

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ASHLEE HENDERSON and)
RUBY HENDERSON a married couple, and)
L.W.C.H. by his parent and next friend Ruby)
Henderson, *et al.*,)

Plaintiffs,)

v.)

DR. JEROME ADAMS in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

Case No. 1:15-cv-00220-TWP-MJD

**AMENDED ENTRY ON CROSS-MOTIONS
FOR SUMMARY JUDGMENT**

For the reasons set forth in its June 30, 2016 opinion, 209 F. Supp. 3d 1059, as clarified in its December 30, 2016 order, 2016 WL 7492478, and pursuant to the January 17, 2020, opinion of the Seventh Circuit Court of Appeals in *Henderson v. Box*, 947 F.3d 482 (7th Cir. 2020), affirming in part and vacating in part, the Court modifies the portion of its Entry on Cross-Motions for Summary Judgment, of June 30, 2016, ([Filing No. 116 at 32-34](#)), as follows:

For the reasons stated in [Filing No. 116](#), the Court **GRANTS** the Tippecanoe County Defendants’ Motion for Summary Judgment ([Filing No. 82](#)), and claims against each of the County Defendants are dismissed for lack of jurisdiction. The Court **GRANTS** the Plaintiffs’ Motion for Summary Judgment against the State Defendant ([Filing No. 77](#)), and **DENIES** the State Defendant’s Motion for Summary Judgment ([Filing No. 84](#)).

For the reasons set forth, the Court **DECLARES** that Indiana Code §§ 31-9-2-15, 31-9-2-16, and 31-14-7-1(1) violate the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment to the United States Constitution insofar as those statutes, either individually or in

combination, prevent the presumption of parenthood from being granted to female, same-sex spouses of birth mothers.

The State Defendant and its officers, agents, servants, employees, and attorneys, and those acting in concert with them, including political subdivisions of the State of Indiana, are **ENJOINED** from enforcing Indiana Code §§ 31-9-2-15, 31-9-2-16, and 31-14-7-1(1) in a manner that prevents the presumption of parenthood to be granted to female, same-sex spouses of birth mothers.

The State Defendant and its officers, agents, servants, employees, and attorneys, and those acting in concert with them, including political subdivisions of the State of Indiana, are **ENJOINED** to recognize children born to a birth mother who is legally married to a same-sex spouse as a child born in wedlock.

The State Defendant and its officers, agents, servants, employees, and attorneys, and those acting in concert with them, including political subdivisions of the State of Indiana, are **ENJOINED** to recognize the Plaintiff Children in this matter as a child born in wedlock.

The State Defendant and its officers, agents, servants, employees, and attorneys, and those acting in concert with them, including political subdivisions of the State of Indiana, are **ENJOINED** to recognize the Plaintiff Spouses in this matter as a parent to their respective Plaintiff Child and to identify both Plaintiff Spouses as parents on their respective Plaintiff Child's birth certificate.

The Court notes that the proper treatment of children born during male-male marriages is expressly left open for resolution by the Indiana General Assembly or in some future lawsuit.

Final judgment will issue under separate order. A separate Permanent Injunction will also be issued as required by Rule 65(d) of the Federal Rules of Civil Procedure.

The Plaintiffs who have prevailed in securing relief may file a petition to recover attorneys' fees and costs.

SO ORDERED.

Date: 3/17/2020



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

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