

IN THE SUPREME COURT OF THE STATE OF VERMONT

LISA MILLER-JENKINS, Plaintiff-Appellant

v.

JANET MILLER-JENKINS, Defendant-Appellee

Supreme Court Docket Numbers 2004-443 and 2005-030

Appeal
from the
Rutland Family Court
Docket Number 454-11-03 Rddm

**BRIEF OF AMICUS CURIAE VERMONT PSYCHIATRIC ASSOCIATION,
VERMONT CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL
WORKERS, LYNN BOND, PH.D., DAVID CHAMBERS, J.D.,
ESTHER ROTHBLUM, PH.D., AND JACQUELINE S. WEINSTOCK, PH.D.**

Eileen M. Blackwood
Blackwood & Danon, P.C.
P.O. Box 875
Burlington, VT 05402
(802) 863-2517
Attorney for *Amici*

TABLE OF CONTENTS

STATEMENT OF INTEREST OF AMICI 1

SUMMARY OF ARGUMENT 5

ARGUMENT 7

I. SOCIAL SCIENCE RESEARCH FINDS THAT, IN BOTH SAME-SEX COUPLE AND DIFFERENT-SEX COUPLE FAMILIES, CHILDREN FORM STRONG BONDS WITH THEIR BIOLOGICAL AND NON-BIOLOGICAL PARENTS. FOR THIS REASON THE COURT SHOULD INTERPRET THE PRESUMPTION OF PARENTHOOD TO PREVENT A BIOLOGICAL PARENT IN A CIVIL UNION FROM CHALLENGING THE PARENTHOOD OF A NONBIOLOGICAL CO-PARENT 7

 A. In Same-Sex Parent Families, Both Biological and Nonbiological Parents Form Strong Bonds with Their Children, Bonds Similar to those Formed with Their Children by Different-Sex Parents 9

 B. Statutes Should Be Construed to Protect Parent-Child Bonds Rather Than To Elevate Biology Over All Other Considerations 15

CONCLUSION 18

TABLE OF AUTHORITIES

CASES

<u>Adoptions of B.L.V.B. and E.L.V.B.</u> , 160 Vt. 368, 628 A.2d 1271 (1993).....	8
<u>Baker v. State</u> , 170 Vt. 194, 744 A.2d 864 (1999)	7

STATUTES

15 V.S.A. § 302	15
15 V.S.A. § 308	15

OTHER AUTHORITIES

Henry Bos, <u>PARENTING IN LESBIAN FAMILIES</u> , (2004)	11, 12
John Bowlby, <u>ATTACHMENT</u> , v. 1 and v. 2 (1969)	13, 16
A. Brewaeyts et al., <u>Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families</u> , 12 Human Reproduction 1349 (1997)	9, 12, 13
Raymond W. Chan et al., <u>Division of Labor Among Lesbian and Heterosexual Parents: Associations With Children’s Adjustment</u> 12(3) J. Fam. Psychology 402 (1998)	12
David K. Flaks et al., <u>Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children</u> , 31 Developmental Psychol. 105	11, 12, 13
Joseph Goldstein, Anna Freud & Albert Solnit, <u>BEYOND THE BEST INTERESTS OF THE CHILD</u> , (1979 ed.).....	14, 16
S. Golombok et al., <u>The European Study of Assisted Reproduction Families: Family Functioning and Child Development</u> , 11(10) Human Reproduction 2324 (1996).....	10

E. Mavis Hetherington et al., <u>What Matters? What Does Not?</u> , 53 Am. Psychologist 167 (February 1998).....	17
Richard Kalish & Emily Visser, <u>Grandparents of Divorce and Remarriage</u> , 5 J. of Divorce 127 (1982)	14
Barbara McCandlish, <u>Against All Odds: Lesbian Mothers and Family Dynamics</u> , in <u>Gay and Lesbian Parents</u> , (Frederick W. Bozett, ed., 1987).....	11
Charlotte J. Patterson, <u>Children of Lesbian and Gay Parents</u> , 63 Child Development 1025, 1037 (1992).....	17
Ellen C. Perrin, M.D., “Children Whose Parent(s) Is/Are Lesbian or Gay,” in <u>Sexual Orientation in Child and Adolescent Health Care</u> , (2002)	12
Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, <u>Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents</u> 109 Pediatrics 339, 339 (February 2002) (policy statement accompanying Technical Report)	15
Ellen C. Perrin, M.D. & the Committee on the Psychosocial Aspects of Family and Child Health, American Academy of Pediatrics, <u>Technical Report: Co-Parent or Second Parent Adoption By Same-Sex Parents</u> , 109 Pediatrics 341 (Feb. 2002), available at http://www.aap.org/policy/020008t.html	8
Leslie M. Singer, David Brodzinsky & Douglas Ramsay, <u>Mother-Infant Attachment in Adoptive Families</u> , 56 Child Dev. 1543 (1985).....	13
Judith Stacey & Timothy Biblarz, <u>(How) Does the Sexual Orientation of Parents Matter?</u> , 66 Am. Soc. Rev. 159 (2001)	8, 12, 13

Fiona Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY, (1997) 17

F. Tasker & S. Golombok, “The Role of Co-Mothers in Planned Lesbian-Led Families,” in Living Difference: Lesbian Perspectives on Work and Family Life, (G.A. Dunne, ed. 1998)..... 11, 12

R. Thompson, The Father’s Case in Child Custody Disputes: The Contributions of Psychological Research, in FATHERHOOD AND PUBLIC POLICY (Michael Lamb & A. Sagi, eds., 1983) 13

Judith S. Wallerstein & Sandra Blakeslee, Second Chances, (1989) 17

Judith S. Wallerstein & Joan B. Kelly, SURVIVING THE BREAKUP, (1980) 17

STATEMENT OF INTEREST OF AMICI

Amici are organizations composed of individuals who are scholars and researchers of family and child issues as well as mental health practitioners who work with families. *Amici* have contributed to the research and literature concerning family relationships and childhood development, including same-gender couples. This brief is submitted to assist the Court by collecting, summarizing and discussing the social science research and literature about the bonds that biological and non-biological parent figures form with children they raise, and particularly the bonds formed by parent figures in same-sex couple families.

The Vermont Psychiatric Association (“VPA”) represents over 100 psychiatrists in the State of Vermont. The VPA is committed to providing courts accurate and up to date information from credible scholarly research regarding gay and lesbian individuals, relationships, and parenting. In addition, the VPA supports full civil rights for gay and lesbian citizens. It has endorsed a resolution acknowledging that marriage is a basic human right and affirming that the State should not interfere with same gender couples who choose to share fully and equally in the rights, responsibilities, and commitment of civil marriage.

The Vermont Chapter of the National Association of Social Workers (“NASW”), is a 455 member professional affiliate, and is composed of individuals with bachelors, masters and doctorates in social work. The chapter is guided by a Code of Ethics (NASW Delegate Assembly, 1996)

and a range of policy positions that were reviewed and accepted by members in accordance with procedures set forth in the By-Laws. Social workers, through the Code of Ethics, pledge to "enhance human well-being and help meet the basic needs of all people" and are expected to "act to prevent and eliminate domination of, exploitation of, and discrimination against any person, group, or sexual orientation, age, marital status, political belief, religion, or mental or physical disability." Members of the Vermont chapter are also expected to obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, nationality, origin, color, sex, sexual orientation, age, marital status, political belief, religion, and mental or physical disability.

Lynne Bond, Ph.D. is Professor of Psychology at the University of Vermont. As a Developmental Psychologist she has an extensive record of books and professional research publications and presentations pertaining to: optimizing child and family development; gender and development; and gay and lesbian development. She teaches courses on Family, Human Development, and Community Development to both undergraduate and graduate students. She has served as an expert witness in child custody hearings. She has been distinguished as a Fellow of the American Psychological Association and is the President of the Vermont Conference on the Primary Prevention of Psychopathology.

David Chambers is the Wade H. McCree, Jr., Professor, Emeritus,

at the University of Michigan Law School. He is a former President of the Society of American Law Teachers and a former member of the Committee on Child Development Research and Public Policy of the National Academy of Sciences. He is now a resident of Vermont, after over thirty years teaching family law at the University of Michigan. He is the author of numerous articles that draw upon social science and psychological literature for their bearing on issues of family policy including custody after divorce, child support and the legal needs of gay and lesbian couples.

Esther Rothblum, Ph.D. is Professor of Psychology at the University of Vermont and was University Scholar at the University of Vermont for the 1992-1993 academic year. She is editor of the Journal of Lesbian Studies, and has written and edited several books and numerous articles on lesbian issues. She was Chair of the Committee of Lesbian and Gay Concerns of the American Psychological Association and received the 1991 Distinguished Scientific Contribution Award from the Society for the Psychological Study of Lesbian and Gay Issues.

Jacqueline S. Weinstock, Ph.D., is an Assistant Professor in the Human Development & Family Studies Program at the University of Vermont. As a Developmental Psychologist, she is a professional researcher, writer, and teacher in the areas of child and family development; adult development; parenting; gender development; and gay, lesbian, and bisexual development. She has taught courses at the

University of Vermont on gay and lesbian relationships, parenting, and families, and on the negative impact of discrimination and oppression on child and adult development.

SUMMARY OF ARGUMENT

When two same-sex parents agree to raise a child together and both participate in raising the child, the biological parent should not be permitted to rebut the presumption of parentage that arises for children born to marriages or civil unions.¹ Research demonstrates that a biological link is not the key to a genuine and substantial parent-child relationship. Indeed, scientific studies demonstrate that when a biological and nonbiological mother raise a child together, the nature of the parent-child bonds are comparable and the child perceives both individuals as parents.

Granting a nonbiological parent in a same-sex parenting couple full parental rights and responsibilities will enhance the emotional health, well-being and security of children of lesbians and gays. This position has been endorsed by the American Academy of Pediatrics as necessary to full psychological security for children. When two people have jointly shared in the decision to have and raise a child, and have been intimately involved in a child's upbringing and care, the child needs the continuity of both parents' involvement after the dissolution of the parental relationship. Permitting the biologically related parent to rebut

¹ While this brief focuses on children born to spouses in a civil union, the same principles apply to children born to married couples who use alternative reproductive technologies ("ART"). For reasons similar to those articulated herein as applicable to gay and lesbian couples, heterosexual couples who use ART with the consent of both spouses should also not be permitted to disavow parentage of the nonbiologically related spouse simply by asserting the lack of a biological tie.

the presumption of parentage of the non-biological parent would also send a harmful message to the child that one of his or her parents is inferior or less acceptable than the parents of other children.

Accordingly, statutes in this area of law should be construed, consistently with their purposes, to maintain already formed parent-child bonds, regardless of biological relationships.

ARGUMENT

- I. SOCIAL SCIENCE RESEARCH FINDS THAT, IN BOTH SAME-SEX COUPLE AND DIFFERENT-SEX COUPLE FAMILIES, CHILDREN FORM STRONG BONDS WITH THEIR BIOLOGICAL AND NON-BIOLOGICAL PARENTS. FOR THIS REASON THE COURT SHOULD INTERPRET THE PRESUMPTION OF PARENTHOOD TO PREVENT A BIOLOGICAL PARENT IN A CIVIL UNION FROM CHALLENGING THE PARENTHOOD OF A NONBIOLOGICAL CO-PARENT.

This case poses an issue of substantial public importance because large numbers of children are conceived through assisted reproductive technology (ART) and because a decision against the nonbiological parent in this case would imperil the well-being of such children. In the majority of cases of children born to a couple through ART, only one partner in the couple is biologically related to the child. The question posed by this case is whether the biologically related parent figure in such families is to be permitted, even years after a child is born, to cut off all legal relationships between the child and the non-biological parent by asserting the lack of a biological relationship.

Amici file this brief to provide the court the benefit of the psychological research that bears whether non-biological parents, and particularly a non-biological parent figure in a lesbian relationship, form the sort of psychological bond with a child born through ART that justifies providing that relationship substantial legal protection.

We do not here review the literature on the frequency with which lesbians and gay men serve as parents in this country, for that was well discussed by this Court in Baker v. State, 744 A.2d 864 (1999). Nor do

we discuss the capacity of gay people in general to be competent, loving parents, for that was discussed in Adoptions of B.L.V.B. and E.L.V.B., 160 Vt. 368, 628 A.2d 1271 (1993).² Rather, we review the research that demonstrates that when a same-sex couple plans to parent a child together and both participate in raising the child, a nonbiological parent typically establishes a genuine parental bond with the child that merits legal protection.

² Since this Court's decision, the American Academy of Pediatrics, the nation's preeminent pediatric authority with 57,000 pediatrician members, has adopted a formal policy declaring that:

[C]hildren who grow up with 1 or 2 gay and/or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual.

... No data have pointed to any risk to children as a result of growing up in a family with 1 or more gay parents.
Ellen C. Perrin, M.D. & the Committee on the Psychosocial Aspects of Family and Child Health, American Academy of Pediatrics, Technical Report: Co-Parent or Second Parent Adoption By Same-Sex Parents, 109 Pediatrics 341, at 341-42 (Feb. 2002) available at <http://www.aap.org/policy/020008t.html>.

Similar policy statements regarding the capabilities of gay and lesbian parents were issued in 1999 by the American Academy of Child and Adolescent Psychiatry (See Gay, Lesbian and Bisexual Parents Policy Statement, <http://www.aacap.org/publications/policy/ps46.htm>), and in 2002 by the American Psychiatric Association (See Position Statement, http://www.psych.org/edu/other_res/lib_archives/archives/200214.pdf)

In addition, in a major literature review in this area, the authors concluded, "[E]very relevant study to date, shows that parental sexual orientation per se has no measurable effect on the quality of parent-child relationships or on children's mental health or social adjustment," Judith Stacey & Timothy Biblarz, (How) Does the Sexual Orientation of Parents Matter?, 66 Am. Soc. Rev. 159, 176 (2001).

A. In Same-Sex Parent Families, Both Biological and Nonbiological Parents Form Strong Bonds with Their Children, Bonds Similar to those Formed with Their Children by Different-Sex Parents.

Several studies have found that in families in which a biological and nonbiological mother raise a child, the nature and quality of the parent-child bonds are comparable to those in which a child is raised by a male-female couple both biologically related to the child and to a child raised by adoption when neither parent is biologically related.

For example, in one leading study of lesbian parents raising children, researchers compared 30 two-parent lesbian mother families with children created via donor insemination, 38 two-parent heterosexual families with children created via donor insemination, and 30 two-parent heterosexual families with children conceived through intercourse.³ The two female partners in the lesbian mother families in the study intended to raise the child together.⁴ In these families, the quality of the parent-child interaction did not differ significantly between the biological mother and the nonbiological mother.⁵ In fact, when compared to heterosexual fathers in either group, the quality of the parent-child relationship was as high or higher for lesbian nonbiological

³ See A. Brewaeys et al., Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families, 12 Human Reproduction 1349 (1997).

⁴ See *id.* at 1350.

⁵ See *id.* at 1354.

mothers.⁶ Most importantly, the children’s own perception of their parents was similar in all three family types.⁷ The nonbiological mother in lesbian families was regarded by the child to be as much a “parent” as the father in both types of heterosexual families. The researchers concluded that both the biological and nonbiological mothers in lesbian families “were actively engaged in child care, and a strong mutual attachment had developed between social mother and child.”⁸

In another study comparing the nonbiological lesbian mother in two-parent lesbian families with fathers in two different groups of heterosexual families (fathers whose children were conceived through donor insemination and had no biological link to the child and fathers in families with naturally conceived children), the results indicated that the relationships between fathers and their children and lesbian

⁶ See id. at 1354.

⁷ See id. at 1349.

⁸ Id. at 1356. This study used the term “social mother” to refer to the nonbiological mother. Interestingly, the researchers also found that there was no difference in the child’s perception of the fathers between the donor insemination and naturally conceived group of heterosexual parents. As such, the researchers concluded that the lack of a genetic link between parent and child did not influence the child’s feelings for the parent. See id. at 1356. See also S. Golombok et al., The European Study of Assisted Reproduction Families: Family Functioning and Child Development 11(10) Human Reproduction 2324, 2330(1996)(finding that the lack of a genetic link between one or both parents and the child did not have negative consequences for parent-child relationships).

nonbiological parents and their children were equally warm and affectionate in all three groups.⁹

Further, in a 1995 study of 15 lesbian couples with children born through donor insemination compared to 15 matched heterosexual parent families, the results indicated that the biological and nonbiological lesbian mothers had equivalent parenting roles.¹⁰ The authors concluded that their findings “provide no basis on which to deny nonbiological lesbian mothers full parental status,” either during the couple’s relationship or, should the relationship end, afterward.¹¹

Similarly, a clinical evaluation of preschool children of lesbian couples concluded that when both members of a lesbian couple care for a child, the child becomes attached to both.¹²

A more recent study by Henny Bos published in 2004 compared 100 lesbian couples who had a planned child through donor insemination with a matching number of heterosexual couples with

⁹ F. Tasker & S. Golombok, The Role of Co-Mothers in Planned Lesbian-Led Families, in Living Difference: Lesbian Perspectives on Work and Family Life (G.A. Dunne, ed. 1998).

¹⁰ See David K. Flaks et al., Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children, 31 Developmental Psychol. 105, 112.

¹¹ Id. at 113.

¹² Barbara McCandlish, Against All Odds: Lesbian Mothers and Family Dynamics, in Gay and Lesbian Parents 23, 29-30 (Frederick W. Bozett, ed., 1987).

children.¹³ Based on interviews with the couples, Bos found that the commitment to having children was stronger for the nonbiological mothers in the same-sex couples than it had been for the biological fathers in the heterosexual couples. He also found that both lesbian partners were deeply involved in the care of their children. Significantly, the nonbiological mothers spent substantially more time on family tasks and were more emotionally involved with the child than were the biological fathers in the different-sex couples. Also, as other studies report, he found no differences between the emotional well-being of the children of the lesbian parents and the well-being of the children with different-sex parents.

Studies demonstrate lesbian couples who raise a child together work closely on parenting tasks and activities. Lesbian couples share child care activities more equitably than do heterosexual couples,¹⁴ and nonbiological lesbian mothers have highly developed parenting skills.¹⁵

¹³ See Henny Bos, PARENTING IN LESBIAN FAMILIES (2004).

¹⁴ See Ellen C. Perrin, M.D., Children Whose Parent(s) Is/Are Lesbian or Gay, in Sexual Orientation in Child and Adolescent Health Care 105, 119 n.4; Brewaeys et al., supra note 3 at 1354, 1356; Raymond W. Chan et al., Division of Labor Among Lesbian and Heterosexual Parents: Associations With Children's Adjustment 12(3) J. Fam. Psychology 402, 403(1998); F. Tasker & S. Golombok, The Role of Co-Mothers in Planned Lesbian-Led Families, in Living Difference: Lesbian Perspectives on Work and Family Life 63 (G.A. Dunne, ed., 1998); Stacey & Biblarz, (How) Does the Sexual Orientation of Parents Matter?, 66 Am. Soc. Rev. 159, 174 (2001).

¹⁵ Id. at 174; Flaks et al., supra note 10 at 110-111.

Moreover, studies find that lesbian partners in two-parent families have a greater level of synchronicity in parenting than do heterosexual parents.¹⁶ This dynamic reflects the interwoven parenting roles of the biological and nonbiological mothers, and also reinforces the child's perception of both persons as parents.

The research on lesbian nonbiological mothers and their children is consistent with the substantial body of more general psychological literature on the important bonds that develop between children and their parental caregivers. Social scientists refer to those strong bonds between parents and children which are formed early in life as "attachment."¹⁷ Research on father-child relationships, for example, shows that children develop strong bonds with their fathers even if they spend less time with their fathers than with their mothers. These "emotionally salient relationships . . . persist[] as the child grows older."¹⁸

Research also shows that these bonds develop regardless of whether a parent is biologically related to the child. Thus, children form as strong attachments to adoptive as to biological parents.¹⁹ Similarly,

¹⁶ See Stacey & Biblarz, supra note 2 at 174; Brewaeys et al., supra note 3 at 1354; Flaks et al., supra note 10, at 112.

¹⁷ See, e.g., John Bowlby, ATTACHMENT, v. 1 at 198-209 (1969).

¹⁸ R. Thompson, The Father's Case in Child Custody Disputes: The Contributions of Psychological Research, in FATHERHOOD AND PUBLIC POLICY at 90 (Michael Lamb & A. Sagi, eds., 1983).

¹⁹ See Leslie M. Singer, David Brodzinsky & Douglas Ramsay, Mother-Infant Attachment in Adoptive Families, 56 Child Dev. 1543, 1550

when a grandparent fills the role of a parent, children also typically develop strong attachments to the grandparent.²⁰

The parent-child relationship thus develops without reference to biology or formal adoption.²¹ A child forms these strong psychological bonds to any adult who, on a continuing, day-to-day basis, through interaction, companionship, interplay, and mutuality, fulfills the child's psychological and physical needs. Such an adult becomes the "psychological parent," without regard to whether he or she is biologically related to the child.²² In sum, the research on same-sex parents, as well as parental bonding in general, conclusively demonstrates that a nonbiological parent who has functioned from the child's birth as a parent, such as the nonbiological parent in the case here before the Court, forms bonds with the child equivalent in salience to the child as those of a biological parent.

(1985) ("Like non-adoptive mother-infant pairs, most adoptive mothers and their infants develop warm and secure attachment relationships").

²⁰ See, e.g., Richard Kalish & Emily Visher, Grandparents of Divorce and Remarriage, 5 J. of Divorce 127, 131 (1982).

²¹ Joseph Goldstein, Anna Freud & Albert Solnit, BEYOND THE BEST INTERESTS OF THE CHILD at 27 (1979 ed.).

²² Id. at 98. The authors use the term "common law parent" to describe an adult whose parental role developed outside of adoption, custody, or the initial assignment of a child at birth to his or her biological parents. Id. at 27.

B. Statutes Should Be Construed to Protect Parent-Child Bonds Rather Than To Elevate Biology Over All Other Considerations.

The research we have just reviewed makes clear that children born by assisted reproductive technologies need legal protection for their relationships they form with nonbiological parents. Fortunately Vermont already has in place the mechanisms to achieve that protection. Vermont permits the non-biological parent, in same-sex or different-sex couples, to adopt the child and become a fully recognized legal parent. See 15A V.S.A. It also has adopted the statutory presumption of parenthood at issue in this case and that applies to couples joined by marriage or civil union. 15 V.S.A. sections 308(4), 302. Because the purpose underlying the statutory presumption is protect, this Court should construe the presumption to deny the biological parent the ability to challenge the parenthood of a nonbiological parent when both jointly participated in the decision to have and raise a child.

As the American Academy of Pediatrics has stated in the context of adoption by a lesbian co-parent,

Children who are born to or adopted by one member of a same-sex couple deserve the security of two legally recognized parents ... When two adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition.²³

²³ See Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents 109 Pediatrics 339, 339 (February 2002) (policy statement accompanying Technical Report)

Preventing the biological parent in this case from contesting the parentage of a nonbiological parent is important for enhancing the security and welfare of the child. Where two parents have been intimately involved in a child's upbringing and care, including in decision-making and other aspects of parenting, the child will benefit from the continuity of parental roles and responsibilities after the dissolution of the parents' relationship. If a parent figure has been regularly involved in decision-making about schooling, medical care, and other central aspects of the child's life, the termination of that parent's regular and customary role will be experienced as a disturbing and unexplained loss by the child.

Indeed, once parental bonds have been formed, continuity of the same quality and nature of the relationship is important for the child's healthy development. "Continuity of relationships, surroundings, and environmental influence are essential for a child's normal development."²⁴ Stated differently, "[t]here is a strong case for believing in the unfailing accessibility and support of attachment figures as the bedrock on which stable and self-reliant personality is built."²⁵

Studies of divorced different-sex parents demonstrate the psychological harm that typically results when a child loses physical

²⁴ Goldstein et al., supra note 21, at 31.

²⁵ John Bowlby, ATTACHMENT, v. 2, at 322 (1969).

contact with a parent to whom the child is attached.²⁶ Children raised by same-sex parents have the same need for continuity after their parents' separation. One prominent researcher in this area concluded that if a lesbian couple separate after jointly raising a child since birth, "it is reasonable to expect that the best interests of the child will be served by preserving the continuity and stability of the child's relationship with both parents."²⁷ In fact, cessation of the relationship between the child and co-parent or second parent "can cause extreme distress."²⁸

²⁶ See, e.g., Judith S. Wallerstein & Sandra Blakeslee, Second Chances (1989)(children who do not maintain contact with co-parent suffer a continuing sense of loss and sadness); E. Mavis Hetherington et al., What Matters? What Does Not?, 53 Am. Psychologist 167, 177 (February 1998)("some degree of contact is essential"); Judith S. Wallerstein & Joan B. Kelly, SURVIVING THE BREAKUP, 170-172, 217-220 (1980)(describing how family copes after separation during different time intervals, and concluding that after several years, "[t]he negative effect of irregular, erratic visiting" was "clear" in terms of children's disappointment, anger and feeling of being unloved).

²⁷ Charlotte J. Patterson, Children of Lesbian and Gay Parents, 63 Child Development 1025, 1037 (1992)

²⁸ Fiona Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY, at 12 (1997).

CONCLUSION

Where a couple jointly decide to have a child and jointly participate in raising that child, maintaining the child's ties with both parents will typically serve the child's best interests. This Court should facilitate the best interests of the increasing population of children of gay and lesbian couples by interpreting the statutory presumption of parenthood to apply fully to same-sex couples and prevent a biological parent from unilaterally ending a child's relationship with a nonbiological parent figure.