

MA FAMILIES: J. SHIA'S STORY

MASSACHUSETTS
PARENTAGE ACT
COALITION



When J was 19, her girlfriend at the time got pregnant. Their relationship moved from romantic to friendship, but the two remained close and J offered to help with the baby. J was at the hospital when he was born and helped name him. She loved “A” from day one.

After A was born, his mother struggled with a number of issues. J stepped up to take care of A and found herself, unexpectedly, a single mother right when she was starting college. She took A to classes and worked in her spare time. For four years, J parented A on her own, with no legal rights or responsibilities. When A was 4, state intervention involving his birth mother’s younger children led to A returning to live with her. Soon after, he was removed to foster care due to abuse in that home. When J tried to become a child-specific foster parent so A could return to her care, she was rejected because the state didn’t want to separate A from his younger brother and because J was still a student. For 10 months, A and his brother were in foster care, with J visiting.

While in foster care, the children disclosed abuse to J, and those allegations were substantiated. But, because she had no legal tie to A or his brother, instead of returning to J’s care, the children were returned to their birth mother. Back in that home, the abuse began again. Through all of this J, who was A’s only constant during his life, wanted to adopt him, but his birth mother would not consent. J’s only option to get custody of A was guardianship. J had to document her years of parenting and, eventually, succeeded in gaining guardianship of A. He is now 11 years old and thriving in her care.



J is frustrated and saddened when she thinks of what her son had to experience – the “constant state of harm” that he was in, exposed to abuse rather than being in her care. “Just because you have a genetic relationship with your child, doesn’t mean you are looking out for them.” And, despite 11 years of being A’s mom, because J is only a guardian and not a legal parent, she feels like a “glorified babysitter.” She has to get permission before traveling with him out of state, and she has to reapply for his health insurance every year. Beyond the practical difficulties of the gray zone that is legal guardianship, J lives knowing that, at any moment, A’s mother could petition to remove her as guardian.

What J really hopes for A is the protection and security of having a legal parent-child relationship with her, who he calls “Mom.” With the Massachusetts Parentage Act, parents like J could seek de facto parent status that is equal, legal parentage, with all the rights and responsibilities of parentage. And, this status would not require terminating A’s birth mother’s rights or excluding her from his life. J hopes that the Commonwealth will respect her lifelong commitment to A and act in his best interests with statutory reform that allows him to be protected and secured to her, no matter what.

Massachusetts Parentage Act S 1133 / H 1714

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SIMONE'S STORY

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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.

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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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KAREN'S STORY

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Karen went through an agonizing legal battle to ensure her parental relationship to her children—all because Massachusetts law did not explicitly ensure her parentage.

Karen and her former partner Julie lived together in Florida when they decided to have children together using assisted reproductive technology. When Julie became pregnant, both sides of the family were thrilled. Karen was present in the delivery room when “Jo” was born in 2008 and when “Ja” was born in 2012. She became “Mommy,” and Julie became “Mama.” Karen gave them each their first bath and was a parent to them in every way.

In Florida, adoption wasn’t available to Karen as the non-biological parent in the children’s early years. The couple ultimately moved back to Massachusetts with their kids. After 13 years together, including the shared parenting years of night feedings, annual checkups, and holidays and family gatherings, the couple separated.

Karen wanted to adopt her two children to provide them with stability and permanency. “I grew up in a large family, and that sense of family is what I wanted for my children,” said Karen. She also wanted her children to enjoy the same legal protections as other children.

Today, Karen shares her life with her partner Lisa, and the kids live with them 50% of the time. With the bitterness of Family Court behind them, Karen, Julie, and Lisa work together to make sure Jo and Ja have everything they need within a shared parenting schedule. Karen and Julie attend parent/teacher conferences together, stand on the sidelines together at sporting events, alternate parenting schedules to ensure it benefits the kids, and even spend time at the other’s house whenever the kids have something to share.

If Karen’s legal parentage were in place from the children’s birth, agonizing years in family court would not have been necessary. The children wouldn’t have worried for three years about whether they would ever see mommy again. Thousands of court dollars could have been saved for college funds for the kids instead of spent on legal fees.

“Because I wasn’t married and hadn’t adopted, the law said I was a legal stranger,” says Karen. “The road to becoming a full legal parent was very tough. Parents and children shouldn’t have to go through that. Children, in particular, shouldn’t suffer any uncertainty at all about who their parents are. Equality and security for children should be enshrined in Massachusetts law.”

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SYLVIA AND JANE'S STORY

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As soon as their baby was born, Sylvia and Jane made plans to connect with other LGBTQ families so that R would see her family reflected in other families and feel comfortable and proud. It's typical of the forethought and care that the couple puts into everything about their lives – especially in matters concerning their family.

The two met in 2005 “through music and singing,” says Sylvia. Both were members of the Boston Women's Rainbow Chorus – in fact, Jane was a founding member. They had a ton in common – both were educators, Sylvia in science and Jane in math – and they were (and still are) avid naturalists and birders. Sylvia knew she wanted to have a child. Though Jane had always pictured herself as “the cool aunt,” she was soon on board with embracing the uncool parts of becoming a parent.

The couple married in 2008. Sylvia was knowledgeable enough about marriage equality and the law to burst into tears (at work) upon hearing that the Supreme Court had ruled favorably in *Windsor v. United States* (2013) and *Obergefell v. Hodges* (2015).

Using assisted reproductive technology (ART), Sylvia became pregnant. The couple enjoyed a smooth pregnancy and birth. “It was very straightforward. We had a baby in the most normative way,” laughs Sylvia. “We

were already married and had the house and might as well have had a white picket fence.”

Because they live in Massachusetts and are married, Jane was able to put her name on R's birth certificate in the hospital even though she had no genetic connection to her child. But the couple was strongly advised that Jane should go ahead and pursue adoption to secure their parentage through an adoption decree. “We were thinking about the unknowns and what might happen ten years down the road,” says Sylvia. “We imagined R becoming ill on a school trip in an unfriendly state and Jane not being able to see her in the hospital or make medical decisions about her.”

They handled the adoption themselves, and they keep the adoption papers where they know they can grab them – in the freezer. “We had the easiest adoption possible,” says Sylvia, describing the friendly judge who played with puppets. “But it's not that easy for everyone. You have to take a day off work to go to court, most people have to pay a lawyer, and it's just not right for anyone to have to adopt their own child.” Even though Jane and Sylvia decided to make adoption day a celebratory one, the “congratulations” messages didn't feel quite right.

Today R is a massively curious 5-year-old who will start kindergarten in the fall. She's into space, watched all of the *Perseverance* landing on TV, and would like to go to Mars herself someday. She is very interested in how things are made, and her parents wouldn't be surprised if she ultimately becomes an engineer.

R's moms know that even their “easy” path to making a family involved unnecessary hurdles that the Massachusetts Parentage Act would eliminate. “I don't want other families to have to go through that,” says Sylvia.



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SHANNON'S STORY

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Shannon and her kids have ridden the waves of the pandemic like many families have. Manny, who's 15, has matured a lot and taken on more responsibility. Ten-year-old Gabriel, who loves Legos and has an amazingly extensive vocabulary, goes up and down with remote learning. When 21-year-old Lala moved out, each boy got his own room, and Gabriel tolerates Lala's pink walls until they can repaint them. The kids' grandparents help out safely when they can – like when Shannon herself became sick with COVID in December of 2020.

The way that Shannon and the three siblings became a family is an extraordinary story of friendship and maternal love. Shannon's friend Angelica, "Ma," gave birth to the kids. When 18-year-old Angelica had Lala, she was couch-surfing and asked Shannon to help care for the baby. Her insecure housing and bipolar disorder made it hard for Angelica to parent alone.

"At first, I took Lala on weekends, then it became a week with me, a week with Angelica," said Shannon. "Lala had her own room and clothes at my house and started calling my parents her grandparents."

When Angelica became pregnant again, she hesitantly asked Shannon what would become of this new child, a little boy named Manny. "He's my family, too," Shannon told her. Shannon made a lifelong commitment to be a parent to Lala, Manny, and ultimately Gabriel. The boys called Shannon "Mummy Shannon," then simply "Mummy."

The kids primarily live with Shannon and visit Angelica, but the two women jointly make decisions about their health and schooling. They had been able to settle differences themselves until 2013 when they disagreed about the children's asthma medication. Shannon and Angelica used a mediator to work that out, which led to a co-parenting agreement drawn up by Shannon's attorney. A judge formalized the agreement and declared Shannon a de facto parent in 2014. The two used a mediator again in 2019 to

settle additional medical and school issues.

"It was important to me and for the kids that Angelica keep her parental rights," says Shannon. "She loves them, and they love her without reservation."

Shannon is a parent and acts as a parent. Still, her de facto parent status leaves her and the kids emotionally and financially vulnerable because, in Massachusetts, de facto parents are not full legal parents. She's not able to claim the children as dependents on her federal or state taxes. She has to file as "single" rather than "head of household." Additionally, the kids would not have access to her Social Security benefits should anything happen to her. "I've paid into the Social Security system since I was 14, and I'm the primary provider for my children. They shouldn't be penalized because of how we became a family."

The recognition of non-traditional families is essential to Shannon and her kids as they get older and become more aware. They have to explain their family to other people, and occasionally Shannon needs to break out the documents to show doubtful educators or health care providers.

Shannon and her kids need her de facto parent status to be an equal legal status. The Massachusetts Parentage Act would not only validate Shannon's family but help protect the kids from potential legal and financial harm. "That's what we're fighting for," says Shannon.



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