

*W.S. v. S.T.*

Here we go again. The conundrum of parentage issues: Biological father. Natural father. Alleged father. Adoptive father. Presumed father. We have learned that The Uniform Parentage Act [*Family Code* Section 7600 *et seq.*] distinguishes presumed fathers from biological and alleged fathers. A father is not elevated to presumed father status unless he has demonstrated a commitment to the child and the child's welfare, regardless of whether he is biologically the father. The determination of legal status directly affects custody and visitation rights, child support, heirship and estate planning, citizenship, the list goes on. A bio-dad is thus not automatically a legal dad. To achieve presumed parental status, a man must fulfill the requirements of *Family Code* section 7611. One of these requirements is that the person seeking presumed parent status "receives the child into his or her home and openly holds out the child as his or her natural child."

But the statute does not define what actions constitute receiving a child into a home. This is the focus of *W.S. vs. S.T.*, and the interpretation of *Family Code* Section 7611(d). The opinion impressively reviews prior judicial analysis of the "receiving" element. It rejects the contention that mere physically taking a child into one's home satisfies the requirement. Instead, the "receiving" component involves factors such as whether the man actively helped the mother with prenatal care; whether he paid pregnancy and birth expenses commensurate with his ability to do so; whether he promptly took legal action to obtain custody of the child; whether he sought to have his name placed on the birth certificate; whether and how long he cared for the child, including such pedestrian details as feeding and cleaning up after the minor, changing her clothing, bathing her, seeing to her naps, putting her to bed, taking her for outings, playing games with her, disciplining her, buying her clothes, toys and food and other essentials.

The court makes an interesting (and often misunderstood) point in acknowledging that there is some overlap in the factors used to determine whether a man is a presumed father under section 7611 and whether he is a father within the meaning of *Kelsey S.* As explained in *In re Elijah V.* (2005) 127 Cal. App. 4<sup>th</sup> 576, a *Kelsey S.* father is one who has attempted to achieve presumed father status under section 7611 (d), but his efforts were prevented by a third party and he made a full commitment to his parental responsibilities, emotional, financial, and otherwise. The father in *W.S.* was not accorded presumed father status because he did not satisfy the receiving into home criteria required by Section 7611(d).

These cases are equally fact intensive and emotional. Some cases involve a father seeking parentage and enhanced legal rights. Others involve a mother's trying to exclude the father from the child's life. Alternative scenarios see different men competing for presumed father status. This is why familiarity with the statutes, evolving case law, policy considerations, and the

complex mix of fact and emotions, create a scenario which calls for careful and compassionate legal analysis. *W.S. v. S.T.* is a good place to start.

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