

SIMONE'S STORY

MASSACHUSETTS
PARENTAGE ACT
COALITION



Simone is a determined advocate for her beloved five-year-old son, Daniel. He was born prematurely out of state to Simone and her then-partner Cara. The couple married shortly after Cara gave birth, then the family moved back to Massachusetts, Simone's home state.

A child's legal attachment to their parents is never more critical than when their family is in crisis. Simone found out in the most heartbreaking way when Daniel was abruptly removed from their home and placed in foster care at age two because of unfounded claims of domestic violence between his parents.

"They took him on a Friday and said that we could visit him on Monday," says Simone. "But when I showed up, they wouldn't let me see him." Simone was not on Daniel's birth certificate, and despite the fact that she and Cara planned together to build their family through assisted reproduction, despite the fact that Simone was his primary caregiver, despite the fact that she and Cara told the whole world they were both



Daniel's parents and married days after his birth – the Department of Children and Families wouldn't recognize her as a parent.

She wouldn't see her son again for two months. That was the beginning of Simone's legal journey – one in

which she sometimes wasn't allowed in the courtroom where her family's fate was being decided because the system thought she was a legal stranger to her child. She saw Daniel for weekly supervised visits only an hour long. Then, when COVID-19 hit, the visits took place only on Zoom.

When a judge finally recognized Simone as an equal legal parent and Daniel was reunified with both parents, it was a profound relief to have him safely home, particularly during the pandemic, which only increased the anxiety and worry of their separation. Daniel had developed and grown so much in 18 months that "I'm learning him all over again," says Simone.

Simone and Cara have decided to divorce, but "We are cordial, getting along well, and co-parenting well," says Simone. "We all have meals together and had our holidays together. It's been stabilizing for Daniel." The 18 months of separation were long, painful, and unnecessary. Under Massachusetts law, Simone should have been recognized as a parent under the "holding out" provision in Massachusetts law clarified by the legal case *Partanen v. Gallagher*. But that statute remains gendered, which makes it unclear for parents, courts, and practitioners. It is critical to update the parentage statutes so that they are explicitly inclusive of all families, regardless of gender, marital status, or the circumstances of the child's birth through assisted reproduction.

The Massachusetts Parentage Act would provide that much-needed clarity and would ensure that in situations such as Simone's, the parentage bond is clear and recognized at the outset. It could save many other families – especially children – similar heartache.

Massachusetts Parentage Act S 1133 / H 1714

The Massachusetts Parentage Act (MPA) will update Massachusetts' outdated parentage law so that it is clear, equitable, and provides legal protection for all families, including LGBTQ+ families.



2020 was a stressful but also memorable year for me. I was working home at a breakneck pace – my company was one of many working on a therapeutic to treat those suffering from the Covid-19 pandemic. In July of 2020, I had a gynecology follow up appointment that had been delayed a couple of times while we were in lockdown.

I had a diagnostic procedure, and the outcome was frightening: it turned out I had a rare type of cervical cancer. It would be possible to treat the cancer for the short term with a fertility-preserving surgery, but because this cancer returns in about 20% of patients, the complete eventual treatment for this type of cancer was hysterectomy.

I was single, in the middle of a pandemic, and just told that I had an extremely limited time to have biological children.

Having kids has been important for me for a long time. So important, in fact, that I co-founded a cooperative living project to support raising kids in community. I have since moved on from that project, but the lessons I learned from building it and from living in that community stay with me. One of those lessons is that families can be constructed in a myriad of different ways. Regardless of family construction, parents and their children need and deserve parentage laws that protect them.

After discussions with my medical team which included an oncologist and a fertility specialist, I made the decision to pursue the fertility-sparing surgery,

and to try to get pregnant with the help of assisted reproductive technology and a sperm donor. If I am lucky and all goes well, I will be able to have a child before needing that hysterectomy. I will be a proud single parent by choice.

My donor is a friend of mine, and we are both very clear on our desire for me to have sole legal and physical custody of this child. He is happy to be my donor but does not want to be a parent, and I am not seeking a co-parent. We did our research and obtained legal support to execute a sperm donor agreement to formalize our plan and protect our interests, and those of the child.

In that process, I learned that a law protecting my sole legal and physical custody as the single parent of a donor conceived child does not exist in Massachusetts. The donor agreement provides some basic protection as a contract between parties, but that protection is limited.

I will have to go through an expensive, time-consuming single-parent adoption to ensure the protection my future child and my family needs. I believe that me and my future child, and all families like ours, deserve the same protection under the law of Massachusetts as children of married, two-parent families. It is vitally important that Massachusetts has laws that protect all families and that clarify the line between donor and parent. As such, I respectfully submit my testimony today in support of the Massachusetts Parentage Act.

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