SECOND PARENT ADOPTION: A MODEL BRIEF

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THE LIBERAL JUDICIAL CONSTRUCTION OF STATE ADOPTION LAWS ALLOWS COURTS TO GRANT SECOND PARENT ADOPTIONS TO LESBIAN AND GAY ADULTS

I. INTRODUCTION: SECOND PARENT ADOPTIONS

A second parent adoption refers to the adoption of a child by his or her legal parent's¹ non-marital partner, without requiring the first partner to give up any parental rights or responsibilities.² In second parent adoptions, as in step-parent adoptions, the child is already living in the couple's home and will continue to live there. In both types of adoptions, a non-legal parent has a relationship with the child and wishes to adopt without terminating the legal parent's rights. Therefore, a second parent adoption is the natural extension of step-parent adoptions; in both cases, the couple simply desires to provide legal and emotional stability for the child.

Second parent adoptions may occur when a child's heterosexual parents are unable or unwilling to marry and establish paternity,³ or when the parents are lesbian or gay. Courts have granted both heterosexual and lesbian and gay second parent adoptions relying on the step-parent adoption analogy.⁴

In this model brief, I present arguments that were successful in a second parent adoption of a child by his lesbian co-parents in Texas. To aid the practitioner, fact specific sections have been deleted and arguments not limited to a particular jurisdiction have been emphasized. This model brief deviates from the accepted standard of including cites in the text of a brief in order to provide additional comments and insights.

1. A child may have a legal parent either through birth or adoption. See, e.g., TEX. FAM. CODE ANN. § 11.01(3) (West 1986 & Supp. 1995) ("Parent means the mother, a man presumed to be the biological father or a man who has been adjudicated to be the biological father by a court of competent jurisdiction, or an adoptive mother or father.").

2. See Elizabeth Zuckerman, Comment, Second Parent Adoption for Lesbian-Parented Families: Legal Recognition of the Other Mother, 19 U.C. DAVIS L. REV. 729, 731 n.8 (1986).

3. Although written as a model for lesbian and gay second parent adoptions, many of the arguments presented are relevant to heterosexual second parent adoptions as well.

4. See infra notes 18-35 and accompanying text.

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I would like to thank all the attorneys who have been successful in gaining parental rights for lesbian and gay co-parents, including Nancy Polikoff, Paula Ettlebrick, Abby Rubenfeld, Susan Murray, Mark Johnson, Sam Ciapanna, Katherine Triantafillou, Liz Hedrickson, Beatrice Dohrn, and Suzanne Goldberg. I also want to acknowledge the valuable contributions of organizations such as the National Lesbian and Gay Law Association, Lambda Legal Defense and Education Fund, the American Civil Liberties Union National Lesbian and Gay Rights Project, and the National Center for Lesbian Rights.

When presented with a second parent adoption petition, a court initially must decide (1) whether state law prohibits the two parents from filing a joint adoption petition⁵ and (2) whether granting the adoption requires the court to terminate the legal parent's existing parental rights.⁶ Once these legal hurdles have been overcome, the primary issue before the court is whether the adoption is in the child's best interest.

Second parent adoptions are in the child's best interest because they stabilize the existing family unit and provide the child with numerous legal,⁷ psychological,⁸ and economic benefits.⁹ In addition, the child suffers no disadvantage where the law recognizes these preexisting bonds.¹⁰ Conversely, where the second parent adoption is not granted, the child is disadvantaged because from a legal perspective, one mother or father is a parent and the other is a stranger.

II. Adoption Statutes Must Be Construed Broadly To Promote the Best Interest of the Child

Adoption statutes focus on the best interest of the child.¹¹ Although courts are bound by statutory law, judges are often called upon to interpret a vague statute or to resolve issues unanticipated by the legislature which adopted the statute.¹² Several courts have ruled that adoption statutes are to be liberally construed with a view to effect their objects and to promote

6. See, e.g., TEX. FAM. CODE ANN. § 16.03(b) (West 1986) ("[N]o petition for the adoption of a child may be considered unless there has been a decree terminating the parent-child relationship as to each living parent of the child or unless the termination proceeding is joined with the proceeding for the adoption."); VT. STAT. ANN. tit. 15, § 448 (1989) ("The natural parents of a minor child shall be deprived, by the adoption, of all legal right to control of such minor. . . .").

- 7. See infra notes 45-53 and accompanying text.
- 8. See infra notes 36-50 and accompanying text.
- 9. See infra notes 51-53 and accompanying text.
- 10. See infra notes 38-43 and accompanying text.

11. E.g., Walker v. Texas Dept. of Human Resources, 667 S.W.2d 919, 921 (Tex. Ct. App. 1984) ("The paramount considerations in adoption proceedings are the rights and welfare of the children involved and these statutes are to be liberally construed in favor of the minor to effectuate their beneficial purpose.").

12. See Felix Frankfurter, Some Reflections on the Reading of Statutes, 47 COLUM. L. REV. 527, 529 (1947) ("The intrinsic difficulties of language and the emergence after enactment of situations not anticipated by the most gifted legislative imagination, reveal doubts and ambiguities in statutes that compel judicial construction.").

^{5.} In second parent adoption cases, the decision to file jointly or separately is often strategic. Co-parents may choose to file jointly to ensure that the birth parent's legal rights are not terminated as a result of the second parent adoption. Many state statutes have no prohibitions on who may file joint petitions; these statutes merely require that both persons in a marital relationship file for adoption. See, e.g., MASS. ANN. LAWS ch. 210, § 1 (Law. Co-op. 1994) ("If the petitioner has a husband or wife living, competent to join in the petition, such husband or wife shall join therein, and upon the adoption, the child in law shall be the child of both."); TEX. FAM. CODE ANN § 16.03(a) (West 1986) ("If a petitioner is married, both spouses must join in the petition for adoption."). But see FLA. STAT. ANN. § 63.042(3) (West 1985) ("No person eligible to adopt under this statute may adopt if that person is a homosexual."); N.H. REV. STAT. ANN. § 170-B:4 (1994) ("Specifically as follows, any individual not a minor and not a homosexual may adopt. . . .").

justice.¹³ Other courts must also employ liberal interpretation to achieve the statute's purpose: the best interest of the child.

In most traditional adoptions, the child will not continue to live with the biological parents after the adoption. Accordingly, a court cannot grant an adoption petition unless there has been a prior decree terminating any existing parent-child relationship.¹⁴ In these situations, termination facilitates the child's adjustment into a new family, provides legal clarity, and is in the child's best interest.

State legislatures, however, recognize that it would be illogical and contrary to the child's best interest to destroy one parental relationship in favor of another when both parents live with the child as a family unit. Therefore, many adoption statutes contain a step-parent exception allowing the spouse of the legal parent to adopt the child without terminating the rights of the legal parent.¹⁵ The goal of the step-parent adoption is to create the utmost support and legal security for the child. The same concerns are paramount in lesbian and gay families in which only one parent is a legal parent.

The Vermont Supreme Court recently applied the rationale underlying the step-parent exception in granting a lesbian second parent adoption.¹⁶ In addressing the termination of parental rights provision, the court concluded:

[T]his provision anticipates that the adoption of children will remove them from the home of the biological parents, where the biological parents elect or are compelled to terminate their legal obligations to the child. This legislative intent is evidenced by the step-parent exception, which saves the natural parent's rights in step-parent adoptions. The legislature recognized that it would be against common sense to terminate the biological parent's rights when that parent will continue to raise and be responsible for the child, albeit in a family unit with a partner who is biologically unrelated to the child.¹⁷

Other courts should also apply the logic of the step-parent exception to preserve the bond between parent and child.

^{13.} See, e.g., Department of Social Welfare v. Superior Court, 459 P.2d 867, 899 (Cal. 1969); In re Jordet, 80 N.W.2d 642, 646 (Minn. 1957); Walker, 667 S.W.2d at 926.

^{14.} See supra note 6 and accompanying text.

^{15.} E.g., TEX. FAM. CODE ANN. § 16.03(c) (West 1986) ("[I]f a parent is presently the spouse of the petitioner, no termination decree is required with respect to parental rights of that parent."); VT. STAT. ANN. tit. 15, § 448 (1989) ("[W]hen the adoption is made by the spouse of a natural parent, obligations of obedience to, and rights of inheritance by and through the natural parent who has intermarried with the adoptive parent shall not be affected.").

^{16.} In re Adoptions of B.L.V.B. & E.L.V.B., 682 A.2d 1271 (Vt. 1993). See also Deborah Lashman, Second Parent Adoption: A Parent's Perspective, 2 DUKE J. GENDER L. & POL'Y 227 (No. 1 1995) (analyzing the second parent adoption process from the perspective of a non-biological parent who became a legal parent).

^{17.} In re B.L.V.B. & E.L.V.B, 628 A.2d at 1274.

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III. COURTS HAVE GRANTED SECOND PARENT ADOPTIONS TO UNMARRIED, HETEROSEXUAL COUPLES

In addressing adoptions by heterosexual couples, other courts have often construed adoption statutes liberally and granted heterosexual second parent adoptions to protect a child's existing family structure. In *In re Adoption of a Child by A.R.*,¹⁸ the court allowed a non-legal parent to adopt without terminating the rights of the unmarried legal parent. At the time of conception, A.R. was the natural father of the child and was engaged to the child's mother, subsequently, the mother became incompetent and was unable to marry.¹⁹ Since A.R. was not a "step-father," the New Jersey statute contemplated termination of the mother's parental rights if the father's adoption petition were granted.²⁰ In spite of the fact that the parents were not legally married, the court approved the adoption without terminating the mother's rights.

Similarly, in *In re A.J.J., Infant*,²¹ a New York court considered the adoption of a child by his non-legal parent without terminating the rights of his unmarried legal parent. The child's parents entered into a long-term, stable relationship and two years later conceived the child. For their own reasons, the parents did not choose to marry. Under New York law, unless the adoption is by a step-parent,²² the biological parent must relinquish parental rights prior to the adoption.²³ In explaining its liberal interpretation of the statute's termination of parental rights provision the court stated:

Society changes and, with it, so do mores. In this era of freedom of choice and equality of rights for both parties, the child should not be denied the privilege of legitimacy as well as the care and concern of his natural mother's property and her rights of intestacy merely because these adult natural parents refuse to marry. . . The refusal by these natural parents to wed should not contravene New York's policy of fostering the child's best interests above all else.²⁴

Because the child's best interest is always paramount, courts enjoy broad discretion in granting adoptions.²⁵ Consequently, the New York court granted the adoption petition of the natural father who sought to preserve his parental rights and obligations without terminating the mother's parental rights.²⁶

Like these heterosexual second parent adoption cases, no harm and a great deal of benefit will occur if second parent adoptions are granted to lesbian and gay couples where the court finds the adoption to be in the

21. 438 N.Y.S.2d 444 (Sur. Ct. 1981).

24. In re A.J.J., Infant, 438 N.Y.S.2d at 446.

26. Id. at 447.

^{18. 378} A.2d 87 (N.J. Super. Ct. Pro. Div. 1977).

^{19.} Id. at 88.

^{20.} N.J. STAT. ANN. § 9:3-30 (West 1953), repealed by N.J. STAT. ANN. § 9:3-50 (West 1977) (amended 1994).

^{22.} N.Y. DOM. REL. LAW § 110 (McKinney 1970) (amended 1984).

^{23.} N.Y. DOM. REL. LAW § 117 (McKinney 1988 & Supp. 1994).

^{25.} Id. at 446; In re W.E.R., 669 S.W.2d 716, 717 (Tex. 1984) (per curiam).

child's best interest. Therefore, the court may, and should, liberally interpret the adoption statute to promote the child's best interest by not terminating the biological parent's rights in a second parent adoption.

IV. COURTS HAVE GRANTED SECOND PARENT ADOPTIONS TO LESBIAN AND GAY PARENTS

Courts in numerous jurisdictions have granted second parent adoptions.²⁷ Recently, the highest courts in Massachusetts and Vermont held that neither state's adoption statutes expressly prohibit two unmarried cohabitants from jointly petitioning for adoption.²⁸ Furthermore, neither court construed the statutes to require termination of the legal parent's rights prior to granting the second parent adoption.²⁹ This liberal interpretation allowed both courts to legally recognize the existing family unit.

The Vermont Supreme Court recognized, in granting the second parent adoption, that Deborah Lashman and Jane Van Buren were co-parents for their two children.³⁰ While the children perceived them to be equal parents, prior to the ruling, Van Buren was the legal mother and Lashman was a legal stranger. Although their second parent adoption petition was uncontested, the trial court denied the adoption, interpreting the Vermont adoption statute to require termination of the biological parent's rights unless the couple were married.³¹ In overruling the trial court, the Vermont Supreme Court held that the adoption could be granted without terminating the biological parent's rights:

When social mores change, governing statutes must be interpreted to allow for those changes in a manner that does not frustrate the purposes behind their enactment. To deny the children of same-sex partners, as a class, the security of a legally recognized relationship with their second parent serves no legitimate state interest.³²

Thus, the court liberally interpreted the provision terminating parental rights to ensure that the children had two loving, legally responsible parents.

32. Id. at 1275.

^{27.} See In re Adoption of a Minor Child (C), No. 1-JU-86-73 P/A (Alaska First Jud. Dist. Feb. 6, 1987); In re Adoption of a Minor (T) & (M), Nos. A-269-90 & A-270-90 (D.C. Super. Ct. Fam. Div. Aug. 30, 1991); In re Petition of E.S. & R.L., No. 90 Coa 1202, 1994 WL 157949 (Ill. Cir. Ct. Cook County Mar. 14, 1994); Adoption of Tammy, 619 N.E.2d 315 (Mass. 1993); Adoption of Susan, 619 N.E.2d 323 (Mass. 1993); In re Adoption of a Child by J.M.G., 632 A.2d 550 (N.J. Super. Ct. Ch. Div. 1993); In re Adoption of Caitlin & Emily, 1994 WL 149728 (N.Y. Fam. Ct. Monroe County Jan. 6, 1994); In re Adoption of Evan, 583 N.Y.S.2d 997 (Sur. Ct. 1992); In re Adoption of E.O.G. & A.S.G., 14 Fiduc. Rep. 2d 125 (Pa. C.P. York County Apr. 28, 1994); In re Adoptions of B.L.V.B. & E.L.V.B., 682 A.2d 1271 (Vt. 1993); In re Adoption of R.C., No. 9088 (Vt. P. Ct. Addison Dist. Dec 9, 1991). But see In re Adoption of Bruce M., No. A-62-93 (D.C. Super. Ct. Fam. Div. Apr. 20, 1994) (denying gay couple's co-parent adoption petition); In re Angel Lace, 516 N.W.2d 678 (Wis. 1994).

^{28.} Adoption of Tammy, 619 N.E.2d at 318; In re B.L.V.B. & E.L.V.B., 628 A.2d at 1273.

^{29.} Adoption of Tammy, 619 N.E.2d at 319; In re B.L.V.B. & E.L.V.B., 628 A.2d at 1274.

^{30.} In re B.L.V.B. & E.L.V.B., 628 A.2d at 1272.

^{31.} Id. at 1272-73.

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Similarly, in *In Re Adoption of Tammy*,³³ Massachusetts' highest court granted a joint adoption petition by the child's biological mother and the child's female co-parent. In interpreting the adoption statute, the court found that while the legislature may not have envisioned adoption by same-sex partners, there was no indication that it attempted to define all possible categories of persons who could adopt under the statute.³⁴ Additionally, the court held that the legislature did not intend to terminate a parent's rights when that parent was one of the adoption petitioners.³⁵

V. CHILDREN RECEIVE SIGNIFICANT BENEFITS FROM SECOND PARENT ADOPTIONS

A child raised by a lesbian or gay couple is fortunate to have two caring parents.³⁶ The child has two mothers or two fathers, both of whom are equal in the child's mind, to depend on for love and support.³⁷ Like all parents, lesbian and gay parents must balance jobs with family life, make ends meet, and provide their child with guidance and support. Although lesbian and gay parents cannot legally marry, there is no reason to believe that they cannot form a stable home environment for the child. In fact, "[a] large proportion of gay people are in steady relationships."³⁸

Today a child who receives proper nutrition, adequate schooling and supportive sustaining shelter is among the fortunate, whatever the source. A child who also receives the love and nurture of even a single parent can be counted among the blessed. Here this Court finds a child who has all the above benefits and *two* adults dedicated to his welfare, secure in their loving partnership, and determined to raise him to the very best of their considerable abilities. There is no reason in law, logic or social philosophy to obstruct such a favorable situation.

In re Adoption of Evan, 583 N.Y.S.2d 997, 1002 (Sur. Ct. 1992).

37. Children form strong bonds with the people who are their daily caregivers. These bonds are not dependent on biology and occur in adopted children and the children of lesbian and gay parents:

Unlike adults, children have no psychological conception of relationship by blood-tie until quite late in their development. . . What registers in their minds are the day-to-day interchanges with the adults who take care of them and who, on the strength of these, become the parent figures to whom they are attached.

J. GOLDSTEIN ET AL., BEYOND THE BEST INTERESTS OF THE CHILD 12-13 (1973).

38. Gregory M. Herek, Myths About Sexual Orientation: A Lawyer's Guide to Social Science Research, 1 LAW AND SEXUALITY 133, 161 (1991) (citing research that 60% of gay or bisexual men and 64% of lesbian or bisexual women reported that they were currently in a relationship). Long-term relationships occur in both male and female couples. In a study of 156 volunteer gay male couples, researchers found that half of the couples had been together over five years and 31% had been together for over 10 years. DAVID MCWHIRTER & ANDREW MATTISON, THE MALE COUPLE: HOW RELATIONSHIPS DEVELOP 18 (1984). Anecdotal evidence and samples that have included older persons suggest that relationships lasting twenty years or longer are not uncommon. See, e.g., Rusty Brown, Always Me, in LONG TIME PASSING: LIVES OF OLDER LESBIANS 144, 150 (Marcy Adelman ed., 1986) (discussing her 28 year relationship with her lesbian life partner).

^{33. 619} N.E.2d 315 (Mass. 1993).

^{34.} Id. at 319.

^{35.} Id. at 321.

^{36.} A New York court which granted a second parent adoption noted:

Furthermore, studies indicate that children raised by lesbians or gay men suffer no disadvantages.³⁹ Children of lesbian or gay parents are no more likely to be confused about their gender identification as male or female, no different in their gender-role behaviors, and no more likely to be heterosexual, homosexual or bisexual.⁴⁰ Studies about other aspects of personal development also revealed similarities rather than differences:

As was true for sexual identity, studies of other aspects of personal development-such as self-concept, locus of control, moral judgment, and intelligencerevealed no significant differences between children of lesbian or gay parents and children of heterosexual parents.⁴¹

Additionally, fears that children of lesbian or gay parents might encounter difficulties in social relationships have proven unfounded.⁴² The myth that lesbians and gay men are more likely to sexually abuse children than are their heterosexual counterparts is also unfounded.⁴³ In many ways, these myths and fears are a manifestation of a general cultural tendency to portray disliked minority groups as a threat to society's most vulnerable members.⁴⁴

A child raised by lesbian or gay parents suffers no disadvantage; however, if the court does not permit a second parent adoption, the child is deprived of legal rights and benefits afforded children of married heterosexual parents. Adoption creates a legal parent-child relationship which includes the legal responsibilities associated with child rearing. For example, a legal parent has the duty to support the child by providing clothing, food, shelter, medical care, and education.⁴⁵ Prior to a second parent adoption, only the biological parent in a lesbian or gay couple is legally required to perform these caretaking functions. Although the non-legal parent may have agreed to support the child, such agreements do not create legally binding relationships. Thus, if the parents end their domestic partnership, the non-legal parent is not required to pay child support.

A second parent adoption also ensures that a child will have a continuing relationship with both parents in the event of death or separation. If only one of the parents has legal ties with the child and that person dies, the child has no legal right to remain with the surviving parent. Every child deserves the security of knowing that they will not be taken from a surviving parent in the event of the other parent's death.

In the event of the legal parent's death, alternative protections to second parent adoptions may fail to protect existing relationships between the non-

44. Herek, supra note 43, at 69.

^{39.} See In re J.M.G., 632 A.2d 550, 553-54 (N.J. Super. Ch. Ct. 1993) (quoting Charlotte J. Patterson, *Children of Lesbian and Gay Parents*, 63 CHILD DEVELOPMENT, 1025, 1031-32 (1992)); In re Evan, 583 N.Y.S.2d at 1001-02 n.1 (Sur. 1992) (citing Patterson, *supra*, at 1033).

^{40.} Patterson, supra note 39, at 1033.

^{41.} Id.

^{42.} Id. at 1034.

^{43.} Gregory M. Herek, Stigma, Prejudice and Violence Against Lesbians and Gay Men, in HO-MOSEXUALITY: RESEARCH IMPLICATIONS FOR PUBLIC POLICY 60, 69-72 (John C. Gonslorek & James D. Weinrich, eds., 1991); Patterson, supra note 39, at 1034.

^{45.} See, e.g., TEX. FAM. CODE ANN. § 12.04 (West Supp. 1994).

legal parent and the child. For example, legal parents may nominate a guardian in a will, but that guardianship is not guaranteed. In *In re Pearlman*,⁴⁶ the child of a lesbian couple was caught in the center of a legal battle between her non-legal mother and her deceased biological mother's parents. The biological mother's will designated the woman's life-partner, with whom she had raised the child, as the child's guardian. However, the grandparents successfully challenged the guardianship and attempted to adopt the child without notifying the child's surviving co-parent. After an extended legal battle and a lengthy separation, the non-legal mother was able to block the adoption and was finally reunited with her daughter.

As *In re Pearlman* demonstrates, a stable custody plan is necessary to alleviate the emotional and psychological harm to the child. Like the break up of a heterosexual marriage, the dissolution of a relationship between two mothers or fathers may be devastating to a child. "It cannot be emphasized enough that any attempt to deprive a child of one of his or her parents is harmful to the child. There is no such thing as a child that is too young to feel the loss."⁴⁷ If both lesbian or gay parents are recognized as legal parents, the law will afford children a better opportunity to maintain relationships with each parent.

A decision by the highest court in New York indicates that without such legal recognition, lesbian or gay second parents who separate from their partners may not have legal standing to request contact with their children. In *In re Alison D. v. Virginia M.*,⁴⁸ the court noted the close and nurturing relationship between the child and the second non-legal parent, whom the child called "mommy." Nevertheless, the court held that she was not legally a parent. She therefore lacked standing to request visitation with the child upon the dissolution of the couple's relationship.⁴⁹ Subsequently, and perhaps in reaction to the *Alison D*. decision, courts in New York began granting second parent adoptions.⁵⁰

In addition to protecting the child's relationships with both parents when custody and visitation conflicts arise, a second parent adoption enables the child to inherit from both parents through the law of intestate succession. An adopted child is entitled to inherit from and through the child's adoptive parents, as though the child were the natural child of the parents.⁵¹ Although a non-legal parent can execute a will naming the child as a beneficiary, the child does not have the right to inherit from members of the non-legal parent's family. Furthermore, without the second parent adoption,

^{46.} No. 87-24926 DA, slip. op. at 3-4, (Fla. Cir. Ct., Broward County, Mar. 31, 1989), reprinted in part in 15 Fam. L. Rep. (BNA) 1355 (May 30, 1989).

^{47.} APRIL MARTIN, THE LESBIAN AND GAY PARENTING HANDBOOK: CREATING AND RAISING OUR FAMILIES 251 (1993).

^{48. 572} N.E.2d 27 (N.Y. 1991).

^{49.} Id. at 28. However, some states allow "psychological" or "de facto" parents to have standing in court. See id. at 29-30 (citing OR. REV. STAT. §109.119[1] (1993)).

^{50.} See, e.g., In re Adoption of Evan, 583 N.Y.S.2d 997, 1002 (Sur. 1992).

^{51.} See, e.g., TEX. FAM. CODE ANN. § 16.09(b) (West 1986).

the child would not inherit from the non-legal parent if the will were misplaced or declared invalid.

A second parent adoption also provides the child with other financial benefits. For example, the child will become eligible for coverage under either parent's insurance policy. This allows the family to choose the better of two policies and protects the child from complete loss of insurance if the biological parent becomes unemployed or insurance is not available.⁵² Additionally, under the federal Social Security Act, a child can receive social security benefits only through a deceased legal parent.⁵³ If the non-legal parent is allowed to adopt, the child will have this entitlement through both parents.

Finally, granting a second parent adoption ensures that doctors, hospitals, schools, camps, consulates, and other institutions will permit both parents to make decisions for the child. Questions concerning medical care for the child can arise at any time or place. Without legal status, the non-legal parent's authority to make medical decisions might be questioned and the child's life endangered.

VI. CONCLUSION

Granting second parent adoptions is in children's and society's best interests. As society changes,⁵⁴ courts and other institutions are recognizing and protecting the rights of children reared by lesbian and gay parents. Other courts must also recognize these rights. Each child deserves all the love and care that two parents can provide. Each child is entitled to the emotional security that flows from legal recognition of their familial relationships. For the foregoing reasons, courts should grant second parent adoptions when they are in a child's best interest.

^{52.} See Chancellor v. Chancellor, 23 S.W.2d 761 (Tex. Ct. App. 1929) (holding that the term "child" in an insurance policy includes adopted children).

^{53. 42} U.S.C.A. § 402(d) (West Supp. 1994).

^{54.} The number of children living with gay or lesbian parents is estimated to be 15.5 million. In re Alison D. and Virginia M. 572 N.E.2d 27, 30 (N.Y. 1991) (citing Katherine T. Bartlett, Rethinking Parenthood as an Exclusive Status: The Need for Legal Alternatives when the Premise of the Nuclear Family has Failed, 70 VA. L. REV. 879, 880-81 (1984); Nancy D. Polikoff, This Child Does Have Two Mothers: Redefining Parenthood to Meet the Needs of Children in Lesbian-Mother and other Nontraditional Families, 78 GEO. L.J. 459, 461 n.2 (1990)).

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