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# Assessing the History of Exaggerated Estimates of the Number of Children Being Raised by Same-Sex Parents as Reported in Both Legal and Social Science Sources

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# Assessing the History of Exaggerated Estimates of the Number of Children Being Raised by Same-Sex Parents as Reported in Both Legal and Social Science Sources

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## ABSTRACT

*A variety of sources, including news reports, between 1979 and 1987 provided estimates of as many as 14 million children being raised by same-sex parents in the United States. Although most of these early estimates were unsubstantiated, such estimates were accepted as accurate, and were cited in over eighty legal journals or law reviews, as well as in over sixty social science or medical journals or book chapters. Some scholars argued that as many as 28 million children were being raised by same-sex parents, nearly forty percent of all children in the United States. The distribution of the number of citations over time appears to be similar for legal and social science journals, though the peak year group (1996–2000) for social science journals featured eighteen citations compared to twenty-three citations for the peak year group (2001–2005) for legal journals. After the peak year group, citations regarding millions of children being raised by same-sex parents have declined. Recently, articles critical of the higher estimates have appeared more frequently in both legal and social science journals, especially in the past ten years. Nevertheless, estimates in the millions of children were cited as valid as recently as 2012–2015 in both legal and social science journals or other academic sources.*

## I. INTRODUCTION

Schumm and Crawford have discussed a number of methodological problems often observed in research on same-sex marriage and parenting.<sup>1</sup> One of these problems is the widespread acceptance of

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1. W. R. Schumm & Duane W. Crawford, *Violations of Procedural Fairness in Social Science Research: The Case of Same-Sex Marriage and Parenting*, 6 INT'L J. JURISPRUDENCE & FAM.

very inaccurate estimates of the number of children being raised by same-sex parents in the United States, estimates that could run as high as 28 million, even though that number would account for nearly forty percent of all children in the United States.<sup>2</sup> Estimates of the number of children being raised by same-sex parents, though exaggerated, have been presented to U.S. courts as legitimate, having been cited in numerous legal and social science journals.<sup>3</sup> For example, in *Baker v. Vermont* (1999) the Vermont Supreme Court appeared to accept an estimate of 1.5 to 5 million children living with their lesbian mothers.<sup>4</sup>

An estimate of 14 million children being raised by same-sex parents first appeared in a *USA Today* newspaper report.<sup>5</sup> An estimate of 8–10 million children first appeared in a Family Law Reporter discussion of a meeting at the annual conference of the American Bar Association.<sup>6</sup> Estimates of between one and seven million children being raised by same-sex parents may have first appeared in three 1979 reports.<sup>7</sup> Patterson and Friel indicated that previous estimates

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68 (2015). See also Walter R. Schumm, *Intergenerational Transfer of Parental Sexual Orientation and Other Myths*, 4 INT'L J. JURISPRUDENCE & FAM. 267 (2013); Walter R. Schumm, *Navigating Treacherous Waters—One Researcher's 40 Years of Experience with Controversial Scientific Research*, 4 J. COMP. PSYCHOL. 24 (2015); Walter R. Schumm, *Sarantakos's Research on Same-Sex Parenting in Australia and New Zealand: Importance, Substance, and Corroboration with Research from the United States*, 4 J. COMP. PSYCHOL. 16 (2015).

2. See FEDERAL INTERAGENCY FORUM ON CHILD AND FAMILY STATISTICS, AMERICA'S CHILDREN: KEY NATIONAL INDICATORS OF WELL-BEING (2015). See TABLE POP1 CHILD POPULATION NUMBER OF CHILDREN (IN MILLIONS) AGES 0–17 IN THE UNITED STATES BY AGE, 1950–2014 AND PROJECTED 2015–2050, available at <http://childstats.gov/AmericasChildren/tables/pop1.asp?Popup=true> (last visited Jan. 5, 2016) for estimates of the number of children in the United States, which ranged between 62.5 million in 1984 to 73.6 million in 2014, with a peak of 74.1 million in 2008–2010. See also Janice Selekmán, *Homosexuality in Children and/or their Parents*, 33 PEDIATRIC NURSING 453, 454, (2007). Selekmán stated that “there are 6–14 million parents in the U.S. who are gay or lesbian” which would imply, assuming one to two children per parent, as many as 6–28 million children of gay or lesbian parents in the United States. Dividing 74.1 million by 28 million yields 37.8 percent.

3. Schumm & Crawford, *supra* note 1, at 70 and 82.

4. *Baker v. Vermont*, 744 A.2d 864, 881 (1999) (citing David K. Flaks, Ida Fisher, Frank Masterpasqua, & Gregory Joseph, *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children*, 31 DEV. PSYCHOL. 105, 105).

5. Nancy Peterson, *Coming to Terms with Gay Parents*, USA TODAY, Apr. 30, 1984, at D3.

6. BUREAU OF NATIONAL AFFAIRS, INC., *Reports, Proposals, and Rulings: ABA Annual Meeting Provides Forum for Family Law Experts—Homosexuality and Family Law*, 13 FAM. L. REP. 1512, 1513 (Aug. 25, 1987).

7. Rosalie C. Davies, *Representing the Lesbian Mother*, 1 FAM ADVOC. 21, 21 (1979); Rhonda R. Rivera, *Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States*, 30 HASTINGS L. J. 799, 884 (1979); *Lesbians' Children—The Legal Issues*, 14 PSYCHIATRIC NEWS 23 (Oct. 19, 1979). See also Rhonda R. Rivera, *Our Straight-Laced Judges:*

of the number of children being raised by same-sex parents had *not* been substantiated with valid data, but they argued in favor of the 14 million estimate based on their own particular assumptions and calculations.<sup>8</sup> Eventually, as summarized elsewhere, some research reports began to present estimates of fewer than one million children being raised by same-sex parents, the actual number being around the order of 200,000.<sup>9</sup> Nonetheless, some scholars have continued, recently, to accept the estimate of 14 million children, even attributing the accuracy and source of that estimate to the U.S. Census Bureau.<sup>10</sup>

However, Schumm and Crawford did not report how the number of such citations has changed over time, or whether patterns of such citations differed between legal and social science journals, nor did they compare the patterns of incorrectly estimated citations with patterns of more recent and more accurate estimates, as cited in legal or social science journals.<sup>11</sup> The goal of this report is to seek answers to those open questions. For example, did inaccurate citations occur uniformly over time, or did they rise and then fall over time? Did citations in social science journals precede those in legal journals? Did citations of more accurate estimates occur before or after estimates might have reached their maximum for legal or social science journals? In general, one might expect legal journals to obtain estimates from social science sources, such that the pattern of citations in legal journals would trail citations in social science journals. Likewise, one might expect maximums for legal and social science journals to occur just after scholars began to cite more accurate estimates, declining thereafter.

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*Twenty Years Later*, 50 HASTINGS L. J. 1179 (1999).

8. Charlotte J. Patterson & L. V. Friel, *Sexual Orientation and Fertility*, in INFERTILITY IN THE MODERN WORLD: PRESENT AND FUTURE PROSPECTS 238, 258 (Gillian R. Bentley & C. G. Nicholas Mascie-Taylor, eds., 2000).

9. Schumm & Crawford, *supra* note 1 at 69. See also Gary J. Gates, *Marriage and Family: LGBT Individuals and Same-Sex Couples*, 25 THE FUTURE OF CHILDREN 67, 67 (2015).

10. Victoria L. Kintner-Duffy et al, "The Changers and the Changed": Preparing Early Childhood Teachers to Work with Lesbian, Gay, Bisexual, and Transgender Families, 33 J. EARLY CHILDHOOD TEACH. ED. 208, 208 (2012).

11. Schumm & Crawford, *supra* note 1.

## II. METHODS

### *A. Procedure*

Citations for both higher (1–28 million or more) estimates and lower estimates (under one million) for the number of children being raised by same-sex parents in the United States were taken from the reference section of Schumm and Crawford, which included estimates of 6–14 million children, 8–10 million children, and other estimates of more than one million children, and involved 90 law journal articles, reports, or book chapters and 71 social science or medical journal articles, book chapters, books, or other reports.<sup>12</sup> Four of the law articles and thirteen of the social science or medical articles featured estimates below one million.

### *B. Measurement*

Each of the 161 articles that cited an estimate for the number of children being raised by same-sex parents in the United States was coded by year of publication, year-group of publication (1976–1980, 1981–1985, 1986–1990, 1991–1995, 1996–2000, 2001–2005, 2006–2010, and 2011–2015), and type of publication (legal or social science), as well as the size of the estimate (6–14 million, 8–10 million, more than or equal to one million, and less than one million). Articles that featured a range both below and above one million were counted twice, once in each category (see footnote for articles).<sup>13</sup> The articles that are cited in this report that were not part of the 161 used in the analysis are marked with an asterisk (\*) in the reference section below.

### *C. Analysis*

The first research question was whether the patterns of citation for the legal and social science sources differed significantly as assessed by year-group versus citation counts for each type of article

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12. *Id.*

13. Gates, *supra* note 9. See also Saralie B. Pennington, *Children of Lesbian Mothers*, in GAY AND LESBIAN PARENTS 58, 58–74 (Frederick W. Bozett, ed., 1987); Scott Weber, *Nursing Care of Families with Parents Who Are Lesbian, Gay, Bisexual, or Transgender*, 23 J. CHILD ADOLESCENT PSYCHIATRIC NURSING 378 (2010).

(legal versus social science), using a chi-square test to assess independence (Chi-square tests compare expected and observed counts of cases in two-by-two or larger tables, allowing for a test of statistical significance if the variations are beyond what would be expected by random chance if there are no actual differences among the cells of the table). The first question was whether to use either (1) all sources and (2) only those sources with higher estimates of the number of children with same-sex parents. The second research question was whether the year-group pattern for the articles with estimates under one million differed from the patterns for the social science and legal sources, also assessed by a chi-square test for independence. A third research question was whether the average year of publication and the standard deviations for year(s) of publication would differ across the three types of sources using a one-way analysis of variance predicting year of publication from type of source (legal, social science, and low estimate sources).

### III. RESULTS

The raw results for the first two research questions are presented in Table 1. There was no statistically significant difference ( $p = .607$ ) in year-group differences as a function of legal versus social science sources, using a chi-square test, among the earlier year groups; however, adding the last year group (2011–2015) led to a significant chi-square test = 18.4 ( $df = 7, p = .010$ ) because over 84% of the sources in the most recent year group were social science sources compared to the overall rate of 44% social science sources. It appears that legal sources “dropped off” recently in terms of discussing issues of the number of children of same-sex parents. Comparing year groups across legal versus social science sources with higher estimates of the number of children of same-sex parents (excluding the low estimate sources) yielded a non-significant chi-square test ( $p = .154$ ). Comparing the year-groups for those sources with estimates under one million children versus the combined group of legal and social science sources with higher estimates did yield a significant chi-square test = 29.7 ( $df = 7, p < .001$ ). Thus, cross-tabulations (Table 1) indicated that the publication timing patterns tended to be earlier in time for the legal and social science sources with higher estimates, while sources with lower estimates were mainly from the most recent year-groups. In particular, in the most recent year group (2011–2015)

over 42% of the sources cited fewer than a million children of same-sex parents compared to the overall average of 11% of the articles.

The one-way analysis of variance (a test that evaluates statistical significance across mean scores on an outcome variable associated with each category of the predictor variable) was statistically significant, with  $F(2, 158) = 12.6$  ( $p < .001$ ). The more robust and conservative (i.e., it provides an accurate test of statistical significance even when the standard deviations associated with each category of the predictor variable are unequal and when the number of cases for each category of the predictor variable differ) Welch test was also significant, with  $F(2, 50.00) = 16.3$  ( $p < .001$ ). The average year of publication for legal sources (1998.0,  $SD = 8.08$ ) was not significantly different from the average year of publication for the social science sources (1999.1,  $SD = 8.52$ ) by either an LSD post hoc test or a Scheffe post hoc test (both of these post hoc tests compare any two categories of the predictor variable in terms of the outcome, similar to  $t$ -tests). The test for homogeneity of variance across the three groups was not significant ( $p = .584$ ). However, the average year of publication for the low estimate articles (2008.5,  $SD = 6.95$ ) was significantly ( $p < .05$ ) different from both the legal and social science source average years of publication by both LSD and Scheffe post hoc tests. It is interesting that by the time more accurate estimates of the number of children being raised by same-sex parents were being reported, the citations for the higher estimates had already peaked and were occurring less often. A significantly higher percentage of social science (19.7%) sources reported estimates of less than one million children than did legal sources (4.4%), by a chi-square test = 9.32 ( $df = 1, p = .002$ ).

#### IV. DISCUSSION

Contrary to our speculations, the trends over time for the legal and social science sources (with estimates of more than one million children of same-sex parents) did not differ significantly by year-groups. The pattern of citations over time appeared to be similar for both legal and social science sources among the higher estimate sources, both peaking in two year-groups (1996–2005). Both law and social science sources featured cases dating to 1980 or earlier, as well as cases dating 2011 or later. The peak number of citations (39) in the year-group 1996–2000 was eighteen for social science sources and twenty-one for legal sources. Sources that provided lower estimates



for the number of children being raised by same-sex parents occurred significantly later in time, averaging nearly nine or ten years later than the social science sources with estimates of one or more million children. All three groups had similar distributional patterns in terms of spread (standard deviations were not significantly different, while if kurtosis differed it was only between that for the critical articles versus the other two groups).<sup>14</sup>

The peaks occurred for both social science and legal sources before the average year of publication of the studies citing lower estimates of the number of children of same-sex parents, which suggests that scholars may have begun to doubt the accuracy of the higher estimates before it became more common to see citations reflecting the lower, though more correct, estimates. Perhaps, some of the earlier, lower estimates had a relatively large impact on the fields of law and social science, bringing down the number of exaggerated estimates fairly quickly. Nevertheless, exaggerated estimates continued to be published, despite a number of far lower estimates being mentioned in both legal and social science sources, although lower estimates were more common among social science sources, especially in the most recent year-group. In other words, to some extent the higher estimates died off rapidly; at the same time they did not die off completely in spite of newer, better estimates becoming more common, especially among social science sources. Ultimately, in *Obergefell v. Hodges*, the U.S. Supreme Court accepted the lower estimates.<sup>15</sup> However, earlier, courts had accepted much higher estimates of the number of children being raised by same-sex parents.<sup>16</sup>

It would appear that the peak years for citations of the higher estimates of children being raised by same-sex parents occurred about the time of some of the earliest court decisions (e.g., *Baker v. Vermont*)<sup>17</sup> concerning same-sex marriage, almost as if the scholars were stacking the deck with evidence that would support a perceived need for same-sex marriage to help the many millions of children estimated to be involved with same-sex couples who might potentially marry, if it were legal. Was this a matter of “the ends justify the means” in terms of using very inflated estimates to help bring about favorable

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14. Lawrence T. DeCarlo, *On the Meaning and Use of Kurtosis*. 2 PSY. METHODS 292.

15. *Obergefell v. Hodges*, 135 S. Ct. 1039, No. 14-556, slip op. at 15 (2015).

16. Schumm & Crawford, *supra* note 1, at 70.

17. *Baker v. Vermont*, 744 A.2d. 864 (Vt. 1999).

court decisions regarding same-sex marriage.<sup>18</sup> Our results cannot explain the reasons for the patterns or the motivation of the authors of the legal or social science journals or other sources. Legal sources of the estimates of the number of children of same-sex parents appear to have been more reluctant to report lower estimates than were social science sources, especially in more recent years. However, the apparent widespread acceptance of impossibly high estimates of the numbers of children potentially affected by changes in the legal status of same-sex marriage may have helped change public opinion in a major direction in favor of same-sex marriage, a change noted elsewhere.<sup>19</sup>

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18. John C. Eastman, *Cheating Marriage: A Tragedy in Three Acts*, 13 AVE MARIA. L. REV. 281, 281–82 (2015).

19. Dawn M. Baunach, *Changing Same-Sex Marriage Attitudes in America from 1988 through 2010*, 76 PUB. OPINION. Q. 364.

Another early law review cited two other law reviews for evidence that there were 1.5 million to 5 million lesbian mothers in the United States. See Rhonda R. Rivera, *Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States*, 30 HASTINGS L.J. 799, 883 (1979) (citing Nan D. Hunter & Nancy D. Polikoff, *Custody Rights of Lesbian Mothers: Legal Theory and Litigation Strategy*, 25 BUF. L. REV. 691, 691 (1976) estimating “well over 1.5 million lesbian mothers in this country”); Marilyn Riley, Note, *The Avowed Lesbian Mother and Her Right to Child Custody: A Constitutional Challenge That Can No Longer Be Denied*, 12 SAN DIEGO L. REV. 799, 820 (1975) (stating “[n]evertheless the number of Lesbian mothers in this country can be estimated” but without providing a numerical estimate in the article).

Rivera, *supra* note 18, at 883, assumed that “each mother has an average of two children” and therefore estimated at 883–84 that “according to the most conservative estimate, that 1.5 million lesbian women are mothers, approximately three million children may have lesbian mothers. There are lower estimates on the number of gay fathers.” Of course, by a less conservative estimate, Rivera might have argued for ten million children of lesbian mothers, not including children of gay fathers. For example, Elizabeth Zuckerman stated, citing Rivera (1979), that “if each lesbian mother has an average of two children, 3 to 10 million children have at least one lesbian parent.” See Elizabeth Zuckerman, Comment, *Second Parent Adoption for Lesbian-Parented Families: Legal Recognition of the Other Mother*, 19 U.C. DAVIS L. REV. 729, 746 n.101 (1986). However, Rivera’s law journal article may have been cited less often, at least in social science journals for estimates of children of same-sex parents than her brief report elsewhere. See *Lesbians’ Children—The Legal Issues*, 14 PSYCHIATRIC NEWS 23 (1979).

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## APPENDIX I

NUMBER OF CITATIONS INVOLVING ALLEGED MILLIONS OF CHILDREN BEING RAISED BY SAME-SEX PARENTS IN LEGAL AND SOCIAL SCIENCE JOURNALS.

Number of Citations in Journals:

Years of Publication	Law	Social Science
1975–1980	4	1
1981–1985	2	2
1986–199010	7	(1)
1991–1995	12	10
1996–2000	21	18
2001–2005	23(4)	8(2)
2006–2010	15	9(3)
2011–2015	3	16(8)
TOTALS	90(4)	71(14)

NOTE: Numbers in parentheses reflect the number of citations in each year group that estimated fewer than a million children were being raised by same-sex parents.

YEAR	LAW	SOCIAL SCIENCE/MEDICAL
1975–1980	Davies (1979) Rivera (1979, law article) Sutton (1980) Hunter & Polikoff (1976)	Rivera (1979, Psy. News)
1981–1985	Clemens (1984) Wittlin (1983)	Hoefffer (1981) McGuire and Alexander (1985)
1986–1990	Zuckerman (1986) Editors of HLR (1989)	Bozett (1987a, book chapter)

	<p>Editors of HLR (1990)  Kleber et al. (1986)  Lundy (1986)  Polikoff (1990)  Rivera (1987, chapter)  Wishard (1989)  Falk (1989)  BNA (1987)</p>	<p>Bozett (1987b, book chapter)  DiLapi (1989)  Pennington (1987)(CRITIC)  Pennington (1987)(higher as well)  Gottman (1989)  Turner et al. (1990)</p>
1991–1995	<p>Costello (1992)  Cox (1994)  Damslet (1993)  Davies (1995)  Flaks (1994)  Henson (1994)  King (1995)  Peltz (1995)  Pooley (1993)  Robson (1994)  Rubinfeld (1994)  Wolfson (1991)</p>	<p>Allen &amp; Demo (1995)  Bozett (1993)  Buxton (1994, book)  Flaks et al. (1995)  Green &amp; Bozett (1991, chapter)  Hare (1994)  Koepke et al. (1992)  Martin (1993, book)  Patterson (1992)  Patterson (1995, chapter)</p>
1996–2000	<p>Adams (1996)  Brunner (1999)  Christensen (1998)  Emnett (1997)  Hernandez (1999)  Kendell (1996)  Kendell (1997)  Kelly (1997)  Lin (1999)  Markey (1998)  Maxwell et al. (2000)  Robb (1997)  Runnette (1996)  Ruskola (1996)</p>	<p>Ahmann (1999)  Ariel &amp; McPherson (2000)  Berger (2000)  Bolte (1998)  Buxton (1999, book chapter)  Casper &amp; Schultz (1999, book)  Dundas &amp; Kaufman (2000)  Eisold (1998)  Laird (1996)  Kozik-Rosabal et al. (2000)  Mallon (2000)  Maney &amp; Cain (1997)</p>



	Shapiro (1996) Spitko (1999) Tobisman (1997) Toussaint (1997) Velte (2000/2001) Vetri (1998) Young (1997)	O'Dell (2000) Patterson & Friel (2000) Patterson & Redding (1996) Silverstein & Auerbach (2000) Spock & Parker (1998) VanVoorhis & McClain (1997)
2001–2005	Battaglioli (2005) Bell (2001) Bush (2001) David (2005) Davis (2002) Gesing (2004) Jacobs (2002) Kubasek et al. (2004) Lilith (2001a) Lilith (2001b) Mabry (2005) Manternach (2005) Marzano-Lesnevich & Moskowitz (2005) Minnaert & Tai (2002) Osborne (2004) Sealing (2001) Sheldon (2001) Tomizuka (2002) Tye (2003) Wardle (2004a)(CRITIC) Wardle (2004b)(CRITIC) Wardle (2005)(CRITIC)	Adams et al. (2004) Brooks and Goldberg (2001) Cameron (2004)(CRITIC) Gomes (2003) Lamme & Lamme (2002) Meezan & Rauch (2005)(CRITIC) Perrin et al. (2002) Stacey & Biblarz (2001)

	Weiser (2004)(CRITIC)	
2006– 2010	Black (2006) Blair (2006) Buethe (2006) Byrn (2007) Daar (2008) Joslin (2009) Joslin (2010) Maurer (2006) New (2006) Nilsson (2006) Parness (2006) Ritschel-Smith (2009) Rohrbaugh (2006) Trast (2006) Vecchio (2008)	Bos et al. (2008) Ethics Committee (2009) Gates (2008, chapter)(CRITIC) Mezey (2008, book) Pawelski et al. (2006) Selekman (2007) Weber (2010a)(CRITIC) Weber (2010b)(CRITIC) Weber (2010b)(also higher)
2011– 2015	Blake (2011) Scott (2012) Strasser (2011)	Allen (2013)(CRITIC) Baiocco et al. (2015) Biblarz, et al. (2014)(CRITIC) Brewster et al. (2014)(CRITIC) Cacciatore & Raffo (2011) Compton (2013)(CRITIC) Gates (2013, book)(CRITIC) Gates (2015a, book)(CRITIC) Gates (2015b)(CRITIC) Gates (2015b)(not lower as well) Hart et al. (2012) Kintner-Duffy et al. (2012) Raley (2013) Welsh (2011) Williams (2012)

		Miller & Price (2014)(CRITIC)
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