

# What Is A Family? The Legal Definition Of A Family Has Changed.

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Looking back over the last 25 years, in the eyes of the law, the definition of what a family is has changed. It might not have changed in reality as people have always bonded together and supported each other for many reasons regardless of the legal consequences of their decisions. Remember the aunt or uncle who was not related, or the brother who lived with you who was not really your brother? Remember the two maiden aunts who lived together their entire lives? As the relationships within a family change, the legal rights also change.

In the last 25 years, our courts have been forced to address the changes in families and to “catch up” not only in how a family is legally defined, but also how the rights of those members are addressed. Persons of the same sex can now legally marry; children are created by artificial insemination, which raises issues of the rights of the donors of the reproductive material versus the carrier of the baby. Or a family of three (the village) decides to raise a child.

All of these familial arrangements may work out well when everyone gets along, but when they don't and one of the parties wants to change the status quo, then courts can become involved.

In a case where three friends (think “The Big Chill”) decided to conceive and jointly raise a child in a tri-parenting arrangement, the court did not permit the biological mother to move to a different state after six years of raising the child cooperatively because the same-sex partner of the father of the child had bonded with and had become the child's psychological parent. After the court determined that the non-biological parent was in fact a psychological parent of the child, then the court had to decide who the custodial parent was and then whether it should permit the biological parent to relocate. It treated the biological father and his husband equally as the plaintiffs—one parental unit. After considering all of the custody factors under the statute, it found that the biological father and his husband were to be equal custodial parents with the biological mother.

This decision was by three adults who intentionally decided to have a child and co-parent a child. In the fall of 2016, in a non-approved procedure in the United States, a baby was born with the DNA from three people; the mother, the father and an egg donor. The procedure removed part of the mother's mitochondrial DNA, which carried a disease that would have resulted in the child having a fatal neurological disorder within a few years of birth. Here, the result is a three-parent baby.

In the prior case, the non-biological parent was not required to pay child support because, under our present law, the psychological parent has no financial obligations. But what would happen in this case where the third parent (the egg donor) is part of the DNA of the mother and therefore is a biological parent but not a psychological parent? Should that parent be required to pay child support? Can that third parent be the custodial parent if the two other parents separate?

This complex set of facts is but an example of what may be part of what will define a family and what courts may be called upon to address.