

## Connecticut Parentage Act (CPA): Frequently Asked Questions

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### What is the Connecticut Parentage Act?

The Connecticut Parentage Act (CPA) is a new set of state laws that comprehensively updates Connecticut parentage law and aims to ensure each child has a clear path to secure their legal parentage. The majority of the CPA goes into effect January 1, 2022.

Specifically, the CPA ensures greater protections and equal treatment for children of LGBTQ parents. The law allows many LGBTQ parents to establish parentage through a simple form, an Acknowledgment of Parentage, ensuring LGBTQ parents are able to establish their legal relationship to their child immediately at birth. The CPA also extends an accessible path to parentage for children born through assisted reproduction and strengthens protections for children born through surrogacy. The bill was signed into law on May 26, 2021 and goes into effect in 2022.

### What does parentage mean?

“Parentage” means that you are a legal parent of a child for all purposes. Parentage comes with a host of rights (e.g., decision making for medical care or education, parenting time in the event of separation from your child’s other parent) as well as responsibilities (e.g., providing health insurance, providing for basic needs, payment of child support). A secure legal parent-child relationship is core to a child’s long-term stability and well-being.

### Why was the CPA passed now?

For years, countless Connecticut families struggled under a legal system that failed to extend parentage protections to LGBTQ and non-LGBTQ families equally. In response, the We Care Coalition ([law.yale.edu/cpa](http://law.yale.edu/cpa)), a broad coalition of families and organizations pushing for parentage reform in Connecticut led by Yale Law School Professor Douglas NeJaime ([law.yale.edu/douglas-nejaime](http://law.yale.edu/douglas-nejaime)) and GLBTQ Legal Advocates & Defenders, or GLAD ([GLAD.org](http://GLAD.org)), advocated for modernizing the state’s parentage laws. With the lead sponsorship of Rep. Jeff Currey and Sen. Alex Kasser, the coalition’s hard work paid off.

## When does it go into effect? Who will be impacted?

The CPA goes into effect January 1, 2022, with the exception of the provisions on de facto parentage, which go into effect July 1, 2022. All families are impacted, but the legislation is especially important to Connecticut's LGBTQ families.

## Why is it important to establish parentage quickly?

Establishing parentage soon after birth ensures that a child is secured to their parents for all purposes and increases clarity for all involved in a child's life. For example, established parentage will allow a parent to make any early medical decisions in a child's life, ensure that a child will receive insurance benefits or inheritance rights, and protect parents' parental rights if they separate.

## How can Connecticut families establish parentage under the CPA?

The CPA provides that Connecticut parents can establish their parentage in the following ways:

- **Giving birth (except for people acting as surrogates)**
- **Adoption**
- **Acknowledgment (by signing an Acknowledgment of Parentage)**
- **Adjudication (an order from a court)**
- **Presumption (including the marital presumption)**
- **Genetic connection (except for sperm or egg donors)**
- **De facto parentage**
- **Intended parentage through assisted reproduction**
- **Intended parentage through a surrogacy agreement**

## How does the CPA help people conceiving through assisted reproduction?

The CPA provides important clarity and protections for children born through assisted reproduction. The CPA confirms that a gamete donor (e.g., sperm or egg donor) is not a parent of a child conceived through assisted reproduction. Also, the CPA affirms that a person who consents to assisted reproduction with the intent to be a parent of the resulting child is a legal parent.

## What if I am a nonbiological parent? How can I establish myself as a legal parent?

The CPA has many provisions that protect nonbiological parents. If you are your child's presumed parent, or if you are the intended parent of a child born through assisted reproduction other than surrogacy, you can establish parentage by signing an Acknowledgement of Parentage.

All parents can establish parentage through a court order. A presumed parent or an intended parent of a child conceived through assisted reproduction can seek a judgment declaring the person a parent of the child.<sup>1</sup> Some nonbiological parents can establish parentage through the CPA's de facto parent provisions, which require a court to adjudicate the person to be the child's de facto parent.

### Who is an intended parent?

An intended parent is a person who consents to assisted reproduction with the intent to be a parent of the child. The CPA addresses intended parents in the context of surrogacy separately from intended parents in the context of other forms of assisted reproduction. Ideally, a person who consents to assisted reproduction with the intent to be a parent will memorialize that intent in writing, but the law does allow other ways to prove intent to be a parent.

### Who is a presumed parent?

A presumed parent is a non-birth parent that the law recognizes because of certain circumstances or relationships. A presumed parent is established as a legal parent through the execution of a valid Acknowledgement of Parentage, by an adjudication, or as otherwise provided in the CPA.

You are a presumed parent if any of the below are true:

- You are married to the child's birth parent when the child is born
- You were married to the child's birth parent, and the child is born within 300 days of the marriage being terminated by death, annulment, or divorce
- You, jointly with another parent, resided in the same household with the child and held out the child as your child for at least two years from the time the child was born or adopted

<sup>1</sup> A presumed parent who seeks to establish parentage in situations in which the other parent is not the child's birth parent, e.g., the child was adopted by the other parent, must establish parentage through an adjudication and cannot establish parentage through an Acknowledgement of Parentage.

## How do I establish my parentage through an Acknowledgment of Parentage?

You can voluntarily acknowledge the parentage of a child by signing a form from the Connecticut Department of Public Health known as an Acknowledgement of Parentage. An Acknowledgement of Parentage must be signed by the birth parent and the other parent (i.e., the person establishing parentage through the Acknowledgment of Parentage). The other parent can be the genetic parent, an intended parent of a child born through assisted reproduction other than surrogacy, or a presumed parent (i.e., the spouse of the birth parent at the time of the child's birth, or a person who resided with the child and held out the child as the person's child for at least the first two years of the child's life<sup>2</sup>).

Signing an Acknowledgement of Parentage form is voluntary, and it can be done at the hospital soon after birth or at a later time at a DSS office. An Acknowledgement of Parentage form must be notarized or witnessed and signed by at least one other person in addition to the parents. To be valid, the people signing the form must be given oral and written notice explaining the legal consequences, rights, and responsibilities that arise from signing an Acknowledgment of Parentage. If either the birth parent or the non-birth parent does not want to sign this form to establish parentage for the non-birth parent, then either of them can try to have a court determine parentage.

If you have any questions about whether to sign an Acknowledgement of Parentage form, you should consult with a lawyer before signing. An Acknowledgement of Parentage is the equivalent of a court judgment of parentage, and parentage is a considerable, life-long responsibility. An Acknowledgement of Parentage can be rescinded by either party for any reason within 60 days after its signing or prior to an administrative or judicial proceeding relating to the child in which the signatory is a party, whichever is earlier. A signatory may rescind an Acknowledgment of Parentage by filing a rescission—signed in the presence of either a notary or witness—with the Connecticut Department of Public Health. If the form is not rescinded within that 60-day time frame, an Acknowledgment of Parentage can be challenged only on the basis of fraud, duress, or material mistake of fact. At this stage, the Acknowledgment of Parentage can only be challenged in court.

*2 A person who is establishing parentage based on residing with the child and holding out the child as the person's child for the first two years of the child's life cannot establish parentage through an Acknowledgment of Parentage until the child is two.*

## If I am a parent who has signed an Acknowledgement of Parentage, do I also need to do a co-parent adoption?

No. A parent who has signed an Acknowledgement of Parentage should not need to do a co-parent adoption to establish parentage. An Acknowledgement of Parentage establishes legal parentage under state law, is the equivalent of a judgment of parentage under state law, and gives you all the rights and duties of a parent. Under federal law, an Acknowledgement of Parentage is the equivalent of a judicial decree of parentage and should be recognized in all states.

As of December 2021, ten states have clearly expanded access to acknowledgments of parentage to intended parents through assisted reproduction ([GLAD.org/VAP](https://glad.org/VAP)). Since expanded access to acknowledgments of parentage is an emerging development, some parents might feel more comfortable also completing a co-parent adoption. To understand what is best for your family, individualized legal advice is recommended.

## Who is a de facto parent?

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A de facto parent is a parent based on their relationship with the child. Establishing de facto parentage requires a judgment from a court. You can petition a court to establish your own de facto parentage by demonstrating, with clear and convincing evidence, all of the following:

1. You lived with the child as a regular member of the household for at least one year
2. You consistently took care of the child
3. You took full and permanent responsibility for the child without expectation of financial compensation
4. You held the child out as your child
5. You established a bonded and dependent relationship which is parental in nature
6. You had a parental relationship with the child that was supported by another parent
7. Continuing a relationship with the child is in the child's best interest

## How does the CPA address surrogacy?

Connecticut law already authorized courts to recognize intended parents who have children through a gestational surrogacy arrangement as the child's legal parents. The CPA provides much more comprehensive regulation of surrogacy, including guidance about how to establish parentage through surrogacy agreements. The CPA includes

both gestational surrogacy, in which the person acting as the surrogate is not genetically connected to the child, and genetic surrogacy, in which the person acting as the surrogate is genetically connected to the child. Before starting any medical procedures to conceive a child through a surrogacy process, you must have a written and signed agreement. This agreement is between you, any other intended parents, the person acting as the surrogate, and that person's spouse (if applicable). This agreement will establish that you are the parent(s) of the child and that the surrogate and their spouse (if applicable) do not have parental rights or duties. If you are entering a genetic surrogacy agreement, you must also have the agreement validated by a probate court before any medical procedure takes place.

To enter into a surrogacy agreement, all of the following must be true:

- All intended parents and the person acting as the surrogate must be at least 21
- All intended parents and the person acting as the surrogate must have completed a mental health evaluation, and the person acting as the surrogate must also have completed a medical evaluation
- The person acting as the surrogate must have previously given birth to at least one child
- The person acting as the surrogate must have health insurance or some other form of medical coverage
- The intended parent(s) and the person acting as the surrogate must be represented by separate lawyers for the purposes of the agreement, and the attorney for the person acting as the surrogate must be paid for by the intended parent(s)

The law requires surrogacy agreements to incorporate several terms to be valid, such as allowing a person acting as a surrogate to make their own health and welfare decisions during pregnancy and requiring the intended parent(s) to pay all related healthcare costs.

### **What if I am not married?**

The CPA explicitly provides that every child has the same rights as any other child without regard to the marital status of the parents, or the circumstances of the child's birth. By not differentiating between parents based on their marital status, the CPA aims to treat all Connecticut families equally.

## What if I am transgender or non-binary?

The CPA explicitly provides that every child has the same rights as any other child without regard to the gender of the parents or the circumstances of the child's birth. The CPA, by not including gendered terms such as mother or father, is inclusive of all genders. By not differentiating between parents based on their gender, the CPA aims to treat all Connecticut families equally.

## Can a child have more than two legal parents?

Yes. Under the CPA, a court may determine that a child has more than two legal parents if the failure to do so would be detrimental to the child. To determine detriment to the child, courts will consider factors such as the nature of the potential parent's relationship with the child, the harm to the child if the parental relationship is not recognized, the basis for each person's claim of parentage of the child, and other equitable factors.

## What protections are there for survivors of domestic violence so that they are not pressured into establishing legal parentage?

The CPA aims to ensure that the establishment of parentage is fair, clear, efficient, and child-centered. Some legal parentage—such as the nonmarital presumption<sup>3</sup> and de facto parentage—can arise by consent. No one should ever be pressured to consent to parentage. The CPA contains provisions that allow parents to challenge another person's parentage if the other person claims to be a presumed parent or a de facto parent but satisfied the requirements for parentage through duress, coercion, or threat of harm.

## Where can I go if I need help resolving a parentage issue?

As with any family law issue, individualized legal advice is recommended. GLAD Answers, GLAD's legal information line, can provide information as well as referrals to local practitioners. If you have questions about how to protect your family, contact GLAD Answers ([www.GLADAnswers.org](http://www.GLADAnswers.org)).

<sup>3</sup> This relates to the presumption of parentage in which a person may establish parentage based on, jointly with another parent, residing with the child and holding out the child as the person's child for the first two years of the child's life.