

Dallas Same Sex Custody Dispute: Battle For Recognition of Parental Rights by LGBT Parents

Child custody battles are always difficult, and can be ugly. But a recent Dallas child custody dispute shows the lengths that gay parents must go to fight for the right to parent their non-biological children if they split up from the child's biological parent. In the case fought out in Dallas family law courtrooms, a Texas mother petitioned for custody of a child she had raised since birth with her lesbian partner (the child's biological mother).

The former partner denied the non-biological parent's right to child custody and a three-and-a-half year legal battle ensued as the non-biological mother sought to have her parental rights recognized in Texas courts. Ultimately, she was successful on the first hurdle of her child custody battle: the right to sue for child custody (referred to as standing). But after nearly four years of emotional and financial costs, and no guarantee that she would win physical or legal custody rights, the mother decided to end her legal battle. In a statement released to the press, the mother said that she chose her daughter's quality of life and happiness over being right.

Legal Options for Gay Parents to Maintain Parental Relationships

While recognition of the status of same-sex relationships is advancing state-by-state, same-sex partners (and former partners) still face precarious legal status on many issues including recognition of marriage, civil unions, and partnerships, rights to parent children from a same-sex partnership, inheritance rights, and rights to make end-of-life decisions, among many other civil rights.

In Texas, lesbian and gay parents now have the right to sue for child custody if other Texas courts decide to follow the precedent established by the Texas appeals court in the Dallas same-sex custody case (The Texas Supreme Court denied review of the decision, which gives it more weight). But whether a gay or lesbian parent will be awarded child custody is another matter. In most cases, a gay or lesbian parent will stand on firmer ground if the mother or father adopts the child or children. Adoption gives the non-biological parent a legal recognition of their parental rights. For advice and counsel on this evolving area of the law, consult a Texas family law attorney with experience working with LGBT issues.