



STATE OF CONNECTICUT

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PROBATE COURT ADMINISTRATOR

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Honorable Members of the Committee on Children

FROM: Paul J. Knierim
Probate Court Administrator

DATE: March 5, 2013

RE: CB 314 An Act Concerning Second Parent Adoption

The Office of the Probate Court Administrator supports CB 314 An Act Concerning Second Parent Adoption.

The bill would apply the same procedural rules to co-parent adoptions as currently apply to step-parent adoptions. Under the provisions governing step-parent adoptions, a Probate Court is directed to waive the requirement of a home study when a parent petitions for adoption of his or her child by the parent's spouse. This is an exception to the default rule that the court must obtain and review a home study before approving an adoption. The exception applies only when the child's other parent is deceased or a court has previously terminated his or her parental rights. It reflects the philosophy that less scrutiny is required when a parent of the adoptive child is making the request that the adoption be approved.

The bill would address a problem that same sex couples have encountered. Because Connecticut law recognizes same sex marriage, a child born to a same sex couple while they are married is legally the child of both, and our state issues birth certificates that identify both members of the couple as parents. Parents may be concerned, however, that other states may not recognize the parent-child relationship. To avoid any potential issues, parents may file an adoption petition

in the Probate Court by which the birth parent asks for formal adoption of the child by her spouse. If the petition is treated as a co-parent adoption, the default rule requiring a home study would apply. The result is that a same sex couple is treated differently than an opposite sex couple.

I should note that this office recently recommended, and the Supreme Court approved, a new rule of procedure that is intended to accomplish the same result as the bill, although the rule applies only to married couples. A copy of the rule is attached.

Attachment (1)

**Probate Court Rules of Procedure
Effective July 1, 2013**

Sec. 40.12 Adoption by same sex married couple

(a) Even if both spouses of a same sex married couple are considered parents of a minor under the law of this state, a spouse may petition under C.G.S. section 45a-724 (a) (2) for a stepparent adoption of the minor by the other spouse.

(b) In a proceeding under subsection (a), the court may waive notice to the commissioner of children and families and shall waive, unless cause is shown, all requirements for an investigation and report by the Department of Children and Families or by a child-placing agency.

(C.G.S. sections 45a-707 and 45a-733.)