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Coparent or Second-Parent Adoption by Same-Sex Parents

AMERICAN ACADEMY OF PEDIATRICS

Committee on Psychosocial Aspects of Child and Family Health

Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents

ABSTRACT. Children who are born to or adopted by 1 member of a same-sex couple deserve the security of 2 legally recognized parents. Therefore, the American Academy of Pediatrics supports legislative and legal efforts to provide the possibility of adoption of the child by the second parent or coparent in these families.

Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex. The American Academy of Pediatrics recognizes that a considerable body of professional literature provides evidence that children with parents who are homosexual can have the same advantages and the same expectations for health, adjustment, and development as can children whose parents are heterosexual. When 2 adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition.

Children born or adopted into families headed by partners who are of the same sex usually have only 1 biologic or adoptive legal parent. The other partner in a parental role is called the "coparent" or "second parent." Because these families and children need the permanence and security that are provided by having 2 fully sanctioned and legally defined parents, the Academy supports the legal adoption of children by coparents or second parents. Denying legal parent status through adoption to coparents or second parents prevents these children from enjoying the psychologic and legal security that comes from having 2 willing, capable, and loving parents.

Several states have considered or enacted legislation sanctioning second-parent adoption by partners of the same sex. In addition, legislative initiatives assuring legal status equivalent to marriage for gay and lesbian partners, such as the law approving civil unions in Vermont, can also attend to providing security and permanence for the children of those partnerships.

Many states have not yet considered legislative actions to ensure the security of children whose parents are gay or lesbian. Rather, adoption has been decided by probate or family courts on a case-by-case basis. Case precedent is limited. It is important that a broad ethical mandate exist nationally that will guide the courts in providing necessary protection for children through coparent adoption.

Coparent or second-parent adoption protects the child's right to maintain continuing relationships with both parents. The legal sanction provided by coparent adoption accomplishes the following:

1. Guarantees that the second parent's custody rights and responsibilities will be protected if the first parent were to die or become incapacitated. Moreover, second-parent adoption protects the child's legal right of relationships with both parents. In the absence of coparent adoption, members of the family of the legal parent, should he or she become incapacitated, might successfully challenge the surviving coparent's rights to continue to parent the child, thus causing the child to lose both parents.
2. Protects the second parent's rights to custody and visitation if the couple separates. Likewise, the child's right to maintain relationships with both parents after separation, viewed as important to a positive outcome in separation or divorce of heterosexual parents, would be protected for families with gay or lesbian parents.
3. Establishes the requirement for child support from both parents in the event of the parents' separation.
4. Ensures the child's eligibility for health benefits from both parents.
5. Provides legal grounds for either parent to provide consent for medical care and to make education, health care, and other important decisions on behalf of the child.
6. Creates the basis for financial security for children in the event of the death of either parent by ensuring eligibility to all appropriate entitlements, such as Social Security survivors benefits.

On the basis of the acknowledged desirability that children have and maintain a continuing relationship with 2 loving and supportive parents, the Academy recommends that pediatricians do the following:

- Be familiar with professional literature regarding gay and lesbian parents and their children.
- Support the right of every child and family to the financial, psychologic, and legal security that results from having legally recognized parents who are committed to each other and to the welfare of their children.
- Advocate for initiatives that establish permanency through coparent or second-parent adoption for children of same-sex partners through the judicial system, legislation, and community education.

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The recommendations in this statement do not indicate an exclusive course of treatment or serve as a standard of medical care. Variations, taking into account individual circumstances, may be appropriate.

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[Return to Contents](#)