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Virginia must end adoption discrimination

By: Michael Paul Williams – May 21, 2013

Timothy Thomas of Forest always wanted kids, but as a gay man in Virginia he'd put the idea out of his mind. And then, "for some reason I had an epiphany one night that the time was right."

Two years ago, Thomas fulfilled his dream and adopted a 10-year-old boy. His partner of 28 years, Troy Warner, was all in except in one crucial way: State law barred him from being a legal co-parent to Donnie Thomas Warner.

"I wanted to give him Troy's last name in an effort to protect him if something happened to me," Thomas, 49, said Monday.

Last week, Gov. Bob McDonnell launched an initiative to find parents for about 1,000 children eligible for adoption. His "Virginia Adopts" campaign to raise awareness of adoption and foster care is a noble effort undermined by an ignoble state law.

Virginia effectively bars gay and lesbian couples from adopting, since it prohibits same-sex marriage. Single people — heterosexual and homosexual — and married couples may adopt. Unmarried couples may not, regardless of sexual orientation.

Of course, this prohibition is separate and unequal. Heterosexual couples in Virginia have the option of marriage. Gay and lesbian couples do not.

The result is a lingering trepidation in Thomas and Warner's suburban Lynchburg household.

"Legally, Troy is left out of that (adoption) equation," Thomas said. "That needs to change, because I want Troy protected and I want Donnie protected if something were to happen to me. And I think it should be that way for everyone."

As it is, gays and lesbians in Virginia are a largely unprotected class whose civil partnerships remain unrecognized by the state. Thomas worries what would become of his family.

"I can put it in a will and I can say what I want, but I don't know what will happen if I'm not there to fight for it," he said.

"That's my fear: Everything's good ... but if something happens to me, it breaks my heart that (Donnie) could be torn away just because of the state's laws."

This is what happens when public policy is driven by discrimination.

As if the state's codification of adoption bigotry is not enough, it gives taxpayer-funded private agencies the green light to deny child-placement services to prospective parents who don't share the agency's religious beliefs or moral principles. This "conscience clause" was adopted by the legislature and signed into law by McDonnell last year.

The clause is unconscionable.

Virginia has among the highest percentages of youth in the nation who "age out" of the foster care system each year. Such children have a higher chance of being underemployed, undereducated, incarcerated or homeless as adults.

Despite a problem no one denies, joint adoption — not unlike marriage — remains solely between a man and a woman in Virginia.

Virginians looking for a change in such policies cannot be hopeful. McDonnell's adoption drive came on the eve of a Virginia Republican convention that produced one of the most socially conservative tickets in modern Virginia history.

Despite 40 percent of Virginia Republicans — and 56 percent of all registered voters in Virginia — now supporting gay marriage, according to a recent Washington Post poll, "the Virginia GOP nominated three statewide candidates whose views on homosexuality and marriage equality range from unwavering opposition to bigoted to insane," wrote David Boaz, a blogger for the libertarian Cato Institute.

An adoption push should be the safest of political terrain. Who would disagree with the impulse to place children in a nurturing environment? It's a worthy goal that Equality Virginia director James Parrish and Claire Guthrie Gastañaga, head of the American Civil Liberties Union of Virginia, could hardly dispute in a letter to McDonnell.

"At the same time, however, we believe that you and other policymakers need to accept responsibility for policy decisions informed by prejudice that are contributing to Virginia's dismal placement record by limiting the ability of loving parents to adopt," they wrote.

The tender sentiments behind the adoption drive are undermined by Virginia's tough stance toward same-sex couples — even those with relationships as enduring as that of Warner and Thomas, who is in the process of adopting another son.

Thomas views the governor's adoption drive as an opportunity for Virginia to acknowledge its mistakes and rectify them. "I just see opportunity for the timing being right to get children in homes where they will be loved or cared for."

His family and the commonwealth would seem to have common cause. The time is right for the state to get out of the way.