

# Dept. of Justice: AG Kaul & 23 AGs defend nondiscrimination laws and the rights of same-sex couples to be foster parents

Posted on Thursday, Aug 20, 2020

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

MADISON, Wis. – Attorney General Josh Kaul and 23 attorneys general [filed a brief](#) with the U.S. Supreme Court in support of the City of Philadelphia’s nondiscrimination law and the right of same-sex couples to be foster parents (*Fulton v. City of Philadelphia, Pennsylvania*, No. 19-123).

The brief argues that Philadelphia is entitled to require its own publicly contracted foster care agencies to follow the City’s nondiscrimination law and consider all qualified families seeking to care for children in need, without regard to prospective foster parents’ race, religion, or sexual orientation.

“If successful, this challenge would harm foster care services and allow for discrimination,” said Attorney General Kaul. “LGBTQ folks who want to be foster parents should be applauded for supporting kids, not discriminated against.”

The [amicus brief](#) supports the City and its nondiscrimination policy in a lawsuit brought by a city contractor seeking to be exempt from the policy because of its religious objection to considering same-sex couples as prospective foster care parents. In 2019, the three-judge panel of the Third Circuit unanimously rejected the foster care provider’s arguments that the First Amendment requires granting such exemptions.

The brief argues that the government is entitled to pursue policies that best serve its residents’ needs in providing government-funded services, including policies that

prohibit discrimination to provide vulnerable children with as many opportunities as possible to find loving homes. The brief argues that such requirements do not violate private contractors' rights to free exercise of religion or free speech, because the nondiscrimination requirements apply only to the work such organizations choose to undertake as government contractors, and private organizations remain free to exercise their beliefs and rights to free speech outside the scope of that work.

The states, the brief argues, share an interest in ensuring that all their residents have equal access to government services, including foster care services provided by government contractors. "To ensure the welfare of every child in state custody, we welcome all qualified prospective foster parents who volunteer to open their homes, including LGBTQ individuals and same-sex couples," the brief reads. According to the brief, nondiscrimination policies like Philadelphia's are critical to the states in carrying out their obligations to vulnerable children, as they ensure the deepest possible pool of welcoming foster families while preventing the grave harms caused by discrimination against prospective foster families.

Joining the brief were attorneys general from California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wisconsin as well as the District of Columbia.

Press

release: <https://www.doj.state.wi.us/news-releases/ag-kaul-23-ag-defend-nondiscrimination-laws-and-rights-same-sex-couples-be-foster>