



OLR RESEARCH REPORT

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CO-PARENT ADOPTION AND HOME STUDY

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You asked (1) if state law requires the Department of Children and Families (DCF) to conduct a home study when a second-parent adoption (called co-parent adoption in Connecticut) occurs and (2) how other states handle home studies for these types of adoptions.

The Office of Legislative Research is not authorized to give legal opinions and this report should not be considered one.

SUMMARY

“Second-parent adoption” or “co-parent adoption” is the term used to describe adoptions in which the biological parent of one child agrees to allow another person responsible for the child’s care to legally adopt the child. This person may be a same-sex spouse.

State law requires the Probate Court, when it receives any adoption petition, including a co-parent adoption petition, to ask DCF or a child placing agency with which it contracts to investigate (i.e., conduct a home study) the petitioners to ensure that the adoption is in the child’s best interests. But it requires the court to waive the investigation for step-parent adoptions unless there is good cause to order it. The Probate Court’s Rules of Procedure make it clear that this stepparent waiver applies to couples in same-sex marriages pursuing a step-parent adoption.

Massachusetts law allows the court to waive the home study for both step-parent and co-parent adoptions. In New York, the home study is required and cannot be waived. Vermont allows the court to waive the home study only for step-parents wishing to adopt.

CO-PARENT ADOPTIONS IN CONNECTICUT

According to the National Center for Lesbian Rights (NCLR), Connecticut is one of 16 states that allow second-parent adoptions, either through statute or case law. In Connecticut, the law allows any parent of a minor child to agree in writing with one other person who shares parental responsibility for the child that the other person will adopt, or join in the adoption, of the child if the parental rights, if any, of any other person other than the parties to the agreement have been terminated ([CGS § 45a-724\(a\)\(3\)](#)). The Probate Court may accept these adoption applications ([CGS § 45a-727\(3\)\(D\)](#)).

HOME STUDIES

Statutory Requirement

State law requires the Probate Court, when it receives an adoption petition, to ask the DCF commissioner or a child placing agency with which DCF contracts to make an investigation and submit a written report to the court, in duplicate, within 60 days. This is commonly referred to as a home study.

The report must indicate the physical and mental status of the child and also contain facts that may be relevant to determine whether the proposed adoption is in the child's best interests. It must include information on (1) the child's physical, mental, genetic, and educational history and (2) the physical, mental, social, and financial condition of the parties to the agreement and the biological parents of the child, if known ([CGS § 45a-727\(b\)](#)).

This appears to apply to every adoption application that comes before the court, with one exception. When a step-parent wants to adopt, the law requires the Probate Court to waive, unless good cause is shown, all requirements for a home study ([CGS § 45a-733](#)).

Probate Court Rules of Procedure

The Probate Court's Rules of Procedure provide that when both spouses of a same sex married couple are considered parents of a minor under Connecticut law, one spouse is allowed to petition for a step-parent adoption by the other spouse. The rules follow the above-referenced statute and require the court to waive the home study requirement unless cause is shown (Probate Court Rules of Procedure, § 40.12).

DCF Regulations

DCF regulations require that DCF and child placing agencies assess any applicant for a "prospective adoptive family license." These families are defined as a person or persons who have been granted a license by DCF and are awaiting the placement of a child (Conn. Agencies Regs. 45a-728, et seq.). It is not clear if co-parent adoptions are subject to these regulations. We have asked DCF to provide input on its role in step-parent and co-parent adoptions and are awaiting the agency's response.

MASSACHUSETTS

Massachusetts law requires the court to notify the Department of Children and Families when an adoption petition is filed and the department must "make an appropriate inquiry" to determine whether the petitioners and their home are suitable for the "proper rearing of the child." But the court can waive this requirement "in the case of a petition for the adoption of a child of one of the parties petitioning for said adoption" (MA Gen. Laws, Ch. 210, § 5A). Although Massachusetts statutes do not explicitly recognize co-parent adoptions, the courts interpreting the statutes have found these adoptions to be legal (*In re Adoption of Tammy*, 619 N.E. 2d 315 (Mass. 1993) and *In Re Adoption of Susan*, 619 N.E. 2d 323 (Mass. 1993)).

NEW YORK

New York's law generally requires home studies for all adoptions. The law also requires a "pre-certification" when the adoption is handled by a private adoption agency. An adoption attorney practicing in the state told us that this requirement applies across the board and would include second-parent adoptions. The pre-certification, which includes a home study, can be waived when the step-parent has resided with the birth

parent for at least one year (N.Y. Domestic Relations Law § 115-d). According to the attorney, this would include both step-parents and second-parents petitions, but a home study is still necessary for the final adoption. Second-parent adoptions are recognized in state case law (*In re Jacob, In re Dana*, 660 N.E. 2d 397 (1995)).

VERMONT

Vermont law allows for co-parent adoptions (Vt. Stat. Ann. Tit. 15 A § 1-102 (b)). It requires the court to order a home study for adoptions of minors (Vt. Stat. Ann. Tit. 15A § 3-601). But it allows the court to order the study when it receives a petition for a step-parent adoption (Vt. Stat. Ann. Tit. 15A § 4-110). An official from Vermont's probate court system indicated that co-parent adoption petitioners are subject to the home study requirement and to her knowledge, there are no efforts currently to change this.

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