

STILL A PATCHWORK QUILT: A NATIONWIDE SURVEY OF STATE LAWS REGARDING STEPPARENT RIGHTS AND OBLIGATIONS

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This article surveys state laws regarding stepparents and stepchildren throughout the United States with regard to custody and visitation rights, child support obligations, adoption and inheritance rights. It provides background information, statistics and general definitions regarding stepparents, a review of some of the psychological and legal literature, information regarding websites and articles for the general public on the topic, and a description of the survey of the states nationwide. Finally, it provides some suggestions regarding future goals for the law in this arena.

Keywords: *Stepparents; stepchildren; divorce; custody and visitation; child support; adoption; inheritance rights*

“Stepfamily life can seem like a roller coaster . . . a continuous cycle, perhaps even an adventure, with its ups and downs, strengths and weaknesses, positives and negatives (Burrell, 1995, p. 296).”

INTRODUCTION

Familial trends and lifestyles have greatly changed since the days of the Ozzie and Harriet nuclear family of the 1950’s, thereby altering our concepts of what constitutes a “family” or a “parent.” In many instances, a stepparent makes up one half of the modern couple that heads a “family.” For purposes of this article, a stepparent is defined as a “person married to the legal (natural or adoptive) parent of a child.”² (There are stepparents who legally adopt their stepchildren, and they are treated as biological parents under the law; a more expansive definition of a stepparent includes live-in girlfriends and boyfriends). For at least the last decade, legal commentators have noted that while the stepfamily is a “critical arena of family change,” and while stepparents often play an important role in their stepchildren’s lives, “[o]verall there is a lack of legal recognition of the stepparent/stepchild relationship.”³ Moreover, it has been argued that residential stepparents “generally have fewer rights than legal guardians or foster parents” and that “U.S. law does not consistently recognize stepparents’ roles, functions, rights, and obligations regarding their stepchildren.”⁴ In an article in 2002, the commentators noted that

[w]hile marriage clearly defines obligations and rights between the stepparent and the child’s natural parent, the stepchild is not considered part of this web of rights and obligations, even when the child resides in the same household. With few exceptions, stepparents have no obligation during the marriage to support their stepchildren, even while they have an obligation to support their spouse, the child’s parent. Nor do stepparents have any right of custody or control. If the marriage terminates through divorce or death, they most often have no rights of custody or visitation, no matter how longstanding their stepparent role. And stepparents do not have any obligation to pay child support following divorce, even if their stepchildren have depended on their income for many years. Conversely, stepchildren have no right of inheritance in the event of the stepparent’s death and do not receive the safety net of continuing benefits that they would with the death of a biological parent.⁵

Our research into how states deal with stepparents’ custody and visitation rights and child support obligations, their right to adopt their stepchildren and inheritance rights of stepchildren certainly

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confirms that the lack of consistency still exists. However, there has been some progress since commentators first started raising the issue of the lack of legal recognition for stepparents in that more statutes and case law address stepparent concerns.

Statistics reveal that “approximately 50% of U.S. marriages end in divorce, 60% of second marriages end in divorce, and about 43% of marriages are remarriages for at least one party.”⁶ While the statistics vary, estimates are that “as many as one in three American children now can expect to spend some of their childhood years living with a stepparent . . .”⁷ According to demographic information collected by the U.S. Census Bureau in the 2000 census, which is the most recent one, there are a “total of 4.4 million ‘stepchildren of householders’ in the United States in 2000; 3.3 million of these stepchildren were under eighteen years of age.”⁸ It has been noted that the number of stepchildren reported is underinclusive in that “the number includes ‘stepchildren of the householder’ but omits stepchildren of the householder’s spouse living in their home.”⁹ Blended families “come in many forms” with some common examples as follows: “Married couples in which one or both spouses have children from a previous relationship; families with children who are in a subsequent marriage that have children from a previous relationship; and families with children whose spouses have children from a previous relationship.”¹⁰

PSYCHOLOGICAL RESEARCH

As a result of the large percentage of divorced couples who remarry and thereby increase the number of blended families living together, the psychological community has engaged in research and has developed interesting psychological literature about the implications of this phenomenon on families, which, from a multi-disciplinary perspective, is important for lawyers to be aware of as well. One researcher noted that “the stepfamily has captured the attention of social scientists across various disciplines due, in part, to the relational challenges and difficulties associated with adjusting to postdivorce and remarried family life.”¹¹ What complicates study in this area is that stepfamilies involve “a plethora of personal relationships that vary considerably in form, structure, and complexity . . .”¹² A sampling of the literature will be discussed below.

One of the themes of the literature is the benefit of communication on the blended families’ well-being, which plays a “central role in facilitating family functioning” and the importance of boundary development and role identification.¹³ The blended families’ development was characterized as satisfying when the family had the ability to discuss “family roles, boundaries, shared identity, acclimation into the family, diverse expectations, conflicts and their feelings.”¹⁴ The amount of published research on stepfamilies tripled during the 1990’s, however, one researcher noted that “communication scholars have only recently begun to explore the processes that facilitate and/or hinder stepfamily development.”¹⁵

Role negotiation and development in stepfamilies are other areas of study. Past research has indicated that “[w]hen Stepfamily members are in the early stages of forming and organizing, life is often unpredictable and chaotic (Burrell, 1995). It can take several years for members of previously distinct families to adjust to one another and to integrate their lives into a new family system (Baxter, Braithwaite, & Nicholson, 1999).”¹⁶ One study with adolescents discussed that “[j]ust as warmth and control are important dimensions of step/parenting behavior, autonomy and connection seeking are key relational activities for stepchildren.”¹⁷ The results of that study indicated that “higher levels of satisfaction correlate with greater frequency of connection-seeking behaviors toward stepparents and lower frequency of autonomy-seeking behaviors.”¹⁸ It has been found that “the more warmth the stepchild reported the stepparent displayed toward his or her stepchild, the greater the stepchild’s perceptions of role clarity. One reason may be that when stepparents exhibited warmth behaviors in the enactment of their roles, stepchildren were more willing to play the counterpart, thus having a sense of how to behave.”¹⁹

Researchers have been studying the factors that facilitate the formation of positive stepparent-stepchild bonds. “According to clinicians, many stepparents fail to build friendships with their

stepchildren before moving into disciplinary roles, thereby creating resistance and negative reactions from their stepchildren (Mills, 1984; Visser & Visser, 1996).²⁰ Researchers have demonstrated that

stepchildren who develop a relationship with their primary stepparents at an earlier age, as well as those who have been members of their stepfamilies for longer periods of time, may be somewhat more likely to grant a primary stepparent parental authority. More importantly, the results also suggest that stepmothers, when compared to stepfathers, may face an initial disadvantage when it comes to developing positive regard, parental authority, and affective certainty with their stepchildren. Not only are stepmothers often stigmatized (e.g. Christian, 2005; Dainton, 1993), but also researchers have found that children living with stepfathers report higher self-esteem and fewer social problems than those living with stepmothers (Fine & Kurdek, 1992).²¹

Researchers have reported that “more than a third of the studies published in the 1990’s on stepfamilies dealt with the effects of stepfamily living on children.”²² Some studies have shown that, when compared with children in first-marriage families, stepchildren “on average display more signs of depression, are more at risk for having emotional problems, and generally show more externalizing behavioral problems, such as using drugs and alcohol, engaging in sexual intercourse, and nonmarital childbearing.”²³ One study reported that stepchildren from “bonded and functional stepfamilies reported fewer mental health symptoms than stepchildren from ambivalent, evasive, and conflictual stepfamilies.”²⁴

Some of the research suggests that “younger adolescents (age 10–14) may have the most difficult time adjusting to a stepfamily. Older adolescents (age 15 and older) need less parenting and may have less investment in stepfamily life, while younger children (under age 10) are usually more accepting of a new adult in the family, particularly when the adult is a positive influence.”²⁵ Young adolescents who are forming their own identities tend to be a bit more difficult to deal with. Researchers advise that stepparents should at first establish a relationship with the children that is more akin to a friend or “camp counselor,” rather than a disciplinarian.²⁶

Affective attachment or emotional bonding with significant others is an important developmental component of close personal relationships.²⁷ One study, which looked at attachment patterns in stepfamilies, noted that where children had satisfaction with their relationship with the biological father, their attachment and adjustment were improved.²⁸

A longitudinal Binuclear Family Study twenty years after the divorce addressed, in part, the following question: when a parent remarries or cohabits, how does it impact a child’s sense of family?²⁹ Most of the adult children had experienced the remarriage of at least one parent.³⁰ One quarter of both the mothers and fathers in the study had a second divorce and were cohabiting or in a third marriage.³¹ Although there were numerous findings, the study found that “[f]or many children, the second divorce and remarriage represented another difficult major transition, although a few expressed relief because they disliked their stepparent. What happens to these relationships after a divorce depended in large part on how long the marriage lasted, how strong the relationship was between the child and his or her stepparent, and the nature of the divorce between the biological parent and the stepparent . . . when the second marriage lasted long enough for the children to develop strong relationships with the stepparent, some continued these relationships for years afterward. For a few children, however, not only did they lose a stepparent to whom they had formed a close attachment, but they experienced the loss of their step-grandparents as well.”³²

In another longitudinal study which investigated parent-child and stepparent-child relationships with siblings over 10 years in the post-divorce family, the results showed “widely discrepant psychological adjustment among siblings along with disparate relationships with parents and stepparents in one half of the families at the 10-year follow up.”³³ The authors point out that divorce is not an “acute time-limited crisis for children,” and they maintain that this finding has implications for court policy since it had been assumed that parent-child relationships at divorce will remain relatively unchanged over the years that follow.³⁴ One observation made is that in contrast with the biological parent

the stepparent's relationship with the child has no roots in the psyche of the stepparent. Stepparents and children meet as strangers. They may or may not find common ground. Some spouses love their stepchildren as their own. Others have little interest in parenting. Evidently, some choose the child that they prefer, or reject the child who is not appealing. It is striking that, as this study shows, many remarriages fail to fully integrate the children of the prior marriage, and many stepparents do not feel constrained to treat all of the siblings in their remarriage with equal attention and concern.³⁵

Another finding of the study is that the stepparent has the "power to influence or even to reshape the relationship between the biological parent and his or her children."³⁶ The authors maintain that this finding "speaks to the importance of evaluating the full panoply of family relationships including the role of stepparents with all siblings, and their influence on the parent's relationships with all of their children, when families engage in post-divorce litigation."³⁷

Other research regarding the adjustment of children looked at the fact that children in stepfather households are "doing worse" than children in original, two-parent households and no better than children in single-mother households.³⁸ Although the study looked at intra-household conflict and inter-household conflict, and noted that children in stepfather households risk being exposed to both forms of conflict, the results, nonetheless, suggested that "parental conflict does not account for the lower levels of well-being among children in stepfather households relative to other children," and that future research must be done to look for other causes.³⁹

In a study which looked at the long-term physical health of children of divorce, it was reported that the more time children lived with their fathers after divorce, the better their current relationships were with their fathers, independent of parental conflict.⁴⁰ The more parental conflict the children experienced, the worse their relationships were with their fathers and more distress, in turn, predicted poorer health status.⁴¹ More time with a father was seen as beneficial in both high and low conflict families, and more exposure to parent conflict was seen as detrimental at both high and low levels of time with fathers.⁴²

One paper examined "the relationship between a child's family structure and his or her development."⁴³ The authors provided evidence that "half-siblings brought into the household from previous relationships affect the well-being of children born into a subsequent marriage who live with both of their biological parents. Stepchildren and children living with both biological parents exhibited more behavior problems and scored worse on reading achievement tests when half-siblings were present. In contrast, stepchildren living without half-siblings in the home fared no worse than biological children without half-siblings."⁴⁴

The literature suggests that "sex differences likely account for some of the variability in adjustment and behavioral outcomes for children in stepfamilies, though the results are mixed."⁴⁵ One researcher looked at the extent to which sex differences influence stepchildren's perceptions of stepfamily functioning.⁴⁶ According to the author, "[s]tepsons reported less stepfamily involvement among family members than stepdaughters, and stepchildren who identified a stepfather as their primary stepparent reported less family dissension and avoidance, and more family involvement and expressiveness than those who identified a stepmother."⁴⁷

Stepfamily researchers have "gravitated toward stepfather families and have paid much less attention to stepmother families."⁴⁸ This is so because "approximately 86% of minor-age stepchildren live predominantly with their mothers and stepfathers."⁴⁹ One project explored "gender relations in stepfamilies from the vantage point of adult stepchildren who acquired stepparents during childhood."⁵⁰ The authors suggested that there was strong evidence that "relationships in these stepfamilies were significantly affected by gendered social practices."⁵¹ The author concluded that this research suggests that "unless practices of parenting undergo significant changes, there may continue to be a skew toward feminized parenting in stepfamilies."⁵²

One study looked at people who divorce, remarry, and have children with their new spouses.⁵³ They found that "[y]outh in both blended and step-families report significantly worse academic, behavioral, and psychological outcomes than children in simple two-parent families . . . even though shared

children in blended families reside with both of their biological parents and are commonly classified as residing in two-parent families in the youth outcomes literature, their outcomes are significantly worse than the children who actually reside in simple two-parent families.⁵⁴

Some scholars have looked at the factors associated with stepfather adoption.⁵⁵ Researchers explain that the need for this inquiry is demonstrated by the fact that the “number of both stepfamilies and adoptive families has grown in recent decades, with 4.4 million American stepchildren living in both cohabiting and married stepfamilies.”⁵⁶ One study noted that adoptive stepfathers are uncommon; that having one or more resident, shared children are associated with greater odds of stepparent adoption; and that there was some suggestion that “stepfathers with nonresident children from prior relationships are less likely to adopt stepchildren because they are more likely cohabiting, rather than married.”⁵⁷ Marriage has been associated with “increased odds of stepfather adoption in most of the analyses, with the exception of the men with nonresident children . . .”⁵⁸ There is extensive literature in this area, and the above is just a representative sample of some of the work being done.

LEGAL RESEARCH

GENERAL CONCEPTS

Legal scholars have discussed the fact that “in the eyes of the law, the status of parenthood is generally restricted to biological and adoptive parents.”⁵⁹ Stepparents are viewed as “a major category of ‘third parties’ who develop relationships with their stepchildren but are not regarded as legal parents.”⁶⁰ When the custodial parent of a minor child marries another adult who is not the child’s biological or adoptive parent, that is when a residential stepparent-stepchild relationship is created, but there is no definitive definition of the stepparent status.⁶¹

When does the question of the legal recognition of stepparent-child relationships arise? It may arise “while the stepfamily members reside together as a family unit, or in the event that the marriage between the stepparent and the custodial parent is terminated by divorce or death.”⁶² (As noted in the Census 2000 Special Reports, as “marriage, remarriage, and cohabitation patterns have changed, the words ‘stepchild’ and ‘stepfamily’ now may include some families that are formed by cohabitation rather than marriage).”⁶³

According to Margaret M. Mahoney, Professor of Law, the “recurring legal issues governed by the statutes and case law of each state, include the custodial authority of the stepparent while married to the custodial parent of a minor stepchild, stepparent custody or visitation rights following termination of the marriage, the support responsibility of the stepparent during marriage and following divorce, and stepchild rights to inherit from the stepparent who dies without a will.” We used those categories for our research regarding the current status of the law. With regard to adoption, the stepparents may adopt “only after the noncustodial parent has been removed from the status of legal parent by consent, court order, or death.”⁶⁴ There are additional state law issues such as wrongful death, negligence, criminal and other issues which are not covered herein. Further, while there are federal family policies that affect stepfamilies, including general welfare benefits, this is outside the scope of this article.

The reason there is a “patchwork” of laws regarding stepparents is the fact that the “starting premise” under the “traditional model” is that “legal recognition of the stepparent-child relationship will be denied,”⁶⁵ and the law of stepfamilies consists of “a series of limited exceptions, created by the state legislatures and courts, which recognize the stepparent status for a single purpose in the law. Notably, the rules establishing limited recognition in this manner for stepparents as third parties are not uniform from one state to another.”⁶⁶ According to one commentator, in the context of family inheritance rights, “the stepparent-child relationship receives no recognition.”⁶⁷ For other family-law purposes, “stepparents have received recognition as ‘third parties,’ whose interests must be reconciled with the primary interests of the stepchild’s legal parents. Often, such recognition is extended only if the residential stepparent meets a standard, such as the *in loco parentis* standard, involving proof of an

established parent-like relationship with the child.”⁶⁸ This recognition arises in the context of laws governing stepparent child support responsibility during the marriage, and in the context of laws establishing stepparent standing to seek visitation following the termination of the marriage.⁶⁹

Another “legal fabrication” is the “de facto parent,” which is used most often in visitation disputes following divorce, and gives “limited recognition to the actual parenting demonstrated by a parent figure,” and has been applied to stepparents.⁷⁰ With regard to adoption, “the large majority of residential stepparents do not adopt their minor stepchildren.”⁷¹ When they do adopt, the stepparent is no longer a third party and has full parental status. There is a concept of equitable adoption which is “sometimes used to establish a stepparent’s rights as a parent, either during marriage or at divorce or death. This formulation is most commonly used by a stepchild to claim inheritance rights as a legally adopted child. Equitable adoption usually requires proof that the child would have been adopted but for a legal barrier. However, some courts have held that a stepparent relationship is inconsistent with a claim of equitable adoption.”⁷² Note that the American Law Institute (ALI), in its 2002 publication, *Principles of the Law of Family Dissolution*, “attempted to set out the rights to custody and visitation and obligations to support for parents and certain parental figures considered de facto parents and parents by estoppel.”⁷³ In an article evaluating the influence of these principles, the authors noted that although family law academics and, to a lesser degree, social commentators, like the media have taken great interest in these principles, they have not had the influence the ALI hoped for with legislators or the courts.⁷⁴

Some family law scholars have opined on why “U.S. law does not consistently recognize stepparents’ roles, functions, rights and obligations regarding their stepchildren.”⁷⁵ They have identified “two prevailing perspectives regarding how societies view stepfamilies: (a) as incomplete institutions to be ignored and (b) as stigmatized groups, less functional and more problematic than nuclear families.”⁷⁶ The law seeks to protect marriage and nuclear families. Some commentators have criticized the lack of progress in the law, and have observed that such progress “seems geared toward increasing stepparent financial support obligations without concurrent increases in parental rights or recognition of the important roles that many stepparents play in their stepchildren’s lives.”⁷⁷

CUSTODY AND VISITATION RIGHTS

Some decisional law throughout the country involving the custody and visitation rights of “adult outsiders,” particularly in the context of grandparents and same sex parents, has “intensified the attack” against “family autonomy and its concomitant parental authority,” which has some influence on how courts and legislatures will deal with stepparents over time.⁷⁸ It has been noted that courts have “less difficulty in awarding a stepparent visitation rather than custody.”⁷⁹ One commentator argued that while some states have recognized “that the realities of family life call for a new approach to visitation standing . . .,” other states should add a section to their legislation “granting standing to deserving nonbiological family members.”⁸⁰ In a proposed Model Act of the ABA Establishing Rights and Duties of Stepparents, it sets forth factors to determine standing as follows: “(1) Degree of significant participation in the life of the child, including standing in as the de facto parent; (2) Existence of an emotional relationship; (3) Degree of financial contribution; (4) Relationship of the child to others seeking visitation; and (5) Detriment to the child from denying visitation.”⁸¹

In a relatively recent article the author noted that “[o]nly about one-third of states provide for visitation by stepparents in their legislation, either expressly or in language that is broad enough to include them, and state courts addressing visitation rights of stepparents have arrived at different conclusions.”⁸² All of the statutes contain a requirement, either expressly or implicitly, that visitation must be in the best interests of the child, and some state laws impose additional conditions.⁸³ This author objected to “the lack of any principle or theory underlying the current variations of visitation laws among states.”⁸⁴ An interesting observation is that “[t]he current consensus on children’s relational interests is that children can form multiple relationships, which are essential for their social developmental needs,”⁸⁵ which of course includes stepparents. This commentator argued for a strategy

where non-parents can make a claim for visitation based on a meaningful relationship with a child while “also preserving the uniqueness of parental status.”⁸⁶

One commentator, in an opposing view, argued that the court-created psychological-parent and de facto-parent doctrines should be rejected, and that the Uniform Parentage Act should define “parent” to mean biological and adoptive parent, “thus giving fit biological and adoptive parents the right to make decisions regarding third-party visitation.”⁸⁷ The view is that these doctrines “infringe on the fundamental right of natural parents to make decisions about their children without government interference- a right that the Supreme Court has repeatedly affirmed.”⁸⁸ The other arguments are that these doctrines “create a slippery slope in visitation and custody cases because it is difficult to see where courts will draw the line for psychological parents,” and that “these doctrines create such instability, confusion, and insecurity in children’s lives that courts cannot reliably identify the rare instances when providing visitation to third parties would benefit a child.”⁸⁹

One example of a state that specifically references stepparents in terms of custody rights is Delaware. Delaware’s statute applies in the limited circumstance where the stepparent seeks custody after the death of the natural custodial parent.⁹⁰ In a case which analyzed the Delaware statute, the natural mother sought custody of the child after the death of the custodial father.⁹¹ The stepmother, with whom the child was residing, also sought custody. The Family Court awarded custody to the stepmother and the natural mother appealed, in part, on constitutional grounds. The Supreme Court held that the stepparent custody statute adequately protected the interest of the natural mother. The statute “instructs the court to use a ‘best interests’ analysis only in deciding whether a child, whose natural custodial parent dies, should remain with the stepparent or be placed with the surviving natural parent.”⁹² The Supreme Court held that the statute does not sever the natural parent’s relationship with his or her child and is “carefully limited,” in that it applies to situations where a child has been part of a family unit and the stepparent has been parenting the child.⁹³ Moreover, the court noted that the statute “recognizes the strong familial bond that may have developed between a stepparent and child, and it provides the stepparent an opportunity to continue in that relationship if that result would be in the best interests of the child.”⁹⁴

CHILD SUPPORT OBLIGATIONS

With regard to child support, at common law, “the relationship of stepparent and stepchild did not, of itself, confer any rights or impose any duties . . .”⁹⁵ “A stepparent is obligated to support a stepchild during the marriage where (1) there is a statute imposing such a duty, or (2) the stepparent undertakes to act in loco parentis to the child.”⁹⁶ There are states with specific statutes dealing with the issue, and in certain states, if a stepparent “voluntarily received a stepchild into his or her family and treated the stepchild as a member thereof . . .,” he or she could be “placed in loco parentis and assume an obligation to maintain and support the child.”⁹⁷

One example of a statute that imposes a child support duty on a stepparent is the one in Vermont.⁹⁸ It provides that

[a] stepparent has a duty to support a stepchild if they reside in the same household and if the financial resources of the natural or adoptive parents are insufficient to provide the child with a reasonable subsistence consistent with decency and health. The duty of a stepparent to support a stepchild under this section shall be coextensive with and enforceable according to the same term as the duty of a natural or adoptive parent to support a natural or adoptive child including any such duty of support as exists under the common law of this state, for so long as the marital bond creating the step relationship shall continue.

INHERITANCE RIGHTS

With regard to inheritance rights, a commentator noted that the “‘large majority of people die intestate,’ and thus state law, rather than a will, determines who inherits a decedent’s estate.

Consequently, unadopted stepchildren often do not inherit from their stepparents because most intestacy schemes limit distribution of a decedent's estate to individuals who were either related to a decedent by blood or were legally adopted by a decedent."⁹⁹ California became the first state, in 1983, to provide for stepchildren in its intestacy statutes.¹⁰⁰ Under the Uniform Probate Code ("UPC"), following a stepparent adoption, "the genetic parent who is no longer a legal parent will not inherit from the child, but a child will still inherit from or through that genetic parent, even if the parent permitted the adoption of the child by the child's stepparent, had no further contact with the child, and has a new family with another spouse. Of course the genetic parent can overcome the intestacy rule by executing a will."¹⁰¹ One of the arguments made against giving stepchildren inheritance rights are the following factors: "(1) 60% of remarriages end in divorce, (2) some stepparents claim that they participate in fewer activities with their stepchildren and treat such children less affectionately than natural parents treat their children, and (3) time is needed for stepfamilies to develop family closeness."¹⁰²

There are many arguments going the other way including some sociological findings which show that stepparents "not only view their stepchildren in a favorable light but also that stepparents develop close ties with their stepchildren."¹⁰³ There is also case law and other sociological studies which indicate "that many stepparents think of their stepchildren as their own biological children, and they treat them accordingly."¹⁰⁴ Stepparents always have the option to write wills in which they can specifically provide their unadopted stepchildren with inheritance rights, no matter which type of relationship the stepfamilies form.¹⁰⁵ (Some estate planners recommend that spouses enter into a premarital agreement to avoid estate planning problems in a blended family).¹⁰⁶ (Given that "the strength of family ties among half-blood relatives increasingly runs the gamut," there are interesting issues about how state legislatures should fashion default rules for half-blood relatives, which are beyond the scope of this article).¹⁰⁷

California, for example, recognizes inheritance rights through stepparents in very limited circumstances. It provides as follows:

For the purpose of determining intestate succession by a person or the person's issue from or through a foster parent or stepparent, the relationship of parent and child exists between that person and the person's foster parent or stepparent if both of the following requirements are satisfied:

- (a) The relationship began during the person's minority and continued throughout the joint lifetimes of the person and the person's foster parent or stepparent.
- (b) It is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier.¹⁰⁸

This statute was drawn, in large part, from the Uniform Probate Code, and the "fundamental purpose" of this statute was to "conform to what the testator probably would have wanted if he or she had made a will."¹⁰⁹

WEBSITES AND NEWSPAPER ARTICLES REGARDING STEPFAMILIES

There is a voluminous amount of 'popular' literature about issues involving stepfamilies on the internet, and in newspapers throughout the United States, with much advice. To give a sampling of some of the websites, you can view the following:

- The Stepfamily Association of America, Inc., <http://www.saafamilies.org>
- The Stepfamily Network, Inc., <http://stepfamily.net>
- The Stepfamily Foundation, <http://www.stepfamily.org>
- The National Stepfamily Resource Center, <http://www.stepfamilies.info/law>
- Weber State University Child & Family Studies, <http://www.a-weddingday.com/articles/HealthyStepFamily.html>

- Making Healthy Stepfamilies, <http://parenting.ivillage.com/mom/structure/0,,42q0-p,00.html>
- Blended Families: Stepparent Tips for Healthy Bonding, http://helpguide.org/mental/blended_families_stepfamilies.htm
- www.steptalk.org
- Advice for Step-Parents: Explaining the Challenges, and Tips for Blended Families, <http://blended-familymanagement.suite101.com/article.cfm/stepparenting>
- Step Parent Rights in California, <http://www.expertlaw.com/forums/showthread.php?t=14057>
- <http://ssw.unc.edu/RTI/presentation/PDFs/stepfamiy.pdf>
- Stepparents in the United States- Stepfathers, Stepmothers, Modern Stepfamilies- Encyclopedia of Children and Childhood in History and Society, <http://www.faqs.org/childhood/so-th/stepparents-in-the-united-states.html>
- Stepfamily Association of Rochester, <http://www.stepfamilyrochester.org>

With respect to popular newspaper articles, the advice generally is directed to either stepmothers or stepfathers, or the advice involves how to best blend families, how to handle the adjustment of children, and legal advice. A sampling of these articles is set forth in the endnote herein.¹¹⁰

THE RESULTS OF OUR NATIONWIDE SURVEY

In researching the legal rights of stepparents in the 50 states and in the District of Columbia, we narrowed our focus to the areas of custody and visitation, child support, adoption and inheritance. Using various search engines, we located state statutes and, where there were no statutes, referred to case law.

The results of our research show that of the states that have statutory language that specifically refer to stepparents, 8 states have statutes regarding their custody rights, 11 states have statutes regarding their visitation rights, 15 states have statutes regarding their child support obligations, and 44 states have statutes regarding their adoption rights. Of the states that have statutory language referring to the rights of third parties, 20 states have statutes regarding their custody rights, 13 states have statutes regarding their visitation rights, 3 states have statutes regarding their child support obligations, and 6 states have statutes regarding their adoption rights. We also researched the inheritance rights of stepchildren and found that 19 states have statutory language regarding their inheritance rights if their stepparent dies intestate.

Additionally, some of the states that do not have statutory language regarding stepparents have case law pertaining to stepparents. We researched further and noted the following: 5 states have case law regarding their custody rights, 12 states have case law regarding their visitation rights, 19 states have case law regarding their child support obligations, and 2 states have case law regarding inheritance rights. Moreover, of the states that have case law pertaining to third parties, 4 states have case law regarding their custody rights, 3 states have case law regarding their visitation rights and 1 state has case law regarding child support obligations.

CONCLUSION

A review of our Nationwide Survey clearly reveals that the law with regard to stepparents' rights and obligations remains a patchwork quilt with little consistency with regard to the different categories we researched within a state, and a clear lack of uniformity between states. However, more jurisdictions are addressing the stepparent or third party question in their laws because of advocacy by the psychological and legal communities. More continued research is needed in both fields to determine the appropriate direction for stepfamily policies. The main focus must always be how to best promote children's welfare and how to strengthen diverse family roles.

NOTES

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