



Written by [Michael Tennant](#) on August 9, 2023

Massachusetts Won't Let Couple Foster Children Because of Their Catholic Beliefs

A Catholic couple is suing the state of Massachusetts for denying their application to become foster, and potentially adoptive, parents because of their views on sexuality and gender.

Represented by the nonprofit public-interest legal firm [Becket](#), Mike and Kitty Burke of Southamptton filed a lawsuit in federal district court Tuesday alleging that the Massachusetts Department of Children and Families (DCF) violated state law, its own policies, and the Constitution in rejecting their application.



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Mike, an Iraq-war veteran, and Kitty, a former paraprofessional for special-needs children, run a small business and perform music for their church's Mass. After discovering that they would be unable to conceive children, they sought to adopt. Having found the process of private adoption too costly, they turned to DCF, hoping to become foster parents and perhaps eventually to adopt their foster children.

DCF could certainly have used their help. The state has over 7,800 children in its foster-care system, about a fifth of whom are not currently placed. As a result, reported [The Boston Globe](#), DCF has resorted to housing these unplaced children in its own offices or even in hospitals, sometimes for "weeks or months on end."

Unfortunately, as the Burkes were to discover on their journey through DCF's approval process, their religious beliefs made them anathema to the department's LGBT crusaders.

According to their [lawsuit](#), the Burkes first became "fearful that they would be discriminated against due to their Catholic religious beliefs" during a mandatory training session for prospective foster parents. "An instructor stated that parents who were not willing to affirm same-sex relationships and transgender identities should not be resource parents," though a DCF employee later "expressed a somewhat more moderate tone."

The situation became even more concerning during in-home interviews conducted by a DCF-contracted firm. "During the home interviews, the Burkes were troubled that much of the questioning centered around their views on sexuality and their response if a child were, in the future, to struggle with gender dysphoria or to identify as gay or lesbian," reads the complaint. "They estimate that a third of the time in the interviews was spent on these questions."

The Burkes responded that "they would love and accept their child, no matter his or her future sexual orientation or struggles with gender identity," it continues. They did, however, caution that they would expect a child with same-sex attraction to remain chaste. They also stated that they believe in traditional marriage and its exclusivity for sexual relations. And they said that they "believe sex is immutable" and "would not assist a medical gender transition for a hypothetical future child."



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The couple “expressed their openness to a child of any racial, ethnic, or cultural background. They also expressed their openness to a child with special needs,” says their lawsuit. The complaint points out that “when considering pre-adoptive homes, DCF regulations state that ‘priority will be given to those who are interested in the kinds of children currently waiting for and in need of homes. This includes ... the following types of children: school age, special needs, legal risk, siblings, Black, Hispanic, and mixed racial.’”

That should have given the Burkes a leg up on other prospective foster parents — but their firm religious convictions stood in the way. While the interviewer, in her report, noted the couple’s “many strengths,” she also worried that they might not be “supportive of LGBTQIA+ youth.” “Their faith is not supportive,” she wrote, “and neither are they.” Nevertheless, she told their caseworker that she “did recommend approval with conditions, specifically around religion and LGBTQIA++ related issues.”

The DCF’s Licensing Review Team (LRT), however, was not so generous. Although they too agreed that the Burkes had many points in their favor, they could not overlook the couple’s opinions on LGBT issues. They denied the Burkes’ application, citing only “the couple’s statements/responses regarding placement of children who identified LGBTQIA.”

“After months of interviews and training, and after years of heartbreak, we were on the verge of finally becoming parents,” the Burkes said in a [press release](#). “We were absolutely devastated to learn that Massachusetts would rather children sleep in the hallways of hospitals than let us welcome children in need into our home.”

Upon learning that their application had been denied, the Burkes requested an appeal. But after reading all the “openly discriminatory statements and decisions made by DCF,” they decided there was no point in appealing. Instead, they chose to sue.

They are asking the court to find that DCF violated their First and 14th Amendment rights in denying their application.

This action, they argue, “substantially burdens their religious exercise because it forces them to choose between the opportunity to become foster and adoptive parents for children in need and maintaining their religious beliefs.” DCF showed clear “hostility toward [the Burkes’] Catholic beliefs,” created a “religious gerrymander” that prohibits people of many faiths from becoming foster parents, and tried to force the Burkes “to affirm a viewpoint with which they do not agree.”

Furthermore, “DCF regulation and policy—and the Massachusetts Foster Parent Bill of Rights—all prohibit religious discrimination against potential foster parents.”

“It takes the heroic effort of parents like Mike and Kitty to provide vulnerable children with loving homes through foster care,” said Lori Windham, vice president and senior counsel at Becket.

“Massachusetts’ actions leave the Burkes, and families of other faiths, out in the cold. How can they explain this to children waiting for a home?”



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