

LEGAL BRIEFS: This month -- Second-Parent Adoption

Susan Murray and Beth Robinson
OITM Columnists

MIDDLEBURY -- The Vermont Senate will soon be considering a proposal to prevent gay or lesbian couples who are raising children together from protecting their children through legal adoption -- a potentially major setback for everyone in our community, especially our children.

By now, you probably know about the 1993 Vermont Supreme Court decision recognizing that the best interests of the child, and not arbitrary restrictions based upon the relationship between the adults raising the child, should govern adoption decisions. In that case, known as *In re Adoption of B.L.V.B. and E.L.V.B.*, the Vermont Supreme Court considered a petition by a lesbian co-parent to adopt the biological children of her partner. Although the women had raised the children together from birth, only the biological mother was legally recognized as the children's parent. The non-biological mother sought to adopt the children pursuant to a statute which allows a step-parent to adopt his or her spouse's children without cutting off the first parent's parental rights.

The probate court rejected the non-biological mother's petition to adopt the children, arguing that the step-parent adoption statute did not apply to a proposed adoption by the unmarried partner of a legal parent, even if the adoption would be in the child's best interests.

The Vermont Supreme Court disagreed. The Court recognized that the guiding principle in adoption law has always been the best interests of the child and adamantly refused to interpret the adoption law in a way that would defeat the best interests of children. The Court concluded that a "second parent," or partner of a legal parent, may adopt his or her partner's child in the same way as a step-parent if the adoption is in the child's best interests.

The Court's decision represented a great victory for the parents and children in our community. Although gay and lesbian couples have raised children for years, those children have faced innumerable legal and social disadvantages. A child with only one legally recognized parent has only one adult who is legally responsible for the child's financial support and upbringing, and only one parent who may validly consent to school trips or medical treatment for the child. The parent who is not legally recognized probably cannot obtain health insurance for the child through his or her employer. If the parents have not made wills, the child only automatically inherits from one parent, and there is no guarantee that the second parent could serve as the child's legal guardian if the legally-recognized parent dies. In fact, even if the child's legally-recognized parent does make a will appointing the "second parent" as legal guardian, the ability of the "second parent" to continue serving as the child's parent is subject to review and approval by the probate court, and may be challenged by other family members. If the child's parents break up, the child's longstanding relationship with the parent who is not legally recognized is in jeopardy, and may be subject to the whims of the legally-recognized parent. Finally, the child does not enjoy the benefit of the social recognition and validation of the child's relationship with one of his or her parents that often stems from the legal recognition of that relationship.

The Vermont Senate is now considering a proposal which would once again force the children of same-sex couples to endure the legal and social disadvantages described above. A comprehensive bill dealing with adoption laws, which was introduced in the Senate last year, S.136, went out of its way to reinforce the 1993 Supreme Court decision. However, the Senate Health and Welfare Committee amended the bill in a way that purports to overrule the Supreme Court decision. (This is the so-called "Graves Amendment.") After a public hearing at which dozens of gay and lesbian parents, prospective parents, and children of gay and lesbian parents testified, the Senate Judiciary Committee did not approve of the Graves Amendment but did not remove it from the bill.

Now the adoption reform bill is on its way to the full Senate for a vote sometime in early 1996. Before voting on whether to pass the adoption reform bill, the senators will likely vote on whether to undo the Health and Welfare Committee's change and once again make the bill consistent with the Supreme Court decision. If the bill passes the Senate, the House will have an opportunity to approve, reject, or amend the bill as well.

We urge you to contact your legislators about the adoption reform bill as soon as possible. All legislators -- especially the ones who might not ordinarily be particularly friendly to the gay and lesbian community -- must understand that the Graves Amendment places an arbitrary criterion (the relationship of the parents) above the best interests of the children and purports to prevent second-parent adoption even if the parents, SRS and the probate court all agree that such an adoption is in a child's best interests. The Graves Amendment will not prevent same-sex couples from raising children together -- people will arrange their families as they choose regardless of what the legislature does. Instead, all the amendment would do is punish the children of same-sex parents by subjecting them to the legal disadvantages described above. Urge your legislators to pass an adoption reform bill that protects rather than undermines the best interests of our children.

Susan Murray and Beth Robinson are attorneys at Langrock Sperry & Wool in Middlebury, whose practices include employment issues, family matters, estate planning, personal injury and worker's compensation cases, and general civil litigation.

Over the coming months, this column will feature timely information about legal issues of interest to our community. We will provide information about important laws and court cases that may affect our rights, as well as practical nuts and bolts advice for protecting ourselves and our families. If you would like to see us cover a particular topic, please feel free to write OITM or call us at (802) 388-6356. ▼

Weekly Events

ADIRONDACK COMMUNITY COLLEGE GAY & LESBIAN ASSOCIATION -- Wednesdays, 6:30pm, Mountaineer Room.

BRATTLEBORO AREA AIDS PROJECT -- For PLWAs and partners. Wednesdays, 12:30-1:30pm. Call (802) 254-8263.

CASTLETON STATE COLLEGE GLB GROUP -- One In Ten. Call (802) 468-5611 ext. 392.

CHAMPLAIN COLLEGE GLB SUPPORT GROUP -- Mondays, 4-5pm, Student Resource Center, Hauke Family Campus Center. Call (802) 658-0800 ext. 2605.

CONCORD (NH) GAY/LESBIAN AA -- Wednesdays, 7:30pm, First Congregational Church, North Main & Washington Streets.

GAY/LESBIAN AA -- Sundays, 6:30pm, Christ Church Presbyterian Redstone Campus, Burlington; Thursdays, 7pm, St. Paul's Cathedral, Cherry St., Burlington. Call (802) 658-4221.

GAY MEN'S SUPPORT GROUP -- Tuesdays, 7pm, Unitarian Universalist Church, 69 Washington St., Keene, NH. Call (603) 358-3480.

GODDARD COLLEGE GLB ALLIANCE -- Sundays, 7pm; weekly film series following at 8pm. Call (802) 454-8311 ext. 225.

HUNTINGTON OPEN WOMEN'S LAND (HOWL) -- Sundays, 11am-2pm, a potluck brunch. Call (802) 864-5595.

MANCHESTER (NH) GAY/LESBIAN AA -- Sundays, 7:30-9pm, Unitarian Universalist Church, 669 Union St., Manchester, NH 03103.

MCC IN THE MOUNTAINS -- Worship services Sundays, 1pm, Christ Church, Dartmouth College Chapel, Level 3. Call (802) 298-5451.

MIDDLEBURY G/L/B ALLIANCE -- Sundays, 8pm, May Belle Chellis House, Hillcrest St., Middlebury College. Call (802) 388-3711 ext. 3502.

MYRIAD NETWORK -- For g/l/b/t's in the Berkshires. Fridays, 7pm, First Congregational Church, Williamstown, MA. Write PO Box 288, Williamstown, MA 01267.

NASHUA (NH) GAY/LESBIAN AA -- Mondays, 7:30pm, Nashua Unitarian Church.

NETWORK NORTH --

Cheap Movie Nights Tuesdays, 6:15pm, Wilton Mall Food Court, Wilton, NY.

Coffee Nights Wednesdays, 6:30pm, Uncommon Grounds, Saratoga Springs, NY.

Coffee Mornings Thursdays, 9:30am, Uncommon Grounds, Saratoga Springs, NY.

OUTRIGHT VERMONT -- Fridays, 7-9pm, Burlington. GLB youth (under 23) welcome! Call (802) 865-9677.

SOCIAL ALTERNATIVES FOR MEN (SAM) -- Tuesdays, 7:30pm. Meeting and social at the Hotel Coolidge in White River Junction at 9pm. Call (603) 543-4136.

PINK TRIANGLE GROUP, GAY/LESBIAN AA -- Saturdays, 7-8:30pm, Keene, NH. Call (603) 357-4300.

SUPPORT GROUP FOR HIV+/AIDS WOMEN -- Mondays, 3:30-5:30pm, Greenfield, MA. Call (413) 773-8888.

UNIVERSITY OF VERMONT GAY LESBIAN BISEXUAL ALLIANCE -- Thursdays, 7pm, B106 Billings. Call (802) 863-7164.

VERMONT CARES --

Support group for gay/bisexual men living with HIV/AIDS Mondays, 5:30-7pm. Call (802) 863-2437.

Support group for heterosexual men and women living with HIV/AIDS Thursdays, 1-2:30pm. Call (802) 863-2437.

Support group for family and friends of people living with HIV/AIDS Thursdays, 5-6:30pm. Call (802) 863-8162.

WOMEN-ONLY PICK-UP VOLLEYBALL Every Thurs. 5-6:45 pm, Mater Christi School, 100 Mansfield Ave., Burlington, Small Rental Fee. For more info, call Sue- 899-5049.

YOUNG MEN'S GROUP -- Issues unique to gay/bisexual men (under 22). Thursdays, 7-8:30pm. Call (802) 865-9677. ▼



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