual and 40% of all amebiasis patients were homosexual); Marmor, supra at 1084 (42% to 70% of homosexuals had history of amebiasis).

⁷² A. Bell & M. Weinberg, Homosexualities: A Study of Diversity Among Men and Women, 309 (1978).

Medical studies confirm similar figures.⁷³ (mean number of previous homosexual partners was 713 - 1,054); (more than 1,100 previous sex partners);⁷⁴ (average sex partners per homosexual was 6.8 per month or 81.6 per year);⁷⁵ Moreover, the most thorough medical survey of homosexuals to date demonstrates that seventy eight percent of homosexuals have had at least one sexually transmitted disease,⁷⁶ and sixty percent reported having had one of the more serious infections,⁷⁷

In addition to these highly frequent, anonymous contacts, other prevalent homosexual practices further distribute the diseases initially transmitted by the acts of oral and anal sodomy. For example, by age thirty, eight nine to ninety two percent of male homosexuals admit to oral/anal contact ("rimming").⁷⁸ Even more alarming, twenty two to forty two percent of homosexual males admit to engaging in "handballing" or "fisting" (inserting the fist

⁷³ Corey & Holmes, Sexual Transmission of Hepatitis A in Homosexual Men, 302 NEW ENG. J. MED. 435, 437 (1980).

⁷⁴ Golubjatnikov, et al , Homosexual Promiscuity and the Fear of AIDS, 2 Lancet 681, (1983).

⁷⁵ CDC, Number of Sex Partners and Potential Risk of Sexual Exposure to HIV, 260 J. AM. MED. 2020 (1988).

⁷⁶ Darrow, et al, Gay Report on Sexually Transmitted Diseases, 71 AM. J. PUB. HLTH. 1004 (1981).

⁷⁷ Hansfield, Sexually Transmitted Diseases in Homosexual Men, 71 AM. J. PUB. HLTH. 989 (1981).

⁷⁸ Darrow, supra; Cameron, Cameron et al., Effects of Homosexuality Upon Public Health and Social Order, 64 PSYCHOL. REP. 1167, 1172 (1989).

and arm into the anus of another for sexual gratification).⁷⁹ Moreover, these fisting experiences most commonly occur in an orgy setting involving from eight to eighty individuals.⁸⁰ Additionally, twenty three to twenty nine percent of homosexuals admit to participating in "golden showers" or urination on each other, and up to seventeen percent even admit to participation in "scat" activities, i.e., defecation upon one another and manipulation of the feces.⁸¹ Medically controlled studies of national homosexual participants confirm the prevalence of these alarming practices.⁸²

C. Homosexuality's Indirect Influence on Public Health

Unequivocally, these homosexual practices and pestilences threaten the health of the many individuals directly involved. However, most of the above described diseases and many others can be transmitted both sexually and through other methods to persons beyond the original two participants in the potentially injurious

⁷⁹ K. JAY & A. YOUNG, THE GAY REPORT 555 (1979); Cameron & Cameron, supra at 1171.

⁸⁰ Navin, Medical and Surgical Risks in Handballing: Implications of an Inadequate Socialization Process, 6 J. HOMOSEXUALITY 67, 71 (1981).

⁸¹ K. JAY & A. YOUNG, supra, Cameron & Cameron, supra at 1171.

⁸² Jaffe et al., National Case-Control Study of Kaposi's Sarcoma and Pneumocystis Carinii Pneumonia in Homosexual Men: Part I, Epidemiologic Results, 99 ANNAALS INTERN. MED. 145-50 (1983) (73% to 86% of the homosexuals reported previous gonorrhoea infections; 36% to 68% reported previous syphilis incidences; 88% to 98% admitted to recent anal sodomy; 98% to 100% reported recent oral sodomy; and 33% to 52% reported recently inserting their hands into their partners' rectums ("fisting")). Accord, Cameron & Cameron, supra at 1171-72.

conduct. Because of this extratransmission potential, these diseases represent public health hazards per se.

A brief description of the other modes of transmission of several diseases will indicate the potential severity of the homosexual disease epidemic.

According to Centers for Disease Control (CDC) information, AIDS has been transmitted to nonhomosexuals through blood transfusions involving tainted blood.⁸³ Indeed, it has now been established that AIDS has also been transmitted through the dental-practice medium.⁸⁴ Moreover, Hepatitis B can be transmitted through the dental-practice medium,⁸⁵ through blood transfusions with contaminated blood, among household contacts of HBV carriers or among children.⁸⁶ Obviously, with the extremely high incidence of Hepatitis B among homosexuals, the possibility of transmission to the general public from an infected homosexual is much greater than that from a normal, healthy person.

Regarding Hepatitis A, it is most disturbing that it can be

⁸³ Update on Acquired Immune Deficiency Syndrome (AIDS) Among Patients With Hemophilia A, 31 MORB. & MORT. WKLY. REP. 644 (1982); Possible Transfusion-Associated Acquired Immune Deficiency Syndrome (AIDS) -- California, 31 MORB. & MORT. WKLY REP. 652 (1982).

⁸⁴ CDC, Possible Transmission of HIV to a Patient During an Invasive Dental Procedure, 264 J. AM. MED. A. 1092 (1990); Thornton Aff. at 2-3.

⁸⁵ Main et al., The Implications of Viral Hepatitis for the Practice of Dentistry, 48 J. CAN. DENT. A. 756, 758 (1982) (noting that a "high incidence occurs in male homosexuals").

⁸⁶ CDC, Inactivated Hepatitis B Virus Vaccine, 31 MORB. & MORT. WKLY. REP. 317, 318 (1982).

and has been transmitted through food contaminated in restaurants by infected food handlers,⁸⁷ and diseased homosexual food handlers have been implicated in several disease epidemics.⁸⁸ Moreover, the fact that homosexuals account for a disproportionately large percentage of the total U.S. incidence of these diseases makes the state's interest in curtailing the prospect of homosexuals from adopting children.

IV. UNRESTRAINED HOMOSEXUAL CONDUCT LEADS TO OTHER ANTISOCIAL ACTIVITIES.

A considerable body of legislative-fact evidence discloses that unrestrained homosexual conduct produces a number of additional antisocial evils.

A. Group Sex and Sex with Minors. Group sex activities regularly occur in "gay bathhouses." For the Court's information, a "gay bath" or "health club" is a euphemism for a large building catering exclusively to homosexuals where, at any given peak period, up to 200 homosexual men may be inside engaging with each other in such deviate, perverted group sexual exploits as to

⁸⁷ CDC, Outbreak of Food-borne Hepatitis A--New Jersey, 31 MORB. & MORT. WKLY. REP. 150 (1982).

⁸⁸ Dritz, Medical Aspects of Homosexuality, 302 NEW ENG. J. MED. 463 (1980); Dritz & Braff, Sexually Transmitted Typhoid Fever, 296 NEW ENG. J. MED. 1359 (1977) (homosexuals who contracted typhoid fever were food handlers in public establishments and became typhoid carriers).

challenge the imagination of a normal heterosexual.⁸⁹ Gay baths and bars are proliferating rapidly across the U.S.; presently more than 200 such baths and 1,900 such bars in the U.S. The high incidence of homosexuals nationwide who admit attending these bathhouses has been medically documented,⁹⁰ (76.8 percent of male homosexuals have attended gay baths), and such incidence figures are confirmed by other sociological surveys.⁹¹

Even outside the "gay bathhouse" atmosphere, high percentages of homosexuals admit to engaging in group sex. In one recent psychiatric survey of homosexuals from three different locales (from semirural to metropolitan), seventy eight percent admitted that they engaged in "group sex, or 'orgies,' . . . a considerably higher percentage than a comparable group of heterosexuals."⁹² More distressing is the fact that this same study revealed that between forty four and eight one percent of all homosexuals

⁸⁹ See Harris v. United States, 315 A. 2d 569 (D.C. App. 1974) (en banc) (such a "homosexual health club" where regular group acts of sodomy took place held nothing more than a bawdy house and ruled a "nuisance per se"); United States v. McKean, 338 A. 2d 439 (D.C. App. 1975) (same "health club's" cubicles used regularly for homosexual sodomitic acts); M. HUNT, GAY, supra at 153 (gay bath patron commonly has "a dozen or more partners on a night").

⁹⁰ Darrow, Gay Report on Sexually Transmitted Diseases, 71 AM. J. PUB. HLTH. 1010 (1981).

⁹¹ K. Jay & A. Young, The Gay Report, 239 (1979) (57%); A. BELL & M. WEINBERG, HOMOSEXUALITIES: A STUDY OF DIVERSITY AMONG MEN AND WOMEN 299 (1978) (54%); Cameron & Cameron, Effects of Homosexuality Upon Public Health and Social Order, 64 PSYCHOL. REP. at 1171, (68%).

⁹² Goode & Trolden, Correlates and Accompaniments of Promiscuous Sex Among Male Homosexuals, 43 PSYCHIATRY 50, 54 (1980).

surveyed admitted to having engaged in sodomy with at least one underage boy, while sixty eight percent of the more promiscuous respondents admitted to sodomy with six or more minor boys,⁹³ (thirty one percent of child abuse victims were homosexually attacked).⁹⁴

B. Violent Tendencies -- There have been many confirmed instances of extreme violence perpetrated against children and others by homosexuals, including the early 1980's Wayne Williams homosexual mass murders of 22 black boys in Atlanta, and such tendencies toward violence are common among practicing homosexuals. Moreover, there exists a significant amount of legislative-fact evidence to support a finding of these dangers from homosexual conduct.

For example, one published psychological study involving all the sexually flavored mass murders reported in the U.S. in the last fifteen years demonstrated that sixty five percent of the mass murder victims died in relation to homosexual activities or proclivities, and forty eight percent of the perpetrators practiced homosexuality.⁹⁵ From the above description of antisocial effects

⁹³ Cameron, Child Molestation and Homosexuality, 58 PSYCH. REP. 327 (1986).

⁹⁴ Jenny et al., Developmental Approach to Preventing the Sexual Abuse of Children, 78 PEDIATRICS 1034 (1986); Spencer et al., Sexual Abuse of Boys, 78 PEDIATRICS 133 (1986).

⁹⁵ Cameron, Is Homosexuality Disproportionately Associated With Murder?, THE CHRISTIAN NEWS 9-10 (January 31, 1983). See also T. SULLIVAN & P. MAIKEN, KILLER CLOWN (1983) a thorough presentation by the prosecuting attorney of John Wayne Gacy's homosexual mass murders of 33 boys and young men in the Chicago area in 1978; examination of 1991 case of Jeffrey L. Dahmer of Milwaukee, a

resulting from unrestrained homosexual conduct, especially that directed at children, it should be obvious that the State's interest in promoting the welfare of the child should be sufficient to sustain Section 63.042(3).

C. Reports of Molestation by the General Population

The two per cent of adults who practice homosexuality account for between a fifth and a third of all child molestation.⁹⁶

In 1983, a survey of the sexual experiences of 4,340 adults in five U.S. cities found that about three percent of men and seven percent of women reported sexual involvement with a man before the age of thirteen⁹⁷ (i.e., thirty percent was homosexual.

In 1983-84, a random survey of 3,132 adults in Los Angeles found that 3.8 percent of men and 6.8 percent of women said that they had been sexually assaulted in childhood. Approximately thirty five percent of the assaults were homosexual.⁹⁸

The Los Angeles Times⁹⁹ surveyed 2,628 adults across the U.S. in 1985. Twenty seven per cent of the women and sixteen per cent of the men claimed to have been sexually molested. About 4 out of every 10 molestations in this survey were homosexual.

homosexual who plead guilty to the rape, mutilation, and dismemberment of at least 15 boys and young men.

⁹⁶ Cameron P & Cameron K, The Prevalence of Homosexuality, The Psychological Reports, 1994, in press.

⁹⁷ Cameron P. et al, Child Molestation and Homosexuality, Psychological Reports, 1986:58:327-337.

⁹⁸ Siegel, JM et al The Prevalence of Childhood sexual Assault, Amer J Epidemiology, 1987; 126:1141-53.

⁹⁹ Los Angeles Times, August 25, 26, 1985.

In 1985, homosexual acts were involved in twenty five per cent to forty per cent of the cases of child molestation recorded in the scientific and forensic literature.¹⁰⁰

Drs. Freund and Heasman¹⁰¹ of the Clarke Institute of Psychiatry in Toronto reviewed two sizeable studies and calculated that thirty four per cent and thirty two per cent of the offenders against children were homosexual. In cases they had personally handled, homosexuals accounted for thirty six per cent of their 457 pedophile.

Dr. Adrian Copeland, a psychiatrist who works with sexual offenders at the Peters Institute in Philadelphia, said¹⁰² that, from his experience, pedophile tend to be homosexual and "forty per cent to forty five per cent" of child molesters have had "significant homosexual experiences."

Dr. C. H. McGaghy¹⁰³ estimated that "homosexual offenders probably constitute about half of molesters who work with children. Other studies are similar:

- Of the approximately 100 child molesters in 1991 at the Massachusetts Treatment Center for Sexually Dangerous Persons, a third were heterosexual, a third bisexual and a third homosexual in

¹⁰⁰ Cameron, P. Homosexual Molestation of Children/Sexual interaction of teacher and pupil. Psychological Reports 1985;57:1227-36.

¹⁰¹ Freund, K. et al, Pedophilia and Heterosexuality vs. Homosexuality. J Sex & Marital Therapy, 1984; 10:193-200.

¹⁰² A. Bass, Boston Globe, August 8, 1988.

¹⁰³ Child Molesting, Sexual Behavior, 1971; 1:16-24.

orientation.¹⁰⁴

- A state-wide survey of 161 Vermont adolescents who committed sex offenses in 1984 found that twenty two per cent were homosexual.¹⁰⁵

- Of the 91 molesters of non-related children at Canada's Kingston Sexual Behavior Clinic from 1978-1984, forty two per cent engaged in homosexuality.¹⁰⁶

- Of 52 child molesters in Ottawa from 1983 to 1985, sixty per cent were homosexual.¹⁰⁷

Because of this pattern, Judge J. T. Rees concluded that "the male homosexual naturally seeks the company of the male adolescent, or of the young male adult, in preference to that of the fully grown man. 986 persons were convicted of homosexual and unnatural offenses. Of those, 257 were indictable offenses involving 402 male victims... The great majority of [whom]... were under the age of 16. Only eleven per cent... were over 21."

"The problem of male homosexuality is in essence the problem of the corruption of youth by itself and by its elders. [And thereby]... the creation... of new addicts ready to corrupt a still

¹⁰⁴ Interview with Dr. Raymond A. Knight at his presentation, Differential prevalence of Personality Disorders in Rapists and Child Molesters, at Eastern Psychological Assn Convention, New York, April 12, 1991.

¹⁰⁵ Wasserman, J. et al Adolescent Sex Offenders - Vermont, 1984. J American Medical Assn, 1986; 255:181-2.

¹⁰⁶ Marshall W L, et al Early onset and Deviant Sexuality in Child Molesters. J Interpersonal Violence 1991; 6:323-336.

¹⁰⁷ Bradford, JMW et al The Heterogeneity/Homogeneity of Pedophilia, Psychiatry J Univ Ottawa 1988: 13:217-226.

further generation of young men and boys in the future."¹⁰⁸

Overall, two per cent of adults regularly indulge in homosexuality. Yet they account for between twenty to forty per cent of all molestations of children. If two per cent of the population is responsible for twenty to forty per cent of something as socially and personally troubling as child molestation, something must be wrong with that two per cent. The risk of a homosexual molesting a child is ten to twenty times greater than that of a heterosexual.

Besides homosexuals preoccupation with sex, traditionalist psychiatrists have catalogued a higher incidence of personality characteristics suggesting psychological disturbance and an inability to interact successfully with others. Dr. Edmond Bergler, who treated more than a thousand homosexuals, concluded that gays tended to:

- provoke attacks against themselves and then count these "attacks" as injustices they had suffered
- display defensive malice toward others
- exhibit a flippant attitude in order to cover underlying depression and guilt
- display extreme narcissism and superciliousness
- refuse to acknowledge accepted standards in non-sexual matters, on the assumption that the right to cut moral corners is due homosexuals as compensation for their

¹⁰⁸ Rees J T & Usill H V, They Stand Apart, 1956 NY:Macmillan, pp 28-29.

"suffering", and

- be generally unreliable, also of a more or less psychopathic nature.

Dr. Irving Bieber,¹⁰⁹ who performed one of the largest and most intensive psychiatric studies of homosexuals, characterized gays as "angry, bitter people with low feelings of responsibility."

D. Homosexuality is associated with criminality

Homosexuals were about twice as likely to have been arrested for a non-sexual crime and about 8 times more apt to have been arrested for a sexual crime; homosexuals were about twice as apt to have been convicted of a sexual crime and about twice as likely to have been jailed for a crime;

Homosexuals were about three times more likely to admit to having made an obscene phone call;

Homosexuals were about fifty percent more apt to claim that they had recently shoplifted, cheated on their income tax, or not been caught for a crime.

The following results are based on the largest comparison of homosexuals and heterosexuals in five U.S. metropolitan areas, on a wide range of topics:

Homosexuals were about twice as apt to report having had a sexually transmitted disease (STD); and over twice as apt to have had at least two STDs;

Homosexuals were about five times more apt to have tried to

¹⁰⁹ Bieber, I, Homosexuality: A Psychoanalytic Study, NY:Basic Books, 1962.

deliberately infect another with an STD;

Homosexuals were three times as likely to have attempted suicide, four times more apt to have attempted to kill someone, and about twice as likely to have been involved in a physical fight in the past year;

Homosexuals were about five times more apt to have engaged in torture-related sex (sadoomasochism, bondage); and

Homosexuals were four times more likely to report having been raped.

Based on the extensive analysis rendered by professionals in the field of medicine and psychology, and the testimony of numerous ex-homosexuals, the district court's rejection of the trial court's findings is the only rationale decision possible. If the district court determined otherwise, then Section 63.022(2) which directs courts to promote and protect the best interest of the child being adopted, would have been breached.

CONCLUSION AND PRAYER

"I think it [declaring Section 63.042(3) unconstitutional] will open the door to lesbians and gay men throughout the state of Florida who want to adopt - and will have a positive impact nationwide," says William Rubenstein, director of the ACLU Lesbian and Gay Rights Project in New York.¹¹⁰ Mr. Rubenstein is correct. If Section 63.042(3) is not upheld it will have an impact nationwide, an impact that will be devastating to family and child.

Section 63.042(3)'s application barring homosexuals from adopting is based upon actual facts concerning homosexual conduct and public health considerations and the wellbeing of the child, not on some alleged discriminatory purpose.

A petitioner challenging the constitutionality of a Florida statute must negate every conceivable rational basis for the statute. Obviously, those submitting Amicus Curiae briefs on behalf of the Petitioner herein have not done so. Much of the documentation submitted in support of the Petitioner lacks factual evidence and is biased in its application.

Under Section 63.022, Fla. Stat. (1990), courts are directed to enter orders as deemed necessary and suitable to promote and protect the best interest of the person to be adopted. The court should therefore, not remove the provision outlawing homosexual adoption, but encourage Petitioner to remove himself from the

¹¹⁰ Orlando Sentinel, Judge Says Homosexuals Can Adopt, March 19, 1991.

homosexual lifestyle.

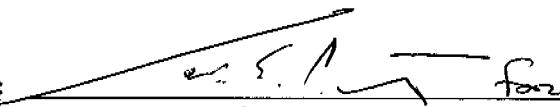
Moreover, in the right-to-privacy, due process, and equal protection areas of constitutional law, the courts should exercise particular restraint in extending these doctrines to trample upon states' valid rights to legislate regarding legitimate subjects of concern such as morality, decency, health, safety and welfare of children. Bowers v. Hardwick, 478 U.S. 186, 106 S.Ct. at 2844, 2846. When moral, social lines are to be drawn, therefore, they should be decided by that cross-sectional branch which best represents the entire community, the Legislature. It would bring unending anguish to Florida courts if society's moral and legislative battles were always to be revisited in the judicial branch. Section 63.042(3) is Florida's stamp of disapproval on homosexual conduct that by a preponderance of the evidence, is detrimental to the health, safety and morality of the child, the destruction of the traditional family, the citizenry of the State of Florida and society as a whole. The statute should be sustained on these grounds.

For all of the above reasons, amicus pray that this Court render judgment for the Respondent in all things.

Respectively submitted,

THE RUTHERFORD INSTITUTE

By:

 for
Kenneth L. Connor

Attorney for Amicus Curiae

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail this 5 day of August, 1994 to Nina E. Vinik, American Civil Liberties Union Foundation of Florida, 225 N.E. 34th Street, #102, Miami, FL 33137; Marc E. Elovitz, William B. Rubenstein, American Civil Liberties Union Foundation, 132 West 43rd Street, New York, NY 10036; Doris A. Bunnell, P.A., 608 15th Street West, Bradenton, FL 34205.


Kenneth L. Connor