

## A Guide to the Family Law Service of Process and Jurisdiction Requirements Charts<sup>12</sup>

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State family courts are increasingly encountering cases involving immigrant children, immigrant crime victims and immigrant families. As of 2018 U.S. census data indicate that 13.7% of the U.S. population were foreign born.<sup>3</sup> Based on 2016 census data 43% are naturalized citizens, 28% are lawful permanent residents and 29% have various forms of temporary immigration status or are undocumented.<sup>4</sup> In 2018, the proportion of children living in the United States under the age of 18 who had one or more foreign-born parents was 25.9%.<sup>5</sup>

As a result of the growing numbers of mixed immigration status families living in communities large and small throughout the U.S., state family courts are seeing greater numbers of cases in which a person who needs to receive service of process in a family court case resides either in another state or outside of the United States. This set of tools was developed to assist state court judges and lawyers representing immigrants in family courts to better identify both who needs to be served and the range of service options available to courts when a parent or other person lives outside of the U.S. or in another state.

Having a tool to quickly identify who needs to be served by family court case type and the full range of ways that service can be accomplished will be helpful in a wide array of family court matters involving victims of domestic violence, child abuse, child neglect, child abandonment, child welfare, sexual assault, and human trafficking cases, including immigrant victims. These issues are particularly important in the following types of cases:

- Special Immigrant Juvenile Status (SIJS) cases where parties are seeking placement and custody determinations that include predicate orders that a child must obtain to be able to file their SIJS case while the child is still a minor under state law;

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<sup>2</sup> **Disclaimer:** While these Jurisdiction and Service/Notice Requirements charts are a useful resource, they not remove the responsibility of lawyers to engage in original analysis and research.

<sup>3</sup> <https://www.migrationpolicy.org/data/state-profiles/state/demographics/US>.

<sup>4</sup> Migration Policy Institute tabulation of U.S. Census Bureau data from the 2012-16 American Community Survey (ACS) pooled, and the 2008 Survey of Income and Program Participation (SIPP), with legal status assignments by James Bachmeier and Colin Hammar of Temple University and Jennifer Van Hook of The Pennsylvania State University, Population Research Institute.

<sup>5</sup> <https://www.migrationpolicy.org/data/state-profiles/state/demographics/US>.

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- Custody cases in families where child abuse or domestic violence are occurring. These include cases where the victim may be seeking U visa or T visa certification from a state court judge; and
- Cases involving immigrant children who may be victims of human trafficking.

The goal of this multi-jurisdiction research is to provide clear, accurate and accessible information on jurisdiction and foreign service of process options that can be used by state courts when one party may be located abroad. The tools provided are organized by types of proceeding: divorce and legal separation, domestic violence, child neglect and abuse, adoption, child custody, and paternity and child support. Each of these charts contains a list by state of jurisdiction and service requirements specific to that type of proceeding. To use most effectively for fact-specific research, follow these steps:

1. Determine the type of proceeding and use the links below to click and follow the link to the corresponding chart;
2. Locate the state in which the relevant jurisdiction is found; and
3. Listed next to the state you will find the relevant statutes for both jurisdiction and service of process.

Below are the links to a series of charts that track state laws on service of process and jurisdiction by family court case type. Providing a full review of all options available across all states:

- Adoption Proceedings – Jurisdiction and Service of Process:  
<http://niwaplibrary.wcl.american.edu/pubs/adoption-jurisdiction-and-service>
- Child Abuse/Neglect Proceedings – Jurisdiction and Service of Process:  
<http://niwaplibrary.wcl.american.edu/pubs/child-abuse-jurisdiction-and-service>
- Custody Proceedings – Jurisdiction and Service of Process:  
<http://niwaplibrary.wcl.american.edu/pubs/custody-jurisdiction-and-service>
- Divorce and Legal Separation – Jurisdiction and Service of Process:  
<http://niwaplibrary.wcl.american.edu/pubs/divorce-jurisdiction-and-service>
- Domestic Violence Protection Orders – Jurisdiction and Service of Process:  
<http://niwaplibrary.wcl.american.edu/pubs/domestic-violence-jurisdiction-and-service>
- Paternity and Child Support Proceedings – Jurisdiction and Service of Process:  
<https://niwaplibrary.wcl.american.edu/pubs/paternity-jurisdiction-and-service>
- Jurisdiction and Service of Process – Summary of Service Rules:  
<https://niwaplibrary.wcl.american.edu/pubs/family-law-summary-of-service>

This information on service of process and jurisdiction is also collected and published by state. For each state, the service of process and jurisdiction information is being provided in two formats – pdf and excel – to facilitate ease of use in various settings and comparison within states of how jurisdiction and service of process requirements can vary by case type.

- All State Family Law Jurisdiction and Service of Process Charts:  
<https://niwaplibrary.wcl.american.edu/all-state-family-law-jurisdiction-and-service-of-process-charts>

This document summarizes common themes in state jurisdictional and service statutes pertaining to a variety of family law proceedings. When state statutes are similar, case law in one jurisdiction can provide persuasive authority interpreting the statute that may be useful to state courts in a wide range of family court proceedings. This information will be particularly helpful to state court judges addressing service and jurisdiction over a party that is located abroad.

***Common themes in requirements for service:***

- Service outside of the state
  - In the same manner as inside the state: Alabama, Colorado, Delaware, Illinois, Indiana, Maine, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, Tennessee, Texas, Virginia, Wyoming.
  - In the manner prescribed by the law of the state where service is made: Arkansas, Colorado, Illinois, Maryland, Maine, Nebraska, Pennsylvania, Tennessee, Wyoming.
  - Proof of service by laws of the serving state: Arkansas, Colorado, Illinois.
  - Delivered by certified mail: Alabama, Indiana, Louisiana, Maryland, Mississippi, Missouri, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, Texas, Virginia.
  - Delivered personally: Indiana, Maryland, Massachusetts, Mississippi, Minnesota, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia.
  - Where in -hand service is not possible, notice by mail and publication where defendant has made personal service impossible: Arkansas, Colorado, Indiana, Maryland, Missouri, Montana, New Mexico, Vermont, Wyoming.
- Foreign service
  - By an internationally agreed means reasonably calculated to give notice (Hague Convention): Alabama, Delaware, Florida, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, Tennessee.
  - In a manner prescribed by the law of the foreign country: Alabama, Florida, Maine, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Texas.
  - As directed by foreign authority in response to a letter rogatory or letter of request: Alabama, Florida, Maine, Nebraska, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas.
  - Any form of mail requiring signed receipt: Alabama, Maine, North Carolina, Rhode Island, Tennessee.
  - Means not prohibited by international agreement: Alabama, Delaware, North Carolina, North Dakota, Rhode Island, Tennessee.
  - Treat the foreign country as a state of the US or same as in the state: Missouri, Nebraska, Washington.

### *Common themes in requirements for jurisdiction:*

#### Adoption

- Jurisdiction where:
  - The adoptee was born: California, Georgia, Hawaii, Maine Missouri, New Jersey, South Carolina, Utah
  - The adoptee resides: Alabama, Alaska, California, Georgia, Hawaii, Kansas, Louisiana, Maine, Missouri, New Jersey, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington.
  - Where a child-placing agency is operated: Alaska, California, Colorado, Delaware, Florida, Georgia, Hawaii, Kansas, Maryland, Maine, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee.

#### Child Abuse/Neglect

- Temporary emergency jurisdiction for abandonment: courts have temporary emergency jurisdiction when a child in the state has been abandoned or when emergency protection is necessary because a child or a sibling or parent of the child has been subjected to or is threatened with mistreatment or abuse.
  - Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

#### Custody/Paternity and Child Support

- Putative father registry: jurisdiction over a nonresident where the individual asserted parentage of a child in the putative father registry:
  - Illinois, Indiana, Kansas, Louisiana, Montana, New Mexico, Oklahoma, South Carolina, Utah.

#### Domestic Violence Protection Orders

- Jurisdiction where:
  - The plaintiff resides: Alabama, Arkansas, Delaware, Florida, Louisiana, Maryland, Minnesota, Mississippi, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Washington.
  - The plaintiff is temporarily located to avoid abuse: Alabama, Delaware, Florida, Rhode Island, South Carolina, Washington.
  - The abuse occurred: Alabama, Arkansas, Delaware, Florida, Louisiana, Maryland, Minnesota, Vermont, Utah, Texas, Tennessee, South Carolina, Rhode Island, Mississippi.

## Relevant International Law

*The 1965 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention)*<sup>6</sup>

- The Convention applies in all cases, in civil or commercial matters, where there is an occasion to transmit a judicial or extrajudicial document for service abroad. Each Contracting State shall designate a Central Authority which will undertake to receive requests for service from other Contracting States and proceed in conformity with the provisions of the Convention. The United States is a Contracting party to the Convention.

*The 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*<sup>7</sup>

- Ensures the effective international recovery of child support and other forms of family maintenance by establishing a system of co-operation between the authorities of Contracting States, making available applications for the establishment of maintenance decisions, providing for the recognition and enforcement of maintenance decisions, and requiring effective measures for the prompt enforcement of maintenance decisions. The United States is bound by the Convention as of 2017.

## Other Relevant State Laws

*Uniform Child Custody Jurisdiction and Enforcement Act*<sup>8</sup>

- A uniform State law governing State courts' jurisdiction to make and modify child-custody determinations. The Act requires State courts to enforce valid child-custody and visitation determinations made by sister State courts and establishes interstate enforcement procedures. Enacted in 49 States, the District of Columbia and the US Virgin Islands.

*Uniform Interstate Family Support Act*<sup>9</sup>

- A uniform State law allowing enforcement of child-support orders issued by an out-of-state court. Enacted in all 50 States, the District of Columbia, Puerto Rico and the US Virgin Islands.

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<sup>6</sup> <https://www.hcch.net/en/instruments/conventions/specialised-sections/service>.

<sup>7</sup> <https://www.hcch.net/en/instruments/conventions/specialised-sections/child-support>.

<sup>8</sup> <https://www.uniformlaws.org/committees/community-home?CommunityKey=4cc1b0be-d6c5-4bc2-b157-16b0baf2c56d>.

<sup>9</sup> <https://www.uniformlaws.org/committees/community-home?CommunityKey=71d40358-8ec0-49ed-a516-93fc025801fb>.

## **Other Relevant Tools**

*Chapter VII: Service of Process in State Court: Cases Seeking Special Immigrant Juvenile Status Findings:* <https://niwaplibrary.wcl.american.edu/pubs/chapter-vii-service-of-process-in-sijs>.