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IN THE MICHIGAN SUPREME COURT
Appeal from the Michigan Court of Appeals
Gleicher, P.J., K.F. Kelly, and Riordan, JJ.

CARRIE PUEBLO,

Petitioner/Plaintiff,

v.

RACHEL HAAS,

Respondent/Defendant.

_____/

Supreme Court No. 164046

Court of Appeals No. 357577

Ingram County Circuit
No. 2020-006382-DC

BRIEF OF *AMICUS CURIAE*
NATIONAL ASSOCIATION OF SOCIAL WORKERS
INCLUDING ITS MICHIGAN CHAPTER

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INTEREST OF *AMICUS CURIAE*[1]

The National Association of Social Workers ("NASW"), established in 1955, is the largest association of professional social workers in the world, with approximately 110,000 members and chapters throughout the United States. The Michigan Chapter of NASW has more than 5,000 members. With the purpose of developing and disseminating standards of social work practice while strengthening and unifying the social worker profession as a whole, NASW provides continuing education, enforces the NASW Code of Ethics, conducts research, publishes books and studies, promulgates professional standards and criteria, and develops policy statements on issues of importance to the social work profession. Consistent with its published policy statements, NASW supports protecting the familial attachments between LGBT couples and their children and recognizes that these familial relationships are of the same strength, depth, and importance to the healthy development of children as the relationships of opposite-sex couples and their children.

NASW is committed by its policies and Code of Ethics to advance policies and practices that will improve the lives of all children, including those raised in same-sex-parent families. For that reason, NASW, including its Michigan Chapter, submits this brief to provide the Court with critical information regarding attachment parenting, for the benefit of the child who is the subject of this lawsuit and all similarly situated children in Michigan. To this end, this *amicus curiae* hopes to inform the Court about key social science research supporting the importance of attachment bonds to a child's healthy development, regardless of the biological or legal status of the parental caregiver, and regardless of the sexual orientation of the parental caregiver. Amicus Curiae similarly seeks to

[1] No portion of this Brief has been authored by any party or counsel to any party in this matter, and no monetary contributions have been received from any party or counsel for any party towards funding the preparation or submission of this brief. No entities or individuals other than amicus curiae and their counsel have made any monetary contributions to the preparation or submission of this brief.

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educate and inform the Court about the impact of removing a child from the care of a parental caregiver and severing the bonds between a child and a parental caregiver. For these reasons, NASW, including its Michigan chapter, files this brief so as to urge the Court to recognize that attachment bonds between children and their parental attachment figures transcend narrow conceptions of legal or biological parentage, and that the State's interest in the wellbeing and psychosocial development of children is best ensured by recognizing such bonds in interpreting relevant law.

SUMMARY OF ARGUMENT

Today, countless children are raised by caregivers who have no biological or adoptive connections with their children. Those caregivers are, in every conceivable way, the children's parents, loving their children and providing vital support and guidance irrespective of the absence of a genetic or formal legal relationship, becoming a *de facto* parent despite the lack of such titles. Social science researchers have long recognized that attachment bonds form and are sustained between children and their non-biological parents or parents who are not recognized as such under existing law. Attachment bonds derive from the close interaction, caretaking, and companionship common to parent-child relationships – traits that may apply equally to all parents regardless of shared DNA or legal status.

It is equally well-established that the formation of such parent-child attachment bonds is central to a child's wellbeing and psychosocial development. Correspondingly, decades of research shows that children will suffer psychological harm and trauma when the attachment bonds they formed with their functional parents are severed. Such disruption of emotional attachment bonds formed between a parent and child is antithetical to the State's interest in promoting the wellbeing and psychosocial development of Michigan's children.

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Ultimately, those findings clarify that an adoptive or biological link is not a significant factor in determining the strength, significance, or integrity of the parent-child bond. Consequently, an individual who has raised a child as a co-parent should be granted the opportunity to seek to preserve that parent-child bond, with the pivotal focus being the welfare and well-being of that child.

STATEMENT OF THE FACTS AND MATERIAL PROCEEDINGS

NASW adopts the Statement of Facts and the discussion of Material Proceedings presented by Appellant Pueblo's Brief on Application for Leave to Appeal.

ARGUMENT

NASW strongly believes that at the heart of any child-custody dispute, the bests interests of the child must prevail. This brief is respectfully submitted in the hope of informing and guiding this Honorable Court as to the relevant studies and developments that relate to the impact which a non-biological, non-adoptive parent will have on a child and the profound negative impact that the destruction of such a relationship may have.

I. SOCIAL SCIENCE RESEARCH CONFIRMS THAT THE FORMATION OF ATTACHMENT BONDS ARE CRITICAL TO A CHILD'S HEALTHY DEVELOPMENT.

An attachment relationship is defined as "a reciprocal, enduring, emotional, and physical affiliation between a child and a caregiver." Beverly James, HANDBOOK FOR TREATMENT OF ATTACHMENT-TRAUMA PROBLEMS IN CHILDREN 2 (1994). Attachment relationships have been recognized for decades to have profound biological, psychological, and social effects on a child's development – a bond which grows stronger as the child gets older. S*ee* Melvin Konner, CHILDHOOD 84–87 (1994). It is through those attachment bonds, irrespective of biological or judicially-decreed connection, that children conceive their "concepts of self, others, and the world." *Id.; see e.g.*, Terry M. Levy & Michael Orlans, ATTACHMENT, TRAUMA AND HEALING 15–16 (2d ed. 2014). In fact, psychological studies have revealed that "[a]ttachment figures are [a

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child's] most trusted companions." Mary A. Ainsworth et al., PATTERNS OF ATTACHMENT: A PSYCHOLOGICAL STUDY OF THE STRANGE SITUATION 20 (1978).

Developmental psychology and neurology research confirms that a child's attachment relationships are the most significant factors in that child's brain development during the period of maximal brain growth. *See* Daniel J. Siegel, THE DEVELOPING MIND: HOW RELATIONSHIPS AND THE BRAIN INTERACT TO SHAPE WHO WE ARE 91–93 (2d ed. 2012). Accordingly, comprehensive studies have shown that:

> [A] child's secure and healthy development depends on having one or more sensitive and responsive attachment figures who can correctly read signals for help, provide comforting support and useful assistance, and help the child learn to understand, appropriately express, and regulate emotions; understand social situations; and acquire important life skills.

Phillip R. Shaver, et al., *What's Love Got To Do With It?*, 16 VA. J. SOC. POL'Y & L. 491 (2009).

Thus, attachment relationships may "create the central foundation from which the mind develops." Siegel, *supra*, at 92; *see* Nat'l Research Council & Inst. of Med., FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT 226 (Jack P. Shonkoff & Deborah A. Phillips eds., 2000) ("[W]hat young children learn, how they react to the events and people around them, and what they expect from themselves and others are deeply affected by their relationships with parents.").

Attachment relationships help children, from a social perspective, "to learn basic trust and reciprocity;" to "explore the environment with feelings of safety and security . . . which leads to healthy cognitive and social development;" and "to create a foundation for the formation of an identity that includes a sense of competency, self-worth, and a balance between dependence and autonomy." Levy & Orlans, *supra*, at 15. Similarly, "[t]hrough a history of consistent and sensitive care with the parent, [a] child develops a model of self and others as lovable and loving/helpful that

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may make him/her comparatively more likely to cope with challenge and stress (e.g., by relying on others for support or guidance)." James G. Byrne et al., *Practitioner Review: The Contribution of Attachment Theory to Child Custody Assessments,* 46 J. CHILD PSYCHOL. & PSYCHIATRY 115, 118 (2005); *see* Levy & Orlans, *supra,* at 15 (attachment relationships help a child "to provide a defense against stress and trauma, which incorporates resourcefulness and resilience"). Attachment relationships also aid children's emotional growth and their development of a belief system. *See id.; see also* Nat'l Research Council & Inst. of Med., *supra,* at 265 (parent-child relationships "shape the development of self-awareness, social competence, conscience, emotional growth and emotion regulation, [and] learning and cognitive growth").

As a result, empirical research demonstrates that secure attachments in childhood are necessary for a child to develop close relationships later in life. *See, e.g.,* W. Andrew Collins & L. Alan Sroufe, CAPACITY FOR INTIMATE RELATIONSHIPS: A DEVELOPMENTAL CONSTRUCTION, THE DEVELOPMENT OF ROMANTIC RELATIONSHIPS IN ADOLESCENCE 125, 127-30 (Wyndol Furman et al., eds., 1999). For instance, one study has shown that "security of attachment in infancy strongly predicted preschool characteristics of self-reliance, effective peer relationships (including empathy and affective engagement), and positive relationships with teachers." *Id.* at 128 (internal citations omitted). In contrast, children without secure attachments "were not only significantly less competent in [peer relationships], but were more aggressive in the classroom." *Id.; see e.g.,* R.P. Fearon et al., *The Significance of Insecure Attachment and Disorganization in the Development of Children's Externalizing Behavior: A Meta-Analytic Study,* 81 CHILD DEV. 435, 436 (2010) (meta-analysis of many attachment studies finds a significant relationship between insecure attachment and aggressive "externalizing" behavior among children); Danielle H. Dallaire & Marsha Weinraub, *Infant-Mother Attachment Security and Children's Anxiety and Aggression at First Grade,* 28 J. APPLIED DEV. PSYCHOL. 477, 489

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(2007) (finding that attachment during infancy helped prevent children from developing anxiety and assisted in their ability to cope with stress in first grade).

II. ATTACHMENT RELATIONSHIPS DEVELOP REGARDLESS OF A BIOLOGICAL OR LEGAL CONNECTION BETWEEN PARENT AND CHILD AND WITHOUT REGARD TO SEXUAL ORIENTATION.

Crucially, the development of an attachment relationship is wholly unrelated to biology or formal judicial processes. *See* Joseph Goldstein, et al., BEYOND THE BEST INTERESTS OF THE CHILD (2D ED. 1979); Joseph Goldstein, *The Best Interests of the Child: The Least Detrimental Alternative* 16 (1996) (describing "[functional parent] relationships that develop outside of placement by formal adoption or by the initial assignment of a child to her biological parents"). Rather it is the *quality* and *nature* of the interaction between the child and their parent, as opposed to any biological connection or legal designation, that creates and sustains the attachment relationship. *See, e.g.,* Ana H. Marty et al., SUPPORTING SECURE PARENT-CHILD ATTACHMENTS: THE ROLE OF THE NON-PARENTAL CAREGIVER, 175 Early Childhood Dev. & Care 271, 273 (2005) ("[T]he quality of [children's] attachment relationships is dependent on the nature of the interactions with their parents or other caregivers."); Nat'l Research Council & Inst. of Med., *supra,* at 234 (explaining that attachment bonds develop with caregivers if they provide "physical and emotional care, continuity or consistency in the child's life, an emotional investment in the child").

Further, the development of an attachment relationship between a non-biological, non-adoptive parent and their child is unaffected by the fact that the parent is in a same-sex relationship with the biological parent. Empirical research overwhelmingly demonstrates that lesbian and gay parents develop just as strong attachments to their children as heterosexual parents do, characterized by the same level of warmth, closeness, and emotional involvement. *See, e.g.*, J. Wainwright & C. Patterson, *Peer Relations Among Adolescents with Female Same-Sex Parents,* 44 DEV.

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PSYCHOLOGY 117, 122 (2008) (adolescents had as warm relationships with same-sex parents as opposite-sex parents); J. Stacey & T. Biblarz, *(How) Does the Sexual Orientation of Parents Matter?*, 66 Am. Sociol. Rev. 159, 176 (2001) (finding that "[l]evels of closeness and quality of parent/child relationships" were the same regardless of sexual orientation). This is unsurprising, as research also confirms that the parenting styles and skills of same-sex parents do not differ from those of heterosexual parents. *See, e.g.*, Am. Acad. of Pediatrics, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 341, 343 (2002) ("[T]he weight of evidence gathered during several decades using diverse samples and methodologies" demonstrates "that there is no systemic difference between gay and non-gay parents in emotional health, parenting skills, and attitudes towards parenting."); Stacey & Biblarz, *supra*, at 176 ("Scores for [lesbian and gay] parenting styles and levels of investment in children are at least as 'high' as those for heterosexual parents.").

Thus, it is clear that the absence of a biological or adoptive link between a parent and a child does not affect the quality or significance of the attachment relationship that develops between them. *See, e.g.,* Anne Brewaeys, et al., *Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families*, 12 HUMAN REPROD. 1349, 1354 (1997) ("Among the lesbian mothers, the quality of the parent-child interaction did not differ significantly between the biological and the [non-biological] mother."); Fiona Tasker, *Lesbian Mothers, Gay Fathers, and Their Children: A Review*, 26 DEV. & BEHAV. PEDIATRICS 224, 230 (2005) ("[D]ata have revealed no differences between children in lesbian-led and children in heterosexual families in terms of the warmth of the child's relationship with their non-biological mother or father."); Stacey & Biblarz, *supra*, at 175 ("[W]omen in every category—heterosexual birth mother, lesbian birth mother, non-biological lesbian social mother—all score about the same" on "measures having to do with the care of children.").

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III. DESTABILIZING A CHILD'S ATTACHMENT RELATIONSHIP RISKS EMOTIONAL HARM TO THE CHILD.

As reflected above, the preservation of the parent-child attachment relationship is essential to the child's continued healthy development and overall well-being. *See, e.g.*, Goldstein, et al., *supra*, at 19–20 (explaining that "[c]ontinuity of relationships is essential for a child's healthy development"); Am. Acad. of Pediatrics, *Developmental Issues for Young Children in Foster Care*, 106 PEDIATRICS 1145, 1145 (2000) (children's "need for continuity with their primary attachment figures" is "paramount"). It can therefore come as no surprise that severing or disrupting the relationship between a child and their parental attachment figure can result in significant harm to the child.

When a child's attachment relationship with their *de facto* parent is cut, the harm can be dramatic. For instance, "[i]t is known that emotional and cognitive disruptions in the early lives of children have the potential to impair brain development." *Id; see* Bruce D. Perry, et al., *Childhood Trauma, the Neurobiology of Adaptation, and "Use-dependent" Development of the Brain: How "States" Become "Traits",* 16 INFANT MENTAL HEALTH J. 271 (1995). From a psychological perspective, the disruption of an attachment relationship can lead a child to question their assumptions about the world, including "whether he or she can count on the availability of *any* parent." William F. Hodges, INTERVENTIONS FOR CHILDREN OF DIVORCE: CUSTODY, ACCESS, AND PSYCHOTHERAPY 8 (2d ed. 1991). Indeed, a child may even "conclude that a parent's absence is due to their own unlovability. Thus, abandonment by a non-custodial parent is a particularly devastating experience." *Id.* at 9.

Not surprisingly, many empirical studies associate "long term harm associated with disrupted attachment [relationships]." Frank J. Dyer, *Termination of Parental Rights in Light of Attachment Theory: The Case of Kaylee,* PSYCHOL. PUB. POL'Y & L. 5, 11 (2004); *see also* Joan

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B. Kelly & Michael E. Lamb, *Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children*, 38 FAM. & CONCILIATION CTS. REV. 2297, 303 (2000) (noting the "substantial literature documenting the adverse effects of disrupted parent-child relationships on children's development and adjustment").

Numerous studies have also identified various behavioral difficulties that arise in young children who have had their attachment relationships disrupted or severed. Some children with "severe detachment disorders" have shown "extreme behavior problems, such as hiding or hoarding food, excessive eating (polyphagia) or drinking (polydipsia), rumination, self-stimulating and repetitive behaviors …, and sleep disturbance." Mark Simms, et al., *Health Care Needs of Children in the Foster Care System*, 106 PEDIATRICS 909, 912 (2000). Other researchers have concluded that parental separation "would be expected to lead to fear/anxiety and accentuate attachment behavior." Byrne, et al., *supra*, at 118.

Moreover, when a child's attachment relationships are terminated, the child may become vulnerable to serious behavioral problems. Nat'l Research Council & Inst. of Med, *supra*, at 265 ("[A]ttachments buffer young children against the development of serious behavior problems, in part by strengthening the human connections and providing the structure and monitoring that curb violent or aggressive tendencies."). In particular, disrupting an attachment relationship can lead to anxiety, aggression, academic problems, and elevated psychopathology. *See, e.g.*, Marty, *supra*, at 274; Byrne, *supra*, at 118.

Particularly relevant to the matter before this Court is research demonstrating that a child, like JPHP, experiences the same "extreme distress" from termination of an attachment relationship even where there is no biological or adoptive connection to the parent—including in cases of same-sex parents. *See, e.g.*, Fiona L. Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY: EFFECTS ON CHILD DEVELOPMENT 12 (1997) ("[R]emoving children whose

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biological mother has died from their sole surviving parent can cause extreme distress, as can the severance of bonds between children and their non-biological mother when the partners break up."); Yvon Gauthier, et al., *Clinical Application of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care,* 25 INFANT MENTAL HEALTH J. 379, 394 (2004) (explaining that children suffer greatly when separated from non-biological parent figures).

Much like the sexual orientation of the parent is immaterial to the positive impacts of attachment relationships, the sexual orientation of the parent is immaterial to the level of disruption suffered by the child. To this end, studies involving children of lesbian parents have found that separation from the parent "can cause [the child] extreme distress." Fiona L. Tasker & Susan Golombok, *supra*; *see also* Martha Kirkpatrick et al., *Lesbian Mothers & Their Children: a Comparative Study,* 51 AM. J. ORTHOPSYCHIATRY 545, 549-50 (1981).

In light of these findings, others have concluded that ''[t]he best interests of the child will be served by preserving the continuity and stability of the child's relationship with both [same-sex] parents." Charlotte J. Patterson, *Children of Lesbian and Gay Parents,* 63 CHILD DEV. 1025, 1037 (1992); *see also* AM. Acad. Of Pediatrics, Policy Statement; *Coparent or Second Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 339, 339 (2002) ("Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex."). The overarching conclusion of years of research is therefore that "children are bonded to both parents, and a legal system that does not recognize the legal rights of both parents is failing to act in the child's best interests." Susanne Bennett, *Is There a Primary Mom? Parental Perceptions of Attachment Bond Hierarchies Within Lesbian Adoptive Families*, 20 CHILD & ADOLESCENT SOC. WORK J 171 (2003).

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Therefore, when determining the best interests of a child, it is appropriate for a court to consider the psychological and economic advantages of the child maintaining legally protected relationships with both of his or her parents.

CONCLUSION

For the foregoing reasons, NASW respectfully urges this Court to consider the comprehensive psychological, medical, and sociological research which demonstrates that the most significant benefits of parent-child relationships come from the enduring reciprocal bonds between children and their caregivers, and that breaking these bonds may cause serious harm to the children.

Dated: March 8, 2023

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WORD COUNT CERTIFICATION

I hereby certify pursuant to Michigan Court Rule 7.212(B) that the word court of the foregoing document, exclusive of the caption, table of contents, table of authorities, and signature block, is 3,189 words.

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