

Homosexual partnership and adoption

Under the newly amended act which came into force on 1 February 2003, homosexual couples registered in a legally recognised partnership have the same rights as married couples to apply to become adoptive parents. In addition, legally registered partners and cohabitants of the same sex are also eligible to be appointed as special joint custodians of a child.

Background

In Sweden today numerous children grow up in the care of adults who are homosexual. In some cases, these homosexual adults are bringing up their children from previous heterosexual relationships. There are also cases where children are born to people in homosexual relationships and grow up as that couple's child.

Research findings suggest quite clearly that, in general, registered homosexual couples can offer an adoptive child a good environment for its upbringing and can fulfil such a child's special needs, even taking into account the sensitivities that may arise when a child has homosexual parents. Cases where a child of one homosexual partner is legally adopted by the other partner can benefit the child by providing financial, social and legal security.

The Government and the Riksdag (Swedish Parliament) have therefore considered that it is in the best interests of the child that homosexual adults registered in a legal partnership be entitled to apply for adoption and that any general impediment to such adoption should be removed.

Homosexual partnership and adoption

Under the new Act, homosexual couples who have entered into a formal, legally recognised partnership are now eligible to apply to become adoptive parents in the same way as married heterosexual couples can. In other words, a homosexual couple can apply to adopt a child jointly, and also, one partner can adopt the other partner's child, whether that child be the natural or adoptive child of the other partner. As in all cases of applications for adoption, there must be an individual and thorough assessment of the applicants'

capacity to provide the prospective adoptive child with a beneficial environment for its upbringing. The fundamental preconditions for adoption are, of course, that the adoption, in each case, will be of benefit to the child and that all other legal requirements are satisfied. For inter-country adoptions, the limitations and terms laid down by the children's countries of origin will apply.

As regards the assessment of the applicants' suitability to adopt, it is of fundamental importance that the relationship is genuine and stable, and that the applicants are mature and responsible individuals. It is important for the development of a child's identity that the child should have the opportunity for natural contact with people of both sexes and that the child can be offered access to ongoing, positive male and female role models. The handbook for social welfare committees that the National Board for Intercountry Adoptions (NIA) has published provides relevant assessment guidelines. The applicants' overall capacity has to be assessed on a case by case basis. Relevant factors to be considered include the applicant's age, language, previous and current circumstances, relationships with friends, relatives and others in the community, personality as well as knowledge and experience of children. For applicants who are registered partners, some additional aspects may need to be considered. Open communication between the child and the parents concerning the family situation and the difficulties that may arise as a consequence of this is essential for the child's social and psychological development. There should therefore be an openness concerning the partnership, and the family situation should not be constrained by prohibitions and secrets. Partners should be able to deal effectively with the attitudes of others in their social milieu. They should also be prepared to discuss with the child the child's thoughts about the family and they should demonstrate a positive attitude towards people of the opposite sex.

Respect for other countries

As regards adoption from abroad, it is important that we are sensitive and aware that those countries with which Sweden cooperates often hold a different view on homosexual people and homosexual parenthood.

Cooperation regarding inter-country adoptions must be based on trust. This means that the limitations and terms that the countries of origin lay down must be complied with.

The countries of origin are entitled, in each individual adoption matter, to select persons who satisfy their particular requirements as prospective adoptive parents. This may involve selection criteria which relate to personal relationships. They are also entitled to discontinue the adoption process should it become evident that an application cannot satisfy their established criteria.

Specially appointed custodians

Registered partners and homosexual cohabitants can now be appointed as specially appointed custodians exercising joint custody of a child. A child is normally in the custody of both parents or one of them. However, in certain cases, one or two specially appointed custodians may be granted custody of a

child. This may occur if one of the parents *neglects to care* for a child in his or her custody. A transfer of custody to one or two specially appointed custodians may also need to be considered if the child is permanently *cared for and brought up in a home* other than that of the parents and it is deemed in the best interests of the child that it remain in that home. A specially appointed custodian may also be necessary if the child's custodian (normally the child's parents or one of them) *dies*.

It is a common misconception that a new partner of the parent who is the custodian (a step-parent) may be appointed to exercise joint custody of the child with that parent. This is not possible, either in heterosexual or homosexual relationships. However, if the custodian dies, the surviving cohabitee may obtain custody of the deceased's child as a specially appointed custodian, regardless of whether the relationship involved homosexual or heterosexual cohabitation.



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