



475 Park Avenue South, Suite 2100
New York, NY 10016
tel 646.880.3005
fax 202.697.5058
info@familyequality.org

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Michigan House Judiciary Committee
124 North Capitol Avenue
Lansing, MI 48933

Re: Letter in Support of the Michigan Family Protection Act

Dear Chair Breen, Vice Chair Edwards, Vice Chair Fink, and Members of the Michigan House Judiciary Committee,

On behalf of Family Equality, I write in strong support of the Michigan Family Protection Act and accompanying bills A through H, and to respectfully request that you pass this critically important bill package as drafted.

Family Equality is a national organization that advocates to advance legal and lived equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) families and those who wish to form them. We support many families in Michigan. This bill is our top priority in Michigan, and indeed one of our top national legislative priorities.

Importantly, this bill package provides essential protections for Michigan children. The Michigan Family Protection Act is a critically important bill that will modernize parentage laws in Michigan, ensuring that all Michigan children have equal access to legal parent-child relationships regardless of the circumstances of their birth or the marital status, gender, or sexual orientation of their parents. This bill package is central to the security and well-being of children, especially those conceived through assisted reproduction and surrogacy. It ensures a clear path for securing legal parentage of children conceived by assisted reproduction and surrogacy including a streamlined process for courts to issue a pre- or post-birth parentage order confirming the legal parent-child relationship. Legal parentage provides the foundation for stability, security, and permanency for children, all of which are critical for healthy child development. When there is a legal parent-child relationship, there is also a right to physical custody, medical, educational, and legal decision-making, and the ability to visit a child in the hospital to provide comfort and support. Parentage ensures the parent-child relationship can endure even if parents separate or if one parent passes away. Children gain important rights and benefits such as eligibility for health insurance through a parent, child support, and more.

The main bill in the Michigan Family Protection Act addresses a long-standing need for legal updates regarding assisted reproduction. Michigan law concerning assisted reproduction is out-of-date and out-of-step with the law and trends around the country. Many states around the country, from New Mexico, to North Dakota, to Nevada, to Vermont, and Maine, have updated their assisted reproduction statutes to expressly protect children regardless of the marital status of their parents. Currently, Michigan law addresses only the parentage of children born to married couples through assisted reproduction. This leaves children born to unmarried couples and single people extremely vulnerable. This bill addresses this gap in legislative policy by codifying that an individual who consents to assisted reproduction according to the Act's provisions with the intent to parent is the child's parent regardless of their marital status. In a recent Michigan Supreme Court case, *Pueblo v. Haas*, Justice Kyra Harris Bolden

wrote a concurring opinion encouraging the state Legislature to resolve lingering issues in how existing laws relating to marriage, unmarried parenting, and assisted reproduction fit with the realities of same-sex parenting. The Legislature should answer these questions, and the answer should be to adopt the Michigan Family Protection Act and accompanying bills A through H.

With respect to surrogacy, main bill in the Michigan Family Protection Act addresses a dire need in Michigan. Michigan's 40-year-old law criminalizes compensated surrogacy, making Michigan the only remaining state with a broad criminal ban on surrogacy. Other states that had similar approaches to surrogacy have repealed their broad criminal bans and replaced them with statutes like those proposed in this bill that provide clarity, guidance, and protection. Michigan should join other states in providing a clear legal framework that addresses and protects the interests of all parties involved and ensures that children born through surrogacy have legally protected parent-child relationships. Here, the Michigan Family Protection Act provides clear standards for all parties in a surrogacy arrangement—children, parents, and people acting as surrogates. It allows for efficient determinations of parentage, protecting otherwise vulnerable children. It provides parents with clear guidelines for how to grow their families legally and ethically. It gives surrogates the power to make their own healthcare decisions and receive just remuneration. In short, the Michigan Family Protection Act is essential to not only updating an out-of-date surrogacy law, but also to protecting all parties and all families involved.

The main bill in the package is accompanied by bills A through H, each an important complement to the Michigan Family Protection Act, and each critical for supporting the wellbeing of Michigan children. Bill A updates the public health code to allow children born of assisted reproduction and surrogacy to obtain accurate birth certificates, just like every other child in Michigan. Bill B repeals the prohibition of surrogacy and accompanying criminal penalties. Bills C and E update the law to reflect the fact that children have parents of all genders and ensures that their legal parent-child relationships will endure. Bill D amends the probate code to ensure that children with same-sex parents and children born through assisted reproduction or surrogacy have access to the same inheritance rights as all other children in Michigan. Bill F updates the law so that children born through assisted reproduction can be included in acknowledgments of parentage. Bill G updates Michigan law to ensure that all children have the right to enduring relationships with their parents, regardless of whether they are genetically related. Bill H clarifies the proper route to establishing the parentage of children born through assisted reproduction and surrogacy and clarifies when an agency may intervene to establish parentage and support.

In addition to the main bill, I want to highlight Bill F, amending who may access and utilize an acknowledgment of parentage, sometimes called a Voluntary Acknowledgment of Parentage or VAP. Of children born in 2020, 41% were born to unmarried parents. For most of these children, a VAP is used to establish parentage. If enacted, Michigan would join eleven other states in expanding access to VAPs to same-sex couples to ensure that non-genetic parents and LGBTQ+ parents, regardless of their gender, can utilize the VAP to establish parentage as soon after birth as possible. Particularly important for families using assisted reproduction such as donor sperm where one parent is not genetically related, the VAP can be completed upon birth at the hospital and without lengthy and costly court proceedings. This is a commonsense amendment that provides families with an important access-to-justice tool, enabling the swift establishment of legal parentage.

For the wellbeing of all children and families, it is critical for states to have up-to-date laws that reflect how families are formed and address the legal parentage of children born through assisted reproduction and surrogacy. This is especially true for LGBTQ+ families, as same-sex parents and their children often either

lack a secure legal relationship or must endure an invasive, expensive, and lengthy process to adopt their own children. The American Bar Association has recognized that LGBTQ+ individuals who desire to have and raise children encounter “state-sanctioned discrimination,” including the denial of parental rights to nonbiological parents. LGBTQ+ people across the country are raising children and seeking to become parents, including in Michigan. Family Equality’s most recent in-depth research study showed that 63% or up to 3.8 million LGBTQ+ millennials are considering expanding their families in the coming years and in 2019, 21% of LGBTQ+ individuals over the age 25 were raising children. Data suggests that LGBTQ+ people are and will continue to form families and, without statutory intervention, will continue to experience discrimination that unjustly restricts their ability to form or protect their families and causes great harm to children.

The vulnerability families and children face in Michigan is particularly concerning given the increasingly hostile environment that LGBTQ+ families and individuals face throughout the United States. Last June, the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization* sent shockwaves throughout the LGBTQ+ community when it reversed almost 50 years of established precedent. Justice Thomas invited the Court to revisit other key cases, including those that directly impact the rights of LGBTQ+ people to marriage equality (*Obergefell v. Hodges*) and intimacy (*Lawrence v. Texas*). Adding to the fear, a record number of anti-LGBTQ+ bills have been filed in states across the country – over 300 in 2022 and well over 500 in 2023 – a disproportionate number of which target transgender people, young people, and families in contexts ranging from schools to the doctor’s office to public spaces. And, equally as concerning, in 2022 and 2023 alone, courts in Idaho, Pennsylvania, and Oklahoma have stripped children of their non-birth LGBTQ+ parent. LGBTQ+ families are afraid, and it is perhaps more important than ever to ensure that LGBTQ+ families in Michigan are recognized and protected. It is imperative that the state update its parentage laws and ensure that all children have equal access to legal parent-child relationships regardless of the circumstances of their birth or the marital status, gender, or sexual orientation of their parents. Given the increasingly hostile climate in many states, it also is critical that LGBTQ+ parents have avenues to establish legal parentage that must be recognized and afforded full faith and credit in every state. The Legislature can accomplish this by passing this bill package.

As attacks on LGBTQ+ individuals and families increase across the country, it is imperative that Michigan does all it can to protect LGBTQ+ families and their children. Passing the Michigan Family Protection Act and the accompanying bills A through H is an important step the Legislature can take to protect its citizens. For these reasons, we respectfully request you support the Michigan Family Protection Act by passing the entire bill package as drafted.

Respectfully,



Margaret B. York, Esq.
Director of LGBTQ+ Family Law & Policy
Senior Policy Counsel