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Relationship & Parental Recognition Laws: Functional Parent Doctrines

No updates required since October 23, 2023

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****Please note that this is not legal advice and families are encouraged to reach out to legal experts such as the [LGBTQ Family Law Institute](#) or LGBTQ legal advocacy groups such as [NCLR](#) and [GLAD](#).****

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Background

“Functional parent doctrines” or policies refer to different ways that states recognize and extend parental rights to a person based on their relationship with a child, even if that person is not genetically and/or legally related to the child. This can include, for example, a person who helps raise their partner’s child, but who is not legally married to their partner or genetically related to their partner’s child. These doctrines are also commonly used for people who are related to the child, such as grandparents or other family members.

These doctrines are important for many reasons and many types of families, including LGBTQ families who create families in many diverse ways. One [comprehensive study](#) of judicial decisions using functional parent doctrines found that these policies are used “in ways that make children’s lives more stable and secure by protecting their relationships with their primary caregivers, preserving their home placements, and shielding their families from further state intervention.”

Note that these doctrines can vary across states in many ways, including:

- whether they come from legislation or judicial decisions;
- the specific legal term used (e.g., de facto parentage, in loco parentis, psychological parent);
- who qualifies as a functional parent or what evidence may be required;
- what rights are granted to functional parents;
- and more.

States may have more than one functional parent doctrine. This map and fact sheet categorize states by their most expansive doctrine. For example, if a state has a doctrine that grants standing to seek visitation only, but also has another doctrine granting full legal parentage, that state is categorized under full legal parentage. Fuller details are provided below in the “State-by-State Sources & More Detail” section.

This map is not legal advice. Even in states without functional parent doctrines, other pathways to legal parentage or recognition of parental rights may exist. Families are encouraged to reach out to legal experts such as the [LGBTQ Family Law Institute](#) or LGBTQ legal advocacy groups such as [NCLR](#) and [GLAD](#) to understand the specifics of parentage law in their state.

Equality Maps & Additional Resources

- See also our [Equality Maps: Parental Recognition Laws](#) for information on other pathways to legal recognition of parentage, and our [Equality Maps: Child Welfare Nondiscrimination Laws](#) for information on whether states’ child welfare (i.e., adoption and foster care) systems specifically prohibit discrimination against LGBTQ parents and/or youth in child welfare. All these resources are updated and maintained in real time.
- Courtney Joslin and Douglas NeJaime. 2023. “[How Functional Parent Doctrines Function: Findings from an Empirical Study](#).” *Journal of the American Academy of Matrimonial Lawyers* 35: 589-622.
- Courtney Joslin and Douglas NeJaime. 2023. “[How Parenthood Functions](#).” *Columbia Law Review* 123: 319-434.



- See MAP’s June 2023 report, [Relationships at Risk: Why We Need to Update State Parentage Laws to Protect Children and Families](#), for further discussion of the importance of legal recognition of parent-child relationships, the many pathways to legal recognition of parentage, recent examples of modernized parenting laws, and policy recommendations for all states.
- Please note that this is not legal advice and families are encouraged to reach out to legal experts such as the [LGBTQ Family Law Institute](#) or LGBTQ legal advocacy groups such as [NCLR](#) and [GLAD](#).

Summary Table

Category	Number	List
States with a functional parent doctrine that...		
...grants full legal parentage	15 states	California Colorado Connecticut Delaware Kansas Maine Massachusetts Michigan New Hampshire New Mexico New York Pennsylvania Rhode Island Vermont Washington
...grants standing for custody	15 states + D.C.	Alaska District of Columbia Georgia Hawai`i Indiana Kentucky Maryland Montana Nebraska New Jersey North Carolina North Dakota Ohio Oklahoma South Carolina West Virginia
...grants standing for visitation only	3 states	Arkansas Minnesota Wisconsin
States with no case law or statute recognizing functional parents	17 states + 5 territories	All others



State-by-State Sources & More Detail

Alabama

- State has no case law or statute recognizing functional parents

Alaska

- State functional parent doctrine grants the standing to seek custody
- See [Kinnard v. Kinnard](#), 43 P.3d 150 (Ala. 2002)

Arizona

- State has no case law or statute recognizing functional parents

Arkansas

- State functional parent doctrine grants the standing to seek visitation only
- See [Robinson v. Ford-Robinson](#), 208 S.W.3d 140 (Ark. 2005)

California

- State functional parent doctrine grants full legal parentage
- See [California Family Code §7611\(d\)](#) (as early as [1992](#), see p652, using gendered language), updated with gender-neutral language by [AB1403](#) (2013))
- See also [California Rules of Court Rule 5.534](#) (as early as [2007](#)), and [Elisa B. v. Superior Court](#), 117 P.3d 660 (2005)

Colorado

- State has multiple functional parent doctrines
- State functional parent doctrine grants full legal parentage
 - See [C.R.S. § 19-4-105\(1\)\(d\)](#), updated with gender-neutral language by [HB22-1153](#) (2022)
- State functional parent doctrine grants the standing to seek custody
 - See [In the Interest of E.L.M.C.](#), 100 P.3d 546 (Colo. App. 2004)

Connecticut

- State functional parent doctrine grants full legal parentage
- See [HB6321, “Connecticut Parentage Act”](#) (2021) and [CGSA §46b-490](#)

Delaware

- State functional parent doctrine grants full legal parentage
- See [Del. Code Ann. tit. 13, § 8-201\(c\)](#), [2302](#), or [SB 84](#) (2009)

District of Columbia

- State functional parent doctrine grants the standing to seek custody
- See [D.C. § 16-831.01-13](#), or [D.C. Law 17-21](#) (2007)

Florida

- State has no case law or statute recognizing functional parents



Georgia

- State functional parent doctrine grants the standing to seek custody
- See [GA Code § 19-7-3.1](#) or [HB 543](#) (2019)

Hawai'i

- State functional parent doctrine grants the standing to seek custody
- See [HI Rev. Stat § 571-46\(a\)\(2\)](#)

Idaho

- State has no case law or statute recognizing functional parents

Illinois

- State has no case law or statute recognizing functional parents

Indiana

- State functional parent doctrine grants the standing to seek custody
- See [IN Code § 31-17-2-8.5](#) and [IN Code § 31-9-2-35.5](#)

Iowa

- State has no case law or statute recognizing functional parents

Kansas

- State functional parent doctrine grants full legal parentage
- See [KS Stat § 23-2208\(a\)\(4\)](#)

Kentucky

- State functional parent doctrine grants the standing to seek custody
- See [KRS § 403.270\(1\)\(a\)](#), [KRS § 403.822\(1\)](#), and, for example, *L.W. v. M.P.*, No. 2008-CA-000760-ME, 2009 WL 485054 (KY Ct. App., Feb 27, 2009).

Louisiana

- State has no case law or statute recognizing functional parents

Maine

- State functional parent doctrine grants full legal parentage
- See ME Rev. Stat. [19-A § 1891](#), [19-A § 1881\(3\)](#), and [SP 358](#) (2015, effective July 1, 2016).

Maryland

- State functional parent doctrine grants the standing to seek custody
- See [Conover v. Conover](#), 146 A.3d 433 (Md. 2016)



Massachusetts

- State has multiple functional parent doctrines
- State functional parent doctrine grants full legal parentage
 - See [Mass Gen. Laws. Ann. Ch209C § 6\(a\)\(4\)](#)
- State functional parent doctrine grants standing to seek visitation only
 - See [Youmans v. Ramos](#), 711 N.E.2d 165 (Mass. 1999)

Michigan

- State functional parent doctrine grants full legal parentage
- See, for example, [Van v. Zahorik](#) 597 N.W.2d 15 (Mich. 1999)

Minnesota

- State functional parent doctrine grants standing to seek visitation only
- See [Minn. Stat. § 257C](#), and [Soohoo v. Johnson](#), 731 N.W.2d 815, 822 (Minn. 2007)

Mississippi

- State has no case law or statute recognizing functional parents

Missouri

- State has no case law or statute recognizing functional parents

Montana

- State functional parent doctrine grants the standing to seek custody
- See [Mont. Code Ann. § 40-4-228](#)

Nebraska

- State functional parent doctrine grants the standing to seek custody
- See [Hickenbottom v. Hickenbottom](#), 477 N.W.2d 8 (Neb. 1991)

Nevada

- State has no case law or statute recognizing functional parents

New Hampshire

- State has multiple functional parent doctrines
- State functional parent doctrine grants full legal parentage
 - See [NH Rev Stat § 168-B:2, V\(d\)](#) and [SB 353](#) (2014)
- State functional parent doctrine grants the standing to seek custody
 - See [Bodwell v. Brooks](#), 686 A.2d 1179 (N.H. 1996)

New Jersey

- State functional parent doctrine grants the standing to seek custody
- See [V.C. v J.M.B.](#), 748 A.2d. 539 (N.J. 2000)



New Mexico

- State functional parent doctrine grants full legal parentage
- See [N.M. Stat. Ann. § 40-11A-204\(A\)\(5\)](#) and [SB 463](#) (2009)

New York

- State has multiple functional parent doctrines
- State functional parent doctrine grants full legal parentage
 - See [Brooke S.B. v. Elizabeth C.C.](#), 61 N.E.3d 488 (N.Y. 2016), overturning an earlier rejection of functional parent recognition in [Alison D. v. Virginia M.](#), 572 N.E.2d 27, 28 (N.Y. 1991)
- State functional parent doctrine grants the standing to seek custody
 - See for example [Jean Maby H. v. Joseph H.](#), 676 N.Y.S.2d 677, 682 (N.Y. App. Div. 1998)

North Carolina

- State functional parent doctrine grants the standing to seek custody
- See [Boseman v. Jarrell](#), 704 S.E.2d 494 (N.C. 2010), and [Price v. Howard](#), 484 S.E.2d 528 (N.C. 1997)

North Dakota

- State functional parent doctrine grants the standing to seek custody
- See [In re D.R.J.](#), 317 N.W.2d 391 (N.D. 1982), [N.D. Rev. Stat § 14-09.4-03](#), and [SB 2051](#) (2019)

Ohio

- State functional parent doctrine grants the standing to seek custody
- See [In re Bonfield](#), 780 N.E.2d 241, 249 (2002)

Oklahoma

- State functional parent doctrine grants the standing to seek custody
- See [Eldredge v. Taylor](#), 339 P.3d 888 (Okla. 2014)

Oregon

- State has no case law or statute recognizing functional parents

Pennsylvania

- State has multiple functional parent doctrines
- State functional parent doctrine grants full legal parentage
 - See [23 PA. Cons. Stat. Ann § 5102\(b\)\(2\)](#)
- State functional parent doctrine grants the standing to seek custody
 - See [T.B. v. L.R.M.](#), 786 A.2d 913 (Pa. 2001), later incorporated into statute in [23 PA. Cons. Stat. Ann § 5324](#)



Rhode Island

- State functional parent doctrine grants full legal parentage
- See [R.I. Gen. Laws Ann. § 15-8.1-502](#) “De Facto Parentage,” and [H 7541](#) (2020)

South Carolina

- State functional parent doctrine grants the standing to seek custody
- See [S.C. Code Ann. § 63-15-60](#), and *Marquez v. Caudill*, 656 S.E.2d 737 (S.C. 2008).

South Dakota

- State has no case law or statute recognizing functional parents

Tennessee

- State has no case law or statute recognizing functional parents

Texas

- State has no case law or statute recognizing functional parents

Utah

- State has no case law or statute recognizing functional parents

Vermont

- State functional parent doctrine grants full legal parentage
- See [15C V.S.A. § 201\(6\)](#) and [H.562](#) (2018)

Virginia

- State has no case law or statute recognizing functional parents

Washington

- State functional parent doctrine grants full legal parentage
- See [WRCA §26.26A.440](#) or [SB 6037, “Uniform Parentage Act”](#) (2018), as well as [In re Parentage of L.B.](#), 122 P. 3d 161 (2005)

West Virginia

- State functional parent doctrine grants the standing to seek custody
- See [In re Clifford K.](#), 619 S.E.2d 138 (W. Va. 2005)

Wisconsin

- State functional parent doctrine grants the standing to seek visitation only
- See [In re the Custody of H.S.H.-K.](#), 533 N.W.2d 419, 435 (Wis. 1995)

Wyoming

- State has no case law or statute recognizing functional parents



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U.S. Territories

American Samoa

- Territory has no case law or statute recognizing functional parents

Guam

- Territory functional parent doctrine grants the standing to seek custody
- See [19 GCA § 8404](#)

Northern Mariana Islands

- Territory has no case law or statute recognizing functional parents

Puerto Rico

- Territory has no case law or statute recognizing functional parents

U.S. Virgin Islands

- Territory has no case law or statute recognizing functional parents