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House Judiciary Committee**October 25, 2023****House Bills 5207 – 5215: Support**

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

The ACLU of Michigan supports the Michigan Family Protection Act and accompanying bills, HB 5207 - 5215, and respectfully requests that you pass this important bill package. For more than 20 years, the ACLU of Michigan's LGBTQ+ Project has advocated for the advancement of equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) families and those who wish to form them.

The Michigan Family Protection Act is a critically important bill that will modernize parentage laws in Michigan, ensuring that all Michigan children have equal access to legal parent-child relationships regardless of the circumstances of their birth or the marital status, gender, or sexual orientation of their parents. This bill package is central to the security and well-being of children, especially those conceived through assisted reproduction and surrogacy. It ensures a clear path for securing legal parentage of children conceived by assisted reproduction and surrogacy including a streamlined process for courts to issue a pre- or post-birth parentage order confirming the legal parent-child relationship.

Legal parentage provides the foundation for stability, security, and permanency for children, all of which are critical for healthy child development. When there is a legal parent-child relationship, there is also a right to physical custody, medical, educational, and legal decision-making, and the ability to visit a child in the hospital to provide comfort and support. Parentage ensures the parent-child relationship can endure even if parents separate or if one parent passes away. Children gain important rights and benefits such as eligibility for health insurance through a parent, child support, and more.

The main bill, HB 5207, addresses a long-standing need for legal updates regarding assisted reproduction. Michigan law concerning assisted reproduction is out-of-date and out-of-step with trends around the country. Many states around the country, including New Mexico, North Dakota, Nevada, Vermont, and Maine, have updated their assisted reproduction statutes to expressly protect children regardless of the marital status of their parents. Currently, Michigan law addresses only the parentage of children born to married couples through assisted reproduction. This leaves children born to unmarried couples and single people extremely vulnerable. HB 5207 addresses this gap by codifying that an individual who consents to assisted reproduction according to the Act's provisions with the intent to parent is the child's parent regardless of their marital status.

In a recent Michigan Supreme Court case, *Pueblo v. Haas*, Justice Kyra Harris Bolden wrote a concurring opinion encouraging the state Legislature to resolve lingering issues in how existing laws relating to marriage, unmarried parenting, and assisted reproduction fit with the realities of same-sex parenting. The Legislature should answer these questions, and the answer should be to adopt the Michigan Family Protection Act and accompanying bills.

With respect to surrogacy, the Michigan Family Protection Act addresses a dire need in Michigan. Michigan's 40-year-old law criminalizes compensated surrogacy, making Michigan the only remaining state with a broad criminal ban on surrogacy. Other states that had similar approaches to surrogacy have repealed their broad criminal bans and replaced them with statutes like those proposed in this bill that provide clarity, guidance, and protection. Michigan should join other states in providing a clear legal framework that addresses and protects the interests of all parties involved and ensures that children born through surrogacy have legally protected parent-child relationships. The Michigan Family Protection Act provides clear standards for all parties in a surrogacy arrangement—children, parents, and surrogates. It allows for efficient determination of parentage, protecting otherwise vulnerable children. It provides parents with clear guidelines for how to add to their families in a legal manner. It gives surrogates the power to make their own healthcare decisions and receive just remuneration.

The American Bar Association has recognized that LGBTQ+ individuals who desire to have and raise children encounter “state-sanctioned discrimination,” including the denial of parental rights to nonbiological parents. LGBTQ+ people across the country are raising children and seeking to become parents, including in Michigan. A national study conducted by the Family Equality Council showed that 63% or up to 3.8 million LGBTQ+ millennials are considering expanding their families in the coming years and in 2019, 21% of LGBTQ+ individuals over the age 25 were raising children¹. Data suggests that LGBTQ+ people are and will continue to form families and, without statutory intervention, will continue to experience discrimination that unjustly restricts their ability to form or protect their families and causes great harm to children.

The vulnerability families and children face in Michigan is particularly concerning given the increasingly hostile environment that LGBTQ+ families and individuals face throughout the United States. In 2022 and 2023 alone, courts in Idaho, Pennsylvania, and Oklahoma have stripped children of their non-birth LGBTQ+ parent.

As attacks on LGBTQ+ individuals and families increase across the country, it is imperative that Michigan does all it can to protect LGBTQ+ families and their children. Passing the Michigan Family Protection Act is a major step the Legislature can take to protect its citizens. For these reasons, we respectfully request you support the Michigan Family Protection Act.

Sincerely,

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¹ Family Equality (2019) LGBTQ Family Building Survey. <https://www.familyequality.org/fbs> (October 24, 2023)