

## Missouri Court of Appeals Refuses To Deny Visitation To Cross-Dressing Father

Maintaining that incidents of her ex-husband's cross-dressing constituted a "substantial change of circumstances" (170), a Missouri woman filed a petition to modify a custody decree awarding joint legal custody to both parents, primary physical custody to the mother, and visitation rights to the father. Although the mother had been aware of the cross-dressing when the marriage dissolved, she claimed that this knowledge was not presented because her former attorney advised her that it was unnecessary to do so. In *P.L.W. v. T.R.W.*, 1994 WL 723743 (Mo. Ct. Apls., So. Dist., Dec. 30), she asserted that the father's visitation rights should be denied or restricted to avoid embarrassment to the child. Under Missouri law, a custody decree can be modified only when it serves the child's best interests. Further, a parent's visitation rights may not be restricted unless the child's physical or emotional health is endangered. The trial court denied the petition because the mother had known of the incidents and no evidence existed showing that the child would be endangered by the visitation.

On appeal, the mother argued that because the father's behavior was a form of homosexuality, Missouri does not require a showing of adverse effects. Petitioner relied upon several cases restricting the visitation rights of gay parents where "homosexual behavior occurred in the presence of the child... or there was a direct, demonstrable effect on the child's welfare." In a per curiam opinion, the court concluded that the evidence showed that the father was attentive and caring during his visits. Additionally, because there was no evidence that the father's behavior had continued after the divorce or that the incidents had ever occurred in the child's presence, the Missouri Court of Appeals affirmed denial of the mother's petition. C.B.R.