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RAMA LEGISLATIVA DEL PODER PÚBLICO

SENADO DE LA REPÚBLICA

PROYECTOS DE LEY

PROYECTO DE LEY NÚMERO 98 DE 2015 SENADO

por medio de la cual se aprueba el “Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información”, suscrito en Bruselas, el 25 de junio de 2013.

El Congreso de la República

Visto el texto del “Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información”, suscrito en Bruselas, el 25 de junio de 2013.

(Para ser transcrito: Se adjunta fotocopia fiel y completa del texto en español del precitado instrumento internacional, certificado por la Coordinadora del Grupo Interno de Trabajo de Tratados de la Dirección de Asuntos Jurídicos Internacionales del Ministerio de Relaciones Exteriores, documento que reposa en el Archivo del Grupo Interno de Trabajo de Tratados y consta de tres (3) folios.

El presente proyecto de ley consta de diez (10) folios.

ACUERDO ENTRE LA REPÚBLICA DE COLOMBIA Y LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE SOBRE COOPERACIÓN Y SEGURIDAD DE INFORMACIÓN

ACUERDO ENTRE LA REPÚBLICA DE COLOMBIA Y LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE SOBRE COOPERACIÓN Y SEGURIDAD DE INFORMACIÓN

La República de Colombia, representada por
Su Excelencia Juan Carlos Pinzón Bueno,
Ministro de Defensa Nacional y
la Organización del Tratado del Atlántico Norte
(OTAN),
representada por
Su Excelencia Anders Fogh Rasmussen,
Secretario General de la OTAN.

Habiendo acordado hacer consultas sobre aspectos políticos y de seguridad de interés común y ampliar e intensificar la cooperación;

Conscientes de que la efectiva cooperación en este aspecto conlleva el intercambio de información sensible y/o privilegiada entre las Partes;

Han acordado lo siguiente:

Artículo 1

Las Partes deberán:

(i) proteger y salvaguardar la información y el material de la otra Parte;

(ii) hacer todo lo que esté a su alcance por garantizar que, si es clasificada, dicha información y material mantendrán las clasificaciones de seguridad establecida por cualquiera de las partes con respecto a información y material del origen de esa Parte y protegerá dicha información y material de acuerdo con los estándares comunes acordados,

(iii) no utilizarán la información y el material intercambiados para propósitos diferentes de los establecidos en el marco de los respectivos programas y de las decisiones y resoluciones inherentes a dichos programas;

(iv) no divulgarán dicha información y material a terceros sin el consentimiento del originador.

Artículo 2

(i) El Gobierno de Colombia acepta el compromiso de hacer que todos sus connacionales quienes, en desarrollo de sus funciones oficiales, requieran o puedan tener acceso a información o material intercambiado de acuerdo con las actividades de cooperación aprobadas por el Consejo del Atlántico Norte, hayan sido investigados y aprobados en materia de seguridad antes de que obtengan acceso a dicha información y material.

(ii) Los procedimientos de seguridad estarán diseñados para determinar si una persona, teniendo en cuenta su lealtad y fiabilidad, puede tener acceso a información clasificada sin poner en riesgo su seguridad.

Artículo 3

La Oficina de Seguridad de la OTAN (NOS), bajo la dirección y en nombre del Secretario General y el Presidente, el Comité Militar de la OTAN, actuando en nombre del Consejo del Atlántico Norte y el Comité

Militar de la OTAN, y bajo su autoridad, es responsable por hacer los arreglos de seguridad para la protección de información clasificada intercambiada dentro de las actividades de cooperación aprobadas por el Consejo del Atlántico Norte.

Artículo 4

El Gobierno de Colombia informará a NOS la autoridad de seguridad con la responsabilidad nacional similar. Se redactarán Convenios Administrativos separados entre el Gobierno de Colombia y OTAN los cuales abarcarán, entre otras cosas, las normas de la protección de seguridad recíproca para la información que sea intercambiada y la coordinación entre la autoridad de seguridad de la República de Colombia y NOS.

Artículo 5

Antes de intercambiar cualquier información clasificada entre el Gobierno de Colombia y OTAN, las autoridades de seguridad responsables deberán establecer de manera recíproca a su satisfacción que la Parte receptora está dispuesta a proteger la información que reciba, tal como lo requiere el originador.


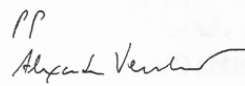
Artículo 6

Este Acuerdo entrará en vigor en la fecha en que el Gobierno de Colombia y OTAN se hayan notificado entre sí por escrito que se han cumplido sus respectivos requerimientos internos legales para la entrada en vigor de este Acuerdo.

El Gobierno de Colombia o la OTAN podrá denunciar este Acuerdo en cualquier momento mediante notificación escrita entre sí. La información o el material que sea intercambiado previo a la fecha de terminación de este Acuerdo seguirá siendo protegida de acuerdo con sus disposiciones.

En testimonio de lo cual, los Representantes arriba nombrados firman el presente Acuerdo.

Dado en duplicado en Bruselas, el día 25 de junio de 2013, en español, inglés y francés teniendo los tres textos la misma autoridad.

<p>Por la República de Colombia</p>  <p>Juan Carlos Pinzón Bueno</p>	<p>Por la Organización del Tratado del Atlántico Norte</p>  <p>Anders Fogh Rasmussen</p>
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La suscrita Coordinadora del Grupo Interno de Trabajo de Tratados de la Dirección de Asuntos Jurídicos Internacionales del Ministerio de Relaciones Exteriores de la República de Colombia,

CERTIFICA:

Que la reproducción del texto que antecede es copia fiel y completa de la versión en idioma español del “Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información”, suscrito en Bruselas el 25 de junio de 2013, documento que reposa en los archivos del Grupo Interno de Trabajo de Tratados de la Dirección de Asuntos Jurídicos Internacionales de este Ministerio y consta en tres (3) folios.

Dada en Bogotá, D. C., a 5 de agosto de 2015.

La Coordinadora del Grupo Interno de Trabajo de Tratados,

María Alejandra Encinales Jaramillo.

EXPOSICIÓN DE MOTIVOS

Honorables Senadores y Representantes:

En nombre del Gobierno nacional y en cumplimiento de lo dispuesto en los artículos 150 numeral 16, 189 numeral 2 y 224 de la Constitución Política de Colombia, presentamos a consideración del Honorable Congreso de la República el proyecto de ley “Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información”, suscrito en Bruselas el 25 de junio de 2013.

Es importante señalar que el presente Acuerdo se somete de nuevo a aprobación del Honorable Congreso de la República, con el fin de surtir el trámite constitucional previsto para los Tratados Internacionales. Como es de su conocimiento, la Ley 1734 de 2014, aprobada en la anterior legislatura y que ratificó este mismo Acuerdo, fue declarada inexecutable por la Corte Constitucional. Las razones preliminares expuestas por la Corte en el Comunicado de Prensa número 24, publicado el 3 de junio de 2015, señalan que en aquella ocasión no se encontraron acreditados todos los requisitos propios del trámite de las leyes aprobatorias de un Tratado Internacional. Considerando lo anterior, el Gobierno Nacional, respetuoso de las decisiones judiciales, considera pertinente y necesario presentar nuevamente este Acuerdo, para así cumplir a cabalidad con el trámite antes señalado.

I. SOBRE LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE (OTAN)

La Organización del Tratado del Atlántico Norte (OTAN)¹, creada mediante el Tratado de Washington del 4 de abril de 1949, se define como una organización político-militar cuyo fin esencial es la salvaguarda de la libertad y la seguridad de los países miembros por medios políticos o militares.

En el aspecto político, la OTAN promueve valores democráticos y promueve consultas y cooperación en asuntos de defensa y seguridad con el objeto de construir confianza y prevenir conflictos. Vale decir, la OTAN está plenamente comprometida con la resolución pacífica de controversias.

Ahora bien, si los esfuerzos diplomáticos fallan, esta Organización tiene la capacidad militar necesaria para desarrollar operaciones de manejo de crisis, ya sea bajo el artículo 5 del Tratado de Washington o bajo mandato de las Naciones Unidas, bien sea de manera separada o en cooperación con otros países u organizaciones Internacionales.

La OTAN actualmente se encuentra conformada por 28 Estados miembros de las principales democracias de Norteamérica y Europa². Al respecto, cabe tener en cuenta que el artículo 10 del Tratado de Washington establece lo siguiente para que nuevos Estados formen parte de la OTAN:¹¹

“Las Partes pueden, por acuerdo unánime, invitar a ingresar a cualquier Estado europeo que esté en condiciones de favorecer el desarrollo de los principios del presente Tratado y de contribuir a la seguridad de

¹ Tomado de la página web oficial de OTAN <http://www.nato.int/nato-welcome/index.html>.

² 28 países: Albania, Bélgica, Bulgaria, Canadá, Croacia, República Checa, Dinamarca, Estonia, Francia, Alemania, Grecia, Hungría, Islandia, Italia, Letonia, Lituania, Luxemburgo, Holanda, Noruega, Polonia, Portugal, Rumania, Eslovaquia, Eslovenia, España, Turquía, Reino Unido y Estados Unidos de América.

la zona del Atlántico Norte. Cualquier Estado que sea así invitado puede ser Parte del Tratado depositando el instrumento de adhesión correspondiente ante el Gobierno de los Estados Unidos de América. Este Gobierno informará a cada una de las Partes de haberse efectuado el depósito de dicho instrumento de adhesión". (Subrayado fuera del texto).

No obstante lo anterior, existen Estados (no miembros) que por diferentes razones han entablado una relación de asociación con la OTAN para desarrollar diversos temas de interés común. Estos Estados establecen relaciones de cooperación con la OTAN a través de cuatro (4) mecanismos:

- **Diálogo del Mediterráneo:** Creado en 1994 por el Consejo del Atlántico Norte. Busca fomentar lazos de cooperación y participación en el control sobre el Mediterráneo. En la actualidad participan 7 países no pertenecientes a la OTAN de esta región: Argelia, Egipto, Israel, Jordania, Mauritania, Marruecos y Túnez, asociados por su posición geográfica.

- **Iniciativa de Cooperación de Estambul:** Busca promover la cooperación con países interesados del Medio Oriente, principalmente del Golfo Pérsico, en áreas tales como: lucha contra el terrorismo, planeación civil frente a emergencias y control de fronteras. Hay cuatro países asociados: Bahrein, Qatar, Kuwait y Emiratos Árabes Unidos.

- **Consejo de Sociedad Euro-Atlántico:** Programa especial de cooperación bilateral entre Países Asociados y la OTAN. En este momento, hay 22 países asociados de Europa y la antigua ex Unión Soviética, entre ellos Rusia, Suecia, Suiza, Irlanda y Finlandia.

- **Socios a través del Globo:** Son países que comparten preocupaciones estratégicas similares, bajo relaciones de reciprocidad y beneficio mutuo. Son países que han manifestado su interés en profundizar las relaciones con la OTAN. Algunos de estos aportan contingentes a las operaciones dirigidas por la OTAN, o contribuyen a esas acciones de otras maneras. Otros, simplemente tratan de cooperar con la OTAN en ámbitos de interés común. En los últimos años, la OTAN ha desarrollado relaciones bilaterales con cada uno de estos países. A este grupo pertenecen Australia, Nueva Zelanda, Japón, Corea del Sur, Afganistán, Iraq, Pakistán y Mongolia.

II. RELACIÓN DE COOPERACIÓN ENTRE COLOMBIA Y LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE (OTAN)

El Ministerio de Defensa Nacional viene desarrollando una estrategia de cooperación internacional que se despliega en los ámbitos bilateral y multilateral. Esta se rige por la prudencia, el respeto, la cooperación, la transparencia y el pragmatismo, siempre privilegiando la vía diplomática y el derecho internacional. Se fundamenta en una aproximación del sector a diferentes regiones del mundo, con criterios estratégicos de prevención, cooperación y modernización para el fortalecimiento de la seguridad y la defensa nacional.

Esta estrategia se fundamenta en consolidar la participación de la Fuerza Pública en escenarios internacionales. Esto, bajo la perspectiva del futuro de la Fuerza Pública, contribuyendo con las capacidades desarrolladas en los últimos años, y, a su vez, proyectando nuevas capacidades y estándares, fundamentados en el profesionalismo de los hombres y mujeres de las Fuerzas Militares y la Policía Nacional.

Las capacidades de nuestra Fuerza Pública son la base que permite a Colombia consolidar su posición

como un actor relevante en los escenarios regionales, hemisféricos y globales, mediante diferentes mecanismos de cooperación bilateral, triangular y multilateral.

Lo anterior, proyectando las relaciones internacionales con países y organizaciones desde un punto de vista dinámico, que permita de manera flexible adaptarse a los retos de seguridad del futuro, mediante elementos de proyección de capacidades que involucren el desarrollo de un portafolio de demanda y de oferta de cooperación.

Así, constituye un objetivo estratégico de Colombia fortalecer la cooperación con organismos multilaterales y otras naciones, no solamente desde la perspectiva de buscar mayor efectividad en la lucha contra la delincuencia transnacional y otras amenazas, sino también para orientar la visión de futuro de las Fuerzas Armadas de Colombia.

La experiencia de Colombia en la lucha contra el terrorismo, el narcotráfico, y la delincuencia transnacional en general, es hoy reconocida a nivel internacional. Solo a manera ilustrativa, desde 2010 las Fuerzas Armadas de Colombia han capacitado más de 24.000 miembros de las Fuerzas Armadas y de Seguridad de alrededor de 70 países. Colombia continuará con este esfuerzo de contribución a la seguridad, a la paz y a la estabilidad regional e internacional, brindando su experiencia a las naciones que lo requieran.

Como parte de la ejecución de la estrategia internacional del Sector Defensa, el Gobierno de Colombia ha venido adelantando conversaciones con la Unión Europea (UE), la Organización de Naciones Unidas (ONU) y la Organización del Tratado del Atlántico Norte (OTAN), con el objeto de desarrollar un amplio marco de actividades de cooperación que contribuyan al fortalecimiento de las capacidades de las Fuerzas Armadas.

Lo anterior, con el objeto de desarrollar un amplio marco de actividades de cooperación que contribuyan al fortalecimiento de las capacidades de las Fuerzas Armadas y así elevar sus estándares profesionales y operacionales, en áreas como misiones humanitarias, misiones de paz, derechos humanos, justicia militar, entre otros temas.

Cabe señalar que esta relación en ningún caso implica o puede implicar la presencia de tropas extranjeras en territorio colombiano, y tampoco la membresía de Colombia a esta Organización.

Como se ha explicado anteriormente, el mismo Tratado constitutivo de la OTAN, en su artículo 10, define qué Estados podrán hacer Parte. A partir de dicha definición, es claro que Colombia no cumple los requisitos previstos en esta norma, por lo que no es dable afirmar que un propósito en este sentido orienta la voluntad del Gobierno nacional.

III. SOBRE EL ACUERDO ENTRE LA REPÚBLICA DE COLOMBIA Y LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE SOBRE COOPERACIÓN Y SEGURIDAD DE INFORMACIÓN

El texto del Acuerdo sub exámine consta de 6 artículos que obran de la siguiente manera:

- El artículo 1° dispone las obligaciones generales de las Partes en referencia a la protección y salvaguardia de la información y material que se reciba de la otra parte.

- El artículo 2° estipula que el Gobierno de la República de Colombia acepta el compromiso de investigar y aprobar de manera previa a todos aquellos connacio-

nales que requieran o puedan tener acceso a la información en cuestión.

- El artículo 3° señala quiénes serán los organismos responsables y competentes, dentro de la OTAN, a efectos del manejo de la información intercambiada bajo la égida de este acuerdo.

- El artículo 4° plasma la obligación para el Estado colombiano de informar a la OTAN quiénes serán aquellas autoridades nacionales que fungirán como responsables en concordancia con el artículo anterior.

- El artículo 5° señala que las partes, previo al intercambio de cualquier información, establece que la parte receptora protegerá la información que reciba.

- El artículo 6° consagra la cláusula de entrada en vigor del acuerdo, la cual indica que el mismo entrará en vigor en la fecha en que el Gobierno de la República de Colombia y la OTAN se hayan notificado entre sí, por escrito, que se han cumplido sus requerimientos internos legales. Igualmente, este artículo incluye una cláusula de denuncia, la cual permite a las Partes denunciar el instrumento en cualquier momento mediante notificación entre sí.

IV. APROBACIÓN DEL “ACUERDO ENTRE LA REPÚBLICA DE COLOMBIA Y LA ORGANIZACIÓN DEL TRATADO DEL ATLÁNTICO NORTE SOBRE COOPERACIÓN Y SEGURIDAD DE INFORMACIÓN”

a) Sobre el objeto del Acuerdo suscrito con la OTAN

El Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información se suscribe con el fin de establecer una relación de cooperación que permita intercambiar información y experiencias en temas militares de mutuo interés de las Partes. En este sentido, es importante precisar que el Acuerdo establece un mecanismo para los intercambios de información que se requieran en el marco de la relación de cooperación estratégica que se busca establecer con la OTAN.

En caso de que la información que se pretenda intercambiar tenga algún tipo de clasificación, esto es, su difusión se encuentre restringida y por tanto limitada, se establece un mecanismo que garantiza a las dos partes el cumplimiento de su normatividad interna.

En este orden de ideas, es claro que el Acuerdo no crea derecho alguno que vincule al Gobierno colombiano respecto del tratamiento que deba dar la información de carácter clasificado. Por el contrario, el Acuerdo establece que el intercambio de información clasificada se realiza a satisfacción de cada una de las Partes (artículo 5°), lo que significa que el mismo es respetuoso de los procedimientos y normas que vinculan a cada una de las partes en el marco de la normatividad que les rige.

Hay materialidad legislativa como lo son las normas que se encuentran vigentes al interior del ordenamiento jurídico colombiano de reserva y protección de la información que soportan la actividad reglamentaria que mediante los convenios administrativos de que trata el artículo 4° del Acuerdo desarrollarán las partes para el intercambio y protección de la información, cuando a ello haya lugar.

Para el caso del Gobierno de Colombia la materialidad legislativa está conformada por varias normas de carácter legal e incluso convencional como son: La Ley 57 de 1985, la Ley 1437 de 2011, la Ley Estatutaria 1621 de 2013, la Ley Estatutaria 1581 de 2012, así como la Convención Americana de Derechos Humanos

y la jurisprudencia de la Honorable Corte Constitucional. Es claro que el Gobierno colombiano al suscribir los convenios administrativos de que trata el artículo 4°, una vez el presente Acuerdo sea aprobado, deberá sujetarse al marco jurídico mencionado anteriormente para realizar intercambios de información.

Teniendo en cuenta que el mismo Acuerdo en su artículo 2° señala que quienes son responsables de los intercambios de información que se generen con ocasión del Acuerdo y los convenios administrativos que se deriven del mismo son personas en funciones oficiales, que para el caso de Colombia, significaría que son servidores públicos, esta condición implica que le son aplicables a las funciones que cumplan en virtud de este Acuerdo y de sus derivados los artículos 123 y 124 de la Constitución Política. Lo anterior ratifica que una vez aprobado el mencionado Acuerdo y celebrados los convenios administrativos que materialicen los intercambios de información, corresponde a los servidores públicos designados para el efecto, en su calidad de representantes del Gobierno colombiano, garantizar la aplicación del marco jurídico enunciado anteriormente para la protección y seguridad de la información, so pena de incurrir en una falta disciplinaria e incluso penal.

De lo anterior se colige, que no existe discrecionalidad para los servidores públicos que actúan en nombre del Gobierno colombiano en el marco de este Acuerdo para determinar o establecer reserva a la información que no esté amparada en el marco jurídico que para el efecto ha establecido la ley y que ha sido objeto de múltiples pronunciamientos por parte de la Honorable Corte Constitucional.

Por lo anterior, se está respetando el principio de publicidad de la información, teniendo en cuenta que las disposiciones aplicables para las Partes, es decir para el Gobierno de Colombia y la OTAN en virtud del Acuerdo, no crean ni podrían crear normas aplicables para Colombia que puedan impedir el acceso de cualquier persona a información que es de carácter público.

Adicionalmente, las personas pueden solicitar información de competencia del Gobierno colombiano no en virtud del Acuerdo, sino del derecho que les asiste de conformidad con la Constitución Política.

En caso de que la información solicitada por una persona al Gobierno colombiano tenga algún tipo de nivel de clasificación, corresponderá a la autoridad competente justificar a la luz de las normas legales vigentes las razones por las cuales la información no puede ser entregada o en tratándose de autoridades judiciales y de control los procedimientos que deben seguirse para la entrega de la información y la responsabilidad que le asiste a la autoridad que recibe la información de garantizar la protección y seguridad de la información.

En ningún caso las normas sobre protección y seguridad de la información son susceptibles de negociación en un Acuerdo, por el contrario hacen parte del derecho interno y por tanto vinculan al Gobierno y a sus representantes a tenerlas en cuenta al momento de suscribir cualquier Acuerdo que implique nuevas obligaciones para el país.

b) El Acuerdo no afecta derechos constitucionales

Como se señaló anteriormente, el Acuerdo tiene como objeto establecer mecanismos que permitan intercambiar información en el marco de la relación de cooperación que se quiere construir entre Colombia y la OTAN.

Desde el mismo preámbulo se señala que el objeto del Acuerdo versa sobre “*aspectos políticos y de seguridad de interés común y ampliar e intensificar la*

cooperación". Así mismo se señala, en el artículo 1º que en los casos en que la información sea clasificada, es decir su difusión se encuentre restringida y por tanto no sea pública, se garantice la seguridad y protección de la misma establecida por la Parte emisora, estando la Parte receptora sujeta a proteger la información.

En ese orden de ideas, es claro que el Acuerdo prevé el intercambio de información sobre aspectos políticos y de seguridad que bien puede tener el carácter de pública o también, según su naturaleza, puede tener un grado de clasificación.

Es así como en tratándose de información pública si bien el Acuerdo establece la prohibición de divulgar la información objeto del tratado, esto no se traduce en violación de las garantías y del derecho de las personas al acceso de la información pública consagrado en el artículo 74 de la Constitución Política.

La naturaleza de información pública permanece y no se modifica en virtud del Acuerdo, y por tanto las personas pueden acceder a la misma sin restricción alguna. Lo que se restringe es la posibilidad de que el receptor de la información, que para el caso de la información originada en Colombia es la OTAN, pueda divulgarla por decisión propia.

De conformidad con lo anterior, es claro que el Acuerdo contempla la posibilidad de intercambio de información de diferente naturaleza, que involucra desde información pública hasta información con algún nivel de clasificación, objeto que en ningún caso representa grado alguno de indeterminación teniendo en cuenta que para el Gobierno colombiano el marco jurídico de protección a la información es suficientemente amplio y se encuentra regulado en detalle por la legislación colombiana.

Por ejemplo, en tratándose de información de inteligencia y contrainteligencia, la Ley Estatutaria 1621 de 2013, en su artículo 11, establece la posibilidad de que los organismos puedan cooperar con organismos internacionales mediante la suscripción de protocolos de seguridad, siempre y cuando se cumplan las disposiciones establecidas en la mencionada ley. Así mismo, en el artículo 36 literal g) de la mencionada ley se establece que son receptores de información de inteligencia y contrainteligencia los organismos de inteligencia de otros países con los que existan programas de cooperación. Estas disposiciones fueron declaradas en ejercicio del control previo de constitucionalidad, exequibles por parte de la Honorable Corte Constitucional en Sentencia C-540 de 2012. Otros pronunciamientos que amparan el intercambio de información tanto pública como con algún nivel de clasificación han sido emitidos por la Honorable Corte Constitucional en Sentencia 0-748 de 2011 y en Sentencia C-819 de 2012, entre otros.

Sería imposible que el Acuerdo se pronuncie sobre todos los tipos de información que serían susceptibles de intercambio, teniendo en cuenta que la relación de cooperación entre nuestro país y la OTAN hasta ahora se está concibiendo y su fortalecimiento depende de contar con un marco jurídico apropiado que permita explorar las formas de cooperación posibles y la identificación de los intereses mutuos.

En conclusión, este Acuerdo permitirá contar con el marco normativo necesario para realizar las gestiones propias que conlleva la relación de cooperación con esta prestigiosa Organización Internacional. Esta relación está enfocada en fortalecer las capacidades de las Fuerzas Militares de Colombia, mediante el establecimiento de estándares que permiten la interoperabilidad, en diversos frentes, entre las Fuerzas Armadas de los países que hacen parte de esta Alianza.

Con la adopción de estos elevados estándares, que abarcan aspectos logísticos, técnicos, y operativos, se está dando cumplimiento al desafío de definir una hoja de ruta que determine el futuro de las Fuerzas Militares y la Policía Nacional. Lo anterior, dentro de un modelo de planeación de mediano y largo plazo, que busca definir una estructura de fuerza que evolucione de manera concordante con los retos operacionales futuros y que garantice la coherencia entre el marco presupuestal existente, los principios de política, las misiones y las capacidades de la Fuerza Pública.

Por las razones anteriormente expuestas, el Gobierno nacional, a través de la Ministra de Relaciones Exteriores y el Ministro de Defensa Nacional, solicita al Honorable Congreso de la República, aprobar el "Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información", suscrito en Bruselas el 25 de junio de 2013.

De los honorables Senadores y Representantes.



MARIA ANGELA HOLGUÍN CUÉLLAR
Ministra de Relaciones Exteriores

LUIS CARLOS VILLEGAS ECHEVERRI
Ministro de Defensa Nacional

RAMA EJECUTIVA DEL PODER PÚBLICO
PRESIDENCIA DE LA REPÚBLICA

Bogotá, D. C., 2 de septiembre de 2013

Autorizado. Sométase a la consideración del Honorable Congreso de la República para los efectos constitucionales.

(Fdo.) JUAN MANUEL SANTOS CALDERÓN

La Ministra de Relaciones Exteriores,

(Fdo.) María Ángela Holguín Cuéllar.

DECRETA:

Artículo 1º. Apruébese el "Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información", suscrito en Bruselas, el 25 de junio de 2013.

Artículo 2º. De conformidad con lo dispuesto en el artículo 1º de la Ley 7ª de 1944, el "Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información", suscrito en la ciudad de Bruselas, el 25 de junio de 2013, que por el artículo 1º de esta ley se aprueba, obligará al país a partir de la fecha en que se perfeccione el vínculo internacional respecto de la misma.

Artículo 3º. La presente ley rige a partir de la fecha de su publicación.

Dada en Bogotá, D. C., a los

Presentado al Honorable Congreso de la República por la Ministra de Relaciones Exteriores y el Ministro de Defensa Nacional.



MARIA ANGELA HOLGUÍN CUÉLLAR
Ministra de Relaciones Exteriores

LUIS CARLOS VILLEGAS ECHEVERRI
Ministro de Defensa Nacional

LEY 424 DE 1998

(enero 13)

por la cual se ordena el seguimiento a los convenios internacionales suscritos por Colombia.

El Congreso de Colombia

DECRETA:

Artículo 1°. El Gobierno Nacional a través de la Cancillería presentará anualmente a las Comisiones Segundas de Relaciones Exteriores de Senado y Cámara, y dentro de los primeros treinta días calendario posteriores al período legislativo que se inicia cada 20 de julio, un informe pormenorizado acerca de cómo se están cumpliendo y desarrollando los Convenios Internacionales vigentes suscritos por Colombia con otros Estados.

Artículo 2°. Cada dependencia del Gobierno Nacional encargada de ejecutar los Tratados Internacionales de su competencia y requerir la reciprocidad en los mismos, trasladará la información pertinente al Ministerio de Relaciones Exteriores y este, a las Comisiones Segundas.

Artículo 3°. El texto completo de la presente ley se incorporará como anexo a todos y cada uno de los Convenios Internacionales que el Ministerio de Relaciones Exteriores presente a consideración del Congreso.

Artículo 4°. La presente ley rige a partir de su promulgación.

El Presidente del honorable Senado de la República,

Amylkar Acosta Medina.

El Secretario General del honorable Senado de la República,

Pedro Pumarejo Vega.

El Presidente de la honorable Cámara de Representantes,

Carlos Ardila Ballesteros.

El Secretario General de la honorable Cámara de Representantes,

Diego Vivas Tafur.

REPÚBLICA DE COLOMBIA
GOBIERNO NACIONAL

Publíquese y ejecútense.

Dada en Santa Fe de Bogotá, D. C., a 13 de enero de 1998.

ERNESTO SAMPER PIZANO

La Ministra de Relaciones Exteriores,

María Emma Mejía Vélez.

SENADO DE LA REPÚBLICA

Secretaría General

(arts. 139 y ss. Ley 5ª de 1992)

El día 22 del mes de septiembre del año 2015, se radicó en este Despacho el Proyecto de ley número 98, con todos y cada uno de los requisitos constitucionales y legales, por Ministra de Relaciones Exteriores, doctora *María Ángela Holguín Cuéllar*; Ministro de Defensa Nacional, doctor *Luis Carlos Villegas Echeverri*.

El Secretario General,

Gregorio Eljach Pacheco.

SENADO DE LA REPÚBLICA

Sección de Leyes

Bogotá, D. C., 22 de septiembre de 2015

Señor Presidente:

Con el fin de repartir el Proyecto de ley número 98 de 2015 Senado, *por medio de la cual se aprueba el "Acuerdo entre la República de Colombia y la Organización del Tratado del Atlántico Norte sobre Cooperación y Seguridad de Información"*, suscrito en Bruselas, el 25 de junio de 2013, me permito pasar a su Despacho el expediente de la mencionada iniciativa que fue presentada en el día de hoy ante la Secretaría General por la Ministra de Relaciones Exteriores, doctora *María Ángela Holguín* y el Ministro de Defensa Nacional, doctor *Luis Carlos Villegas Echeverri*. La materia de que trata el mencionado proyecto de ley es competencia de la Comisión Segunda Constitucional Permanente del Senado de la República, de conformidad con las disposiciones constitucionales y legales.

El Secretario General,

Gregorio Eljach Pacheco.

PRESIDENCIA DEL HONORABLE
SENADO DE LA REPÚBLICA

Bogotá, D. C., 22 de septiembre de 2015

De conformidad con el informe de Secretaría General, dese por repartido el precitado proyecto de ley a la Comisión Segunda Constitucional y envíese copia del mismo a la Imprenta Nacional para que sea publicado en la *Gaceta del Congreso*.

Cúmplase.

El Presidente del honorable Senado de la República,

Luis Fernando Velasco Chaves.

El Secretario General del honorable Senado de la República,

Gregorio Eljach Pacheco.

* * *

PROYECTO DE LEY NÚMERO 100 DE 2015
SENADO

por medio de la cual se reglamenta la profesión de Ingeniería Agropecuaria y se dictan otras disposiciones.

El Congreso de la República de Colombia

DECRETA:

Artículo 1°. *Objeto.* La presente ley tiene por objeto reglamentar la profesión de Ingeniería Agropecuaria como profesión de nivel universitario con formación científica, técnica, agrícola, pecuaria ambiental y humanística.

Artículo 2°. *Definiciones.* La profesión del Ingeniero Agropecuario se define como una profesión de nivel universitario con formación académica integral para el acceso institucional en la promoción y desarrollo del sector agropecuario privado y público en todas sus modalidades.

Artículo 3°. *Requisitos.* Para ejercer en el territorio nacional la profesión de que trata la presente ley, es necesario cumplir con los siguientes requisitos:

a) Haber obtenido el título otorgado por la universidad, institución universitaria, institución tecnológica, de conformidad con lo establecido en la Ley 30 de 1993, ley de educación superior.

Artículo 4°. A partir de la vigencia de la presente ley, extiéndase al ingeniero agropecuario, la facultad profesional y técnica de intervenir en todos los procesos en

los cuales se exige el aval de las instituciones públicas y privadas relacionadas con el sector agropecuario.

Artículo 5°. *Vigencia.* La presente ley rige a partir de su promulgación y deroga todas las disposiciones que le sean contrarias.

Cordialmente,


JUAN DIEGO GÓMEZ JIMÉNEZ
SENADOR DE LA REPUBLICA

EXPOSICIÓN DE MOTIVOS

El presente proyecto tiene como objeto adoptar la profesión de Ingeniería Agropecuaria y adecuar el ejercicio profesional a las normas técnicas, científicas y ambientales del sector agropecuario con un concepto sistémico e integral. Se busca además, adaptar la profesión a las nuevas realidades del sector, proporcionándole al profesional los medios para adquirir aptitudes que le permitan una concepción holística bajo la perspectiva de la sostenibilidad de los recursos naturales, sociales y humanos.

El profesional en ingeniería agropecuaria ejerce su profesión haciendo uso de valores, conceptos, conocimientos, técnicas y prácticas de diferentes disciplinas del sector agropecuario en busca de una atención integral de las situaciones, problemas y actividades del sector, mejorando las unidades de producción y la calidad de vida de las comunidades.

Contenido

Se pretende con la norma que se adopta convalidar legalmente la profesión de ingeniero agropecuario en competencias para formular, desarrollar y evaluar proyectos de optimización de la producción y comercialización agropecuaria, aplicar técnicas apropiadas que incrementen el nivel de eficiencia y de productividad en las empresas agropecuarias; administrar el medio ambiente y gestar proyectos de conservación de los recursos naturales en el contexto de los sistemas sostenibles de producción; gerenciar y promover empresas agropecuarias en el sector oficial, privado y de economía mixta o solidaria; asesorar pequeños, medianos y grandes productores para la apropiación de tecnologías y la formulación y evaluación de programas y proyectos experimentales del sector agropecuario; investigar con el propósito de mejorar la producción, el manejo poscosecha y el mercadeo de los productos del sector agropecuario.

El proyecto consta de 5 artículos incluyendo la vigencia.

Marco Constitucional

La Constitución Política de Colombia en sus artículos 25 sobre derecho al trabajo y artículo 26 relacionado con la libertad de escoger profesión u oficio y exigir títulos de idoneidad de las profesiones por parte del Estado y los artículos 64 y 65 compele al Estado a la promoción del acceso a la tierra, prestando los servicios de asistencia técnica empresarial y da prioridad al desarrollo integral de las actividades agrícolas, pecuarias, pesqueras, forestales y agroindustriales. De igual manera, se debe promover la investigación y la transferencia tecnológica para la producción de alimentos y materias primas de origen agropecuario.

Marco Legal

Dentro del concepto de asistencia técnica agropecuaria, agrícola y pesquera definida en la Ley de Refor-

ma Agrícola y Pesquera 101 de 1993 y demás normas posteriores y complementarias, se involucra la asistencia en producción vegetal y animal, fitopatología, reproducción animal, biotecnología animal y vegetal, el asesoramiento en la gestión de políticas y estrategias del sector agropecuario, la administración de empresas del sector agropecuario, el desarrollo de proyectos de optimización y producción, proyectos para el manejo integral de los recursos naturales, de manejo de poscosecha y su comercialización, entre otros.

Impacto Fiscal

El presente proyecto de ley no ordena gasto, ni otorga beneficios por lo cual no está sujeto al cumplimiento del requisito previsto en el artículo 7° de la Ley 819 de 2003.


JUAN DIEGO GÓMEZ JIMÉNEZ
SENADOR DE LA REPUBLICA

SENADO DE LA REPÚBLICA

Secretaría General

(arts. 139 y ss. Ley 5ª de 1992)

El día 23 del mes de septiembre del año 2015, se radicó en este Despacho el Proyecto de ley número 100, con todos y cada uno de los requisitos constitucionales y legales, por honorable Senador *Juan Diego Gómez Jiménez*.

El Secretario General,

Gregorio Eljach Pacheco.

SENADO DE LA REPÚBLICA

Sección de Leyes

Bogotá, D. C., 23 de septiembre de 2015

Señor Presidente:

Con el fin de repartir el Proyecto de ley número 100 de 2015 Senado, *por medio de la cual se reglamenta la profesión de Ingeniería Agropecuaria y se dictan otras disposiciones*, me permito pasar a su Despacho el expediente de la mencionada iniciativa que fue presentada en el día de hoy ante la Secretaría General por el honorable Senador *Juan Diego Gómez Jiménez*. La materia de que trata el mencionado proyecto de ley es competencia de la Comisión Sexta Constitucional Permanente del Senado de la República, de conformidad con las disposiciones constitucionales y legales.

El Secretario General,

Gregorio Eljach Pacheco.

PRESIDENCIA DEL HONORABLE
 SENADO DE LA REPÚBLICA

Bogotá, D. C., 23 de septiembre de 2015

De conformidad con el informe de Secretaría General, dese por repartido el precitado proyecto de ley a la Comisión Sexta Constitucional y enviése copia del mismo a la Imprenta Nacional para que sea publicado en la *Gaceta del Congreso*.

Cúmplase.

El Presidente del honorable Senado de la República,

Luis Fernando Velasco Chaves.

El Secretario General del honorable Senado de la República,

Gregorio Eljach Pacheco.

PONENCIAS

INFORME DE PONENCIA PARA PRIMER DEBATE PROYECTO DE LEY NÚMERO 32 DE 2015 SENADO

COMISIÓN PRIMERA CONSTITUCIONAL PERMANENTE

por medio de la cual se reforma la Ley 1098 de 2006 en relación con la medida de protección de la adopción y se dictan otras disposiciones.

PONENTE:

HERNÁN FRANCISCO ANDRADE SERRANO

Honorable Senador

MANUEL HENRÍQUEZ ROSERO

Presidente Comisión Primera

Senado de la República.

Referencia: Informe de ponencia para primer debate en la Comisión Primera Constitucional Permanente al Proyecto de ley número 032 de 2015 Senado, por medio de la cual se reforma la Ley 1098 de 2006 en relación con la medida de protección de la adopción y se dictan otras disposiciones.

Honorables Senadores:

Con el propósito de dar cumplimiento a lo ordenado por la Ley 5ª de 1992 presento a continuación el informe de ponencia al Proyecto de ley número 032 de 2015 Senado, en los siguientes términos:

Antecedentes

El proyecto de ley es de iniciativa legislativa. Fue presentado a consideración del Senado por los honorables Senador Roy Leonardo Barreras Montealegre y Armando Alberto Benedetti Villaneda, publicado en la *Gaceta del Congreso* número 549 el 30 de julio de 2015 y asignado a esta Comisión Primera.

1. Objeto del proyecto de ley

Se pretende introducir en el proyecto de ley una serie de adiciones a la Ley 1098 de 2006 sobre la adopción conjunta por parejas de personas del mismo sexo, la situación de adoptabilidad y la verificación previa de la idoneidad de la familia adoptante.

1.1 Contenido de la Iniciativa Legislativa

De acuerdo con el texto del proyecto de ley, la propuesta de modificación pretende introducir adiciones a los artículos 63, 68 y 73 de la Ley 1098 de 2006, conforme el siguiente texto:

“PROYECTO DE LEY NÚMERO 32 DE 2015 SENADO

por medio de la cual se reforma la Ley 1098 de 2006 en relación con la medida de protección de la adopción y se dictan otras disposiciones.

El Congreso de Colombia

DECRETA:

Artículo 1°. Modifíquese el artículo 63 de la Ley 1098 de 2006.

Artículo 63. Procedencia de la adopción. Solo podrán adoptarse los menores de 18 años declarados en situación de adoptabilidad, o aquellos cuya adopción haya sido consentida previamente por sus padres.

Para efectos de la situación de adoptabilidad, se entenderá que hay ausencia de familia, cuando se

abstienen de concurrir los padres del niño, niña o adolescente al que se le restablecerán sus derechos, o sus familiares hasta el tercer grado de consanguinidad.

Si el menor tuviere bienes, la adopción se hará con las formalidades exigidas para los guardadores.

Artículo 2°. Modifíquese el artículo 68 de la Ley 1098 de 2006.

Artículo 68. Requisitos para adoptar. Podrá adoptar quien, siendo capaz, haya cumplido 25 años de edad, tenga al menos 15 años más que el adoptable, y garantice idoneidad física, mental, moral y social suficiente y **previamente certificada** para suministrar una familia adecuada y estable al niño, niña o adolescente. Estas mismas calidades se exigirán a quienes adopten conjuntamente. Podrán adoptar:

1. Las personas solteras.
2. Los cónyuges conjuntamente.

3. Las parejas del mismo sexo, cuya unión haya sido formalizada o sean compañeros o compañeras permanentes.

4. Conjuntamente los compañeros permanentes heterosexuales, que demuestren una convivencia ininterrumpida de por lo menos dos (2) años. Este término se contará a partir de la sentencia de divorcio, si con respecto a quienes conforman la pareja o a uno de ellos, hubiera estado vigente un vínculo matrimonial anterior.

5. El guardador al pupilo o expupilo una vez aprobadas las cuentas de su administración.

6. El cónyuge o compañero permanente, o pareja **del mismo sexo**, al hijo del cónyuge o compañero, que demuestre una convivencia ininterrumpida de por lo menos dos (2) años.

Esta norma no se aplicará en cuanto a la edad en el caso de adopción por parte del cónyuge o compañero permanente respecto del hijo de su cónyuge o compañero permanente o de un pariente dentro del tercer grado de consanguinidad y segundo de afinidad.

Parágrafo 1°. La existencia de hijos no es obstáculo para la adopción.

Parágrafo 2°. Si el niño, niña o adolescente tuviere bienes, la adopción se hará con las formalidades exigidas para los guardadores.

Artículo 3°. Modifíquese el artículo 73 de la Ley 1098 de 2006.

Artículo 73. Programa de adopción. Por programa de adopción se entiende el conjunto de actividades tendientes a restablecer el derecho del niño, niña o adolescente a tener una familia.

El Instituto Colombiano de Bienestar Familiar a través del Comité de Adopción en cada regional y agencia y las instituciones autorizadas por este para desarrollar el programa de adopción a través de su Comité de Adopción serán la instancia responsable **de certificar la idoneidad de la familia adoptante**, de la selección de las familias colombianas y extranjeras adoptantes y de la asignación de los niños, niñas y adolescentes adoptables.

En la asignación de familia que realice el Comité de Adopción, se dará prelación a las familias colombianas de conformidad con lo establecido en el artículo 71 de este código. El incumplimiento de esta norma dará lu-

gar a las sanciones disciplinarias del caso e invalidará la citada asignación.

Parágrafo 1°. Las instituciones autorizadas para desarrollar el Programa de Adopción garantizarán plenamente los derechos de los niños, niñas y adolescentes susceptibles de ser adoptados, mientras permanezcan bajo su cuidado y no podrán entregarlos a persona alguna sin el cumplimiento de los requisitos establecidos en el presente código.

Parágrafo 2°. *Integración de los Comités de Adopciones.* Los Comités de Adopciones del ICBF y de las instituciones autorizadas, estarán integrados por el Director Regional del ICBF o su delegado, el director de la institución o su delegado, **un médico, un profesional en desarrollo familiar, un psicólogo, un abogado** y por las demás personas que designen, según sea el caso, el ICBF o las juntas directivas de las instituciones.

Parágrafo 3°. Los requisitos de acreditación para agencias o instituciones que presten servicios de adopción internacional deberán incluir la presentación de pruebas que indiquen una sólida situación financiera y un sistema efectivo de control financiero interno, así como auditoría externa. Se exigirá a estas entidades que mantengan estados contables, para ser sometidas a supervisión de la autoridad, incluyendo una declaración detallada de los costes y gastos promedio asociados a las distintas categorías de adopciones.

La información concerniente a los costes, gastos y honorarios que cobren las agencias o instituciones por la provisión de servicios de adopción internacional deberá ser puesta a disposición del público.

Artículo 4°. *Vigencia y derogatorias.* La presente ley rige a partir de su promulgación y deroga las disposiciones que le sean contrarias.

(Las partes resaltadas en el texto transcrito destacan las modificaciones que el proyecto introduce).

2. Motivación del proyecto de ley

De acuerdo con la exposición de motivos presentada por los autores del proyecto de ley, se aprecia que la misma se sustenta en las siguientes consideraciones:

(i) El derecho de los niños a tener una familia; (ii) la adopción, en la que los intereses de los niños debe ser la consideración principal, como una medida de protección de los menores de edad que les otorga una familia; (iii) la limitación del número de familias potencialmente adoptantes, que podrían brindarle protección a los menores, si la adopción se mantiene o circunscribe a las parejas heterosexuales y (iv) la inexistencia de razón jurídica para que las parejas de personas del mismo sexo puedan conformar una “familia homoparental” a partir de formalizar solemnemente la unión, de conformidad con la Sentencia C-577 de 2011 de la Corte Constitucional.

En esta exposición de motivos los autores aluden a dos instituciones vinculadas de manera indisoluble, reguladas desde la Constitución, la ley y las normas internacionales: la familia y la adopción. Por lo tanto, la regulación de la adopción debe abordarse a partir de considerar su desarrollo legal como un medio de protección del menor y el respeto de su interés superior, así como desde la perspectiva del modelo de familia acogido en la Constitución Política, en la medida que aquella procura precisamente proporcionarle al menor el ambiente necesario para garantizarle un adecuado desarrollo.

En relación con la familia, se estudiará su configuración legislativa, su importancia, el modelo de familia definido en la C. P., la inexistencia de discriminación y de omisión legislativa. Respecto del menor y la protección especial de su interés supremo, se hará referencia a la existencia de eventual riesgo y el principio de precaución y la mayor demanda de familias dispuestas a adoptar que el número de menores en estado de adoptabilidad.

3. Análisis de la ponencia

3.1. Análisis de la familia

3.1.1 Configuración Legislativa

Corresponde a la ley expedida por el Congreso de la República, facultado por el artículo 114 de la Constitución Política, regular los aspectos relativos al estado civil de las personas, los derechos de los hijos adoptivos y la facultad conjunta de las parejas para adoptar, dentro de los límites y condiciones que ordena el artículo 42 de la Constitución Política. Estas competencias reconocidas desde la Constitución, son claramente acogidas también por la jurisprudencia, que se ha pronunciado sobre la competencia del Congreso de la República para delimitar en la ley el alcance sobre quiénes tienen la aptitud para asumir la adopción conjunta de menores, a partir de la definición del tipo de familia en nuestro Estado y sociedad. Así, la Corte Constitucional, reiterando su doctrina de respeto a la autonomía de las ramas del Poder Público, expresa en la Sentencia C-577 de 2011, M. P. Gabriel Eduardo Mendoza Martelo, lo siguiente:

“En este orden de ideas, la decisión constitucional de reservar a la ley lo relativo a la familia y al matrimonio, implica “la defensa de un espacio propio que corresponde al legislador, de tal suerte que se impida a otros poderes del estado desconocerlo” y, por ello, la Corte Constitucional “no puede ordenar una protección máxima, no puede escoger los medios que estime mejores, diseñar una institución jurídica o proponer una determinada política social””, (subrayado fuera de texto).

Más recientemente, la Corte Constitucional en el Expediente número D-10315, M. P. Jorge Iván Palacio Palacio, profirió sobre la Ley 1098 de 2006 o Código de la Infancia y la Adolescencia la Sentencia C-071 de 2015, de cuyo contenido parcial da cuenta el Comunicado de prensa número 6 del 18 de febrero de 2015 como quiera que no se conoce el texto definitivo del fallo el cual ha sido impugnado por la Procuraduría General de la Nación, estando pendiente una decisión definitiva sobre su validez o nulidad, señalándose en el numeral 3.3 del comunicado lo siguiente:

“En lo relativo a la adopción conjunta (núm. 1° del artículo 64 y núm. 3° del artículo 68 la Ley 1098 de 2006), la Corte consideró que las expresiones impugnadas no desconocían la prohibición de discriminación por orientación sexual (artículo 13 C. P.), ni lo atinente a las normas que en el artículo 42 de la Constitución se refieren a la familia. Sobre el particular, consideró que es facultad del Congreso determinar los efectos de la adopción estableciendo quiénes pueden ser adoptantes. Precisó además que la extensión del nuevo concepto jurisprudencial de familia contenido en la Sentencia C-577 de 2011 no implica una extensión automática y uniforme para todos los efectos legales y mucho menos para la adopción, en la cual debe atenderse al interés superior del menor de edad y que los derechos de los niños prevalecen sobre los derechos de los demás”. (Subrayado fuera del texto).

Por lo tanto, se reitera que en ejercicio de la función legislativa del Estado corresponde a este Congreso, como máximo exponente del principio democrático y de la voluntad popular, dada su composición, definir la estructura de la familia acorde con lo consagrado en la Constitución Política.

3.1.2 Importancia de la familia

Cabe aquí resaltar la importancia de la familia, que llevó a la Asamblea Constituyente a consagrar de manera expresa, como ya se ha advertido, que ella es el núcleo fundamental de la sociedad. Al respecto, sobresale la Sentencia C-289 del 2000, M. P. doctor Antonio Barrera Carbonell, que expone lo siguiente:

“La familia es una realidad sociológica que fue objeto de un reconocimiento político y jurídico en la Constitución de 1991, en cuanto se la considera como el núcleo o sustrato básico de la sociedad. Esto implica, que ella sea objeto de una protección integral en la cual se encuentra comprometida la propia sociedad y el Estado, sin tomar en cuenta el origen o la forma que aquélla adopte, atendidos los diferentes intereses personales e instituciones sociales y jurídicas, a través de los cuales se manifiestan, desenvuelven y regulan las relaciones afectivas; por lo tanto, la Constitución aun cuando distingue, no discrimina entre las diferentes clases de familia; todas ellas son objeto de idéntica protección jurídica sin que interese, por consiguiente, que la familia se encuentre constituida por vínculos jurídicos, esto es, por la decisión libre de un hombre y una mujer de contraer matrimonio o por vínculos naturales, es decir, por la voluntad responsable de conformarla.

3.1.3. El modelo de familia está definido en nuestra Constitución Política

El artículo 42 de la Constitución Política consagra el alcance de familia que se reconoce en nuestro ordenamiento jurídico, preceptuando en sus incisos 1 y 2:

“La familia es el núcleo fundamental de la sociedad. Se constituye por vínculos naturales o jurídicos, por la decisión libre de un hombre y una mujer de contraer matrimonio o por la voluntad responsable de conformarla.

El Estado y la sociedad garantizan la protección integral de la familia. La ley podrá determinar el patrimonio familiar inalienable e inembargable. La honra, la dignidad y la intimidad de la familia son inviolables”.

De dicha disposición constitucional, se desprenden para el Congreso claros parámetros para el ejercicio de la función legislativa, que impiden sustraerse de ellos para no incurrir en una sustitución y vulneración de las normas señaladas por el Constituyente:

a) **La familia es el núcleo fundamental de la sociedad, cuya protección debe ser garantizada por esta y el Estado**, aspectos que resaltan la importancia de dicha institución para la república, el orden jurídico y, por ende, la sociedad;

b) **Se constituye por vínculos naturales o jurídicos**. Es decir, los vínculos de la pareja nacen a través del contrato civil de matrimonio o el rito religioso del matrimonio, al cual se le reconocen efectos civiles, o por la voluntad responsable de conformarla;

c) **Se conforma por un hombre y una mujer y es de ellos que se predica el matrimonio y la conformación de familia**.

La Constitución en este mismo artículo superior, señala el derecho a la igualdad que se garantiza a todos

los hijos al establecer: *“Los hijos habidos en el matrimonio o fuera de él, adoptados, o procreados naturalmente o con asistencia científica, tienen iguales derechos y deberes. La ley reglamentará la progeneritura responsable”.*

De tal modo que la igualdad de derechos se predica tanto de los hijos biológicos como de los adoptivos, lo que impone al legislador la obligación de garantizar a los hijos menores, tanto biológicos como adoptivos, el derecho a tener el padre y la madre.

No puede el legislador, por tanto, desconocer este derecho constitucional de los hijos, como ahora se pretende en el proyecto de ley en estudio, para que en lugar de dar conjuntamente la adopción a un padre y a una madre, se pretenda darle al hijo dos padres o dos madres, lo que desconocería ese derecho constitucional de los hijos adoptivos en igualdad con los hijos biológicos a tener una madre y un padre. Ello se complementa con la misma norma constitucional que obliga a respetar que *“La pareja tiene el derecho a decidir libre y responsablemente el número de sus hijos, y deberá sostenerlos y educarlos mientras sean menores o impedidos”*, entendiéndose por pareja precisamente aquella referida en el inciso primero de la norma mencionada, o sea a la conformada por hombre y la mujer, por lo cual no es constitucional ni legalmente posible para el legislador extender mediante la adopción conjunta la facultad de entregar los menores en adopción a nadie distinto de los miembros de la pareja constitucionalmente reconocida.

Sobre el concepto de familia que emana de la Constitución y las relaciones paterno filiales que surgen del mismo, la Corte Constitucional en la Sentencia C-814 de 2001, M. P. Marco Gerardo Monroy Cabra, mediante la cual se declaró exequible el aparte del artículo 90 del Código del Menor que en su oportunidad precisamente establecía el requisito de que para la adopción conjunta la pareja estuviera formada por un hombre y una mujer, hoy igualmente consagrado en el artículo 68 de la Ley 1098 de 2006 que se pretende modificar con este proyecto de ley, acudiendo a los criterios de interpretación literal e histórico, expuso en extenso:

“La interpretación puramente literal de la disposición superior transcrita, lleva a la conclusión según la cual la familia que el constituyente quiso proteger es la monogámica y heterosexual. A eso se refiere inequívocamente la expresión “por la decisión libre de un hombre y una mujer de contraer matrimonio o por la voluntad responsable de conformarla”. Pero si esta interpretación exegética no se considerara suficiente, la histórica corrobora la conclusión expuesta. En efecto, el estudio de las actas correspondientes a los antecedentes de la norma en la Asamblea Nacional Constituyente, conduce a idéntica respuesta, como pasa a verse:

En la exposición de motivos de la ponencia para primer debate en plenaria, se explicó claramente el sentido de la norma de la siguiente manera:

“Las personas unidas entre sí por vínculos naturales, como los diferentes grados de consanguinidad; o unidas por vínculos jurídicos, que se presentan entre esposos, afines o entre padres adoptivos, o por la voluntad responsable de constituirla, en los casos en que un hombre y una mujer se unen con la decisión de vivir juntos, tienen pleno derecho a conformar y desarrollar esta base de la sociedad, aunque no tengan entre sí vínculos de sangre ni contractuales formales, si llenan los requisitos de ley, su

conciencia, sus costumbres o tradiciones, su religión o sus creencias.

“Siendo ello así, es apenas obvio determinar la protección del Estado y la sociedad para esa familia y fijar la inviolabilidad para su honra, dignidad e intimidad, así como sentar las bases de su absoluta igualdad de derechos y deberes.

“Las familias unidas por vínculos naturales o jurídicos han sido reglamentadas durante toda nuestra vida civil”.

“Interpretando una necesidad nacional debe reflejarse en la Constitución la realidad en que vive hoy más de la cuarta parte de nuestra población. Se deben complementar las normas legales vigentes sobre “uniones maritales de hecho y régimen patrimonial entre compañeros permanentes”. (Negrillas fuera del original.)[41](Gaceta Constitucional número 85, páginas 5 y 6).

Del aparte de la intervención que se acaba de transcribir, pueden sacarse las siguientes conclusiones:

El constituyente entendió la expresión:

“Se constituye por vínculos naturales o jurídicos” contenida en el canon 42 superior, de la siguiente manera: (i) los vínculos naturales que unen a las personas en la familia, son los de las personas unidas entre sí por “los diferentes grados de consanguinidad”. (Tal es la explicación que el mismo ponente otorga a la expresión “vínculos naturales”). (ii) Los vínculos jurídicos son “los que se presentan entre esposos, afines o entre padres adoptivos, o por la voluntad responsable de constituirla, en los casos en que un hombre y una mujer se unen con la decisión de vivir juntos”. (Tal es la explicación que el mismo ponente otorga a la expresión “vínculos jurídicos”).

Nótese que el ponente incluye dentro de los vínculos jurídicos, el que surge por la unión libre entre “un hombre y una mujer”. Es decir, la voluntad responsable de constituir la familia por fuera del matrimonio se entendió referida a las uniones entre parejas heterosexuales. Y como la regulación legal del matrimonio entre nosotros siempre ha establecido que este es un contrato por el cual un hombre y una mujer se unen con el fin de vivir juntos[42](Código Civil, artículo 113: “El matrimonio es un contrato solemne por el cual un hombre y una mujer se unen con el fin de vivir juntos, de procrear y de auxiliarse mutuamente”), forzoso es concluir que la familia que quiso proteger el constituyente fue, como antes se dijo, la heterosexual y monogámica, ya sea que se constituya a partir del matrimonio o a partir de la unión libre. Los artículos indeterminados un y una hacen alusión a la monogamia, y los sustantivos hombre y mujer, a la condición heterosexual de la pareja.

Las expresiones del ponente, por consiguiente, llevan a excluir la interpretación aislada de la frase “o por la voluntad responsable de conformarla”, contenida en el artículo 42 superior, interpretación según la cual tal frase haría alusión a la posibilidad de constituir la familia a partir de uniones distintas a la heterosexual y monogámica.

14. Otras frases del ponente explican cuál fue la intención del constituyente al consignar dentro del texto de la disposición finalmente aprobada, la expresión “por la decisión libre de un hombre y una mujer de contraer matrimonio o por la voluntad responsable de conformarla”, que hace alusión a las formas como se puede constituir la familia. En efecto, cuando el ponente indica que “una necesidad nacional debe refle-

jarse en la Constitución, la realidad en que vive hoy más de la cuarta parte de nuestra población. Se deben complementar las normas legales vigentes sobre “uniones maritales de hecho y régimen patrimonial entre compañeros permanentes” [43]. (Exposición de motivos para el debate en la Comisión Quinta. Gaceta Constitucional número 52, páginas 2 y 3), expresa la intención que se tuvo de elevar a canon constitucional el reconocimiento de la protección jurídica a las familias que surgen de la unión libre entre un hombre y una mujer, protección superior que dicha familia no había obtenido hasta entonces, a pesar del régimen legal existente en ese momento, contenido en la entonces recién expedida Ley 54 de 1990. No señala la misma intención respecto de otras formas de unión como pudieran serlo la conformada por parejas homosexuales, o las que emanan de las relaciones poligámicas o poliándricas. El propósito antedicho de proteger a la familia formada a partir de la unión libre entre un hombre y una mujer, resulta evidente en la cita que hace el ponente de estudios y exámenes de campo, relativos a la nupcialidad en Colombia, que a su juicio verificaban el incremento del fenómeno social y obligaban a tenerlo en cuenta en la Constitución. Dijo sobre ello lo siguiente:

“Debido a cambios de mentalidad, a problemas en la primera unión y al acomodamiento económico y social de las gentes, se ve cómo desde 1990 tiene un incremento sostenido la unión libre. En la generación de la primera década de este siglo, se encuentra un 10% de las familias en esta situación; en la generación del 40 encontramos un 26%; en la del 50 pasa al 30% y en la de 1960 a 1964 asciende a un 45.5% según lo indica la obra *La nupcialidad en Colombia, evolución y tendencia de las investigadoras Lucero Zamudio y Norma Rubiano*”.

15. Adicionalmente, los otros textos propuestos a estudio de la Asamblea Nacional Constituyente, que fueron desechados por ésta para acoger el que finalmente vino a ser el artículo 42 de la Constitución, muestran cómo el constituyente optó intencionalmente por aquel que mencionaba expresamente a un hombre y una mujer como fundadores de la familia, y descartó los que dejaban abierta la posibilidad de entender que otras formas de unión también serían objeto de la protección constitucional.

Así, la propuesta minoritaria de la Comisión Primera era de este tenor, que no fue acogido:

“La familia es el núcleo fundamental de la sociedad. Está compuesta por personas unidas entre sí por vínculos naturales o jurídicos o por la voluntad responsable de constituirla. Un hombre y una mujer tienen derecho a unirse en matrimonio y a conformar y desarrollar libremente su familia”. [44] (Gaceta Constitucional número 83, página 39 y Gaceta número 85. Página 9).

Nótese cómo este texto reservaba el matrimonio a parejas heterosexuales, pero abría la posibilidad de constituir familias a partir de uniones entre “personas” y no exclusivamente entre un hombre y una mujer.

Igualmente, otros textos presentados a las Comisiones Primera y Quinta de la Asamblea Nacional Constituyente, finalmente no adoptados, se referían al derecho de todas las personas a formar una familia. La ponencia elaborada por Aída Abella, Raimundo Emiliani Román, Germán Toro, Diego Uribe Vargas, y María Mercedes Carranza, proponía el siguiente contenido literal:

“La familia. La familia es el núcleo fundamental de la sociedad, y tiene derecho a la protección integral de

ésta y del Estado. Todas las personas tienen derecho a conformar libremente una familia, cuyos efectos serán determinados exclusivamente por la ley”. [45] (Cf. Gaceta Constitucional número 51, página 22).

Así mismo el artículo propuesto a la Comisión Quinta e igualmente desechado, expresaba:

“La familia es el núcleo fundamental de la sociedad. Está compuesta por personas unidas entre sí por vínculos naturales o jurídicos...” [46] (Cf. Gaceta Constitucional número 52, página 3).

16. De todo lo anterior la Corte concluye que la voluntad explícita del constituyente fue determinar la protección especial a que alude el segundo párrafo del artículo 42 de la Constitución, para aquellas familias constituidas a partir de la unión matrimonial o de la unión libre entre un **hombre y una mujer**, y que la expresión superior contenida en el artículo 42 relativa a **la voluntad libre de conformar la familia, se vincula a la familia heterosexual**. A similar conclusión había antes llegado esta Corporación cuando con ocasión de la demanda incoada en contra del artículo 1° de la Ley 54 de 1990, definió que el constituyente se había referido a la protección de la familia formada por una pareja de ambos sexos. [47] (Cf. Sentencia C-098 de 1996, M. P. Eduardo Cifuentes Muñoz”). (Subrayados fuera de texto).

Así, el límite de las parejas de personas con aptitud de asumir la adopción conjunta es de carácter constitucional y por ello no puede ignorarse como lo pretende el proyecto de ley sustentado en la parte motiva de la Sentencia C-577, que contraría la disposición constitucional.

Es decir, aunque no se desconoce la existencia de otro tipo de parejas en la realidad social, a las que ha aludido la Corte Constitucional en sus recientes sentencias sobre los derechos de las parejas del mismo sexo, tal como se ha visto la Constitución solo consagra como familia la constituida por un hombre y una mujer, consagración constitucional que limita la facultad del Congreso en esta materia.

3.1.4 Inexistencia de discriminación

Debe igualmente destacarse que dicho tratamiento preferencial entre las parejas heterosexuales y homosexuales no entraña un tratamiento discriminatorio. En la sentencia anteriormente citada, se dice sobre el particular:

“Ahora bien, tampoco el hecho de que la familia que el constituyente optó por proteger sea la que emana de la unión heterosexual y monogámica, tiene el alcance de discriminar a quienes deciden mantener una relación homosexual estable. Reiterada jurisprudencia constitucional, entre ella la que acaba de citarse, hace énfasis en que la Constitución no prohíbe esta opción de vida. Así, en la mencionada Sentencia parcialmente transcrita anteriormente, la Corte dejó claro que las disposiciones demandadas, adoptadas por el legislador, no prohibían ni sancionaban el homosexualismo, sino que se limitaban, dijo, “a tratar los aspectos patrimoniales de un determinado tipo de relaciones. No se descubre en ellas censura o estigmatización de ningún género hacia las parejas homosexuales”. (Subrayado fuera de texto).

Asimismo, en la citada Sentencia C- 577 de 2011, en la que se examina la formalización del vínculo entre parejas del mismo sexo, se manifiesta:

“Con acierto se ha escrito que cuando jurisprudencia como la de la Corte Constitucional ha señalado

que existen diferencias entre las parejas heterosexuales y las homosexuales, no hay un imperativo constitucional de darles tratamiento igual, ya que, a causa “de la no semejanza de supuestos”, es improcedente la analogía total y, por consiguiente, al juez constitucional le corresponde actuar de manera singular, examinar aspectos concretos, ya patrimoniales o personales, siempre que para cada supuesto haya figuras afines en el ordenamiento”[139]-(Cfr. PEDRO A. TALAVERA FERNÁNDEZ, Fundamentos para el reconocimiento jurídico de las uniones homosexuales... Páginas 39 y ss.).

Así las cosas, de permitirse la adopción conjunta por parte de parejas de personas del mismo sexo, como lo pretende el proyecto, se está contrariando el modelo de familia adoptado por la Constitución Política, modelo de familia que constituye el núcleo esencial de la sociedad, sin que negar dicha posibilidad conlleve un trato discriminatorio.

3.1.5 Inexistencia de omisión legislativa

Es menester hacer hincapié en que el no autorizar la adopción conjunta por parejas del mismo sexo no constituye una omisión legislativa como bien lo desarrolla la Corte Constitucional en la Sentencia C-814 de 2001, ya mencionada, en la cual se lee:

“Debe entonces la Corte establecer dos cosas: en primer lugar si el tenor literal transcrito, en lo que él mismo dice, desconoce o no desconoce la Constitución; y en segundo lugar, si por lo que dicho texto no dice, se erige en una omisión legislativa inconstitucional, es decir en el incumplimiento por parte del legislador de la obligación de incluir un determinado contenido normativo en la disposición, circunstancia que llevaría a la Corte a proferir una sentencia integradora, es decir un pronunciamiento en el que se hiciera efectivo directamente el valor normativo de la Carta Política [52] (Sentencias integradoras entre otras la Sentencia C-109 de 1995). Es decir, en este último supuesto la Corte debe estudiar si la no inclusión de las parejas homosexuales dentro de la autorización para adoptar conjuntamente, constituye una omisión legislativa inconstitucional por violación del principio de igualdad, que deba conducir a un fallo integrador.

20. En cuanto a lo que establece el tenor literal del segundo inciso del artículo 90 del Código del Menor, él resulta plenamente acorde con las disposiciones superiores. La autorización que otorga propicia la igualdad de trato entre las parejas unidas por matrimonio y aquellas otras constituidas por un hombre y una mujer que conviven en unión libre, y en este sentido, a pesar de tratarse de una norma expedida antes de la Constitución, coincide con el propósito del constituyente, que como se dijo, fue el de equiparar los derechos de unas y otras.

Desde este punto de vista la Corte no podría declarar la inexecutable de los apartes impugnados, pues ello significaría desconocer este reconocimiento hecho por la ley a las parejas que viven en unión libre por más de tres años, lo cual resultaría inadmisiblemente de cara a la Constitución.

21. Respecto de la supuesta omisión legislativa que pudiera estar presente en la norma que parcialmente se acusa, en cuanto ella no autoriza a las parejas homosexuales para adoptar conjuntamente, violando con ello el principio de igualdad, la Corte estima lo siguiente: La posibilidad de emitir una sentencia integradora por omisión legislativa discriminatoria, de conformidad con los criterios que al respecto ha sentado la jurisprudencia de la Corporación, se da en aque-

llos casos en los cuales "... la inxequibilidad derivaría de la conducta omisiva del Legislador que propicia la desigualdad de trato que consiste en no extender un determinado régimen legal a una hipótesis material semejante a la que termina por ser única beneficiaria del mismo". [53] (Sentencia C-555 de 1994. M. P. doctor Eduardo Cifuentes Muñoz). El fenómeno de este tipo de inconstitucionalidad, ha dicho también la Corte, "está ligado, cuando se configura, a una "obligación de hacer", que supuestamente el Constituyente consagró a cargo del legislador, el cual sin que medie motivo razonable se abstiene de cumplirla, incurriendo con su actitud negativa en una violación a la Carta" [54] (Sentencia C-188 de 1996 M. P. Fabio Morón Díaz). Y ha señalado además que "son inconstitucionales por omisión aquellas normas legales que por no comprender todo el universo de las hipótesis de hecho idénticas a la regulada, resultan ser contrarias al principio de igualdad" [55] (Sentencia C-146 de 1998 M. P. Vladimiro Naranjo Mesa).

Así las cosas, lo que debe determinarse en el presente caso es si la hipótesis de hecho regulada por la norma acusada, esto es la adopción conjunta por parte de parejas heterosexuales que han vivido en unión libre por lo menos tres años, es idéntica a la de las parejas homosexuales que han vivido en la misma situación por ese tiempo, de tal manera que se imponía al legislador dar el mismo trato a ambas situaciones, concediendo en los dos supuestos la autorización para adoptar en forma conjunta.

A juicio de la Corte, no se da la identidad de hipótesis que impone al legislador dispensar un idéntico tratamiento jurídico, si se tiene en cuenta que la adopción es ante todo una manera de satisfacer el derecho prevalente de un menor a tener la familia, y que la familia que el constituyente protege es la heterosexual y monogámica, como anteriormente quedó dicho. Desde este punto de vista, al legislador no le resulta indiferente el tipo de familia dentro del cual autoriza insertar al menor, teniendo la obligación de proveerle aquella que responde al concepto acogido por las normas superiores. Por lo tanto, no solo no incurrió en omisión discriminatoria, sino que no le era posible al Congreso autorizar la adopción por parte de homosexuales, pues la concepción de familia en la Constitución no corresponde a la comunidad de vida que se origina en este tipo de convivencia, y las relaciones que se derivan de la adopción.

En realidad, la disposición que ocupa la atención de la Corte únicamente pretende proteger la familia constitucional, concediéndole el derecho de constituirse con fundamento en la adopción. No discrimina a las parejas homosexuales, como tampoco a ninguna otra forma de convivencia o de unión afectiva que pudiera llamarse familia [56] (V. G. Familia poligámica, poliándrica, poligínica), pero que no es la protegida por el artículo 42 de la Constitución. Por eso no puede ser considerada discriminatoria, sino más bien, propiamente hablando, proteccionista de la noción superior de unión familiar.

Por todo ello, se ajusta a la Constitución el que el legislador limite la libertad del juez que decreta la adopción, señalando que la autorización para adoptar solo puede ser concedida a quienes pretenden conformar la familia que el constituyente quiso proteger. Este y no otro es el interés superior del menor, dentro de la axiología determinada por las normas superiores". (Subrayado y resaltado fuera de texto).

3.1. Análisis desde los derechos del menor y su protección

Analizado el proyecto desde la perspectiva de la familia, estudiémoslo desde el enfoque más importante, los derechos del menor y su protección, habida cuenta que, como ya se ha resaltado, la adopción es precisamente una medida de protección del menor, protección especial conforme lo consagran inclusive los instrumentos internacionales, tales como el Principio 2 y 6 de la Declaración de los Derechos del Niño, proclamada por la Asamblea General de las Naciones Unidas del 20 de noviembre de 1959.

3.2.1 Existencia de Riesgo (Principio de Precaución)

El interés superior del menor, de protección especial, es el núcleo de la adopción dada su naturaleza de medida de protección de aquel. O sea, si bien la adopción guarda relación directa con la familia su finalidad no es esta sino la protección del menor.

En este aspecto han de destacarse distintos estudios científicos, según los cuales el crecimiento en el seno de un hogar conformado por parejas del mismo sexo se afecta en relación con aquellos que crecen en hogares conformados por parejas heterosexuales, como se expone a continuación, en el que se detallan los aspectos más importantes de algunos de estos:

1. Doctor Paul Sullins, Department of Sociology, The Catholic University of América, USA. El *British Journal of Education, Society & Behavioural* publicó su investigación titulada: *Emotional Problems among Children with Same-sex Parents: Difference by Definition*. (Problemas Emocionales entre Niños con Padres del mismo sexo: Diferencia por Definición), realizada en una muestra alta de 207.007 niños, con dos grupos de padres: padres del mismo sexo y padres de sexo opuesto, padre y madre, en el que se concluye:

"Si bien, hasta la fecha, existe una amplia discusión científica acerca de la evolución de los niños criados por parejas de homosexuales, no es posible sacar conclusiones definitivas al respecto pues en varios de los estudios que apoyan la adopción se ha identificado un alto componente de sesgo y carencia de variables confiables, disciplinadas y rigurosas. Pero a partir del estudio e investigación, sí podemos concluir que estadísticamente en los niños criados por parejas de homosexuales son más frecuentes ciertas conductas o situaciones que en general resultan desfavorables para ellos".

Este estudio confirma lo que ya se había mencionado en otros reportes según los cuales en los niños criados por parejas homosexuales son más frecuentes los problemas psicológicos, y en particular autoestima baja, estrés, inseguridad respecto de su vida futura en pareja y dificultad en tener y criar hijos, trastorno de identidad sexual, rechazo del compañero o compañera del progenitor homosexual como figura materna o paterna y preferencia por vivir con el otro progenitor¹. Así mismo, se puede concluir que son más habituales los trastornos de conducta como drogodependencia, disfunciones en la conducta alimentaria, fracaso escolar, peores calificaciones y mal comportamiento en clase².

¹ Tasker, F., y Golombok, S. (1995). *Adults raised as children in lesbian families*. American Journal.

² Bailey, JM. "Homosexuality and Mental Illness". *Archives of General Psychiatry*. 56.10 (1999): 883-4. Print.

**Resumen del contexto del estudio de Paul Sullins:
Cuadro N° 1**

Transcripción de textos de la investigación	Referencia
Esta investigación utiliza 1.600.000 casos a partir de la Encuesta Nacional de Salud NHIS de los Estados Unidos, correspondiente a los años 1997-2013, la cual ofrece una bien válida medición sicométrica aplicada a una muestra de 207.007 niños menores de 18 años de edad y de ellos 512 pertenecientes a <familias> de parejas homosexuales >. Objetivo: Establecer riesgos de problemas emocionales de los niños y adolescentes, medidos por pruebas sicométricas y la utilización de profesionales e instituciones de salud mental con las variables que se presentan en el Cuadro N° 2. Comentario: Este estudio ofrece importancia por su fuente: NHIS, reconocida internacionalmente como una fuente de alta confiabilidad tanto por las técnicas de muestreo complejo (aleatorio y multietapas, representativo del universo censal) como el uso de entrevista directa, mediciones especializadas en salud física en terreno.	Página 5 anexo. Páginas 5 y 6 N° 2, Data and Measures

RESUMEN DE RESULTADOS

- “La probabilidad de tener problemas emocionales es menor en hijos que conviven con ambos padres biológicos que en aquellos que conviven con un solo padre y resultan ser doblemente prevalente los problemas emocionales en los niños que viven con padres del mismo sexo”.
- Inestabilidad familiar y estigmatización son variables que van muy unidas en los niños (hijos) de parejas del mismo sexo.
- Del total de parejas objeto del presente estudio y dentro de la Encuesta Nacional de Salud NHIS de los Estados Unidos, el Dr. Sullins encontró que la permanencia de convivencia en parejas del mismo sexo en el 90.30% no superó los 2.1 meses de tiempo, luego de la cual decidieron ponerle fin a dicha relación.
- “The top four lines of table report on direct measures of emotional problems. On the strengths and difficulties questionnaire children in same-sex families were over twice 2.1 times as likely at 9.3, to be rated above the cutoff for emotional or behavioral difficulties than were children in opposite-sex families, at 4.4” (“*Los cuatro primeros puestos del reporte sobre la medición de problemas emocionales. En el cuestionario sobre fortalezas y debilidades los niños de familias del mismo sexo tenían más del doble (2.1) veces de probabilidad de tener una calificación por encima del punto de corte para las dificultades emocionales (9.3) que niños de familias de sexo opuesto (4.4)*”).
- (Página 7, N° 3 Resultados, tercer párrafo).
- La mejor medida (proxy) de relación biológica bi-parental con los hijos es la pertenencia a una familia nuclear con padres casados entre sí.
- Respecto de las estructuras de familia nuclear, el autor señala que el 98% de los hijos de parejas que se declaran legalmente casadas, tienen la posibilidad de vivir con ambos padres biológicos y por tanto de experimentar menores problemas emocionales, por contraste con el 41% de los hijos de parejas del mismo sexo que se declaran en convivencia adoptivas (es decir que tienen por los menos un hijo adoptivo) experimentan dificultades complejas.
- Diferencias de inteligencia y personalidad notorias afectan a los niños de parejas del mismo sexo y afectan su armonía familiar.
- “Que entre parejas lesbianas donde una de las dos es <madre biológica> hay asimetría legal, biológica, cultural respecto del niño, produciendo celos y competencia maternal entre un 72% y 80%”.

- Aun si se legalizaran las uniones homosexuales, la incidencia de problemas emocionales de los niños estará asociada con la relación ausente con los padres biológicos, en detrimento de los niños con padres del mismo sexo que abarca la totalidad de la muestra. Por lo cual acá solamente anotar que se reconoce por defecto que el 98% del total es acertado en esta afirmación. Obsérvese (detalladamente la página 14, Tabla N° 5), la cual se titula:
“*Risk ratio for child emotional problems contrasting same-sex parents whith four apposite-sex family structures: two married biological parents, married step-parent family, cohabiting partners, and single parent: NHIS 2001-2013*”.
- “*Razón de riesgo para problemas emocionales en niños contrastando padres del mismo sexo contra cuatro estructuras familiares de sexo opuesto: matrimonio de los padres biológicos, matrimonio con solo un padre biológico, parejas de hecho y familias uniparentales: NHIS 2001-2013*”.

A continuación presentamos la metodología y las variables usadas por el doctor Sullins:

Using a representative sample of 207,007 childrens, including 512 with same-sex parents from the U.S. National health Interview survey, prevalence in the two groups was compared for twelve measures of emotional problems, developmental problems, and affiliated service and treatment usage, with controls for age, sex, and race of child and parent education and income. Instruments included the strengths and difficulties questionnaire (SDQ) and the kessler scale of Psychological Distress (SPD). Bivariate logistic regression models tested the effect of parent psychological distress, family instability, child peer stigmatization and biological parentage, both overall and by opposite-sex family structure.	Utilizando una muestra representativa de 207.007 niños, incluidos 512 con padres del mismo sexo, de la Encuesta Nacional de Salud de los EE. UU., la prevalencia en los dos grupos (padres heterosexuales y padres del mismo sexo) se compararon doce medidas de problemas emocionales, problemas de desarrollo, y servicio y uso de tratamiento; con controles por edad, sexo y raza del niño y educación e ingresos de los padres. Los instrumentos incluyeron un cuestionario de fortalezas y dificultades (SDQ, por sus siglas en inglés) y la escala Kessler de trastornos psicológicos (SPD). Con modelos bivariados de regresión logística se testea el efecto de los padres, inestabilidad familiar, estigmatización de niños por parte de sus compañeros y paternidad biológica, tanto en general como para estructuras familiares del sexo opuesto.
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3. Doctor Mark Regnerus, Department of Sociology and Population Reserch Centar, University of Texas at Austin, “*How Different are the adult children of parents who have same-sex relationships? Finding from the New Family Structures Study*”. (¿Qué tan diferentes son los hijos adultos de parejas del mismo sexo? Hallazgos del estudio de nuevas estructuras familiares) Publicado en *Social Science Reseach* 41 (2012).

El doctor Regnerus efectúa su investigación con un total de 2.988 jóvenes adultos entre los 18 hasta los 39 años, considerado representativo de la población homosexual de los Estados Unidos, utilizando 40 variables socioeconómicas, sociológicas y de comportamiento entre quienes crecieron en ese ambiente, que arrojaron los siguientes resultados:

- Sí hay diferencias entre hijos de parejas homosexuales y hogares heterosexuales.

- Las diferencias se notan más entre hijos de familias heterosexuales que nunca sufrieron ninguna modificación en su composición (no divorcio, no cambio de pareja, o sea, no tuvieron padrastro o madrastra, sino sus padres biológicos) y los hijos de parejas lesbianas.

- Requirieron y requieren mayor ayuda estatal en la infancia.

- Requieren ayuda estatal actualmente.

- Presentan menos tasas de empleo y de empleo tiempo completo.

- Participan menos en las elecciones.

- Perciben menos logros educativos.

- Tuvieron alguna forma de acoso sexual por padres o adultos.

- Alguna vez fueron forzados a tener sexo contra su voluntad.

- Tienen una percepción negativa sobre su familia de origen.

- Reportan problemas en su actual relación de pareja.

- Tienen una mayor incidencia de consumo de marihuana y tabaco.

- Tienen una mayor frecuencia de arrestos y conflictos con la ley.

- Las mujeres han tenido un mayor número de parejas sexuales.

Los hijos de parejas heterosexuales registran tener la mitad o menos de la mitad de varias de las variables anteriores según el mismo autor sintetiza en los cuadros comparativos.

En igual sentido, los estudios de Patricia Martínez de Urcelay, licenciada en Psicología y profesora de Antropología y Personalidad en la Universidad de San Pablo CEU, Madrid, España; y la también profesora Mónica Fontana, profesora de Orientación y Terapia Familiar en la Universidad de San Pablo CEU, Madrid, España, los cuales concluyen que en los niños criados por parejas de homosexuales son más frecuentes el autoestima baja, estrés, inseguridad respecto de vida futura en pareja, trastorno de identidad sexual, rechazo del compañero o compañera del progenitor.

Así, aunque no se desconocen los estudios que concluyen lo contrario, cuyo rigor no se debatirá en esta ponencia a pesar de las voces que los cuestionan, lo cierto es la existencia de estudios científicos, como los enunciados, que señalan las diferencias del desarrollo del menor si este se produce en un hogar de parejas de distinto sexo o en un hogar conformado por parejas del mismo sexo. Visto de otra manera, a pesar de la falta de certeza del daño que se produce hay indicios de posibles efectos perjudiciales que llevan, en aplicación *mutis mutandis* del principio de precaución en materia ambiental y de salud pública, a tomar decisiones para evitar el posible daño, máxime el interés superior de los derechos de los menores y su protección especial. En vista de que la salud y desarrollo de los niños está en riesgo, “*el principio de precaución indica que no debe permitirse la adopción de menores por parejas homosexuales. El interés superior de los menores implica que los niños no pueden ser objeto de experimentos sociales*”. (Cfr. Andrés Felipe López,

Abogado, especialista en Derecho Administrativo, Máster en Derecho Internacional, candidato a Doctor en Derechos Humanos).

3.2.2 Existencia de Demanda de Adopciones Superiores a los Menores en Estado de Adoptabilidad.

La limitación de la adopción a parejas heterosexuales no pone en riesgo la posibilidad de que los menores en estado de adoptabilidad puedan ser entregados en adopción, dado que el número de familias solicitantes y disponibles es mayor al de los menores en aquel estado, tal como lo expuso la Senadora Viviane Morales en el debate que lideró en la Comisión Primera del Honorable Senado de la República el pasado 12 de agosto. Las siguientes cifras con corte a 31 de marzo, tomadas del Oficio número 2014-148571-0101 de fecha 2015-04-24 remitido por el Subdirector de Adopciones del ICBF a la mencionada Senadora, demuestran lo anterior:

Familias adoptantes solicitantes	Niños en estado de adoptabilidad
9,096*	5.087**

*Corresponde al número de familias que durante el período 2005-2015 (marzo) han presentado solicitudes de adopción menos las solicitudes con adopción.

**Corresponde al total de menores de edad.

Cabe aquí destacar, entonces, que el bajo porcentaje de adopciones al año, según se menciona en la exposición de motivos, no corresponde a la ausencia de familias con interés en adoptar, sino a retardos por parte del ICBF en adelantar los procedimientos de adopción.

Concluyendo, estudiar la adopción conjunta conlleva a analizar tanto la institución de la familia como los derechos del menor y su protección, partiendo además de la competencia del legislador, y no de la autoridad administrativa a través de conceptos del Ministerio de Salud y Protección Social o del ICBF, para definir el tipo de familia dentro del marco establecido en la Constitución Política. En este orden, el artículo 42 de la norma de normas dispone que la familia se constituye por un hombre y una mujer, por lo que resulta contrario a ella concebir una pareja homosexual como adoptante, para lo cual se requeriría de una reforma a la misma mediante acto legislativo. De otro lado, en virtud del principio de precaución no es posible permitir la adopción conjunta de menores de edad por parejas de ese tipo ante la eventual afectación de su desarrollo y, por ende, de sus derechos, cuya protección es precisamente el fin de la adopción.

Se adjuntan los estudios citados.

Proposición

Con fundamento en las anteriores consideraciones, se propone votar negativamente el Proyecto de ley número 032 de 2015 y ordenar su archivo.

Ponente,



HERNÁN FRANCISCO ANDRADE SERRANO
SENADOR DE LA REPÚBLICA

Emotional Problems among Children with Same-sex Parents: Difference by Definition

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Author's contribution

The sole author designed, analyzed and interpreted and prepared the manuscript.

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ABSTRACT

Aims: To test whether small non-random sample findings that children with same-sex parents suffer no disadvantage in emotional well-being can be replicated in a large population sample, and examine the correlates of any differences discovered.

Methodology: Using a representative sample of 207,007 children, including 512 with same-sex parents, from the U.S. National Health Interview Survey, prevalence in the two groups was compared for twelve measures of emotional problems, developmental problems, and affiliated service and treatment usage, with controls for age, sex, and race of child and parent education and income. Instruments included the Strengths and Difficulties Questionnaire (SDQ) and the Kessler Scale of Psychological Distress (SPD). Bivariate logistic regression models tested the effect of parent psychological distress, family instability, child peer stigmatization and biological parentage, both overall and by opposite-sex family structure.

Results: Emotional problems were over twice as prevalent (minimum risk ratio (RR) 2.4, 95% confidence interval (CI) 1.7-3.0), for children with same-sex parents than for children with opposite-sex parents. Risk was elevated in the presence of parent psychological distress (RR 2.7, CI 1.8-4.3, p (1) < .001), moderated by family instability (RR 1.3, CI 1.2-1.4) and unaffected by stigmatization (RR 2.4, CI 1.4-4.2), though these all had significant direct effects on emotional

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problems. Biological parentage nullified risk both alone and in combination with any iteration of factors. Joint biological parents were associated with the lowest rate of child emotional problems by a factor of 4 relative to same-sex parents, accounting for the bulk of the overall same-sex/opposite-sex difference.

Conclusion: Joint biological parentage, the modal condition for opposite-sex parents but not possible for same-sex parents, sharply differentiates between the two parent groups on child emotional problem outcomes. For child well-being the two groups differ by definition. Intra-opsposite-sex marriage ensures children of the persistent presence of their joint biological parents; same-sex marriage ensures the opposite. Further work is needed to determine the mechanisms involved.

Keywords: National health interview survey; same-sex parents; child emotional problems; stigmatization; biological parentage.

1. INTRODUCTION

In the past two decades dozens of studies have concluded that children with same-sex parents fare as well or better than those in opposite-sex families on a wide range of outcomes related to child well-being and emotional health. So consistent and well-publicized has been this finding of "no differences" that it has been presented as a settled conclusion in judicial proceedings and public policy and professional settings [1-4]. Recently, however, two developments have called this finding into question: Detailed critical reviews that have exposed substantial weaknesses in many of the studies of the same-sex parenting, and the emergence of studies designed to overcome those weaknesses which claim, not without controversy, to have discovered poorer outcomes on some measures for children in same-sex families [5,6].

In a flurry of excellent detailed contrasting reviews of the same-sex parenting literature [7-9,4 defend equal outcomes; for critical reviews see 10-15,6], critics and defenders agree that a critical issue constraining clarity on the question of equal outcomes has been the lack of sufficiently large random samples of the small population of same-sex parents, leading to the persistent use of small, non-representative samples. Allen, a critic, reviewing 49 same-sex parenting studies prior to 2010, 47 of which supported some variant of "no differences", found that no study involved a representative sample large enough to distinguish differences if they existed. Rosenfeld, a defender, observes that the mean sample size of children with same-sex parents in the literature was only 39 cases [16], virtually guaranteeing Type II error (failing to detect a real effect) regarding population differences. Only four studies used a probability

(random) sample; the largest of these included only 44 same-sex families. The remaining 45 studies based their findings on conveniently available or selected groups of participants, usually recruited from homophile sources such as "LGBT events, bookstore and newspaper advertisements, word of mouth, networking and youth groups" (Allen 2013:640; see this article or Manning et al. 2014 or Marks 2012 for comprehensive lists of study sample sizes and sources). Public health studies have repeatedly recognized the severe methodological limitations, including bias and non-representativeness, of such limited samples [17-21].

To be sure, drawing a probability sample of sufficient size to discern population differences with any statistical power presents substantial difficulties for what Rosenfeld [22] has colorfully termed the "needle-in-a-haystack population" of same-sex parents. According to the U.S. Census, same-sex couple households comprise less than 0.005 (five one-thousandths, or one-half of one percent) of U.S. households with children [23].

To attain a sample of 800 same-sex couples, which has been estimated to be the minimum sample size needed to make inferences for this population [24], would require drawing at least 160,000 cases, assuming a perfect response rate. Same-sex couples, moreover, tend to have somewhat lower than normal response rates, perhaps due to stigma, and female couples are more likely to be raising children than males, resulting in an extremely low yield for same-sex parents, and particularly gay male parents, in randomized population samples.

The U.S. Census estimates, based on 2010 American Community Survey data, that 115,064 of the 24,463,589 U.S. households with children are comprised of same sex parents (0.47 percent). [23]

Several recent studies have attempted to improve the state of knowledge by bringing larger and truly random samples to bear on questions of same-sex parenting, with mixed results. Wainwright and Patterson [25] attempted secondary analyses using the National Longitudinal Survey of Adolescent Health, but found that the 12,105 adolescent cases in the core sample yielded only 50 identifiable children with same-sex parents; only 6 of these were male couples. Regnerus [5], in an ambitious retrospective survey collecting 2,988 cases, discovered only 39 young adults who had lived as children with same-sex parent couples for more than three years; only 2 of the same-sex parent couples were male. Both of these studies employed well-validated standard measures of key outcomes that could have distinguished differences if the number of sampled children with same-sex parents had been sufficient. Both Wainwright and Patterson by employing matched samples, and Regnerus by expanding the definition of "child with same-sex parents" to include anyone whose parent had ever had a same-sex relationship—enable (largely contradictory) findings that, on the central question of differences between children in same-sex and opposite-sex parent families, are interesting and informative, but hardly dispositive. Regnerus' study was very controversial and has been the subject of extensive criticism [28–29].

In 2010 Rosenfeld published an analysis of school completion rates for children in same-sex families based on over 700,000 cases from the 2000 Census Public Use Micro sample [16]. The study credibly found no significant difference in school completion rates for children with same-sex parents. However, because the decennial Census obtains only demographic information, Rosenfeld was limited to a single outcome measure that was inferred from questions about child age and grade in school. Allen and colleagues challenged this finding on technical grounds [30], and Allen later published an analysis finding that, in a sample of almost 1.2 million cases from the Canadian census, high school graduation rates were 35% lower for children with same-sex parents [6]. Although coming to contrasting conclusions, both of these studies represented substantial improvements in the quality and rigor of analysis focused on children with same-sex parents. The current study endeavors to advance the state of knowledge a step further, by comparing child emotional health in opposite-sex and same-sex

families using a nationally representative probability sample which both uses standard, well-validated psychometric measures of emotional problem prevalence and is sufficiently powerful to distinguish differences if they exist.

Despite the null finding of "no differences", there has been a lively interchange in the literature regarding what mechanisms might affect child outcomes with parents of different sexual orientations. The current study tests four hypotheses deriving from this debate. These are not mutually exclusive; all may pertain to some extent. The most common claim is that social stigma faced by same-sex families may affect child well-being. Children who have two mommies or two daddies may suffer higher teasing, isolation, or bullying from their peers, leading to greater emotional distress. Same-sex persons and their children report suffering stigma in many social settings. [31]. Recently Crouch and colleagues reporting on the Australian Study of Child Health in Same-Sex Families, observed: "Numerous studies have found that when there is homophobic bullying, children with same-sex attracted parents are more likely to display problems in their psychosocial development" [32]. Their study confirmed that stigma can be a "key factor" affecting the health and well-being of children in same-sex families. Accordingly, the present study tests the hypothesis that, bully victimization accounts for at least part of any differential distress for children with same-sex parents compared to those with opposite-sex parents.

It is also often suggested that child outcomes may be negatively affected by greater transience or impermanence in same-sex parental relationships. Demographic studies show that during the period under study, same-sex relationships dissolved at somewhat higher rates than did opposite-sex ones [33–36]. Research on divorce has suggested that family dissolution and recoupling may affect child emotional health due to increased parental conflict prior to dissolution, as an indicator of genetic traits toward lower mental health common to parent and child, or by introducing increased relational transitions that children encounter as they mature [37]. Regardless of the mechanism, such effects are powerful, and persist throughout the life course [38]. Recent studies have argued that navigating any type of change in parental and/or sibling relationships, whether out of or into marriage or between other family forms for parents, tends to

reduce overall child well-being [39,40]. Homeownership has repeatedly been found to be highly correlated with residential stability, which is in turn associated with relationship duration. A recent Census analysis of 2009 data, for example, found that renters were five times more likely to move than were homeowners [41]. Family homeownership has also been found to be associated, both independently and by means of increased stability, with a variety of positive outcomes for child educational achievement and health such as persistence in school [42], greater cognitive ability and fewer behavior problems [43], higher self-esteem and happiness [44], and more engaged parenting [45]. The present study tests the hypothesis that reduced stability relative to opposite-sex families may explain part or all of any increased emotional distress experienced by children in same-sex families.

Evidence is robust that the possession of mentally or affectively ill parents is a potent risk factor for child mental or emotional distress [46–50] and that same-sex attraction is associated with elevated risk for mental disorders or psychological distress [51,19,21,52]. Parent or emotional dysfunction may indicate direct genetic influence [53] or may compromise family relationships and parenting quality to induce child emotional distress [54] in both opposite-sex and same-sex families [55]. The social effects on children, moreover, have been found to be strongly gendered [56] and suggest that "opposite-sex parenting [meaning a parent that is the opposite sex of the child] is important to children's adjustment during the years of early adolescence" [57]. Taken together, this evidence suggests that parent psychological distress may be greater or transmitted to children in different ways in same-sex families, compared to opposite-sex families. The present study tests the hypothesis that this difference may account for some or all of any difference in child emotional distress.

Manning and colleagues, defending the "no differences" thesis, lament that the small sample size that characterizes the same-sex parenting literature "can be problematic because they may prevent distinguishing between key sources of variation that differentiate same-sex parent families, such as ... biological relationship of children to parents ..." [4]. Although the strength of biological relatedness relative to other influences on child well-being is not clear, largely due to the difficulty of isolating genetic from family factors [58], the presence of this effect is

recognized [37,59]. Adopted children, compared to those not adopted, have long been found to have higher rates of emotional and behavioral problems [60,61]. More recently Juffer and van IJzendoorn [62], in a meta-analysis of 98 studies involving over 25,000 adoptees and 80,000 non-adoptees, reported significantly more behavioral problems among the adopted children. Keyes et al., examining emotional problems among children adopted in infancy, found that "being adopted approximately doubled the odds of having contact with a mental health professional and of having a disruptive behavior disorder" [63]. Although with increased re-partnering [39] many opposite-sex families include children who are not biologically related to one of their parents, same-sex families are much more likely to include such children. Currently, same-sex couples are about ten times more likely to adopt a child than are opposite-sex couples [64,65, Table 1]. The importance of biological ties has also been proposed as one theory to account for the increased emotional and adjustment problems evidenced by children in single-parent, divorced and blended families [66,67]. Almost all studies that have examined the question, by contrast, have found that child well-being is highest, all other things equal, among children who live with both biological parents [68]. The present study tests the hypothesis that differences in biological parentage account for at least part of any higher child emotional distress observed in same-sex families.

Biological parentage is also related to differences between opposite-sex and same-sex parents in family structure patterns, which may help to account for differences in child outcomes. Almost all opposite-sex parents who are raising joint biological offspring are in intact marriages, but very few, if any, same-sex parents were married during the period under observation. (Same-sex partners were not permitted to marry anywhere in the United States prior to 2004 and in only a small minority of states in the U.S. after that. All same-sex partners on NHIS are coded as "cohabiting", although some, both before and after 2004, report their partner as "spouse" rather than "cohabiting partner.") In addition to two biological-parent married families, children with opposite-sex parents in the United States also may experience a step-parent family, in which only one partner is the biological parent of the child; a cohabiting family, in which the partners are not legally married; or may be raised by a single parent. Same-sex partners are more similar to cohabiting families or to step-parent

families than they are to intact married families in that they are not legally married or that at most one partner is the biological parent of the child. Research persistently has found that children in these alternate family forms suffer lower outcomes on most measures of well-being. Differences in child emotional problem risk due to same-sex parentage may be due to restrictions of family form, such that children with same-sex parents do no worse than children with opposite-sex cohabiting or step-parent families. The present study also tests this family structure hypothesis.

2. DATA AND MEASURES

The National Health Interview Survey (NHIS) is the principal source of public health information about the United States population. Since 1957 the United States Centers for Disease Control and Prevention's National Center for Health Statistics has annually interviewed between 35,000 and 40,000 households, collecting data on 75,000 to 100,000 individuals comprising a nationally representative sample of the civilian noninstitutionalized population of the United States. Extensive health and demographic information is collected for all household members. In addition, for each family that includes children under age 18, detailed supplemental health information is collected for one child chosen at random (the "sample child"). The information is provided by one of the child's parents or other knowledgeable adult informant. Detailed year-specific information on sample design and questionnaires is available at <http://www.cdc.gov/nchs/nhis/questionnaire.shtml>.

The present study examines combined 1997-2013 NHIS data, consisting of information on 1,588,006 persons, including 207,007 sample children. Response rates for the NHIS household survey ranged from 75.7% to 91.8% over these seventeen years. The NHIS interview constructs a family roster which collects extensive background information on each family member and their relationships. As well as sex, household members who are spouses or cohabiting partners are also identified and paired. For this study, same-sex couples were identified as those persons whose reported spouse or cohabiting partner was of the same sex as themselves. This is similar to the procedure used in the U.S. Census, with the advantage that on NHIS the reported partner is clearly a sexual partner and not possibly just a roommate or colleague

living in the household. Recent studies have used this procedure with NHIS data to examine cigarette smoking, general health and breast cancer risk among same-sex cohabiting and spousal couples [69-72]; the present study extends such analysis to their children. The NHIS sample included 2,751 same sex couples—2,304 cohabiting and 447 spousal—consisting of 1,387 male couples and 1,384 female couples; 582 couples—406 female and 176 male—had children under age 18 in the home. A more extensive battery of health questions, including the measures of emotional health used in this study, was completed for 512 children sampled, one per family, from the same-sex parenting families.

NHIS employs a complex multistage-probability sample that includes clustering, stratification and oversampling of some populations. After weighting for probability of selection, cases are stratified by race, ethnicity, region and residence within sampling units. Poststratification weights are subsequently applied to adjust the sample to the known joint distribution of age, race, ethnicity, and sex. By these means, sample representativeness is substantially improved over that of simple random sampling. In addition to adjusting variance for survey design in order to prevent inflated confidence intervals, the analytical models in this paper incorporated population and stratification weights as well as primary sampling unit and strata identifications to adjust for combining multiple years of data, based on design information provided by the CDC [73-76]. Table 1 compares selected resulting population estimates for age and family structure, including same sex spousal and cohabiting parents families, derived from the NHIS data used in this study to corresponding amounts reported by the U.S. Census. The population estimates agree very closely, providing confidence that the data and methods used in this study are accurate.

For the statistical analysis, logistic regression models were calculated using Stata 13, incorporating survey design weights with linearized variance estimates. To avoid overstating differences, relative risks were calculated rather than odds ratios, and bias-corrected confidence intervals were calculated when either confidence interval is less than 10. Contrasts were marginally standardized and adjusted for all other variables in the model. The adjusted risk ratios were computed using the algorithm and software developed by Norton and colleagues

[77]; selected estimates were also checked using Locallo et al.'s bootstrap method [78], which produced nearly identical results. Goodness of fit was assessed by the F-adjusted mean residual test developed and recommended for testing the fit of logistic regression models in complex survey data, and validated using NHIS data, by Archer, Lemeshow and Hosmer [79-81].

2.1 Variables in the Analysis

2.1.1 Dependent variable

Emotional or Behavioral Problems. Beginning in 2001 NHIS has in most years administered a short form of the Strength and Difficulties Questionnaire (SDQ), a widely-used screening instrument for child emotional and mental health difficulties. For the NHIS interview, parents of children aged 4-17 years were asked whether each of the following five statements were "not true" (coded zero), "somewhat true" (coded 1), or "certainly true" (coded 2) with respect to the sample child: 1) is generally well behaved, usually does what adults request, 2) has many worries, or often seems worried, 3) is often unhappy, depressed, or tearful, 4) gets along better with adults than with other children/youth, and 5) has good attention span, sees chores or homework through to the end. The resulting 0-10 scale used on NHIS was calibrated against a sample with known clinical diagnoses by a team from the Harvard University School of Public Health, who discovered that a high score (6 or more) screened for 12-month clinical diagnoses, as determined by a more extensive clinical assessment, with a positive predictive value of 74%, negative predictive value of 89%, and overall concordance (AUC) of .80. [82] Other validation studies of the SDQ have demonstrated it to be a robust predictor of child mental health distress in diverse populations [83,84], as well as predicting "a significantly increased probability of meeting criteria for a DSM-IV disorder" [85]. In the present study "high SDQ" is coded "1" if the short form SDQ is 6 or greater and 0 otherwise.

On the NHIS interview parents were also asked directly: "Overall, do you think that [sample child] has any difficulties in one or more of the following areas: emotions, concentration, behavior, or being able to get along with other people?" The response options were 1 "no"; 2 "yes, minor difficulties"; 3 "yes, definite difficulties"; and 4 "yes, severe difficulties." A parental response of "yes, definite difficulties" or "yes, severe difficulties" has been found to be significantly

associated with higher use of mental health and special education services. [86] Following NCHS usage [87], the present study contrasts children with "serious" difficulties, defined as those whose parents reported "definite" or "severe" difficulties, with the remainder whose parents reported no or only minor difficulties. Responses for children whose parents reported both high SDQ and serious difficulties, or who reported either one or the other, are combined to form two other summary measures of emotional or psychic distress.

2.2 Independent Variables

Models in the analysis include dichotomous controls for sex, age, and race of child and for parental education and family income. Female is coded 1 for females and 0 for males (the reference). White contrasts nonwhite persons, (the reference) with all white persons, desegregating nonhispanic white persons following U.S. Census categories. Age of child is coded in years and, unless otherwise noted, conceived as a continuous linear predictor. Family income as a percent of poverty is calculated as a linear predictor over three groups: Below the poverty threshold (reference); 1-3.99 times the poverty threshold (reference); and 4 or more times the poverty income. Pastor and colleagues, examining emotional problems of the NHIS, found that there was no significant difference between income categories, as a ratio of the poverty threshold, until families attained at least four times the poverty income [87]. Parent education is coded 0 for less than a college degree (reference) and 1 for a college degree or more education, and reports on the higher-educated parent.

Hypothesis variables draw on secondary measures that measure the proposed causal element directly or are highly correlated with the dimension of interest. Bully victimization uses an item that asked the family informant to characterize the statement, "During the past six months [the sample child] is picked on or bullied by other children" as not true, somewhat true, or certainly true.

*The full 25-question version of the SDQ was administered on the NHIS interview. The results for the SDQ items are reported by Goodman as U.S. norms for the instrument. See <http://www.sdqinfo.com/US/USnorms.html>. These quartiles were computed from the data used in this study, and match Goodman's published norms exactly (i.e., to one decimal point, which is all he published).

Table 1. Same-Sex Households in 2005: NHIS 1997-2013 Compared to U.S. Census Estimates (CPS and ACS)

	NHIS	U.S. Census
U.S. Population	289,564,000 (100)	291,166,000 (100)
White Population - N (%)	236,252,000 (81.6)	236,920,000 (82.1)
Pop age 15 and over - N (%)	228,733,000 (79.0)	230,435,000 (79.1)
Married - N (%)	123,124,000 (53.6)	122,350,000 (53.1)
Divorced - N (%)	13,321,000 (5.8)	13,860,000 (6.0)
Widowed - N (%)	17,985,000 (7.7)	22,302,000 (9.7)
Separated - N (%)	4,117,000 (1.8)	4,829,000 (2.1)
Never Married - N (%)	68,827,000 (30.1)	67,096,000 (29.1)
Same-sex partner households - N (%)	599,600 (100)	565,000 (100)
Male - N (%)	297,900 (49.7)	271,000 (48.0)
Female - N (%)	17.9	13.9
Percent Reporting as Spouse	301,806 (50.3)	294,000 (52.0)
Percent With Children	17.9	26.5
Percent With Children as Spouse	28.8	26.5

Includes only those who reported a same-sex partner. U.S. Census population numbers are from Current Population Survey, Annual Social and Economic Supplement 2005. Age and Sex Composition in the United States 2005, Table 1, at <https://www.census.gov/popest/data/totals/2005comp.html>. NHIS estimates are derived from CDC/NCHS, National Health Interview Survey, 1997-2013 data estimating at the midpoint of 2005, and are rounded to the nearest thousand. NHIS marital status assignment includes two nonresponse categories, totaling about 0.8 percent, which are not shown. Census same-sex household estimates are from the 2008 American Community Survey.

3. RESULTS

Table 3 compares the unadjusted and adjusted prevalence of child emotional problems with same-sex parents and opposite-sex parents in the United States. Adjusted prevalence reports logit estimates controlling for the sex, age and race of the child and for the education and income of the parents. The three categories of measures replicate the range and depth of child characteristics used in a 2012 report on the emotional and behavioral health of America's children [87]. An additional category in included, "Either A or B", which is useful in the models examined later in this paper.

Four direct measures of emotional problems are included in the top four lines of Table 3: the third and fourth measures are constructed from the first two. On all four measures, children in same-sex families are at least twice as likely to experience serious emotional problems compared to their counterparts in opposite-sex families.

The top four lines of the table report on direct measures of emotional problems. On the Strengths and Difficulties Questionnaire (SDQ), children in same-sex families were over twice (2.1 times) as likely, at 9.3%, to be rated above the cutoff for emotional or behavioral difficulties than were children in opposite-sex families, at 4.4%. Likewise, same-sex parents or informants reported that their children experienced "difficult" or "severe" emotional problems over twice (2.3 times) as often as did opposite-sex parents or informants. For the most restrictive test, which is both high SDQ and directly reported serious emotional problems, the proportion of children with emotional difficulties in same-sex families drops to only 6.3%, but the comparative proportion in opposite-sex families drops even more, to 2.1%, with the result that the risk ratio for same-sex families is even higher (2.9).

"Either A or B" includes children indicated for emotional problems by either of the first two measures, reporting somewhat larger proportions but a smaller risk ratio (2.3) for same-sex families compared to opposite-sex families. This item with a more inclusive categorization and lower discrimination between opposite-sex and same-sex families, is thus a more conservative measure both substantively and statistically, as being least likely to overstate opposite-sex/same-sex differences, and is the preferred measure for analysis in this paper.

Both "certainly true" and "somewhat true" are combined into a single category and contrasted with "not true" (reference). Relational stability is measured by housing status, indicating whether the family owned (or were buying) their home or were renting. For parent psychological distress, NHIS administers the Kessler Scale of Psychological Distress (KS) to identify persons with a high likelihood of having a diagnosable mental illness and associated functional limitations [88]. This 24-point scale, developed by a Harvard Medical School team, led by Dr. Ronald Kessler [89], has been validated by dozens of studies, and is used to estimate the prevalence of mental illness in WHO surveys worldwide, as well as the Australian and Canadian counterparts to the NHIS. Following Kessler's scoring scheme and CDC usage, persons scoring 13 or higher were classified as experiencing non-specific serious psychological distress (SPD). Biological parentage reports three stages of biological relation between the child and both parents: 1) The child is the joint biological offspring of both parents; 2) The child is the biological offspring of only one parent. This includes all single parents; 3) The child is the biological offspring of neither parent, typically an adopted child.

Five types of parenting families are distinguished for analysis. The opposite-sex family structures replicate definitions used in a series of CDC reports of NHIS findings on family structure and health [90-92]: 1) Nuclear families, defined as "one or more children living with two parents who are married to one another and are each biological or adoptive parents to all children in the family" [90]. This is the reference category. 2) Any other married parent families, including step-parenting, adoptive and extended families. This category would include same-sex parents reporting as spouses if they were not broken out for comparison purposes. 3) Unmarried cohabiting partners with child (ren). The child may be the biological child of both partners, one of the parents may be a step-parent, or an adoptive child of one or both partners. This category would include same-sex parents reporting as unmarried partners if these were not broken out for comparison purposes. 4) Single parent families consisting of "one or more children living with a single adult" [90]. The adult may be of either sex, with a biological or adoptive child. Since NHIS did not ask about sexual orientation, this category probably includes an unknown number of same-sex oriented persons. 5) Same-sex parent couples.

Pastor and colleagues reported on three developmental conditions that were highly correlated with emotional problems. Of children whose parent or informant reported both a high SDQ score and serious emotional problems, 58% had been diagnosed with ADHD, 49% had a learning disability and 7% had an intellectual disability. 72% had one or more of these three [87]. The four middle lines of Table 3 compare children in opposite-sex and same-sex families with regard to any or all of these developmental conditions. Consistent with the direct measures of emotional problems, children in same-sex families were 1.8 to 2.1 times more likely to have been diagnosed with one of these developmental conditions. The adjusted difference is not significant, however, for intellectual disability.

The CDC also reported that children identified with emotional problems were more likely to receive special education services (41%), see a general doctor for mental health (47%), or see a mental health professional such as a psychiatrist or licensed counselor (58%). Eight in ten children (80%) with emotional problems had received at least one of these services [87]. The four lines in Table 3 under the heading "Treatment/Service Use" compare children with opposite-sex and same-sex parents on these four variables. Although the proportion of children in same-sex families using these services is higher than that of children in opposite-sex families, the adjusted difference is trivial for seeing a mental health professional and is not statistically significant for the use of special education services. However, children in same-sex families were more than twice as likely to have seen a general physician for mental health issues and about 1.7 times as likely to have used at least one of the three services reported in the table—differences that are significant at 1%.

In sum, Table 3 reports that children with same-sex parents are assessed at higher levels of distress, compared to children with opposite-sex parents, for every measure of child emotional difficulty, developmental difficulty or treatment service. For eight of the twelve psychometric measures presented in the table, both adjusted and unadjusted differences between same-sex and opposite-sex families are clear, statistically significant, of substantial magnitude and to the advantage of opposite-sex families. For all but one item (Learning Disability), prevalence and same-sex parent risk are slightly higher in the presence of controls for age, sex, race, education and income.

3.1 Analysis of Confounders

To understand the differences further, risk contrasts adjusted for the four confounders presented in the Introduction were estimated from binomial logistic regression models predicting either a high SDQ score or reported

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serious emotional problems, i.e., the variable reported as "Either A or B" in Table 3.

3.1.1 Same-sex versus opposite-sex contrasts

Table 4 presents six models exploring the first four causal hypotheses presented in the Introduction. The dependent variable is either high SDQ score or reported serious emotional problems. The coefficient reported in these models is the adjusted risk ratio, which describes the likelihood of children experiencing emotional problems who have same-sex parents compared to those with opposite-sex parents. Model 4.1 presents the baseline comparison. This model is identical to the unadjusted prevalence shown in Table 3; its relative risk of 2.1 is precisely the ratio of the two proportions shown for "Either A or B" in Table 3, that is, 14.9% for children with opposite-sex parents and 7.1% for children with same-sex parents. Model 4.1 reports that, when no other factors are considered, children with same-sex parents are more than twice as likely to manifest emotional problems than are children with opposite-sex parents.

Model 4.2 includes the same control variables already reported in Table 3. For ease of interpretation the age control in the models in Table 4 is fit as linear, not categorical. The relative risk of 2.38 predicted by Model 4.2 thus differs slightly from the risk corresponding to the proportions reported in Table 3, which is 2.28. Model 4.2 predicts that when sex, age, and race of child and the education and income of the parents are held constant, children in same-sex families are at 2.38 times the risk of emotional problems compared to children in opposite-sex families.

The next four models in Table 4 (Models 4.3-4.6) introduce variables to test each of the four explanatory hypotheses discussed above. Model 4.3 presents housing status as a measure of residential and thus relational instability. The coefficient for instability is significant and including it improves model fit, suggesting that family stability has an important effect on the development of child emotional problems.

Model 4.4 tests the effect of stigmatization. The risk of emotional problems is over four times (4.33) greater among children who have been picked on or bullied by their peers than among those who have not, but including stigmatization in the model has no explanatory effect on the

relative risk due to having same-sex parents, actually increasing it slightly (from 2.36 to 2.38).

Model 4.5 examines the effect of parental serious psychological distress (SPD). As predicted, parent SPD is strongly associated with child emotional problems; in Model 4.5, children of parents with SPD are at three (2.99) times the risk of developing emotional problems compared to those whose parents do not have SPD. Fitting this association, however, does not reduce, but increases by 15%, children's risk ratio for emotional problems due to having same-sex parents.

Model 4.6 fits all three confounders for instability, peer stigmatization or victimization and parent SPD. All three effects are moderated slightly when combined.

Model 4.7 tests the effect of biological parentage. Including this variable in the model reduced the relative risk of child emotional problems with same-sex parents by 39% and the resulting risk ratio was no longer statistically significant.

3.2 Family Structure Contrasts

Table 5 presents logistic regression models testing the family structure hypothesis. Since the relative risk with same-sex parents is the question of interest, each category of family structure shown in Table 5 serves as the reference group for the relative risk of child emotional problems with same-sex parents, expressed by the exponentiated coefficient (risk ratio) reported for each model. Model 5.1 presents the baseline unadjusted risks; it essentially elaborates Model 4.1 by family structure. The unadjusted risk for children with same-sex parents is not significant relative to opposite-sex cohabiting or single parent families, however in both cases it approaches significance. When the comparisons are equalized by demographic and SES controls (Model 5.2), risk with same-sex parents is systematically elevated, ranging from 1.8 to 3.6, and is significant at .01 or better relative to all opposite-sex family structures. The overall risk for same-sex parents (2.4, see Model 4.2) is greatly increased compared to two married biological parents (3.6) and reduced relative to all other opposite-sex family structures. Consideration of biological parentage, as Model 5.3 shows, renders null all same-sex parent risk ratios, fully accounting for differences between same-sex and opposite-sex parents in child emotional problems.

4. DISCUSSION

4.1 The Discovery of Difference

The findings of this paper present a clear counter-example to the dominant claim of "no differences" that disadvantage children with same-sex parents. Regarding this claim, Perrin and colleagues reasonably argue: "If there is sufficient evidence to support H2 ["Children from same-sex families display notable disadvantages when compared to children from other family forms"] with confidence, the no-differences hypothesis should be rejected; if there is not, the no-differences hypothesis stands as the current state of knowledge." [29] On this argument, based on the evidence in Table 3, the no-differences hypothesis should be rejected. Two other recent studies have also found disadvantages among older children and adults raised by same-sex parents [8,93]. At minimum, it is no longer accurate to claim that no study has found children in same-sex families to be disadvantaged relative to those in opposite-sex families [94,9,29,4].

In examining the possible causes of this difference, beginning with the models shown in Table 4, the control variables indicate that the

development of child emotional problems is lower among girls than boys, higher for nonwhite children, increases with the age of the child, and is suppressed by higher parent education and income. When these factors are included, the predicted relative risk of emotional problems due to having same-sex parents is elevated slightly, by about 13% over the baseline model.

The relative risk for instability indicates that children of families in rented quarters are 31% more likely to experience emotional problems than children of homeowner families. However, this distinction accounts for very little (3%) of the difference in risk for child emotional problems. In supplementary modeling (not shown), the term for the interaction between stability and same-sex/opposite-sex parents was not significant, indicating that the effect of (in) stability on the development of child emotional problems was the same for both opposite-sex and same-sex parents. Although same-sex parents are more likely to be renters and thus probably less settled in their residences and relationships, than are opposite-sex parents, the difference between the two groups, at only eight percentage points (see Table 2), is evidently not sufficient to account for much of the increased emotional distress of children with same-sex parents.

Table 2. Weighted proportions (standard deviations) of independent variables in the analyses, by same-sex or opposite-sex parents: NHIS 1997-2013

Variable	Opposite-Sex parents	Same-Sex parents
Family structure		
In or married biological parents (CDC Definition)	48.5 (.002)	0 (0.0)
All other (step-families)	28.8 (.002)	27.3 (.025)
Unmarried cohabiting	4.9 (.001)	72.7 (.024)
Single parent	17.9 (.02)	Unknown
Female	48.9 (.14)	50.2 (2.8)
Age of child (mean)	8.54 (.02)	8.57 (2.8)
White	50.3 (.30)	48.1 (2.8)
B.A. or higher	33.6 (.27)	35.2 (2.6)
Poverty Income		
Under poverty threshold	18.9 (.22)	20.1 (2.6)
1-3.99 times poverty threshold	55.6 (.22)	49.7 (3.2)
4 or more times poverty threshold	25.5 (.25)	30.3 (2.8)
Housing Status - Renting (vs. home owned/being bought)	37.8 (.28)	45.1 (2.8)
Child picked on or bullied by peers	19.2 (.31)	15.1 (4.4)
Serious psychological distress (SPD) - Parents	3.4 (.08)	5.1 (2.2)
Biological parentage - parents-child relationship		
Two biological parents	63.9 (.22)	0 (0)
One biological parent	34.2 (.22)	76.4 (2.7)
No biological parent	1.8 (.04)	23.5 (2.7)

Table values show survey-based population estimates with linearized standard errors reported in parentheses. Confidence intervals may be different than plus/minus the standard error. Values significantly different by t-test at .05 level are in bold

Table 3. Unadjusted and adjusted population prevalence of child emotional problems, development problems and associated service use among children aged 4–17 years, comparing opposite-sex and same-sex families: NHIS 2001–2013

	Unadjusted prevalence				P (t): OS=SS	Adjusted prevalence					
	OS parents	95% CI	SS parents	95% CI		OS parents	95% CI	SS parents	95% CI	Model fit	P (t): OS=SS
Emotional											
A: High SDQ score	4.2	4.1-4.37	8.2	4.38-12.1	.04	4.4	4.2-4.6	9.3	4.7-13.9	.86	.04
B: Serious emotional problems	5.2	5.1-5.4	12.1	8.0-16.2	.001	5.5	5.3-5.7	14.9	9.7-20.0	.65	<.001
Both A and B	2.0	1.9-2.1	4.9	1.8-8.0	.06	2.1	2.0-2.3	6.3	2.2-10.5	.46	.045
Either A or B	7.1	6.9-7.3	14.9	10.0-19.8	.001	7.4	7.2-7.6	17.4	12.1-22.7	.08	<.001
Developmental											
C: ADHD	6.8	6.7-7.0	14.0	9.7-18.2	.001	7.1	6.9-7.2	15.5	10.8-20.2	.38	<.001
D: Learning disability	7.7	7.5-7.9	14.1	9.5-18.8	.007	8.0	7.8-8.2	14.1	9.1-19.0	.62	.02
E: Intellectual disability	0.7	0.69-0.8	1.5	0.3-2.8	.21	0.7	0.68-0.8	1.9	0.3-3.5	.98	.17
Any of C, D or E	9.9	9.7-10.0	18.3	13.8-22.9	<.001	10.2	10.0-10.4	19.3	14.6-24.0	.40	<.001
Treatment/Service Use											
F: Special education	6.5	6.3-6.6	9.5	6.0-13.0	.09	6.7	6.5-6.8	10.4	6.5-14.4	.78	.07
G: Saw general doctor for mental health	5.0	4.8-5.1	11.0	6.4-15.5	.01	5.2	5.0-5.4	13.1	8.1-18.0	.006	.002
H: Saw mental health professional	17.2	16.6-17.8	18.1	8.5-27.6	.86	18.6	17.8-19.3	24.6	11.3-37.8	.39	.38
Any of F, G or H	9.9	9.8-10.1	15.9	11.6-20.2	.006	10.4	10.2-10.6	17.8	13.0-22.5	.69	.003

Table values show logit estimates for children ages 4-17. Adjusted prevalence adjusts for child sex, age (one-year categories) and race, and parents' education and income. Uncontrolled models fit marginal effects, i.e. a fit of 1.0. SDQ, Strengths and Difficulties Questionnaire, OS, opposite sex; SS, same sex; CI, confidence interval; ADHD, attention-deficit hyperactivity disorder. P <.05; * P <.01; ** P <.001. Values significantly different by t-test at .05 level are in bold.

appears, is both necessary and sufficient to explain the higher risk of emotional problems faced by children with same-sex parents. Findings for adopted children were consistent with this result, although because of the very small number of adopted children it was not possible to include this category in the multivariate models. As with instability and stigmatization, adopted children were at higher risk of emotional problems overall (RR 1.65 CI 1.5-1.8), but including child adoption status had no effect on risk due to same-sex parents (RR 2.10 CI 1.5-2.9 with adoption included). Among children with no biological relationship to either parent, the prevalence of emotional problems was twice as high for ones with same-sex opposite-sex parents (11.2% CI 10.2-12.1). This estimate should be interpreted with caution due to the sparseness of the data.

Regarding the family structure hypothesis, examined in Table 5, residence with opposite-sex cohabiting partners or a step-parent or single parent does raise the level of child emotional problems, reducing the observed risk for residing with same-sex parents relative to these family forms. Child emotional problems in opposite-sex families are highest for single parent families and lowest with married joint biological parents. Compared to single parents, children with same-sex parents have less than twice the risk of emotional problems (1.8 times), but they are at almost four (3.6) times the risk of emotional problems when compared to children residing with married biological parents. However, risk with same-sex parents is lowest relative to opposite-sex single parent arrangements, not cohabiting or step-parent families, and after adjusting for controls, is significantly higher relative to any opposite-sex family form. Risk of child emotional problems is 1.9-2.2 times greater, significant at .01 or better, with same-sex parents than with opposite-sex cohabiting parents or step-parent family. Therefore, the hypothesis that restrictions on parentage or married status explain the higher risk of emotional problems in same-sex families must be rejected.

Like instability, stigmatization has a powerful effect on child emotional distress, but accounts for none of the difference between same-sex families and opposite-sex families. As Table 2 indicates, there is no difference between children with opposite-sex and same-sex parents in exposure to bullying. In fact, contrary to the assumption underlying this hypothesis, children with opposite-sex parents are picked on and bullied more than those with same-sex parents, though the overall difference is not above sampling variation. Moreover, the interaction term between bullying and same-sex/opposite-sex parents (not shown) is not significant. In sum, while the experience of peer rejection, abuse or stigmatization is strongly associated with child emotional problems, it appears that the rate of abuse and susceptibility to emotional distress due to stigmatization does not differentiate sharply between children in same-sex and opposite-sex families.

Exposure to parental severe psychological distress (SPD), far from explaining children's increased risk of emotional problems in same-sex families, appears to moderately elevate the relative risk of emotional problems compared to an equivalent exposure in an opposite-sex family. Surprisingly, the risk due to same-sex parents is not moderated, but increases substantially, when all three of the above factors are combined. Further exploration of this interesting and contrary finding is beyond the scope of the present study. Here it is pertinent only to note that these factors did not appear to explain, but rather aggravate, the risk of child emotional problems due to same-sex parents.

By contrast, biological parentage had a powerful explanatory effect. In supplementary modeling (not shown), the relative risk for having same-sex parents was statistically significant in every model that excluded biological relationship, but was not significant in most models that included it. No combination of explanatory variables that included biological relationship, moreover, improved upon the reduction in predicted relative risk for same-sex parents obtained by biological relationship alone. Biological relationship, it

Table 4. Logistic regression models predicting adjusted risk ratios (95% CI) for emotional and behavioral problems (clinically high SDQ score or reported serious difficulties) among children aged 4–17 years, comparing opposite-sex and same-sex families: NHS 2001–2013

	Model 4.1	Model 4.2	Model 4.3	Model 4.4	Model 4.5	Model 4.6	Model 4.7*
All Opposite-Sex	1.00	1.00	1.00	1.00	1.00	1.00	1.00
All Same-Sex	2.10 (1.5–2.9)	2.38 (1.7–3.3)	2.32 (1.7–3.2)	2.38 (1.4–4.2)	2.74 (1.8–4.3)	3.43 (2.0–5.9)	1.43 (0.98–2.1)
Controls							
Female		0.64 (0.60–0.68)	0.68 (0.61–0.71)	0.85 (0.77–0.95)	0.65 (0.60–0.71)	0.82 (0.70–0.96)	0.67 (0.63–0.70)
Older (in years)		1.05 (1.045–1.06)	1.05 (1.04–1.06)	1.06 (1.05–1.08)	1.04 (1.03–1.05)	1.06 (1.03–1.08)	1.04 (1.03–1.05)
Nonwhite		1.45 (1.3–1.6)	1.46 (1.39–1.59)	1.24 (1.10–1.39)	1.35 (1.23–1.49)	1.27 (1.1–1.5)	1.51 (1.41–1.61)
B.A. Degree		0.72 (0.66–0.78)	0.79 (0.73–0.85)	0.78 (0.67–0.90)	0.77 (0.69–0.86)	0.90 (0.75–1.1)	0.86 (0.79–0.93)
Income (Poverty multiple)		0.60 (0.57–0.64)	0.69 (0.65–0.72)	0.76 (0.70–0.83)	0.68 (0.64–0.72)	0.85 (0.75–0.97)	0.71 (0.67–0.74)
Confounders							
Instability			1.31 (1.23–1.41)			1.17 (0.99–1.4)	
Child picked on/bullied				4.33 (3.9–4.8)		4.16 (3.6–4.8)	
Parent SPD					2.98 (2.6–3.4)	2.76 (2.3–3.4)	
Biological Degree							2.14 (2.0–2.3)
N (unweighted)	115,700	89,282	89,236	22,047	38,389	10,712	85,577
Model Fit F (p)	1.0	0.08	0.72	0.71	0.22	0.97	0.94

*Numbers in parentheses report the 95% confidence interval. SDQ, Strengths and Difficulties Questionnaire; SPD, Severe Psychological Distress on the Kessler scale. P <.05; * P <.01; ** P <.001. * indicates preferred model. Data for confounders do not align by year sufficiently to include all of them in a single model.*

Table 5. Risk ratios for child emotional problems contrasting same-sex parents with four opposite-sex family structures: two married biological parents, married step-parent family, cohabiting partners, and single parent: NHS 2001–2013

Relative Risk for Same-Sex parents compared to:	Model 5.1 (baseline)	Model 5.2 (controls)	Model 5.3 (controls and confounders)	Model 5.4 (controls and parentage)
Risk for same-sex parents relative to reference group:				
Two married bio parents	3.50 (2.5–4.9)	3.62 (2.6–5.0)	4.52 (2.53–8.1)	1.48 (1.01–2.2)
Married step-parent	1.82 (1.3–2.5)	2.16 (1.6–3.0)	2.97 (1.7–5.3)	1.39 (0.95–2.0)
Cohabiting	1.49 (1.04–2.13)	1.87 (1.3–2.6)	2.46 (1.3–4.7)	1.31 (0.9–2.0)
Single parent	1.38 (0.99–1.9)	1.78 (1.3–2.4)	3.08 (1.2–1.8)	1.50 (1.03–2.2)
Controls				
Female		0.65 (0.62–0.70)	0.83 (0.71–0.98)	0.65 (0.6–0.7)
Older (in years)		1.04 (1.03–1.05)	1.05 (1.03–1.07)	1.04 (1.03–1.05)
Nonwhite		1.50 (1.4–1.6)	1.32 (1.1–1.6)	1.51 (1.4–1.6)
B.A. Degree		0.82 (0.77–0.88)	0.97 (0.81–1.2)	0.83 (0.77–0.90)
Income (Poverty multiple)		0.71 (0.68–0.78)	0.88 (0.77–1.0)	0.71 (0.68–0.75)
Confounders				
Stability			1.08 (0.92–1.3)	
Stigmatization			4.10 (3.5–4.8)	
Parent SPD			2.62 (2.1–3.2)	
Biological parentage				2.14 (2.0–2.3)
N	111,437	86,160	10,423	84,924
Model Fit F (p)	1.0	0.59	.79	.59

*Numbers in parentheses report the 95% confidence interval. P <.05; * P <.01; ** P <.001; †.05 < P <.10*

Confirming this conclusion, and consistent with Model 4.6, the relative risk for same-sex parents increases in the presence of confounders for stability, peer stigmatization and parent psychological distress (Model 5.3). The risk ratio increases (from Model 5.2 to Model 5.3) much more for children with single parents (by 73% compared to cohabiting (30%) or stepfamilies (38%)), and the least (24%) for children with two married biological parents, suggesting that among children with opposite-sex parents, those with single parents are the most exposed to, and those with two married biological parents the most protected from, the effect of these confounders. Further study of these effects is beyond the scope of this paper.

As expected, family structure interacts with biological parentage, as Model 5.3 shows. The risk ratios for two married biological parents and for single parents are marginally significant; however, with P-values less than .10, but there is clearly no difference in risk between same-sex parents and opposite-sex step and cohabiting parent families once the degree of biological relationship is specified. It is possible, therefore, to assert that the family structure hypothesis is supported in a limited sense: The risk of child emotional problems is no different with same-sex and opposite-sex parents in the comparable family forms, i.e. cohabiting and step-parent families, once differences in biological parentage are equalized.

On the other hand, parentage and structure are highly correlated ($r = .68$) and in every model that fit both parentage and structure as independent effects, structure was highly attenuated while biology was scarcely affected. Family structure, in other words, appears to specify differences in biological parentage. Rather than due to any independent effect, this suggests, the apparent effect of structure may be attributed to the fact that it serves as an efficient proxy for biological parentage.

4.2 The Importance of Biology

In examining the causes of the differences observed, the results of this paper converge on a clear central finding: Biological parentage uniquely and powerfully distinguishes child outcomes between children with opposite-sex parents and those with same-sex parents. In every analytical model that excluded parentage, the relative risk due to same-sex parents was significant and substantial; in every model that

included it, the relative risk was rendered null. Regarding the other three confounders, stigmatization and parent psychological distress aggravated relative risk while instability reduced it slightly; their combined effect increased, rather than accounted for, the relative risk due to same-sex parents.

Biological parentage, however, is not strictly speaking a proper explanatory variable for differences between opposite-sex and same-sex families, because it is implicated in the definition of those categories. The absence of common biological parents is not an external factor, but is part of the premise of same-sex partnerships. No children were reported living with both biological parents in a same-sex family, while in opposite-sex families almost two-thirds (64%) of children lived with both biological parents (See Table 2). Only 4.3% (95% CI 4.0-4.5) of such children suffer emotional problems (compared to 7.1% overall for the measure "Either A or B," see Table 3), whereas there is no corresponding group of children with such small emotional problems in same-sex families. The presence of this large group of children with opposite-sex parents with a very low rate of emotional problems accounts for most of the difference in overall rates of problems. This striking difference in distribution of biological parentage is not accidental, but definitional. No child can be the joint biological offspring of two intimate partners of the same sex, whereas this is the modal condition of children with opposite-sex parents.

In every analysis in this paper, the lowest risk of emotional problems was observed among children living with both biological parents who were married. Family research on two-biological-parent married and cohabiting parents has broadly demonstrated that "both marital status and biological parentage are integral to children's well-being" [95,96]. The strength of marriage and biology relative to each other and relative to other influences on child well-being, as well as theories to account for their effects, are a matter of some debate, but the fact, that the parent-child biological relationship has a strong effect, has been well established. In this research, as in the present study, other factors—for example, economic resources, parental socialization, family stability, or even marriage—are also influential on child well-being and may quality or interact with biological parentage, but they do not explain it away [97-99,95]. To a large extent, the present study merely extends to same-sex

families McLanahan and Sandefur's conclusion regarding single-parent families: "Children who grow up in a household with only one biological parent are worse off, on average, than children who grow up in a household with both of their biological parents" regardless of the parents' race, education and marital status, including remarriage [100]. This is also true, the present study would add, regardless of whether the parents are same-sex or opposite-sex partners.

Clinical studies of female same-sex partners conceiving via donor insemination or other assisted reproductive techniques (ART), moreover, have long recognized that the lack of conjoined biological ties creates unique difficulties and relational stresses [101-104]. The birth and non-birth mother (also known as the co-mother) are subject to competition, rivalry, and jealousy regarding conception and mothering roles that are never faced by conceiving opposite-sex couples, and which, for the children involved, can result in anxiety over their security and identity [105]. Biblarz and Stacey [9] acknowledge that "[i] ebian [donor insemination] co-mothers ... confront asymmetrical legal, biological and cultural ties to children that can exacerbate [sic] maternal competition and jealousy" leading to higher rates of relationship dissolution compared to opposite-sex parents. The authors add that "access to equal legal parental status and rights ... will not eliminate these asymmetries" [9].

4.3 Strengths and Limitations

The greatest strength of this study is its use of a representative sample of same-sex parents that, with 512 families, with many outcome measures, is several times larger than typical samples of this population and permits unbiased estimates with relatively large statistical power. The greatest limitation of this study is its use of a representative sample of only 512 same-sex parent families, which is several times smaller than optimum for most population studies. Post-stratification weighting improved representativeness somewhat over that of simple random sampling, however the data for same-sex parents were still too sparse to support examination of distinctions within this group, such as between same-sex male and same-sex female partner couples, or those identifying as spouses or cohabiting partners, which may have significant effects on child emotional problems. The representativeness of the weighted sample provides generalizability of the results to United

States household population, however results may not be applicable to other countries, particularly where the social situation of same-sex parents differs markedly from the US. As with all observational studies, causal inference is not possible. Another limitation is the use of secondary measures, which may not relate to the topic of interest in the manner intended, and of parent-reported measures that are likely subject to social desirability bias. However, it is unlikely that such measurement imprecision or bias would operate differentially on the two groups of parents involved.

5. CONCLUSION

With respect to joint biological fertility, same-sex partners are different from opposite-sex partners by definition: "The importance of biological parentage for optimum child well-being found in this study raises the difficult prospect that higher child emotional problems may be a persistent feature of same-sex parent families," since they are distinguished from opposite-sex parents on just this capacity. Since same-sex partners cannot, at least at present, conceive a child that is the biological offspring of both partners, in the way that every child conceived by opposite-sex partners is such, it is hard to conceive how same-sex parents could ever replicate the level of benefit for child well-being that is the case in opposite-sex relationships involving two biological parents. Future research on the relative effects of marriage and biological relationship among all family forms, including same-sex couples, would be of great value to help sort out these issues more clearly.

5.1 Implications for Marriage Policy

The reduced risk of child emotional problems with opposite-sex married parents compared to same-sex parents is explained almost entirely by the fact that married opposite-sex parents tend to raise their own joint biological offspring, while same-sex parents never do this. The primary benefit of marriage for children, therefore, may not be that it tends to present them with improved parents (more stable, financially affluent, etc., although it does do this), but that it presents them with their own parents.

³While some forms of ART among female same-sex partners can formally achieve a genetic link to both partners, none can do so without introducing male sperm from a third party.

This is the case for almost all children with married joint biological parents—which most successfully fulfill the formal civil premise of marriage, which is lifelong and exclusive partner commitment—compared to less than half of children in any other family category and no children in same-sex families. Whether or not same-sex families attain the legal right, as opposite-sex couples now have, to solemnize their relationship in civil marriage, the two family forms will continue to have fundamentally different, even contrasting, effects on the biological component of child well-being, to the relative detriment of children in same-sex families. Functionally, opposite-sex marriage is a social practice that, as much as possible, ensures to children the joint care of both biological parents, with the attendant benefits that brings; same-sex marriage ensures the opposite.

It is worth noting that, even in the worst case conditions examined in this study, the large majority of children did not experience emotional problems. Although children fare worse in some family settings than others, to an extent that well justifies social and policy concerns about differences between family structures, including between opposite-sex and same-sex families, most children in most families achieve a level of psychosocial function that is not characterized by serious emotional problems.

5.2 Future Research

Future research is needed to determine the mechanisms by which biological parentage affects child emotional well-being. Research should focus on distinctions among same-sex families and their children to determine the predictors of child emotional distress in this population more precisely, and on associations that may help to identify mechanisms. For example, a study that distinguished sex of parent and child, examining outcomes for male and female children with same-sex male parents and same-sex female parents, could distinguish influences on child outcomes, if any, due to the presence or absence of an opposite-sex parent (meaning a parent that is the opposite sex of the child). Research that differentiated adolescents (age 12-17) from younger children (age 4-11) would contribute to our knowledge of the effect of same-sex parenting on the distinct emotional profiles of these two groups, and may be able to suggest time-order effects. Research that distinguished adopted from non-adopted children

may help to distinguish biological from familial effects. Further research would also be helpful to explore the surprising finding that parent psychological distress aggravated rather than helped to account for the risk of child emotional problems with same-sex parents. Most valuable, of course, would be population representative longitudinal data following children with same-sex parents into adulthood, which would support rigorous causal inference regarding long-term differences in outcome, if any, in this population.

COMPETING INTERESTS

Author has declared that no competing interests exist.

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In their 2001 *American Sociological Review* article reviewing findings on sexual orientation and parenting, however, sociologists Judith Stacey and Tim Biblarz began noting that while there are some differences in outcomes between children in same-sex and heterosexual unions, there were not as many as family sociologists might expect, and differences need not necessarily be perceived as deficits. Since that time the conventional wisdom emerging from comparative studies of same-sex parenting is that there are very few differences of note in the child outcomes of gay and lesbian parents (Tasker, 2005; Walright and Patterson, 2006; Rosenfeld, 2010). Moreover, a variety of possible advantages of having a lesbian couple as parents have been noted in the popular press (e.g., *USA Today*, 2009; *USA Today*, 2010; *USA Today*, 2011; *USA Today*, 2012; *USA Today*, 2013; *USA Today*, 2014; *USA Today*, 2015). The scholarly discourse concerning gay and lesbian parenting, then, has increasingly posed a challenge to previous assumptions about the supposed benefits of being raised in biologically-intact, two-parent heterosexual households.

1.1. Sampling concerns in previous surveys

Concern has arisen, however, about the methodological quality of many studies focusing on same-sex parents. In particular, the NLSFCS, the NLSY, and the NLSFCS all have limitations that do not allow for generalization to the larger population of gay and lesbian families (Nosek, 2001; Berrin and Committee on Psychosocial Aspects of Child and Family Health, 2002; Redding, 2008). For instance, many published studies on the children of same-sex parents collect data from "snowball" or convenience samples (e.g., Bos et al., 2007; Brewaeys et al., 1997; Fulcher et al., 2008; Sirota, 2009; Vanfraussen et al., 2003). One notable example of this is the National Longitudinal Lesbian Family Study, analyses of which were prominently featured in the media in 2011 (e.g., *Huffington Post*, 2011). The NLLFS employs a convenience sample, recruited entirely by self-selection from announcements posted "at lesbian events, in women's bookstores, and in lesbian newspapers" in Boston, Washington, and San Francisco. While it does not wish to minimize the significance of the study's results, it does note that "the sample is not representative of the population. All such samples are biased, often in unknown ways. As a formal sampling method, 'snowball sampling is known to have some serious problems,'" one expert asserts (Snijders, 1992, p. 59). Indeed, such samples are likely biased toward "inclusion of those who have many interrelationships with, or are coupled to, a large number of other individuals" (Berg, 1988, p. 531). But apart from the knowledge of individuals' inclusion probability, unbiased estimation is not possible.

Further, as Nock (2001) entreated, consider the convenience sample recruited from within organizations devoted to serving LGBT youth and students, such as the sampling strategy adopted by the NLSFCS: "apparently, the researchers used a higher level of education than the general population of young adults, and they were more likely to be employed in such settings as research centers, where, if such a sample is used for research purposes, then anything that is correlated with educational attainment—like better health, more deliberative parenting, and greater access to social capital and educational opportunities for children—will be biased. Any claims about a population based on a group that does not represent it will be distorted, since its sample of lesbian parents is less diverse (given what is known about it) than a representative sample would reveal (Baumle et al., 2009).

To compound the problem, results from nonprobability samples—from which meaningful statistics cannot be generated—regularly compared with population-level samples of heterosexual parents, which no doubt are comprised of a blend of high and low SES parents (Nock, 2001). The NLSFCS, for example, compares data from the National Survey of Family Growth (NSFG) with those in the snowball sample of youth in the NLLFS. Comparing a population-based sample (the NSFG) to a select sample of youth from same-sex parents does not provide the statistical confidence demanded of good social science. Until now, this has been a primary way in which scholars have collected and evaluated data on same-sex parents. This is not to suggest that snowball samples are inherently problematic as data-collection techniques, only that they are not adequate for making useful comparisons with samples that are entirely different with regard to selection characteristics. Snowball and various other types of convenience sampling are entirely generalizable or comparable to the population of interest as a whole. While researchers themselves commonly note this important limitation, it is often entirely lost in the translation and transmission of findings by the media to the public.

1.2. Are there notable differences?

The "no differences" paradigm suggests that children from same-sex families display no notable disadvantages when compared to children from other family forms. This suggestion has increasingly come to include even comparisons with biological parents, and is associated with stability and developmental benefits for children (McLanahan and Sandefur, 1994; Moore et al., 2002).

Answering questions about notable between-group differences has nevertheless typically depended on with whom comparisons are being made, what outcomes the researchers explored, and whether the outcomes evaluated are considered substantial or superficial, or portents of future risk. Some outcomes—like sexual behavior, gender roles, and democratic parenting, for example—have come to be valued differently in American society over time.

For the sake of brevity—and to give ample space here to describing the NLSFCS—1 will avoid spending too much time describing previous studies, many of whose methodological challenges are addressed by the NFSS. Several review articles,

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How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study

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ABSTRACT

The New Family Structures Study (NFSS) is a social-science data-collection project that was designed to address the need for more representative data on the lives of young adults who were raised in different types of family arrangements. In this about article of the NFSS, I compare how the young-adult children of a parent who has had a same-sex romantic relationship fare on 40 different social, emotional, and relational outcome-variables when compared to those with biological parents. The results are typically similar, with few differences, especially between the children of women who have had a lesbian relationship and those with still-married (heterosexual) biological parents. The results are typically robust in multivariate contexts as well, suggesting far greater diversity in lesbian-parent household experiences than convenience-sample studies of lesbian families have revealed. The findings have important implications for the scholarly discourse on the long reach of family structure and transitions.

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1. Introduction

The well-being of children has long been in the center of public policy debates about marriage and family matters in the United States. That trend continues as state legislatures, voters, and the judiciary considers the legal boundaries of marriage. Social science data remains one of the few sources of information useful in legal debates surrounding marriage and adoption rights, and has been valued both by same-sex marriage supporters and opponents. Underneath the politics about marriage and child development are concerns about family structures' possible effects on children: the number of parents present and active in children's lives, their genetic relationship to the children, parents' marital status, their gender distinctions or similarities, and the nature of the relationships between the children and their parents. In the NFSS, I compare how young adults from a variety of different family backgrounds fare on 40 different social, emotional, and relational outcomes. In particular, I focus on how respondents who said their mother had a same-sex relationship with another woman—or their father did so with another man—compare with still-intact, two-parent heterosexual married families using nationally-representative data collected from a large probability sample of American young adults.

Social scientists of family transitions have until recently commonly noted the elevated stability and social benefits of the two-parent (heterosexual) married household, when contrasted to single mothers, cohabiting couples, adoptive parents, and other family forms. The NFSS is a social-science data-collection project that was designed to address the need for more well-regarded nonpartisan research organization—detailed the importance for children's development of growing up in "the presence of two biological parents" (their emphasis; Moore et al., 2002, p. 2). Unmarried motherhood, divorce, cohabitation, and step-parenting were widely perceived to fall short in significant developmental domains (like education, behavior problems, and emotional well-being), due in no small part to the comparative fragility and instability of such relationships.

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leens (Miller et al., 2000). This ought to give social scientists studying gay parenting outcomes pause, especially in light of concerns noted above about small sample sizes and the absence of a comparable recent, documented improvement in outcomes from youth in adopted families and stepfamilies.

Far more, too, is known about the children of lesbian mothers than about those of gay fathers (Biblarz and Stacey, 2010; Patterson, 2006; Veldorale-Irogan and Cooley, 2011; Biblarz and Stacey, 2010, p. 17) note that while gay-male families remain understudied, "their parenting routes to parenthood seem likely to select more for strengths than limitations." Others have noted that gay parents are more likely to be involved in their children's lives than heterosexual parents (Biblarz and Stacey, 2010, p. 17). Children born into heterosexually organized marriages where fathers come out as gay or bisexual also face having to deal with maternal bitterness, marital conflict, possible divorce, custody issues, and father's absence" (Sirota, 2009, p. 291).

Regardless of sampling strategy, scholars also know much less about the lives of young-adult children of gay and lesbian parents, or how their experiences and accomplishments as adults compare with others who experienced different sorts of household arrangements during their youth. Most contemporary studies of gay parenting processes have focused on the household arrangements that children are raised under (Patterson, 2006; Biblarz and Stacey, 2010, p. 17). Patterson (2006, p. 17) writes, "The research on gay and lesbian parenting processes is limited to the extent that it has not addressed the complex interplay of biological, psychological, and social factors that shape the lives of children of gay and lesbian parents. . . . Children born into heterosexually organized marriages where fathers come out as gay or bisexual also face having to deal with maternal bitterness, marital conflict, possible divorce, custody issues, and father's absence" (Sirota, 2009, p. 291).

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2. Data collection, measures, and analytic approach

The NESS data collection project is based at the University of Texas at Austin's Population Research Center. A survey design team consisting of several leading family researchers in sociology, demography, and human development—from Penn State University, Brigham Young University, San Diego State University, the University of Virginia, and several from the University of Texas at Austin—met over 2 days in January 2011 to discuss the project's sampling strategy and scope, and scholars' prior research on the topic. The team was designed to merge the strengths of each discipline and to address the limitations of each. The project's design and implementation were informed by the NESS protocol and the questionnaire were approved by the University of Texas at Austin's Institutional Review Board. The NESS data is intended to be publicly accessible and will thus be made so with minimal requirements by mid-late 2012. The NESS was supported in part by grants from the Whilperspoon Institute and the Bradley Foundation. While both of these are commonly known for their support of conservative causes—just as other private foundations are known for supporting more liberal causes—the funding sources played no role at all in the design or conduct of the study, the analyses, the interpretation of the data, or in the preparation of this manuscript.

and at least one book, have sought to provide a more thorough assessment of the literature (Andersson et al., 2002; Biblarz and Stacey, 2010; Goldberg, 2010; Patterson, 2006; Stacey and Biblarz, 2001a). Suffice it to say that versions of the phrase "no differences" have been employed in a wide variety of studies, reports, depositions, books, and articles since 2000 (e.g., Crowl et al., 2008; Movement Advancement Project, 2011; Rosenfeld, 2010; Tasker, 2005; Stacey and Biblarz, 2001a; Veldorale-Irogan and Cooley, 2011; Wainright et al., 2004).

Much early research on gay parents typically compared the child development outcomes of divorced lesbian mothers with their divorced heterosexual counterparts (Patterson, 1997). This was also the strategy employed by psychologist Diana Tasker (2005) in her study of "no differences" between lesbian mothers and their heterosexual counterparts. She found differences between the quality of family relationships" therein. Wainright et al. (2004, p. 44) cite a study by the same authors, "Add Health data, reported that teenagers living with female same-sex parents displayed comparable self-esteem, psychological adjustment, academic achievement, delinquency, substance use, and family relationship quality to 44 demographically "matched" cases of adolescents with opposite-sex parents, suggesting that here too the comparisons were not likely made with respondents from stable, biologically-intact, married families.

However, small sample sizes can contribute to "no differences" conclusions. It is not surprising that statistically-significant differences would not emerge in studies employing as few as 18 or 33 or 44 cases of respondents with same-sex parents, as a variety of studies have done. One fails to mitigate the challenge of locating statistically-significant differences when the sample size is small. This is a concern in all of social science, but one that is doubly important when there may be motivation to confirm the null hypothesis (that is, that there are in fact no statistically-significant differences between groups). Therefore, one important issue in such studies is the simple matter of if there is enough statistical power to detect meaningful differences should they exist. Rosenfeld (2010) is the first scholar to employ a large, random sample of the population in order to compare outcomes among children of same-sex parents with those of heterosexual married parents. He concluded—after controlling for education and income and directing to limit the sample to households exhibiting at least 5 years of considerable stability—that "no statistically-significant differences between the two groups in a pair of measures assessing children's progress through primary school.

Sex-related outcomes have more consistently revealed distinctions, although the tone of concern about them has diminished over time. For example, while the daughters of lesbian mothers are now widely understood to be more apt to explore same-sex sexual identity and behavior, concern about this finding has faded as scholars and the general public have become more accepting of GLB identities (Goldberg, 2010). Tasker and Golombok (1997) noted that girls raised by lesbian mothers reported a higher number of sexual partners in young adulthood than daughters of heterosexual mothers, boys with lesbian mothers reported a higher number of opposite-sex partners in young adulthood than sons of heterosexual mothers. More recently however, the tone about "no differences" has shifted somewhat. For example, Crowl et al. (2008) reported that same-sex parents appear to be more competent than heterosexual parents (Biblarz and Stacey, 2010; Crowl et al., 2008). Even their romantic relationships may be better: a comparative study of Vermont gay civil unions and heterosexual marriages revealed that same-sex couples report higher relationship quality, compatibility, and intimacy, and less conflict than did married heterosexual couples (Balsam et al., 2008). Biblarz and Stacey's (2010) review article on gender and parenting

asserts that, based strictly on the published science, one could argue that two women parent better on average than a woman and a man, or at least than a woman and man with a traditional division of labor. Lesbian coparents seem to outperform comparable married heterosexual, biological parents on several measures, even while being denied the substantial privileges of marriage (p. 17).

Even here, however, the authors note that lesbian parents face a "somewhat greater risk of splitting up," due, they suggest, to their "asymmetrical biological and legal statuses and their high standards of equality" (2010, p. 17). Another meta-analysis asserts that non-heterosexual parents, on average, enjoy significantly better relationships with their children than do heterosexual parents, together with no differences in the domains of cognitive development, psychological adjustment, gender identity, and sexual partner preference (Crowl et al., 2008).

However, the meta-analysis reinforces the profound importance of who is doing the reporting—nearly always volunteers for small studies on a group whose claims about documentable parenting successes are very relevant in recent legislative and judicial debates over rights and legal statuses. Tasker (2010, p. 36) suggests caution:

Parental self-report, of course, may be biased. It is plausible to argue that, in a prejudiced social climate, lesbian and gay parents may have more at stake in presenting a positive picture. . . . Future studies need to consider using additional sophisticated measures to rule out potential biases. . .

Suffice it to say that the pace at which the overall academic discourse surrounding gay and lesbian parents' comparative competence has shifted—from slightly-less adept to virtually identical to more adept—is notable, and rapid. By comparison, studies of adoption—a common method by which many same-sex couples (but more heterosexual ones) become parents—have repeatedly and consistently revealed important and wide-ranging differences, on average, between adopted children and biological ones. In fact, these differences have been so pervasive and consistent that adoption experts now emphasize that "acknowledgement of difference" is critical for both parents and clinicians when working with adopted children and

1.3. The New Family Structures Study

Besides being brand-new data, several other aspects about the NESS are novel and noteworthy. First, it is a study of young adults rather than children or adolescents, with particular attention paid to reaching ample numbers of respondents who were raised by parents that had a same-sex relationship. Second, it is a much larger study than nearly all of its peers. The NESS interviewed just under 3000 respondents, including 175 who reported their mother having had a same-sex romantic relationship and 73 who said the same about their father. Third, it is a weighted probability sample, from which meaningful statistical inferences and interpretations can be drawn. While the 2000 (and presumably, the 2010) US Census Integrated Public Use Microdata Series (IPUMS) offers the largest nationally-representative sample-based information about youth in same-sex households, it does not include information about health behaviors and relationships. This manuscript provides the first glimpse into those outcomes by offering statistical comparisons of them among eight different family structures/experiences of origin. Accordingly, there is much that the NESS offers, and not just about the particular research questions of this study.

There are several things the NESS is not. The NESS is not a longitudinal study, and therefore cannot attempt to broach questions of causation. It is a cross-sectional study, and collected data from respondents at only one point in time, when they were between the ages of 18 and 39. It does not evaluate the offspring of gay marriages, since the vast majority of its respondents came of age prior to the legalization of gay marriage in several states. This study cannot answer political questions about gay marriage, and there have been enough competing claims about "what the data says" about the children of same-sex parents—including legal depositions of social scientists in important cases—that a study with the methodological strengths of this one deserves scholarly attention and scrutiny.

2. Data collection, measures, and analytic approach

The NESS data collection project is based at the University of Texas at Austin's Population Research Center. A survey design team consisting of several leading family researchers in sociology, demography, and human development—from Penn State University, Brigham Young University, San Diego State University, the University of Virginia, and several from the University of Texas at Austin—met over 2 days in January 2011 to discuss the project's sampling strategy and scope, and scholars' prior research on the topic. The team was designed to merge the strengths of each discipline and to address the limitations of each. The project's design and implementation were informed by the NESS protocol and the questionnaire were approved by the University of Texas at Austin's Institutional Review Board. The NESS data is intended to be publicly accessible and will thus be made so with minimal requirements by mid-late 2012. The NESS was supported in part by grants from the Whilperspoon Institute and the Bradley Foundation. While both of these are commonly known for their support of conservative causes—just as other private foundations are known for supporting more liberal causes—the funding sources played no role at all in the design or conduct of the study, the analyses, the interpretation of the data, or in the preparation of this manuscript.

2.1. The data collection process

The data collection was conducted by Knowledge Networks (or KN), a research firm with a very strong record of generating high-quality data for academic projects. Knowledge Networks recruited the first online research panel, dubbed the KnowledgePanel®, that is representative of the US population. Members of the KnowledgePanel® are randomly recruited by telephone and mail surveys, and households are provided with access to the Internet and computer hardware if needed. Unlike other Internet research panels sampling only individuals with Internet access who volunteer for research, the KnowledgePanel® is based on a sampling frame which includes both listed and unlisted numbers, those without a landline telephone, and those with only cell phones. As a result, it is nationally representative. We saw the KnowledgePanel® in use in a number of peer-reviewed articles, including the 2009 National Survey of Sexual Health and Behavior, whose extensive results were featured in an entire volume of the Journal of Sexual Medicine—and prominently in the media—in 2010 (Herbenick et al., 2010). More information about KN and the KnowledgePanel®, including panel recruitment, connection, retention, and total response rates, are available from KN. The typical within survey response rate for a KnowledgePanel® survey is 65%. Appendix A presents a comparison of age-appropriate summary statistics from a variety of socio-demographic variables in the NESS, alongside the most recent iterations of the KnowledgePanel® survey. The NESS is a nationally representative survey of young adults, while the KnowledgePanel® Family Growth, and the National Study of Youth and Religion—all recent nationally-representative survey efforts. The estimates reported there suggest the NESS compares very favorably with other nationally-representative datasets.

2.2. The screening process

Particularly relevant for the NESS is the fact that the populations—gay and lesbian parents, as well as heterosexual adoptive parents—can be challenging to identify and locate. The National Core for Man and Family Research (2010) estimates that there are approximately 580,000 same-sex households in the United States. Among them, about 17%—or 98,600—are thought to have children present. While that may seem like a substantial number, in population-based sampling strategies it is not. Locating minority populations requires a search for a probability sample of the general population, typically by way of screening the general population to identify members of rarer groups. Thus in order to boost the number of respondents who reported being adopted or whose parent had a same-sex romantic relationship, the screener survey (which distinguished such respondents) was left in the field for several months between July 2011 and February 2012, enabling a panelist to be selected by mail phone or in person. A panelist was selected to be interviewed if they were aged 18 to 35, and the KnowledgePanel® were re-contacted by mail phone or in person to encourage their reply. A total of 15,058 current and former members of KN's KnowledgePanel® were screened and asked, among several other questions, "From when you were born until age 18 (or until you left home to be on your own), did either of your parents ever have a romantic relationship with someone of the same sex?" Response choices were "Yes, my mother had a romantic relationship with another woman," "Yes, my father had a romantic relationship with another man," or "no." (Respondents were also able to select both of the first two choices.) If they selected either of the first two, they were asked about whether they had ever lived with that parent while they were in a same-sex romantic relationship. The NESS completed full surveys with 2,988 Americans between the ages of 18 and 35. The screener and full survey instrument is available at the NESS homepage, located at: www.pit.cnetx-ascd.org/ids.

2.3. What does a representative sample of gay and lesbian parents (of young adults) look like?

The weighted screener data—a nationally-representative sample—reveal that 1.7% of all Americans between the ages of 18 and 35 report that their father or mother has had a same-sex relationship, a figure comparable to other estimates of children of gay and lesbian parents. The KnowledgePanel® screener data also indicate that 1.7% of all Americans between the ages of 18 and 35 report that their mother has had a lesbian relationship as reported that their fathers have had a gay relationship. (A total of 58% of the 15,058 persons screened reported spending their entire youth—up until they turned 18 or left the house—with their biological mother and father.)

While gay and lesbian Americans typically become parents today in four ways—through one partner's previous participation in a heterosexual union, through adoption, in-vitro fertilization, or by a surrogate—the NESS is more likely to be comprised of respondents from the first two of these arrangements than from the last two. Today's children of gay men and lesbian parents are more likely to be adopted than their biological parents. The youngest NESS respondents turned 18 in 2011, while the oldest did so in 1950. Given that unintended pregnancy is impossible among gay men and a rarity among lesbian couples, it stands to reason that gay and lesbian parents today are far more selective about parenting than the heterosexual population, among whom unintended pregnancies remain very common, around 50% of total (Finer and Henshaw, 2006). The share of all same-sex parenting arrangements that is planned, however, remains unknown. Although the NESS did not directly ask those respondents whose parent had a same-sex romantic relationship about the manner of

their own birth, a failed heterosexual union is clearly the modal method: just under half of such respondents reported that their biological parent was not married. This finding is consistent with the NESS from numerous studies that have been entirely consistent with the findings reported here in the NESS.

Among those who said their mother had a same-sex relationship, 91% reported living with their mother while she was in the romantic relationship, and 57% said they had lived with their mother and her partner for at least 4 months at some point prior to age 18. A smaller share (23%) said they had spent at least 2 years living in the same household with a romantic partner of their mother's.

Among those who said their father had a same-sex relationship, however, 42% reported living with him while he was in a same-sex romantic relationship, and 23% reported living with him and his partner for at least 4 months at some point prior to age 18. A smaller share (13%) said they had spent at least 2 years together in the same household, a trend similarly noted in Tasker's (2005) review article on gay and lesbian parenting.

Fifty-eight (58) percent of those whose biological mothers had a same-sex relationship also reported that their biological mother exited the respondent's household at some point during their youth, and just under 14% of them reported spending time in the foster care system, indicating greater-than-average household instability. Ancillary analyses of the NESS suggests a likely "planned" lesbian origin of between 17% and 26% of such respondents, a range estimated from the share of such respondents who claimed that (1) their biological mother was the biological father, (2) their biological mother was the biological mother of their biological father, (3) their biological mother was the biological mother of their biological father. This share of respondents (whose fathers had a same-sex relationship) that likely came from "planned" gay families in the NESS is under 1%.

These distinctions between the NESS—a population-based sample—and small studies of planned gay and lesbian families nevertheless raise again the question of just how unrepresentative convenience samples of gay and lesbian parents actually are. The use of a probability sample reveals that the young-adult children of parents who have had same-sex relationships (in the NESS) look less like the children of today's stereotypic gay and lesbian couples—white, upper-middle class, well-educated, employed, and prosperous—than many studies have tacitly or explicitly portrayed. Goldberg (2010, pp. 12–13) aptly notes that existing studies of lesbian and gay couples and their families have tended to be "overly homogeneous" and "overly white, middle class, and middle-aged." In addition, the NESS suggests that "working-class sexual minorities, racial or ethnic sexual minorities, sexual minorities who live in rural or isolated geographical areas" have been overlooked, understudied, and difficult to reach. Rosenfeld's (2010) analysis of Census data suggests that 37% of children in lesbian cohabiting households are Black or Hispanic. Among respondents in the NESS who said their mother had a same-sex relationship, 43% are Black or Hispanic. In the NESS, by contrast, only 6% are Black or Hispanic.

This is an important oversight: demographic indicators of where gay parents live today point less toward stereotypical places like New York and San Francisco and increasingly toward locales where families are more numerous and overall fertility is higher, like Salt Lake City and Memphis. "States and large metropolitan areas with relatively low concentrations of gay and lesbian couples in the population tend to be areas where same-sex couples are more likely to have children in the household." A recent updated brief by Gates (2011, p. F3) reinforces this: "Geographically, same-sex couples are most likely to have children in many of the most socially conservative parts of the country." Moreover, Gates notes that racial minorities are disproportionately more likely (among same-sex households) to report having children; whites, on the other hand, are disproportionately less likely to have children. The NESS sample reveals the same. Gates' Census-based assessments further raise questions about the sampling strategies of—and the popular use of conclusions from—studies based entirely on convenience samples derived from parents living in progressive metropolitan locales.

2.4. The structure and experience of respondents' families of origin

The NESS sought to provide as clear a vision as possible of the respondents' household composition during their childhood and adolescence. The survey asked respondents about the marital status of their biological parents both in the past and present. The NESS also collected "calendar" data from each respondent about their relationship to people who lived with them in their household (for more than 4 months) from birth to age 18, as well as, who had lived with them from age 18 until they were 35. The NESS also collected "calendar" data from each respondent about the marital status of their biological parents to document who else has lived with the respondent for virtually their entire life up to the present.

For this particular study, I compare outcomes across eight different types of family-of-origin structure and/or experience. They were constructed from the answers to several questions both in the screener survey and the full survey. It should be noted, however, that their construction reflects an unusual combination of interests—the same-sex romantic behavior of parents, and the experience of household stability or disruption. The eight groups or household settings (with an acronym or short descriptive title) evaluated here, followed by their maximum unweighted analytic sample size, are:

1. IBF: Lived in intact biological family (with mother and father) from 0 to 18, and parents are still married at present (N = 919).
2. LM: R reported R's mother had a same-sex romantic (lesbian) relationship with a woman, regardless of any other household transitions (N = 163).
3. GF: R reported R's father had a same-sex romantic (gay) relationship with a man, regardless of any other household transitions (N = 73).

Table 1
Weighted summary statistics of measures, NFSS.

NFSS variables	Range	Mean	SD	N
Currently married	0-1	0.41	0.49	2988
Family received welfare growing up	0-1	0.35	0.36	2988
Currently employed full-time	0-1	0.44	0.50	2988
Currently unemployed	0-1	0.25	0.41	2988
Voted in last presidential election	0-1	0.12	0.32	2988
Bullied while growing up	0-1	0.55	0.50	2960
Ever suicidal during past year	0-1	0.36	0.48	2961
Recently or currently in therapy	0-1	0.07	0.25	2953
Identifies as entirely heterosexual	0-1	0.11	0.32	2934
Is in a same-sex romantic relationship	0-1	0.85	0.36	2946
Had affair while married/cohabiting	0-1	0.06	0.23	1056
Ever forced sexually by parent/adult	0-1	0.19	0.39	2969
Ever forced to have sex against will	0-1	0.07	0.26	2877
Educational attainment	0-1	0.13	0.33	2874
Family-of-origin safety/security	1-5	2.85	1.11	2988
Family-of-origin negative impact	1-5	3.81	0.97	2917
Closeness to biological mother	1-5	2.58	0.98	2919
Closeness to biological father	1-5	4.05	0.87	2249
Self-reported physical health	1-5	3.74	0.98	1346
Self-reported overall happiness	1-5	4.00	0.94	2957
CES-D depression index	1-4	1.89	0.62	2815
Attachment scale (depress)	1-5	2.51	0.71	2815
Impulsivity scale (anxiety)	1-5	2.31	0.77	2815
Level of household income	1-4	1.88	0.59	2861
Current relationship quality index	1-13	7.42	3.17	2635
Current relationship is in trouble	1-5	3.98	0.98	2218
Frequency of marijuana use	1-4	2.19	0.96	2274
Frequency of alcohol use	1-6	1.50	1.23	2918
Frequency of drinking to get drunk	1-6	2.61	1.36	2922
Frequency of watching TV	1-6	1.70	1.09	2922
Frequency of having been arrested	1-6	2.03	1.85	2922
Frequency pled guilty to non-minor offense	1-4	1.29	1.60	2919
Female sex partners (among women)	0-11	1.40	1.16	1977
Male sex partners (among men)	0-11	3.16	2.68	937
N of female sex partners (among women)	0-11	3.50	2.52	1951
N of male sex partners (among men)	0-11	0.40	1.60	944
Age	18-39	28.21	6.37	2988
Female	0-1	0.51	0.50	2988
White	0-1	0.57	0.49	2988
Gay-friendliness of state of residence	1-5	2.58	1.78	2988
Family-of-origin structure groups				
Intact biological family (IBF)	0-1	0.40	0.40	2988
Mother had same-sex relationship (LM)	0-1	0.01	0.10	2988
Father had same-sex relationship (GF)	0-1	0.01	0.75	2988
Adopted age 0-2	0-1	0.01	0.75	2988
Divorced later/joint custody	0-1	0.06	0.23	2988
Stepfamily	0-1	0.17	0.38	2988
Single parent	0-1	0.19	0.40	2988
All others	0-1	0.15	0.36	2988
Mother's education				
Less than high school	0-1	0.15	0.35	2988
Received high school diploma	0-1	0.28	0.45	2988
Associate's degree	0-1	0.16	0.36	2988
Bachelor's degree	0-1	0.31	0.46	2988
More than bachelor's	0-1	0.08	0.28	2988
Do not know/missing	0-1	0.08	0.28	2988
Family-of-origin income				
\$0-20,000	0-1	0.13	0.34	2988
\$20,001-40,000	0-1	0.19	0.40	2988
\$40,001-75,000	0-1	0.25	0.43	2988
\$75,001-100,000	0-1	0.14	0.34	2988
\$100,001-150,000	0-1	0.05	0.22	2988

Together these eight groups account for the entire NFSS sample. These eight groups are largely, but not entirely, mutually exclusive in reality. That is, a small minority of respondents might fit more than one group. I have, however, forced their mutual exclusivity here for analytic purposes. For example, a respondent whose mother had a same-sex relationship might also qualify in Group 5 or Group 7, but in this case my analytical interest is in maximizing the sample size of Groups 2 and 3 so the respondent would be placed in Group 2 (LMs). Since Group 3 (GFs) is the smallest and most difficult to locate randomly in the population, its composition trumped that of others, even LMs. (There were 12 cases of respondents who reported both a mother and a father having a same-sex relationship; all are analyzed here as GFs, after ancillary analyses revealed that this was the case.)

Obviously, different grouping decisions may affect the results. The NFSS, which sought to learn a great deal of information about respondents' families of origin, is well-poised to accommodate alternative grouping strategies, including distinguishing those respondents who lived with their lesbian mother's partner for several years (vs. sparingly or not at all), or early in their childhood (compared to later). Small sample sizes (and thus reduced statistical power) may nevertheless hinder some strategies.

In the results section, for maximal ease, I often make use of the acronym IBF (child of a still-intact biological family), LM (child of a lesbian mother), and GF (child of a gay father). It is, however, very possible that the same-sex romantic relationship about which a respondent reports is not the relationship with their biological mother and/or father. In such cases, I will understand of their parent as gay or lesbian or bisexual in sexual orientation. Indeed, this is more a study of the children of parents who have lived (and in some cases, are still in) same-sex relationships than it is of children whose parents have self-identified or are "out" as gay or lesbian or bisexual. The particular parental relationships the respondents were queried about are, however, gay or lesbian in content. For the sake of brevity and to avoid entanglement in terminable debates about fixed or fluid orientations, I will regularly refer to these groups as respondents with a gay father or lesbian mother.

2.5. Outcomes of Interest

This study presents an overview of 40 outcome measures available in the NFSS. Table 1 presents summary statistics for all variables. Why these outcomes? While the survey questionnaire (available online) contains several dozen outcome questions of interest, I elected to report here an overview of those outcomes, seeking to include common and oft-studied variables of interest from a variety of different domains. I include all of the particular indexes we sought to evaluate, and a broad list of outcomes from the emotional, relational, and social domains. Subsequent analyses of the NFSS will no doubt examine other outcomes as well as examine the same outcomes in different ways.

The 40 variables used in the NFSS were selected using the following: relationship status, employment status, whether they voted in the last presidential election, and use of public assistance (both currently and while growing up), the latter of which was asked as "Before you were 18 years old, did anyone in your immediate family (that is, in your household) ever receive public assistance (such as welfare payments, food stamps, Medicaid, WIC, or free lunch)?" Respondents were also asked about whether they had ever seriously thought about committing suicide in the past 12 months, and about their utilization of counseling or psychotherapy for treatment of "any problem connected with anxiety, depression, relationships, etc."

The 10-item Attaches to Scale of Sexual Behavior was employed, but modified to allow respondents to select the best description of their sexual orientation (rather than behavior). Respondents were asked to select the best fit for themselves: 100% heterosexual, mostly heterosexual but somewhat attracted to people of your own sex, bisexual (that is, attracted to men and women equally), mostly homosexual but somewhat attracted to people of the opposite sex, 100% homosexual, or not sexually attracted to either males or females. For simplicity of presentation, I create a dichotomous measure indicating 100% heterosexual (vs. anything else). Additionally, unmarried respondents who are currently in a relationship were asked if their romantic partner is a man or a woman, allowing construction of a measure of "currently in a relationship with a man" or "currently in a relationship with a woman."

All respondents were asked if "a parent or other adult caregiver ever touched you in a sexual way, forced you to touch him or her in a sexual way, or forced you to have sexual relations?" Possible answers were: no, never; yes, once; yes, more than once; or not sure. A broader measure about forced sex was asked before it, and read as follows: "Have you ever been physically forced to have any type of sexual activity against your will?" It employs identical possible answers; both have been dichotomized for the analyses (respondents who were "not sure" were not included). Respondents were also asked if they

Table 1 (continued)

NFSS variables	Range	Mean	SD	N
\$150,001–200,000	0.1	0.01	0.11	2388
Above \$200,000	0.1	0.01	0.10	2388
Post-test, future witnessing	0.1	0.23	0.42	2388

had ever had a sexually transmitted infection, and if they had ever had a sexual relationship with someone else while they (the respondent) were in the military or on active duty.

Among continuous variables, I included a five-category educational achievement measure, a standard five-point self-reported measure of general physical health, a five-point measure of overall happiness, a 13-category measure of total household income before taxes and deductions last year, and a four-point (frequency) measure of how often the respondent thought their current relationship "might be in trouble" (never once, once or twice, several times, or numerous times). Several continuous variables were constructed from multiple measures, including an eight-measure modified version of the CES-D depression scale, an index of the respondent's reported current (romantic) relationship quality, closeness to family, a pair of indexes capturing (1) the overall safety and continuity in their family while growing up, and (2) respondents' impressions of negative family-of-origin experiences that continue to affect them. These are part of a multidimensional relationship assessment instrument (dubbed RELATE) designed with the perspective that aspects of family life, such as the quality of the parent's relationship with their children, create a family tone that can be mapped on a continuum from safe/predictable/rewarding to unsafe/chaotic/punishing (Busby et al., 2001). Each of the scales and their component measures are detailed in Appendix B.

Finally, I evaluate nine count outcomes, seven of which are frequency measures, and the other two counts of gender-specific incidents. I created a variable for "times you were asked, 'Do you like me how often did you...'" which more than 3 had television in a row, use marijuana, smoke, drink alcohol, and drink with the intent to get drunk. Responses (0–5) ranged from "never" to "every day or almost every day." Respondents were also asked if they have ever been arrested, and if they had ever been convicted of or pled guilty to any charges other than a minor traffic violation. Answers to these two ranged from 0 (no, never) to 3 (yes, numerous times). Two questions about respondents' number of sex partners were asked (of both men and women) in this way: "How many different women have you ever had a sexual relationship with? This includes any female you had sex with, even if it was only once or if you did not know her well." The same question was asked about sexual relationships with men. Twelve responses were possible: 0, 1, 2, 3, 4–6, 7–9, 10–15, 16–20, 21–50, 31–50, 51–99, and 100+.

2.6. Analytic approach

My analytic strategy is to highlight distinctions between the eight family structure/experience groups on the 40 outcome variables, both in a bivariate manner (using a simple T-test) and in a multivariate manner using appropriate variable-specific regression techniques—logistic, OLS, Poisson, or negative binomial—and employing controls for respondent's age, race/ethnicity, gender, mother's education, and perceived family-of-origin income, an approach comparable to Rosenfeld's (2010) analysis of differences in children making normal progress through school and the overview article highlighting the findings for which was asked as follows: "While growing up, children and teenagers typically experience negative interactions with others. We say that someone is bullied when someone else, or a group, says or does nasty and unpleasant things to him or her. We do not consider it bullying when two people quarrel or fight, however. Do you recall ever being bullied by someone else, or by a group, such that you still have vivid, negative memories of it?"

Finally, survey respondents' current state of residence was coded on a scale (1–5) according to how expansive or restrictive its laws are concerning gay marriage and the legal rights of same-sex couples (as of November 2011). Emerging research (2009; Rostovsky et al., 2009). This coding scheme was borrowed from a *Los Angeles Times* effort to map the timeline of state-level rights secured for gay unions. I modified it from a 10-point to a 5-point scale (Times Research Reporting, 2012). I classify the respondent's current state in one of the following five ways:

- 1 = Constitutional amendment banning gay marriage and/or other legal rights.
- 2 = Legal ban on gay marriage and/or other legal rights.
- 3 = State constitutional or legislative protections for domestic partnerships are legal.
- 4 = Domestic partnerships with comprehensive protections are legal and/or gay marriages performed elsewhere are recognized.
- 5 = Civil unions are legal and/or gay marriage is legal.

Each case in the NFSS sample was assigned a weight based on the sampling design and their probability of being selected, ensuring a sample that is nationally representative of American adults aged 18–39. These sample weights were used in every

statistical procedure displayed herein unless otherwise noted. The regression models exhibited few ($N < 15$) missing values on the covariates. The new approach, appropriate for introducing a new data set, provides a foundation for future, more focused analyses of the outcomes I explore here. There are, after all, far more ways to delineate family structure and experience—and changes therein—than I have undertaken here. Others will evaluate such groupings differently, and will construct alternative approaches of testing for group differences in what is admittedly a wide diversity of outcome measures.

I would be remiss to claim causation here, since to document that having particular family-of-origin experiences—or the sexual relationships of one's parents—causes outcomes for adult children, I would need to not only document that there is a correlation between such family-of-origin experiences, but that no other plausible factors could be the cause of any of the differences, and—with the addition of several control variables—to assess just how robust such group differences are.

3. Results

3.1. Comparisons with still-intact, biological families (IBFs)

Table 2 displays mean scores on 15 dichotomous outcome variables which can be read as simple percentages, sorted by the eight different family structure/experience groups described earlier. As in Tables 3 and 4, numbers that appear in bold indicate statistical significance at the 5% level. Numbers that appear with an asterisk (*) beside it indicate that the group's dichotomous variable estimate from a logistic regression model (not shown) is statistically significantly different from IBFs, after controlling for respondent's age, gender, race/ethnicity, level of mother's education, perceived family-of-origin income, experience with having been bullied as a youth, and the "gay friendliness" of the respondent's current state of residence.

At a glance, the number of statistically-significant differences between respondents from IBFs and respondents from the other seven types of family structures/experiences is considerable, and in the vast majority of cases the optimal outcome—where one can be readily discerned—favors IBFs. Table 2 reveals 10 (out of 15 possible) statistically-significant differences between IBFs and respondents from other family structures/experiences, and one higher than the number of simple differences (9) between IBFs and respondents from both single-parent and stepfamilies. All but one of those associations is significant in logistic regression analyses contrasting LMs and IBFs (the omitted category).

Beginning at the top of Table 2, the marriage rates of LMs and GFs (those who reported that their father had a gay relationship) are statistically comparable to IBFs, while LMs' cohabitation rate is notably higher than IBFs' (24% vs. 9%, respectively). Sixty-nine percent of LMs and 57% of GFs reported that their family received public assistance at some point while growing up, compared to 50% of IBFs. Just under half of all IBFs reported being employed full-time at present, compared with 26% of

Table 2 Mean scores on select dichotomous outcome variables, NFSS (can read as percentage as in, 0.42 = 42%).

	IBF (family no family)	LM (mother)	GF (gay father)	Adopted by arrangers	Divorced later (>18)	Stepfamily	Single-parent	All other
Currently married	0.43	0.36	0.35	0.41	0.36*	0.41	0.37	0.39
Currently cohabiting	0.09	0.24*	0.21	0.07	0.31*	0.19*	0.19*	0.13
Family received public assistance while growing up	0.10	0.26*	0.23	0.27*	0.31*	0.30*	0.30*	0.23
Currently employed full-time	0.49	0.26*	0.34	0.41	0.42	0.47	0.43*	0.39
Thought recently about suicide	0.05	0.12	0.24*	0.07	0.08	0.10	0.05	0.09
Recently or currently in therapy	0.06	0.14*	0.17*	0.02	0.13*	0.11*	0.13*	0.08*
In a same-sex romantic relationship	0.04	0.07	0.12	0.23	0.05	0.13*	0.03	0.02
Had affair while married/cohabiting	0.13	0.40*	0.29	0.20	0.12*	0.32*	0.19*	0.16*
Ever forced to have sex against will	0.02	0.23*	0.06*	0.03*	0.10*	0.12*	0.10*	0.08*
Ever forced to have sex against will	0.08	0.31*	0.25*	0.03*	0.24*	0.16*	0.16*	0.11*

Note: IBFs indicates the mean scores displayed are statistically-significantly different from IBFs (currently intact, bio mother/father household, column 1), without additional controls. Asterisks indicate a statistically-significant difference ($p < 0.05$) between the group's coefficient and that of IBFs, controlling for respondent's age, gender, race/ethnicity, level of mother's education, perceived household income while growing up, experience being bullied as a youth, and state's legislative gay-friendliness, derived from logistic regression models (not shown). The estimate indicates a statistically-significant difference ($p < 0.05$) between the group's mean and the mean of LM (column 2), without additional controls.

Table 3
Mean scores on select continuous outcome variables, NFS5.

	IBF (intact bio family)	LM (lesbian mother)	GF (gay father)	Adopted by strangers	Divorced late (>18)	Stepfamily	Single-parent	All other
Educational attainment	3.19	2.30*	2.64*	3.21*	2.88*	2.64*	2.66*	2.54*
Family-of-origin safety/security	4.13	3.12*	3.25*	3.77*	3.52*	3.52*	3.58*	3.77*
Family-of-origin safety/health	3.78	3.08*	3.28*	3.88*	3.68*	3.68*	3.72*	3.85*
Closeness to biological mother	4.17	4.03	2.71*	3.88	3.95	4.03	3.85*	3.97*
Closeness to biological father	3.87	3.16	3.43	3.29*	3.46	3.49	3.24*	3.61
Self-reported physical health	3.75	3.38	3.58	3.53	3.46	3.49	3.43*	3.41
Self-reported mental health	3.75	3.38	3.58	3.53	3.46	3.49	3.43*	3.41
CES-D depression index	1.83	2.20*	2.18*	1.95	2.01	1.91*	1.89*	1.94*
Attachment scale (depend)	2.82	3.43*	3.14	3.12*	3.08*	3.10*	3.05*	3.02*
Attachment scale (autony)	2.82	3.43*	3.14	3.12*	3.08*	3.10*	3.05*	3.02*
Level of household income	1.90	2.03	2.02	1.85	1.94	1.86*	1.82*	1.89
Current relationship quality index	8.27	6.08	7.15	7.93*	7.42*	7.04	6.96	6.19*
Current relationship D in variable	8.27	6.08	7.15	7.93*	7.42*	7.04	6.96	6.19*
Current relationship quality index	8.27	6.08	7.15	7.93*	7.42*	7.04	6.96	6.19*
Current relationship D in variable	8.27	6.08	7.15	7.93*	7.42*	7.04	6.96	6.19*

bold indicates the mean scores displayed are statistically-significantly different from IBFs (currently intact, bio mother/father household, column 1), without additional controls.
An asterisk (*) next to the estimate indicates a statistically-significant difference ($p < 0.05$) between the group's coefficient and that of IBFs, controlling for respondent's age, gender, race/ethnicity, level of mother's education, perceived household income while growing up, experience being bullied as a youth, and state's legislative gay-friendliness.
A caret (^) next to the estimate indicates a statistically-significant difference ($p < 0.05$) between the group's mean and the mean of LM (column 2), without additional controls.

Table 4
Mean scores on select event-count outcome variables, NFS5.

	IBF (intact bio family)	LM (lesbian mother)	GF (gay father)	Adopted by strangers	Divorced late (>18)	Stepfamily	Single-parent	All other
Frequency of marijuana use	1.32	1.84*	1.61	1.33	2.00*	1.47	1.72*	1.49
Frequency of drinking to get drunk	1.68	1.77	2.14	1.73	1.90	1.68	1.74	1.64
Frequency of smoking	1.79	2.76*	2.61*	2.44*	2.31*	2.31*	2.38*	1.91*
Frequency of having been arrested	1.18	1.68*	1.29*	1.31*	1.38	1.38*	1.35*	1.24*
Frequency of being sexually abused	1.10	1.36*	1.41*	1.19	1.30	1.21*	1.17*	1.17*
Frequency of being sexually abused	1.10	1.36*	1.41*	1.19	1.30	1.21*	1.17*	1.17*
N of female sex partners (among women)	0.22	1.04*	1.47*	0.47*	0.96*	0.45*	0.52*	0.33*
N of male sex partners (among men)	2.79	4.02*	5.92*	3.49	3.97*	4.57*	4.04*	2.91*
N of female sex partners (among women)	0.26	1.48*	1.47*	0.27	0.98*	0.55	0.42	0.44

bold indicates the mean scores displayed are statistically-significantly different from IBFs (currently intact, bio mother/father household, column 1), without additional controls.
An asterisk (*) next to the estimate indicates a statistically-significant difference ($p < 0.05$) between the group's coefficient and that of IBFs, controlling for respondent's age, gender, race/ethnicity, level of mother's education, perceived household income while growing up, experience being bullied as a youth, and state's legislative gay-friendliness.
A caret (^) next to the estimate indicates a statistically-significant difference ($p < 0.05$) between the group's mean and the mean of LM (column 2), without additional controls.

LMs. While only 8% of IBF respondents said they were currently unemployed, 28% of LM respondents said the same. LMs were statistically less likely than IBFs to have voted in the 2008 presidential election (41% vs. 57%), and more than twice as likely—19% vs. 8%—to report being currently (or within the past year) in counseling or therapy “for a problem connected with anxiety, depression, relationships, etc.,” an outcome that was significantly different after including control variables.

In concurrence with several studies of late, the NFS5 reveals that the children of lesbian mothers seem more open to same-sex relationships (Biblarz and Stacey, 2010; Carrrel et al., 2011a,b; Golombok et al., 1997). Although they are not statistically different from other groups in having a same-sex relationship or preference for much less apt to identify themselves as lesbian (61% vs. 50% of IBFs). The same is true for their fathers: 71% of them identified entirely as heterosexual. Other sexual differences are notable among LMs, too: a greater share of daughters of lesbian mothers report being “not sexually attracted to either males or females,” than among any other family-structure groups evaluated here (4.1% of female LMs, compared to 0.5% of female IBFs, not shown in Table 2). Exactly why the young-adult children of lesbian mothers are more apt to experience same-sex attraction and behaviors, as well as self-report asexuality, is not clear, but the fact that they do seems consistent across studies. Given that lower rates of heterosexuality characterize other family structure/experience types in the

NFS5, as Table 2 clearly documents, the answer is likely located not simply in parental sexual orientation but in successful cross-sex relationship role modeling, or its absence or scarcity. While 13% of IBFs reported having had a sexual relationship with someone else while they were either married or cohabiting, 40% of LMs said the same. In contrast to Carrrel et al.'s (2011a,b) recent, widely-disseminated conclusions about the absence of sexual victimization in the NLFES data, 23% of LMs said yes when asked whether “a parent or other adult caregiver, ever touched you in a sexual way, forced you to touch him or her in a sexual way, or forced you to have sexual relations,” while only 2% of IBFs responded affirmatively. Since such reports are more common among women than men, I split the analyses by gender (not shown). Among female respondents, 33% of IBFs reported parental (or adult caregiver) sexual contact/victimization, dramatically below the 31% of LMs who reported the same. Just under 10% of female GFs responded affirmatively to the question, an estimate not significantly different from the IBFs.

It is entirely plausible, however, that sexual victimization could have been at the hands of the LM respondents' biological father, prompting the mother to leave the union and—at some point in the future—commence a same-sex relationship. Ancillary (unweighted) analyses of the NFS5, which asked respondents how old they were when the first incident occurred (and can be compared to the household structure calendar, which documents who lived in their household each year up until age 18) reveal this possibility, up to a point: 23% of those LM respondents who said they had been sexually victimized by a parent (not shown) reported the incident occurred when they were 10 years old or younger. Another 29% of victimized LMs reported never having lived with their biological father at all, but under 24% of LM respondents who said they had at some point lived with their mother's same-sex partner reported a first-time incident at an age that was equal to or higher than when they first lived with their mother's partner. Approximately 13% of victimized LMs reported living with a foster parent when the first incident occurred. In other words, there is no obvious trend to the timing of first victimization and when the respondent may have lived with their biological father or their mother's same-sex partner, nor are we suggesting by whom the respondent was most likely victimized. Future exploration of the NFS5's detailed household structure calendar offers some possibility for clarification.

While the victimization question is a measure of increased victimization, another more general question about forced sex, “Have you ever been physically forced to have sexual activity against your will?” also displays significant differences between IBFs and LMs (and GFs). The question about forced sex was asked before the question about sexual contact with a parent or other adult and may include incidents of it but, by the numbers, clearly have sex against their will, compared with 8% of IBFs and 25% of GFs. Among female respondents, 14% of IBFs reported forced sex, compared with 46% of LMs and 52% of GFs (both of the latter estimates are statistically-significantly different from that reported by IBFs).

For noted, several distinctions between IBFs and GFs—respondents who said their father had a gay relationship—there are simply fewer statistically-significant distinctions to note between IBFs and GFs than between IBFs and LMs, which may or may not be due in part to the smaller sample of respondents with gay fathers in the NFS5, and the much smaller likelihood of having lived with their gay father while he was in a same-sex relationship. Only six of 15 measures in Table 2 reveal statistically-significant differences in the regression models (but only one in a bivariate environment). After including controls, the children of a gay father were statistically more apt (than IBFs) to receive public assistance while growing up, to have voted in the last election, to have thought recently about committing suicide, to ever report a sexually-transmitted infection, to have experienced forced sex, and were less likely to self-identify as entirely heterosexual. While other differences are noted, my attention has been primarily directed at the inter-group differences between IBFs, LMs, and GFs, it is worth noting that LMs are hardly alone in displaying numerous differences with IBFs. Respondents who lived in stepfamilies or single-parent families displayed nine simple differences in Table 2. Besides GFs, adopted respondents displayed the fewest simple differences (three).

Table 3 displays mean scores on 14 continuous outcomes. As in Table 2, bold indicates simple statistically-significant outcome differences with young-adult respondents from still-intact, biological families (IBFs) and an asterisk indicates a regression coefficient (not shown) that is significantly different from IBFs after a series of controls. Consistent with Table 2, eight of the differences between LMs and IBFs are statistically significant. The young-adult children of women who have had a lesbian relationship fare worse on educational attainment, family-of-origin safety/physical health, negative impact of family-of-origin, the CES-D (depression) index, one of two attachment scales, report worse physical health, smaller household incomes than do respondents from still-intact biological families, and think that their current romantic relationship is in trouble more frequently.

The young-adult GF respondents were likewise statistically distinct from IBF respondents on seven of 14 continuous outcomes, which were significantly different when evaluated in regression models. When contrasted with IBFs, GFs reported more closeness to their biological mother, greater depression, a lower score on the current (romantic) relationship quality index, and think their current romantic relationship is in trouble more frequently. As in Table 2, respondents who reported living in stepfamilies or in single-parent households also exhibit numerous simple statistical differences from IBFs—on nine and 10 out of 14 outcomes, respectively—most of which remain significant in

the regression models. On only four of 14 outcomes do adopted respondents appear distinctive (three of which remain significant after introducing controls).

Table 4 displays mean scores on nine event counts, sorted by the eight family structure/experience groups. The NESS asked 4 respondents about experience with male and female sexual partners, but I report them here separately by gender. LM respondents report statistically greater marijuana use, more frequent smoking, watch television more often, have been arrested more, pled guilty to non-minor offenses more, and—among women—report greater numbers of both female and male sex partners than do IBFs respondents. Female LMs reported an average of just over one female sex partner in their lifetime, as well as four male sex partners. In contrast to female IBFs (0.22 and 2.79, respectively). Male LMs report an average number of male partners among men, however display significant differences (after controls are included).

Among GFs, only three bivariate distinctions appear. However, six distinctions emerge after regression controls: they are more apt than IBFs to smoke, have been arrested, pled guilty to non-minor offenses, and report more numerous sex partners (except for the number of female sex partners among male GFs). Adopted respondents display no simple differences from IBFs, while the children of stepfamilies and single parents each display six significant differences with young adults from still-intact biological mother/father families.

Although I have paid much less attention to most of the other groups whose estimates also appear in Tables 2–4, it is worth noting that the children of gay and lesbian parents who adopted children display the fewest simple significant differences across the 40 outcomes evaluated here. Given that such adoptions are typically the result of considerable self-selection, it should not surprise that they display fewer differences with IBFs.

To summarize, then, in 25 of 40 outcomes, there are simple statistically-significant differences between IBFs and LMs, those whose mothers had a same-sex relationship. After controls, there are 24 such differences. Among single (heterosexual) parents, there are 21 simple differences before controls and 21 after controls. Between GFs and IBFs, there are 11 and 19 such differences, respectively.

3.2. Summary of differences between LMs and other family structures/experiences

Researchers sometimes elect to evaluate the outcomes of children of gay and lesbian parents by comparing them not directly to stable heterosexual marriages but to other types of households, since it is often the case—and it is certainly true of the NESS—that a gay or lesbian parent first formed a heterosexual union prior to “coming out of the closet,” and witnessing the dissolution of that union (Tasker, 2005). So comparing the children of such parents with those who experienced no union dissolution is arguably unfair. The NESS, however, enables researchers to compare outcomes across a variety of other types of family-structure/experience groups besides IBFs, a few overall observations are merited.

Of the 239 possible between-group differences here—not counting those differences with Group 1 (IBFs) already described earlier—the young-adult children of lesbian mothers display 57 (or 24% of total possible) that are significant at the $p < 0.05$ level (indicated in Tables 2–4 with a caret), and 44 (or 18% of total) that are significant after controls (not shown). The majority of these differences are in suboptimal directions, meaning that LMs display worse outcomes. The young-adult children of gay men, on the other hand, display only 11 (or 5% of total possible) between-group differences that are statistically significant at the $p < 0.05$ level, and yet 24 (or 10% of total) that are significant after controls (not shown).

In the NESS, then, the young-adult children of a mother who has had a lesbian relationship display more significant distinctions with other respondents than do the children of a gay father. This may be the result of genuinely different experiences of their family transitions, the smaller sample size of children of gay men, or the comparatively-rarer experience of living with a gay father (only 42% of such respondents reported ever living with their father while he was in a same-sex relationship, compared with 91% who reported living with their mother while she was in a same-sex relationship).

4. Discussion

Just how different are the adult children of men and women who pursue same-sex romantic (i.e., gay and lesbian) relationships, when evaluated using population-based estimates from a random sample? The answer, as might be expected, depends on to whom you compare them. When compared with children who grew up in biologically (still) intact mother-father families, the children of women who reported a same-sex relationship look markedly different on numerous outcomes, including many that are obviously suboptimal (such as education, depression, employment status, or marijuana use). On 25 of 40 outcomes (or 63%) evaluated here, there are bivariate statistically-significant ($p < 0.05$) differences between children from still-intact mother/father families and those whose mother reported a lesbian relationship. On 11 of 40 outcomes (or 28%) evaluated here, there are bivariate statistically-significant ($p < 0.05$) differences between children from still-intact, mother/father families and those whose father reported a gay relationship. Hence, there are differences in both

comparisons, but there are many more differences by any method of analysis in comparisons between young-adult children of IBFs and LMs than between IBFs and GFs.

While the NESS may best capture what might be called an “earlier generation” of children of same-sex parents, and including many of the young-adult children of those who were biologically-intact mother/father families, suggests that notable differences on many outcomes do in fact exist. This is inconsistent with claims of “no differences” generated by studies that have commonly employed far more narrow samples than this one.

Goldberg (2010) aptly asserts that many existing studies were conducted primarily comparing children of heterosexual divorced and lesbian divorced mothers, potentially leading observers to erroneously attribute to parental sexual orientation the corrosive effects of enduring parental divorce. Her warning is well-taken, and it is one that the NESS cannot entirely ignore. The NESS, however, includes data on the children of stepfamilies—the children of lesbian mothers looked (statistically) significantly more romantic relationships, for example, stepfamilies—the children of lesbian mothers looked (statistically) significantly different just under 25% of the time (and typically in suboptimal directions). Nevertheless, the children of mothers who have had same-sex relationships are far less apt to differ from stepfamilies and single parents than they are from still-intact biological families.

Why the divergence between the findings in this study and those from so many previous ones? The answer lies in part with the small or nonprobability samples so often relied upon in nearly all previous studies—they have very likely underestimated the number and magnitude of real differences between the children of lesbian mothers (and to a lesser extent, gay fathers) and other types of households. While the NESS is not a perfect solution to this problem, it does at least partially acknowledge their limitations, practically—since they are often the only studies being conducted—their results are treated as providing information about gay and lesbian household experiences in general. But this study, based on a rare large probability sample, reveals far greater diversity in the experience of lesbian motherhood (and to a lesser extent, gay fatherhood) than has been acknowledged or understood.

Given that the characteristics of the NESS’s sample of children of LMs and GFs are close to estimates of the same offered by demographers using the American Community Study, one conclusion from the analyses herein is merited: the sample-selection bias problem in very many studies of gay and lesbian parenting is not household experiences of children with a lesbian or gay parent suspect at best. Most snowball-sample-based research has, instead, shed light on above-average household experiences.

While studies of family structure often locate at least modest benefits that accrue to the children of married biological parents, some scholars attribute much of the benefit to socioeconomic-status differences between married parents and those parents in other types of relationships (Biblarz and Raifery, 1999). While this is likely true of the NESS as well, the results presented herein controlled not only for socioeconomic status differences between families of origin, but also political-geographic differences (gender, race/ethnicity, and the experience of having been bullied (which was reported by 53% of LMs but only 35% of IBFs)).

To be sure, those NESS respondents who reported that a parent of theirs had had a romantic relationship with a member of the same sex are a very diverse group; some experienced numerous household transitions, and some did not. Some of their parents may have remained in a same-sex relationship, while others did not. Some may self-identify as lesbian or gay, while others may not. I did not explore in detail the diversity of household experiences here, given the overview nature of this study. But the richness of the NESS—which has annual calendar data for household transitions from birth to age 18 and from age 18 to the present—allows for closer examination of many of these questions.

It is worth noting, however, that the differences between the different groups evaluated here would be to state something that is empirically inaccurate. Minimally, the population-based estimates presented here suggest that a good deal more attention must be paid to the real diversity among gay and lesbian parent experiences in America, just as it long has been among heterosexual households. Child outcomes in stable, “planned” GLB families and those that are the product of previous heterosexual unions are quite likely distinctive, as previous studies’ conclusions would suggest. Yet as demographers of gay and lesbian America continue to note—and as the NESS reinforces—planned GLB households only comprise a portion (and an unknown one at that) of all GLB households with children.

It is also worth noting that the differences between those from failed heterosexual unions, the former still exhibits a diminished context of kin altruism (like adoptions when compared with married, biological parenting (Miller et al., 2000)). In short, if same-sex parents are able to raise children with no differences, despite the kin distinctions, it would mean that same-sex couples are able to do something that heterosexual couples in step-parenting, adoptive, and cohabiting contexts have themselves not been able to do—replicate the optimal childrearing environment of married, biological-parent homes (Moore et al., 2002). And studies focusing on parental roles or household divisions of labor in planned GLB households (and those that fail to reveal—because they have not measured it—how their children fare as adults).

The bottom line is that the NESS’s sample of children of lesbian mothers and those with a gay father do not always exhibit comparable outcomes in young adulthood. While the sample size of gay fathers in the NESS was modest, any monolithic ideas about same-sex parenting experiences in general are not supported by these analyses.

Appendix A (continued)

	NFSS 2011, N = 941 (18-23)	NSYR 2007-2008, N = 2,520 (18-23)	NFSS 2011, N = 1,123 (24-32)	Add Health 2007-2008, N = 1,701 (24-32)	NFSS 2011, N = 2,988 (18-39)	NSFG 2006-2010, N = 3,631 (18-39)	CPS ASEC 2011 N = 5,788 (18-39)
Age							
18-23					28.9	28.6	28.2
24-32					41.2	40.6	42.1
33-39					29.9	30.9	29.8
Race/ethnicity							
White, NH	54.2	68.3	60.2	69.2	57.7	61.6	59.6
Black, NH	11.0	15.0	13.0	13.2	12.6	13.3	13.2
Hispanic	24.9	11.2	20.7	10.8	20.8	18.6	19.5
Other (or multiple), NH	10.0	5.5	6.2	4.2	8.9	6.5	7.8
Region							
Northeast	18.9	11.8	16.5	17.5	17.6	17.5	17.5
Midwest	18.7	25.6	23.3	21.1	21.1	21.2	21.2
South	34.3	39.1	39.6	36.7	36.7	37.0	37.0
West	28.2	23.5	20.6	24.6	24.6	24.4	24.4
Mother's education (BA or above)	28.4	33.3	24.6	21.9	25.3	22.2	
Respondent's education (BA or above)	5.3	3.8	33.7	30.0	26.5	24.2	
Household income (current)							
Under \$10,000	21.0	9.7	9.7	5.6	11.9	9.5	5.7
\$10,000-19,999	13.3	7.4	9.1	6.9	9.2	13.1	7.4
\$20,000-29,999	11.6	10.3	10.3	10.1	10.5	13.5	9.5
\$30,000-39,999	8.0	11.0	11.0	11.1	9.6	13.4	9.4
\$40,000-49,999	6.5	12.8	12.8	11.8	9.9	8.5	9.1
\$50,000-74,999	14.9	22.3	22.3	24.3	19.2	19.5	20.3
\$75,000 or more	24.7	24.9	24.9	30.2	29.8	22.7	38.6
Ever had sex	66.5	75.6	90.6	93.9	85.6	91.2	
Never been married	89.3	92.8	45.7	50.0	51.7	52.3	54.4
Currently married	8.0	6.9	44.9	44.6	40.6	39.2	37.9
Church attendance							
Once a week or more	18.4	20.2	22.1	16.0	22.3	26.2	
Never	32.3	35.6	31.2	32.1	31.7	25.8	
Not religious	21.1	24.7	22.5	20.2	22.0	21.7	
Self-reported health							
Poor	1.8	1.5	1.0	1.2	1.5	0.7	
Fair	8.4	9.2	11.0	7.9	10.7	5.3	
Good	28.7	26.7	37.6	33.5	33.9	24.9	
Very Good	39.6	37.5	35.7	38.2	37.3	40.9	
Excellent	21.5	25.2	14.8	19.1	16.7	28.3	
Never drinks alcohol	30.5	21.9	22.4	26.1	25.4	18.7	

Although the NFSS offers strong support for the notion that there are significant differences among young adults that correspond closely to the parental behavior, family structures, and household experiences during their youth, I have not and will not speculate here on causality, in part because the data are not optimally designed to do so, and because the causal reckoning for so many different types of outcomes is well beyond what an overview manuscript like this one could ever purport to accomplish. Focused (and more complex) analyses of unique outcomes, drawing upon idiosyncratic, domain-specific conceptual models, is recommended for scholars who more closely assess the information that the NFSS provides. The NFSS does not, however, address the question of whether the outcomes that are associated with growing up with a lesbian mother or gay father causes suboptimal outcomes because of the sexual orientation or sexual behavior of the parent; rather, my point is more modest: the groups display numerous, notable distinctions, especially when compared with young adults whose biological mother and father remain married.

There is more that this article does not accomplish, including closer examinations of subpopulations, consideration of more outcomes and comparisons between other groups, and stronger tests of statistical significance—such as multiple regression with more numerous independent variables, or propensity score matching. That is what the NFSS is designed to do, and it does it well. The NFSS is a landmark study that provides a more significant share of children from planned gay parent strengths and abilities. Future studies would optimally include a more significant share of children from planned gay families, although their relative scarcity in the NFSS suggests that their appearance in even much larger probability samples will remain infrequent for the foreseeable future. The NFSS, despite significant efforts to randomly over-sample such populations, nevertheless was more apt to survey children whose parents exhibited gay and lesbian relationship behavior after being in a heterosexual union. This pattern may remain more common today than many scholars suppose.

5. Conclusion

As scholars of same-sex parenting apply more, same-sex couples have and will continue to raise children. American courts are finding arguments against gay marriage decreasingly persuasive (Rosenfeld, 2007). This study is intended to neither undermine nor affirm any legal rights concerning such. The tenor of the last 10 years of academic discourse about gay and lesbian parents suggests that there is little to nothing about them that might be negatively associated with child development, and a variety of things that might be uniquely positive. The results of analyzing a rare large probability sample reported herein, however, document numerous, consistent differences among young adults who reported maternal lesbian behavior (and to a lesser extent, paternal gay behavior) prior to age 18. White previous studies suggest that children in planned GLB families seem to fare comparatively well, their actual representativeness among all GLB families in the US remains unclear.

Although the findings reported herein may be explicable in part by a variety of forces uniquely problematic for child development in lesbian and gay families—including a lack of social support for parents, stress exposure resulting from persistent stigma, and modest or absent legal security for their parental and romantic relationship statuses—the empirical claim that no notable differences exist must go. While it is certainly accurate to affirm that sexual orientation or parental sexual behavior need have nothing to do with the ability to be a good, effective parent, the data evaluated herein using population-based estimates drawn from a large, nationally-representative sample of young Americans suggest that it may affect the reality of daily experiences among a significant number of young adults. Do these findings suggest that growing up with a lesbian mother or gay father is uniquely problematic for children? No, if we observe the many anecdotal accounts with which all Americans are familiar. Moreover, there are many cases in the NFSS where respondents have proven resilient and prevailed as adults in spite of numerous transitions, be they death, divorce, additional or diverse romantic partners, or remarriage. But the NFSS also clearly reveals that children appear most apt to succeed well as adults—on multiple counts and across a variety of domains—when they spend their entire childhood with their married mother and father, and especially when the parents remain married to the present day. Insofar as the share of intact, biological mother/father families continues to shrink in the United States, as it has, this portends growing challenges within families, but also heightened dependence on public health organizations, federal and state public assistance, psychotherapeutic resources, substance use programs, and the criminal justice system.

Appendix A. Comparison of weighted NFSS results with parallel national survey results on selected demographic and lifestyle variables, US adults (in percentages)

	NFSS 2011, N = 941 (18-23)	NSYR 2007-2008, N = 2,520 (18-23)	NFSS 2011, N = 1,123 (24-32)	Add Health 2007-2008, N = 1,701 (24-32)	NFSS 2011, N = 2,988 (18-39)	NSFG 2006-2010, N = 3,631 (18-39)	CPS ASEC 2011 N = 5,788 (18-39)
Gender							
Male	52.6	48.3	47.3	50.6	49.4	49.8	50.4
Female	47.4	51.7	52.8	49.4	50.6	50.2	49.6

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