

A photograph of a woman with dark hair in a ponytail and a young girl with light hair embracing each other. The woman is wearing a green shirt and the girl is wearing a pink sweater. They are both smiling and looking at each other, with the girl kissing the woman on the cheek. The background is softly blurred.

# CONFRONTING RELIGIOUS DISCRIMINATION

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A Guide for Foster & Adoptive Parents

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# INTRODUCTION

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Fostering or adopting a child is one of the most beautiful ways a parent can show the meaning of true love in action.

Far too many children in the United States go to sleep each night wondering if the coming day will bring them what they want more than anything else: a family and a permanent home.

These children have done nothing to cause their circumstances, yet they are the ones suffering through days, weeks, or even years of uncertainty and unfulfilled dreams.

Every child—including those without a permanent home—is made in the image of God and has inestimable value in His eyes.

For thousands of years, families have felt called to open their hearts to adopt and care for these cherished ones. For many, that calling is grounded in their faith.

Sadly, government officials are discriminating against people of faith who seek to foster or adopt by excluding Americans with traditional religious beliefs from child welfare services.

This guide will help you better understand how people of faith have historically cared for vulnerable children, what has changed in recent years, and how Alliance Defending Freedom is standing on the front lines to protect your freedom and help ensure more children find permanent, loving homes.

**“He defends the cause of the fatherless and the widow, and loves the foreigner residing among you, giving them food and clothing.”**

**DEUT. 10:18 (ESV)**

## The History of Orphanages and Child Welfare

Christians have been caring for children in need for centuries, going back to at least the fourth century, when the early Church founded one of the first known orphanages thanks to the work of St. Basil the Great.

Christians are charged with numerous commands to care for the “fatherless” throughout the Old and New Testaments. One of the fundamental Christian doctrines is the adoption of those brought to faith by God the Father.

The Apostle Paul himself mentions adoption several times in his writings (Galatians, Ephesians, Romans). Caring for children in need of a safe and loving home is a beautiful parallel to the Christian’s relationship with God. In our desperate need, He chooses to embrace and adopt us into His family, making us “fellow heirs with Christ” (Rom. 8:17 ESV).

### Adoption in America: A Brief History

In the U.S. Supreme Court’s decision in *Fulton v. City of Philadelphia*, Justice Samuel Alito described how faith-based orphanages were a critical societal institution throughout the early days of the United States. The first known orphanage on the continent was founded in approximately 1729 by Catholic nuns in New Orleans. Anglicans under George Whitefield and Lutherans built orphanages in Georgia in the 1730s.

### **The first known orphanage on the continent was founded in approximately 1729 by Catholic nuns in New Orleans.**

Following the American Revolution, the church continued to be the main driver of organizing and funding efforts to care for orphaned children. Eliza Hamilton, the widow of Alexander Hamilton, was so moved by her husband’s experience as an orphan himself that she gave much of her time and effort to helping finance orphanages, including the first private orphanage in lower Manhattan.

That trend would continue and come to include other denominations and faiths, while government participation was limited. That would change during the 20th century when funding and involvement by federal and state governments created a licensing system for these private, largely religious organizations, which continued to shoulder much of the burden. Today, there exist both public and private foster care and adoption agencies.

## Ideology Over Care

While federal and state involvement was intended to promote the best interests of children in need, state officials sometimes placed their ideological or political preferences above the needs of children in their care.

For example, some state legislation relied on race to categorically disqualify some types of adoption. States like [Texas](#) and [Louisiana](#) prohibited interracial adoptions until as late as 1967 and 1972, respectively, until courts ruled the statutes violated equal-protection principles.

After interracial adoptions began to grow in the wake of the civil rights movement, there was also pushback. In 1972, the National Association of Black Social Workers published a position paper arguing that “Black children should be placed only with Black families.” Many government agencies responded by seeking to place children only with families of the same race, leading to interracial adoptions plummeting by 39%.

In 1980, Congress passed the Adoption Assistance and Child Welfare Act to promote more robust funding for adoptions through private and public foster/adoption agencies. For example, the law provided new state-matching funds for adoption programs. But the practice of race-matching continued for decades, even after the federal government passed a [landmark law](#) to prohibit discrimination based on race, or using race to delay or deny a placement. The Institute for Justice filed [two lawsuits](#) in the 1990s charging that social workers ignored state prohibitions on the use of race in adoptions—a practice that disproportionately affects minority children.

Today, state officials pushing harmful ideologies about gender and sex are discriminating against people of faith by excluding them from child welfare services entirely. Some states have enacted policies disfavoring religious families with different views on these topics, including those who believe that biological sex is an immutable trait, that a person cannot “choose” their gender, and that marriage is the union of one man and one woman. By punishing religious homes for their beliefs, officials are taking away opportunities for children to be placed within loving homes.



## The Need

### Who Needs to be Adopted?

In 2021, just over 54,000 children were adopted in the United States. That left nearly 400,000 in foster care, with approximately 114,000 available to be adopted. Many of these children wait years for a permanent home. [According to one statistic](#), well over 30% of these kids spend two to five years in the foster care system. Over 20,000 children will wait more than five years for a permanent home.

One reason why many of these children spend so long in the system waiting for a forever home is that it can be challenging to place them with the right family. As an example, approximately two-thirds of kids in foster care have a sibling who's also in need of a home, and agencies usually seek to place them together. But only some adoptive parents or foster care providers are able and willing to care for [sibling groups](#).

The need to place older children is particularly acute. While 95% of foster children 12 and under live with a family, only 58% of foster teens have a home. If they don't have the stable environment a loving home brings, they are more likely to struggle with homelessness, crime, and other difficulties once they age out of the system.

Other obstacles to adoption include particular medical conditions and disabilities.

The need is great, and policymakers should be encouraging as many loving families as possible to consider fostering and adoption—making it easier, not harder, to provide a child a home.

### Who Cares for These Children in Need?

Who are the people willing to sacrifice so much to care for those in need of a stable home and loving parents? One demographic continues to lead the way: practicing U.S. Christians are, by [one survey](#), more than twice as likely to adopt than the general population.

That motivation often comes directly from faith. Scripture teaches Christians not to overlook those in need. Specifically—and repeatedly—Scripture commands Christians to care for the “fatherless” as an outworking of faith.

**“Religion that is pure and undefiled before God the Father is this: to visit orphans and widows in their affliction, and to keep oneself unstained from the world.”**

**JAMES 1:27 (ESV)**

While they are not the only families willing to adopt, Christian and other religious parents play a vital role in providing a home—something that [children](#) housed in hotels, child welfare offices, emergency rooms, and homeless shelters desperately need. If governments restrict foster and adoptive parents to only those who support, for example, same-sex marriage, at least 30% of prospective parents could be [excluded](#). That number may be as high as 60% for religiously committed families, which have disproportionately done the heavy lifting when it comes to foster care and adoption.

As noted earlier, Christians have also deployed invaluable resources, providing group homes and orphanages for children going back hundreds—if not thousands—of years.

Why would government officials specifically—and illegally—discriminate against Christians and other religious parents, putting ideology above the needs of children? If we exclude people of faith based on their beliefs regarding gender and sexual identity, thousands of children will be condemned to permanent foster care.

That would be bad enough, but the critical shortage of foster care homes should give additional pause to policymakers. One state foster agency leader characterized the situation as a “massive crisis.” By one measure, more than half of U.S. states saw a significant decline in available foster homes last year. Many states experienced double-digit losses in foster capacity.

Bottom line: no one wins when the government discriminates against people of faith—especially children.

## The Current Legal Landscape

When the government discriminates against religious homes—denying them the opportunity to adopt because of what they believe—they are forcing them to make a choice: violate their religious beliefs or forgo the chance to provide a home for a child in need.

That’s wrong, and it’s illegal.

That’s why Alliance Defending Freedom is on the front lines, protecting the rights of people like Jessica Bates, who have been targeted because of their faith.

### Oregon Mother of Five an Inspirational Example

Jessica tragically lost her husband to a car crash in 2017, yet despite that devastating event, she was moved to open her heart and her home up to children in need after listening to a Christian radio broadcast about adoption.

This mother of five is a qualified candidate for adoption. However, during a training course, she was told she would have to promote the state’s views on gender identity and sexual orientation to a hypothetical child the state could place in her home. The state’s policy requires parents to agree to use a hypothetical child’s “preferred pronouns,” take them to events like Pride parades, and even facilitate a child’s desire for cross-sex hormone shots and puberty blockers that can potentially sterilize a child.

**“Oregon is abandoning children in favor of a political agenda. America’s foster and adoption care system is in critical need of loving homes, and states should be doing everything they can to bring in more families willing to take in children, not fewer.”**

**- ADF LEGAL COUNSEL  
JOHANNES  
WIDMALM-DELPHONSE**

After voicing her concerns, the state gave her a choice: abandon your religious convictions or give up the chance to ever adopt children. When Jessica stood her ground, the agency turned her away. Now, Alliance Defending Freedom has filed a lawsuit against the state on her behalf.

[Learn More About Jessica’s Case](#)

Sadly, Jessica’s experience isn’t unique.



In Massachusetts, Mike and Kitty Burke were similarly rejected as potential foster parents because of their religious beliefs. State officials [wrote in emails](#) that the couple are “heavily involved in their Catholic Church,” but “their faith is not supportive and neither are they.” This is despite the desperate need in the state for foster families—in fact, the state has had to resort to housing children in hospitals because of the shortage of homes available. This case is ongoing.

In New Jersey, Michael and Jennifer Lasche alleged that the state removed a foster child from their home because their religious views on sexuality and gender didn’t line up with the state’s. After ten years of serving as foster parents, the state agency removed a foster child from their home and later revoked their license because state officials said their “religious beliefs were a problem.” In short, they were punished for holding beliefs that contradicted the state’s.

Private adoption agencies have also been the target of these attacks on freedom. New Hope Family Services in New York has repeatedly been harassed by state officials because the organization’s faith-based values dictate that it only places children in families with a mother and father committed to each other in marriage. Thankfully, ADF has won two lawsuits on behalf of New Hope, affirming its right to place children and to operate consistent with their values without government harassment.

People like Jessica and the Burke and Lasche families are bravely standing up to government officials who are hostile to religious beliefs—reminding them not to place politics over the needs of the children in their care.



## The Solution

### First Things First: Your Rights

The First Amendment protects every American's right not to be arbitrarily penalized or excluded from government programs just because of their religious beliefs. That means:

- State officials cannot harass, threaten, penalize, or punish you for exercising your right to hold to your religious beliefs.
- State officials cannot require you to pass an ideological or religious litmus test as a condition for participating in an otherwise open government program.
- State officials cannot force you to agree to attend Pride parades, lie to a child about his or her gender, or otherwise agree to abandon your religious beliefs as a condition of fostering or adopting a child.

America's political and cultural institutions are clearly drifting in a more secular direction. As that happens, government attempts to compel people to compromise their beliefs or to retreat from civil and political life as the price for following their faith has become more common.

The Founders understood that one of government's primary tasks is to preserve the freedom for each person to follow his conscience, so they enshrined certain foundational rights in our nation's Constitution to guarantee this freedom.

When the government does violate these rights, Alliance Defending Freedom is there to stand with parents and caregivers in the courtroom and the culture.

Thanks to the extraordinary support of our Ministry Friends, we also represent our clients free of charge, even if a case goes all the way to the U.S. Supreme Court.

If your rights are under attack by the government, [contact ADF today](#) to find out if we can help you.

Matthew 18:5 says, "whoever welcomes one such child in my name welcomes me." Your willingness to consider opening your home to a child is truly an expression of the Gospel and an opportunity to share the love of Christ.

[CONTACT ADF](#)



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