

The fight for marriage equality has dominated the energies of activists nationwide, and the recent setbacks and continuing struggles foreground another vulnerable area of queer family law: parenthood. Three recent events have brought the issue center stage: a landmark custody case in Vermont, repewed efforts in Florida to repeal that state's anti-gay adoption laws and a ruling in Indiana Circuit Court that female partners who decide to conceive a child through artificial insemination are both legal parents of that child.

In Vermont, a state that recognizes same-sex civil unions, a ruling Nov. 19 by Judge William Cohen stated that both members of a same-sex civil union are the legal parents of the child born to one of them. He wrote that under Vermont law, "parties to a civil union have all the same benefits, protections and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law or any other source of civil law, as are granted to spouses in marriage."

He continued, "Parties to a civil union who use artificial insemination to conceive a child can be treated no differently than a husband and wife, who, unable to conceive a child biologically, choose to conceive a child by inseminating the wife with the sperm of an anonymous donor." The parties in the suit, Janet and Lisa Miller-Jenkins, had dissolved their civil union after Lisa (the birth mother) had moved to Virginia with the child. A Virginia judge had grant-

SAME-SEX PARENTING CHALLENGES

Civil union custody battle, Florida adoption rights, Indiana lesbian moms

by Sarah Dougher

ed her full custody of the child, ruling that Janet had no claims of parenthood.

The case will now be sent for a final hearing to determine issues of custody and child support.

In some other states where same-sex civil union is not yet law, same-sex couples use second-parent adoption to formalize the legal relationship of both parents to a child.

The ruling in Vermont strengthens the legal provisions for same-sex civil unions in the area of child custody by acknowledging the validity of both parental claims to a child.

Only eight states—California, Connecticut, Illinois, Massachusetts, New Jersey, New York, Pennsylvania and Vermont—and the District of Columbia allow same-sex couples to use the state's adoption laws for second-parent adoptions.

In Florida, where a prohibition against gay and lesbian adoption has been on the books since 1977, a September ruling in the 11th U.S. Circuit Court of Appeals allowed it to remain the

only state with a complete ban on gay adoption.

In response, child welfare, social justice and faith organizations announced Nov. 19 that they would launch the Coalition for Fair Adoption, a coordinated effort to repeal the anti-gay ban. The new coalition represents 20 local, state and national organizations working together to educate the public and the Legislature about the harmful effect this law has on children.

"We believe it is past time for the Legislature to repeal this state-sanctioned bigotry that serves only to shrink the pool of qualified adoptive parents available to children in need," said Nadine Smith, executive director of Equality Florida. "We are proud to work alongside child advocacy and faith organizations in a united effort to give loving, permanent homes to children languishing in state custody." The number of these children in Florida stands at around 4,000; nationally, the figure is estimated at 500,000.

Gay and lesbian people can raise children in Florida as biological parents, foster parents, legal guardians and increasingly as part of planned families through alternative insemination and surrogate parenting. Yet many of these children are also denied the permanency and security that can only come through adoption, including second-parent adoption.

Key social service and professional organizations have carefully studied gay, lesbian, bi and transgender families and issued policy statements supporting adoption by gay and lesbian people.

Conservative attacks on queer rights in the field of parenting use the same rhetoric of "family" as attacks against marriage rights. In fact, according to the 2000 census, only 24 percent of homes were comprised of a mother and father with children at home.

In Indiana, a court ruled last month to accord two female partners equal legal rights to parenthood when they decide to conceive a child by artificial insemination.

Writing for the court, Judge Ezra Friedlander wrote that "No [legitimate] reason exists to provide the children born to lesbian parents through the use of reproductive technology with less security and protection than that given to children born to heterosexual parents through artificial insemination."

In this ruling, the court distinctly disentangled the rights and responsibilities of parenthood from any legal designation of marriage. "What's going to be important for people in the future is to set out, ahead of time, what their intentions are, for everyone's protection," wrote the attorney for the parent seeking equal legal rights.

The judge in the case also chided the Legislature for being slow to address the current social reality of alternative families by failing to enact laws that protect children in nontraditional configurations. **J**

News Editor SARAH DOUGHER is interested in featuring profiles of queer parents and kids. No matter the makeup of your family, e-mail her at sarah@justout.com if you are interested in telling your story.

According to the Human Rights Campaign, Oregon has a good record on adoption by gay, lesbian, bi and transgender individuals; a bad record on adoption by same-sex couples; and a mixed record on second-parent adoptions by queers

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