CONSIDERATIONS FOR THE GUARDIAN AD LITEM

SAME SEX PARENTS, TRANSGENDER & TRANSITIONING PARENTS

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INTRODUCTION

We have seen a lot of progress for the lesbian, gay, bisexual, transgender, and queer ("LGBTQ") community over the last five years. Most notably, the U.S. Supreme Court's decision in *Obergefell v. Hodges,* 135 S. Ct. 2584 (2015) held that a marriage between two women or two men must be accorded the same treatment which would be given to a man and a woman in the same circumstances. In *Obergefell,* the Supreme Court provides an extensive analysis of the history of the country's treatment of both marriage and homosexuality, emphasizing the importance of marriage and even deeming it a "keystone of our social order." *Id.* at 2594-97, 2601.

Unfortunately, the watershed decision was not followed by legislative action conforming laws that were drafted for different-sex couples to expressly provide for inclusion of same-sex couples. Courts have grappled with how broadly to apply *Obergefell* despite the eloquence of Justice Kennedy's decision, reasoning that "[f]ar from seeking to devalue marriage, the petitioners seek it for themselves because of their respect—and need—for its privileges and responsibilities…their immutable nature dictates that same-sex marriage is their only real path to this profound commitment," *id*. at 2594, and noting that marriage "safeguards children and families" by, among other things, providing children raised by same-sex couples "to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives" and because it "affords the permanency and stability important to children's best interests." *Id*., at 2600.

The Court's discussion in *Obergefell* provides a plethora of strong arguments for protecting same sex married couples and, by extension, their children. However, it is important to note that the *Obergefell* decision focuses on the right of same sex couples to *marry,* and the rights of the children of same sex couples to have parents who are married. It does not specifically

discuss the many remaining issues faced by LGBTQ families outside the context of same sex marriage, including, but not limited to, defining a parent-child relationship of unmarried LGBTQ parents, how to protect LGBTQ parents lacking a biological connection to a child, or interpreting the gendered language of statutes written prior to the *Obergefell* decision.[1] This paper focuses on just a few of the legal issues faced by LGBTQ families and attempts to provide guidance in navigating the current state of Georgia law and the current political climate of the country.

LANGUAGE MATTERS

Georgia Statutory Language

O.C.G.A. § 19-7-20 addresses the circumstances under which children are deemed legitimate. It creates a rebuttable presumption. Specifically, it provides:

(a) All children born in wedlock or within the usual period of gestation thereafter are legitimate.

(b) The legitimacy of a child born as described in subsection (a) of this Code section may be disputed. Where possibility of access exists, the strong presumption is in favor of

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Only one question appears to have a collective resolution, which is of whether a female spouse must be listed on the birth certificate of a child born to her wife (she does), although the question is not entirely settled in all states or in all situations. *See*, *e.g.*, *Pavan v. Smith*, 137 S.Ct. 2075 (2017) (Arkansas was required to treat female spouses in parity with male spouses where a state law required "husbands" to be listed as "fathers" on birth certificates of children born to their wives where the pregnancy was the result of assisted reproductive technology (A.R.T.) with the husbands' consent). *And see Henderson v. Adams*, 209 F. Supp. 3d 1059, 1076 (S.D. Ind. June 30, 2016) (female spouse must be named as parent on birth certificate of child born to her wife), *amended by* No. 1:15-cv-00220, 2016 WL 7492478 (S.D. Ind. Dec. 30, 2016) ("When the State Defendant created and utilized the Indiana Birth Worksheet, which asks 'are you married to the father of your child,' the State created a benefit for married women based on their marriage to a man, which allows them to name their husband on their child's birth certificate even when the husband is not the biological father. Because of *Baskin* and *Obergefell*, this benefit—which is directly tied to marriage—must now be afforded to women married to women."); *McLaughlin v. Jones*, 382 P.3d 118, 121-22 (Ariz. Ct. App. 2016) ("We disagree … that it would be impossible and absurd to apply [Marital Presumption Statute] in a gender-neutral manner to give rise to presumptive parenthood in Suzan. Indeed, *Obergefell* mandates that we do so and the plain language of the statute, as well as the purpose and policy behind it, are not in conflict with that application.").

> legitimacy and the proof must be clear to establish the contrary. If pregnancy existed at the time of the marriage and a divorce is sought and obtained on that ground, the child, although born in wedlock, will not be legitimate.
>
> (c) The marriage of the mother and reputed father of a child born out of wedlock and the recognition by the father of the child as his shall render the child legitimate; in such case the child shall immediately take the surname of his father.

The language in this statute implies a biological connection to the child at issue. Section (b) discusses the "possibility of access;" in other words, the likelihood of the mother being impregnated by a man other than her husband. While Sections (a) and (b) of this statute use gender-neutral language focused on marriage, the gendered language in Section (c) coupled with the biological implications of the statute create challenges for LGBTQ families relying on this presumption. If we look at the plain language of the statute, an argument can be made that the child of a married same sex couple born in wedlock is legitimate, and that both parents are legally recognized. In fact, there are many instances of birth certificates in Georgia being issued by the Office of Vital Records with the names of both same sex parents. Many superior court judges have also recognized children born to married same sex parents as legitimate. Unfortunately, we do not yet have case law on point to confirm that the statute extends to same sex couples.

O.C.G.A. § 19-7-21 addresses the legitimacy of children conceived by artificial insemination, and provides as follows:

> All children born within wedlock or within the usual period of gestation thereafter who have been conceived by means of artificial insemination are irrebuttably presumed legitimate if both spouses have consented in writing to the use and administration of artificial insemination.

Notably, this statute uses gender neutral language, and requires that "both spouses" consent in writing to the use of artificial insemination. It also creates an irrebutable presumption of legitimacy. As discussed in more detail below in *Patton v. Vanterpool,* 302 Ga. 253 (2017), Georgia courts have strictly construed the language of this statute to apply only to cases involving

artificial insemination, and not to extend to cases involving in vitro fertilization. It is not yet clear how Georgia courts will apply this statute to married same sex couples.

O.C.G.A. § 19-8-40 through O.C.G.A. § 19-8-43 are sections of the adoption code which deal with embryo transfers. The court in the *Vanterpool* case relied on the language of these code sections, which were recently amended by the General Assembly, to justify its decision to strictly construe the meaning of "artificial insemination." O.C.G.A. § 19-8-40 provides the following definitions:

> As used in this article, the term:
>
> **(1)** "Embryo" or "human embryo" means an individual fertilized ovum of the human species from the single-cell stage to eight-week development.
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> **(2)** "Embryo relinquishment" or "legal transfer of rights to an embryo" means the relinquishment of rights and responsibilities by the person or persons who hold the legal rights and responsibilities for an embryo and the acceptance of such rights and responsibilities by a recipient intended parent.
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> **(3)** "Embryo transfer" means the medical procedure of physically placing an embryo into the uterus of a female.
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> **(4)** "Legal embryo custodian" means the person or persons who hold the legal rights and responsibilities for a human embryo and who relinquishes said embryo to another person or persons.
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> **(5)** "Recipient intended parent" means a person or persons who receive a relinquished embryo and who accepts full legal rights and responsibilities for such embryo and any child that may be born as a result of embryo transfer.

In regards to the parent-child relationship created, **O.C.G.A. § 19-8-41(d)** provides:

> A child born to a recipient intended parent as the result of embryo relinquishment pursuant to subsection (a) of this Code section shall be presumed to be the legal child of the recipient intended parent; provided that each legal embryo custodian and each recipient intended parent has entered into a written contract.

The General Assembly noticeably made efforts to draft progressive, gender-neutral language surrounding parentage under these Code sections. The term "recipient intended parent" is plural, is not limited to one or even two parents, and has no requirement of marriage. It is possible that

these Code sections could serve as an example for the General Assembly in revising the language of the more dated Code sections defining parentage, like O.C.G.A. § 19-7-20, to create clear avenues to protect LGBTQ families.

O.C.G.A. § 19-7-3.1 (HB 543) is a relatively new code section passed during the 2019 Georgia General Assembly pertaining to the rights of "equitable caregivers". In order to establish standing as an equitable caregiver, a Court must establish, by clear and convincing evidence that a person has: (1) fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in the child's life, (2) Engaged in consistent caretaking of the child, (3) Established a bonded and dependent relationship with the child, the relationship was fostered or supported by a parent of the child, and such individual and the parent have understood, acknowledged, or accepted or behaved as though such individual is a parent of the child, (4) Accepted full and permanent responsibilities as a parent of the child without the expectation of financial compensation, and (5) Demonstrated that the child will suffer physical harm or long-term emotional harm and that continuing the relationship between such child and individual is in the best interest of the child.

In order to determine harm, the statute provides several factors that judges must (shall not may) consider including who are the past and present caretakers of the child, with whom has the child formed close psychological bonds and the strength of those bonds, whether competing parties expressed in interest in contacting the child over time, and the child's unique medical and psychological needs. A judge is also permitted to consider and investigate the relationship between a parent of a child and someone claiming to be an equitable caregiver to review whether or not any written agreement existed which showed an intent of the parent to allow the other person to be a caretaker in a parental-type role to the child. If the court deems someone as an

equitable caregiver, the court can issue an order establishing custodial and other parental rights such as visitation and child support for the caregiver. Provided however, the statute does not permit an original action if both parties are not separated and the child is living with both parents. Further, a person's designation as an equitable caregiver cannot terminate the parentage of another person.

O.C.G.A. § 19-7-3.1 provides protections for unmarried same-sex partners that previously did not exist under Georgia law. While same sex parties now legally have the right to marry, it is not uncommon that well-established family units exist in the LGBT community absent marriage. These units often include long-term partners and multiple children although the children may be the biological children of only one of the parties. When these family units fracture, and prior to the passage of HB 543, the non-biological parent had no right to petition Georgia courts for a custodial role as they were not immediate family covered by other existing statutes. Unfortunately, it is not uncommon for the biological parent to use their blood connection to the children as a tool to legally minimize, or even attempt to erase, the non-biological parent from the children's lives. HB 543 now provides an avenue for such a party to seek relief in the Court following dissolution of an unmarried same sex relationship involving children.

Inclusive Language for Guardians at Litem

Most Guardians ad Litem will encounter LGBTQ issues at some point in their careers. Even if you don't market yourself as an LGBTQ-friendly attorney or GAL, using inclusive language can expand your reach for potential clients. Additionally, many of the guidelines for inclusive language for LGBTQ clients can be applied to clients of different races, genders, religious beliefs, etc.

The easiest way to ensure you aren't excluding LGBTQ clients and their families is to examine whether your intake forms and GAL questionnaires are gender neutral. This is typically the potential client's first interaction with you and your firm. Here are some pointers:

- Instead of using the terms "husband" and "wife," try using "Spouse 1" and "Spouse 2."
- Instead of using the terms "father" and "mother," try using "Parent 1" and "Parent 2."
- Although judges often dislike it, do not be afraid to use "Plaintiff" and "Defendant"
- Consider adding a place on your intake forms where potential clients can indicate their preferred pronouns (i.e "he/him", "they/their", "she/her").
- Instead of asking for the "sex" of involved parties, ask for the "gender."

In addition to changing the language used in your initial forms, be cognizant of the language you use in your initial meetings with parents and children. In cases with transitioning or transgender parents, ensure that you inquire as to what exactly the children may or may not know about their parents' situation. Try not to make assumptions about the gender of a party's spouse. For example, asking a woman how long she's been married to her husband, when she is married to a woman, could negatively impact the candor you are working to build with a parent at the initial meeting following your appointment as GAL.

Part of inclusivity, particularly for LGBTQ parties and children, is knowing and admitting what you don't know. If you're not sure what the appropriate terminology is, ask the parties. Give them the space to explain to you how they identify and the terms they use to define their family. Again, try not to make assumptions – we shouldn't assume a woman with a wife identifies as a lesbian. She may identify as bisexual, or queer, or maybe she started with a husband who transitioned after their marriage. Similarly, try to avoid using qualifiers when defining your LGBTQ clients' marriages or relationships. With the *Obergefell* decision, the term "gay marriage"

is obsolete. Similarly, referring to your client's involvement in a "same sex relationship" is unnecessary.

With respect to the possibility that one of the parents, or even the children, are transgender, beyond the addition of preferred pronouns on the intake form, there are additional considerations to provide a welcoming environment and competently represent your client. First, think about gender identity as "brain sex" – the sex a person knows to be their truth, and that everyone has a gender identity. The only question is whether the gender assigned to that person at birth – the letter on their birth certificate – aligns with their gender identity. A cisgender person is someone whose gender identity matches the gender that person was assigned at birth.[2] A transgender person is someone whose assumed gender identity/brain sex does not match the gender that person was assigned at birth. It is that simple. Also, incorporate the term cisgender, or at least conceptualize that nearly everyone is either cisgender or transgender. By doing so, you give language and context to a lived privilege most people have never considered or examined.[3] Avoid using the phrase "biological" male/female. The most respectful way to refer to a non-cisgender person, in person and in court filings, is by the term they use to identify themselves. Using a "biological sex" caveat is disrespectful and inaccurate. Biology includes neuroscience, which includes brain sex.[4] The

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[2] The Oxford English Dictionary describes the word ―cisgender‖ as an adjective and defines it as "Denoting or relating to a person whose self-identity conforms with the gender that corresponds to their biological sex; not transgender." Katy Steinmetz, This is What _ Cisgender' Means, Time (Dec. 23, 2014) <http://time.com/3636430/cisgender-definition/>

[3] Identifying yourself as a cisgender male or female (if you are) is useful because it helps to break down the idea that transgender people are abnormal or mentally ill. It replaces the harmful binary Normal/Transgender with the much more neutral Cisgender/Transgender.

[4] *See, e.g.,* Jill Pilgrima, et. al, *Far From the Finish Line: Transsexualism and Athletic Competition*, 113 Fordham Intell. Prop. Media & Entm't. L.J., 495, 498 (2003) (citing R. Rhoades & R. Pflanzer, *Human Physiology*, 958-59 (3d ed. 1996)) (explaining that external genitalia is but one determinate of sex, all others occur internally and are rarely assessed. For example, several ways in which gender can be determined include ―chromosomal sex,‖ determined by the presence of X or Y chromosomes and ―phenotypic sex‖ which refers to the

appropriate way to refer to a transgender woman, for example, is that she is a woman and, where necessary, a woman who was assigned the sex of male at birth.

It is also important to dispense with the idea that transgender people have to undergo any particular procedure or take legal steps in order to be recognized in accordance with their gender identity. One critical misconception about transgender people is that sex ―reassignment surgery, more accurately described as ―sex confirming surgery, (SCS) is an essential part of transition, but that is not the case for all transgender people. Transition is individualized and case-dependent. It generally includes hormone therapy and gender immersion (where a person lives as the gender with which they identify), and, in some cases, SCS or other surgeries that alter internal or external sex characteristics. Hormones, surgeries and other medical procedures that alter physiology to reflect gender are frequently inaccessible and entail costs and risks that not all people can undergo. None of the foregoing changes a person's gender identity. Sometimes it is important for the case to know details about your client's gender transition, most times it is not. Ask yourself whether it is, or might be, an issue in the case before asking any private, medical and unnecessary questions about your client's gender identity. If the issue is brought up in legal proceedings, object to relevance and otherwise treat the question as invasive and irrelevant wherever possible.

Keeping your language and assumptions gender neutral is also useful for parents and children outside of the LGBTQ community. For example, if a woman in GAL case indicates that she has a husband and children, do you assume she is seeking primary (or at least joint) physical

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presence of anatomical and/or biochemical features such as hormonal dominance. Indeed, there are believed to be up to eight determinates of sex.). *And see* Karen Gurney, *Sex and the Surgeon's Knife: The Family Court's Dilemma . . . Informed Consent and the Specter of Iatrogenic Harm to Children with Intersex Characteristics*, 33 Am. J.L. & Med. 625, 625–26 (2007) ("Recently the importance of the brain's sex as a biological factor influencing sex determination has gained wider recognition.") (citations omitted).

custody of the children, as opposed to a reasonable visitation schedule? Maybe you make a statement like "don't worry, judges in this county rarely take children from mothers." What if the woman is the primary breadwinner for her husband and children? This is a common reality in 2020. What impact would those assumptions have on the parent's candor with you? Have you just inadvertently created additional litigation because the client now feels pressured to adopt a position different than what may have been discussed with her soon-to-be ex-husband?

Inclusive language should extend to the pleadings we file with the Court, testimony we may give in Court, and conversations that we may have with third parties. The argument is often made that, without the use of gendered terms like Mother and Father, it is confusing to distinguish between the parties. However, that is not the case. The Georgia Child Support Worksheet now uses gender neutral language to define the parents. It also uses the parents' names for identification purposes. Similarly, our settlement agreement, written GAL reports, and parenting plans can be structured to use the parties' last names (or first names if the parties have the same last name) or gender-neutral labels, like Spouse 1/Spouse 2, Parent 1/Parent 2, Petitioner/Respondent, etc. The use of pronouns in GAL reports may actually serve to confuse issues for both the parties and the assigned judge when both parties identify with the same gender so it is often best practice to use gender-neutral labels in such cases.

Using the specific language that LGBTQ clients use to define their lives and families creates a safe space and a lasting impression of professionalism.

DEFINING AND PROTECTING LGBTQ FAMILIES

Trans Parents and Trans Children

There are very few published decisions directly relating to transgender parents or custody disputes between parents raising a gender non-conforming child. Two illustrative cases provide some guidance, though both are highly fact-specific. In *Ferrand v. Ferrand*, 221 So.3d 909 (La. Ct. App. 2016), writ denied, 2016-1903 (La. 12/16/16), 211 So. 3d 1164, the court treated the transgender status of a non-biological father as a relative non-issue. The case involved an unmarried couple, a cisgender female and a transgender man, Vincent. The couple participated in a commitment ceremony in 2003, after which the female partner changed her last name. They decided to raise a family and the mother conceived twins via A.R.T. with anonymous sperm who were born in Louisiana in 2007. Vincent's name was added to the birth certificate and he was known to kids as their father. The couple dissolved their relationship in 2012, after which dad was primary caretaker. After the mother married, she severed contact between the children and their father. Vincent filed a custody action and sought a mental health evaluator for the children. The trial court did not appoint an evaluator and held a trial.

Vincent retained a psychologist who he met with and, separately, who met with the children. The expert testified that the children consider Vincent their dad and that they would suffer "emotional problems" if their relationship were severed because "[t]his healthy relationship with their father is crucial to their psychological and emotional well-being. And his constant daily presence in their lives is also vital to their well-being." 221 So. 3d at 918. The trial court granted the mother's motion to dismiss the petition, reasoning that Vincent was a non-parent who could not prove that "substantial harm" would flow from granting the "natural"

parent sole custody, as set out in state law regarding non-parents seeking custody. *Id*. The appellate court reversed.

The appellate court began its analysis by recognizing that, notwithstanding the statutory language, no appellate case had yet decided a case "where the non-parent is neither biologically nor legally related to the child but has, in essence—together with the biological parent—parented the child, albeit non-traditional, family unit since the child's birth," and that *Obergefell* recognized the dignity of same-sex couples and the need for their children to have stable relationships with both parents raising them. 221 So. 3d at 921. The court then analyzed sister southern state decisions on the question. Considering this bounty of extra-jurisdictional case law, the appellate court ultimately ruled that, "[u]nder the facts of this case, we find that a comprehensive custody evaluation by a court-appointed evaluator is necessary to properly determine whether 'substantial harm' would result to these children if sole custody is granted to [mother]. Further, a comprehensive evaluation may assist the trial judge in his consideration of the children's mental and emotional well-being—*i.e*., their best interest." *Id.* at 939.

Lessons from *Ferrand*, besides that the analysis contains a treasure-trove of helpful case law for all biological vs. non-biological parenting dispute in sister states, is that it is possible for a southern court to treat the transgender status of a parent as a non-issue – as should you. Ideally, it would not have treated Vincent as though he was in a "same-sex" relationship and would not have needed to identify him as a "biological female." Despite these negatives, the court used the proper pronouns to refer to Vincent (*i.e*., "he/him/his" and "dad/father") and did not attach any negative connotation to the fact of his transgender status.

One of the few reported cases involving a custody dispute between legal parents in which one parent supported their gender non-conforming child and the other did not is instructive,

primarily, as a cautionary tale. In *Williams v. Frymire*, 377 S.W.3d 579 (Ky. Ct. App. 2012), a child, assigned the sex of female at birth, was born to married parents who divorced when the child was two years old. The court granted the mother sole custody. The father moved to modify the custody order based on an email received from the mother announcing that their five year-old child "was transgender and would from then on be considered a boy, wear boy clothing, and be called Bridge. [Mother] also stated that she would begin transitioning [child's] gender from girl to boy and had discussed the matter with [child]'s school. Furthermore, [Mother] would not listen to any challenge regarding this decision." *Id.* at 580.

Evidence presented at the hearing to support the mother's support for the child's transgender status relied, primarily, on the testimony of the child's art therapist who diagnosed the child as having gender identity disorder after the first visit based on information from the mother and, from the child, that she liked wearing Power Ranger outfits "and that she was angry she could not be 'Bridge' all of the time." 377 S.W.3d at 583. The therapist admitted that she did not perform any psychological testing or complete a child behavioral checklist, but "felt confident in diagnosing gender identity disorder after one visit because gender is innate, in her opinion." The father's experts testified about concerns they had based on the child's therapist not having any expertise in the area of gender identity disorder, and about the diagnosis based upon the complexity of the disorder and the child's young age as well as the failure to conduct a psychological evaluation and interview.

Other witnesses testified about the mother's mental health, including that she had pre-existing diagnoses of anorexia nervosa, bulimia nervosa, and bipolar disorder, and that she had previously expressed concerns related to the child's hearing, vision, and speech, and her suspicion of Asperger's Syndrome. The trial court concluded that "girls can prefer male sports,

toys, and clothes without being pathologized as something requiring intervention, such as changing her gender for school, sending her to a separate bathroom, or changing her name to a Power Ranger character" and, while not dismissing the possibility that the child might or will have gender identity disorder, it noted that the disorder is extremely rare and that perhaps the child "just does not like the color pink and prefers boy activities, toys, and clothes." 377 S.W.3d at 586. The court ruled that it was in the child's best interest to modify the current custody arrangement from sole to joint custody and designated the father as the residential parent with visitation to the mother. *Id*.

On appeal, the court made no judgment about the diagnosis of gender identity disorder or whether the child had the disorder, but upheld the decision based on the fact that the medical witnesses presented at the hearing did "nothing to establish that the child was properly diagnosed or that the mother was receiving or following competent medical advice," 377 S.W.3d at 590, and that the trial court had "cogently expressed its reasoning" for not believing that the mother was "completely innocent in her acceptance of the medical providers' advice, or that she would be agreeable to what the court might direct her to do with regard to [child]'s best interests." *Id.* at 591.

Lessons from this case include that a practitioner should ensure that expert testimony regarding gender identity includes an expert with particular expertise in gender identity issues who interviews the child personally and repeatedly. And, that if your client has any indices of Munchausen Syndrome by Proxy, that they exercise appropriate restraint in supporting their child so as to avoid being presented as "personally invested" in the diagnosis.

PROACTIVE MEASURES FOR GUARDIANS AD LITEM AND FAMILY LAWYERS

There are many ways we can counsel parents in our GAL cases to protect their families both while they are fully intact and in the event of divorce/separation. Here is a brief list of some of the protections available:

- **Marriage –** Encourage LGBTQ clients to get married. Based on the *Obergefell* decision, this creates strong bases for protection.
- **Prenuptial Agreements –** Useful in defining what should be divided in the event of divorce, particularly for couples who were together for many years prior to the *Obergefell* decision.
- **Custody Agreements –** LGBTQ clients can create parenting plans/co-parenting agreements in the event of divorce/separation.
- **Surrogacy/Donor Agreements –** Vital in ensuring the proper parent-child relationships are created. Georgia also recognizes Petitions for Expedited Order of Adoption or Parentage
- **Birth Certificate –** Both parents should attempt to have their names added to the child's birth certificate, which creates a presumption of parentage in Georgia.
- **Name Change –** Ensuring that the parents have the same last name as the children in LGBTQ families can avoid a number of potential issues with schools, doctor's offices, etc.
- **Adoption –** Georgia law is silent as to adoption by LGBTQ individuals and couples – not for or against
    - Second parent adoption
- **Last Will and Testament** – Designating the other parent as guardian of the children, and if the parties are unmarried, designating that items of personal property will transfer to the surviving partner as opposed to the decedent's living immediate family.

Deeds – If the parties are unmarried but maintain joint ownership of real property, ensure their property is titled as Joint Tenants with Right of Survivorship as opposed to simply Tenants in Common if the parties wish for their property to easily transfer to the surviving partner.

- **Financial Powers of Attorney and Advance Directives for Health Care**
- **Beneficiary Designations** – Advise your same sex clients to ensure they have one another listed as their beneficiary designations on any retirement plans, life insurance policies, etc. especially if they are unmarried and wish for the surviving partner to be their designee.