Connecticut Family Law – Jurisdiction and Service of Process

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Custody Determination -Jurisdiction

Initial Custody Determination

CT Gen St. § 46b-115k

(a) Except as otherwise provided in section 46b-115n, a court of this state has jurisdiction to make an initial child custody determination if:

(1) This state is the home state of the child on the date of the commencement of the child custody proceeding;

(2) This state was the home state of the child within six months of the commencement of the child custody proceeding, the child is absent from the state, and a parent or a person acting as a parent continues to reside in this state;

(3) A court of another state does not have jurisdiction under subdivisions (1) or (2) of this subsection, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships;

(4) A court of another state which is the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under a provision substantially similar to section 46b-115q or section 46b-115r, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships;

(5) All courts having jurisdiction under subdivisions (1) to (4), inclusive, of this subsection have declined jurisdiction on the ground that a court of this state is the more appropriate forum to determine custody under a provision substantially similar to section 46b-115q or section 46b-115r; or

(6) No court of any other state would have jurisdiction under subdivisions (1) to (5), inclusive, of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Temporary Emergency Jurisdiction

CT Gen St. § 46b-115n

(a) A court of this state has temporary emergency jurisdiction if the child is present in this state and (1) the child has been abandoned, or (2) it is necessary in an emergency to protect the child because the child, a sibling or a parent has been, or is under a threat of being, abused or mistreated. As used in this subsection with respect to a child, "abused" shall have the same meaning as in section 46b-120.

(b) If there is no previous child custody determination that is enforceable under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under a provision substantially similar to section 46b-115k, 46b-1151 or 46b-115m, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under a provision substantially similar to section 46b-115k, 46b-1151 or 46b-115m. A child custody determination made under this section shall be a final determination if: (1) A child custody proceeding has not been or is not commenced in a court of a state having

jurisdiction under a provision substantially similar to section 46b-115k, 46b-1151 or 46b-115m; (2) this state has become the home state of the child; and (3) the child custody determination provides that it is a final determination.

(c) If there is a previous child custody determination that is enforceable under this chapter or if a child custody proceeding has been commenced in a court of a state having jurisdiction under a provision substantially similar

to section 46b-115k, 46b-1151 or 46b-115m, the court of this state which issues an order pursuant to this section shall specify that such order is effective for a period of time which the court deems adequate to allow the person seeking an order to obtain such order from the other state which has jurisdiction. Such order shall be effective for that period of time specified in the order or until an order is obtained from the other state whichever occurs first.

(d) If the court, in any proceeding commenced pursuant to this section, is informed that a child custody proceeding has been commenced, or that a child custody determination has been made, by a court of another state having jurisdiction pursuant to a provision substantially similar to section 46b-115k, 46b-1151 or 46b-115m, such court shall immediately communicate with the court of the other state and take appropriate action, including the making of temporary orders for a specified period of time, to resolve the emergency and to protect the safety of the child and the parties.

Custody Determination — Service/Notification Requirements
CT Gen St. § 46b-115o

(a) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standard established in section 46b-115g shall be given to the parties, any parent whose parental rights have not been previously terminated and any person who has physical custody of the child.

(b) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by section 46b-57.

Paternity and Child Support Proceeding —Jurisdiction
Proceeding to Establish, Enforce, Modify Support Order or Determine Parentage

CT Gen St. § 46b-115n

(a)(1)(A) Proceedings to establish paternity of a child born or conceived out of lawful wedlock, including one born to, or conceived by, a married woman but begotten by a man other than her husband, shall be commenced by the service on the putative father of a verified petition of the mother or expectant mother. Such petition may be brought at any time prior to the child's eighteenth birthday, provided liability for past support shall be limited to the three years next preceding the date of the filing of any such petition.

(B) In cases involving public assistance recipients, the petition shall also be served upon the Attorney General who shall be and remain a party to any paternity proceeding and to any proceedings after judgment in such action.

(2) The verified petition, summons and order shall be filed in the superior court for the judicial district in which either she or the putative father resides, except that in IV-D support cases, as defined in subdivision (13) of subsection (b) of section 46b-231, and in petitions brought under sections 46b-212 to 46b-213w, inclusive, such petition shall be filed with the clerk for the Family Support Magistrate Division serving the judicial district where either she or the putative father resides.

(3) (A) The court, or any judge or family support magistrate assigned to said court, shall cause a summons, signed by such judge or magistrate, by the clerk of said court, or by a commissioner of the Superior Court to be issued, requiring the putative father to appear in court at a time and place as determined by the clerk but not more than ninety days after the issuance of the summons to show cause why the request for relief in such petition should not be granted.

(B) A state marshal, proper officer or investigator shall make due return of process to the court not less than twenty-one days before the date assigned for hearing. In the case of a child or expectant mother being supported wholly or in part by the state, service of such petition may be made by any investigator employed by the Department of Social Services and any proper officer authorized by law.

(4) If the putative father fails to appear in court at such time and place, the court or family support magistrate shall hear the petitioner and, upon a finding that process was served on the putative father, shall enter a default judgment of paternity against such father and such other orders as the facts may warrant. Such court or family support magistrate may order continuance of such hearing; and if such mother or expectant mother continues constant in her accusation, it shall be evidence that the respondent is the father of such child. The court or family support magistrate shall, upon motion by a party, issue an order for temporary support of the child by the respondent pending a final judgment of the issue of paternity if such court or magistrate finds that there is clear and convincing evidence of paternity which evidence shall include, but not be limited to, genetic test results indicating a ninety-nine per cent or greater probability that such respondent is the father of the child.

(b) If the putative father resides out of or is absent from the state, notice required for the exercise of jurisdiction over such putative father shall be actual notice, and shall be in the manner prescribed for personal service of process by the law of the place in which service is made.

(c) In any proceeding to establish paternity, the court or family support magistrate may exercise personal jurisdiction over a nonresident putative father if the court or magistrate finds that the putative father was personally served in this state or that the putative father resided in this state and while residing in this state (1) paid prenatal expenses for the mother and support for the child, (2) resided with the child and held himself out as the father of the child, or (3) paid support for the child and held himself out as the father of the child, provided the nonresident putative father has received actual notice of the pending petition for paternity pursuant to subsection (c) of this section.

(d) The petition, when served pursuant to subsection (c) of this section, shall be accompanied by an answer form, a notice to the putative father and an application for appointment of counsel, written in clear and simple language designed for use by pro se defendants.

(e) (1) The answer form shall require the putative father to indicate whether he admits that he is the father, denies that he is the father or does not know whether he is the father of the child. Any response to the answer form shall not be deemed to waive any jurisdictional defense.

(2) The notice to the putative father shall inform him that (A) he has a right to be represented by an attorney, and if he is indigent, the court will appoint an attorney for him, (B) if he is found to be the father, he will be required to financially support the child until the child attains the age of eighteen years, (C) if he does not admit he is the father, the court or family support magistrate may order a genetic test to determine paternity and that the cost of such test shall be paid by the state in IV-D support cases, and in non-IV-D cases shall be paid by the petitioner, except that if he is subsequently adjudicated to be the father of the child, he shall be liable to the state or the petitioner, as the case may be, for the amount of such cost and (D) if he fails to return the answer form or fails to appear for a scheduled genetic test without good cause, a default judgment shall be entered.

(3) The application for appointment of counsel shall include a financial affidavit.

(f) If the court or family support magistrate may exercise personal jurisdiction over the nonresident putative father pursuant to subsection (d) of this section and the answer form is returned and the putative father does not admit paternity, the court shall order the mother, the child and the putative father to submit to genetic tests. Such order shall be served upon the putative father in the same manner as provided in subsection (c) of this section. The genetic test of the putative father, unless he requests otherwise, shall be made in the state where the putative father resides at a location convenient to him. The costs of such test shall be paid by the state in IV-D support cases, and in non-IV-D cases shall be paid by the petitioner, except that if the putative father is subsequently adjudicated the father of the child, he shall be liable to the state or the petitioner, as the case may be, for the amount of the costs.

(g) The court or family support magistrate shall enter a default judgment against a nonresident putative father if such putative father (1) fails to answer or otherwise respond to the petition, or (2) fails to appear for a scheduled genetic test without good cause, provided a default judgment shall not be entered against a nonresident putative father unless (A) there is evidence that the nonresident putative father has received actual notice of the petition pursuant to subsection (c) of this section and (B) there is verification that the process served upon the putative father included the answer form, notice to the defendant and an application for appointment of counsel required by subsection (e) of this section. Upon entry of a default judgment, a copy of the judgment and a form for a motion to reopen shall be served upon the father in the same manner as provided in subsection (c) of this section.

Paternity and Child Support Proceeding —Service/Notification Requirements

See Paternity and Child Support Proceeding Jurisdiction Section.

Child Abuse/Neglect Proceeding—Jurisdiction

No independent statute identified for child abuse/neglect proceeding.

Child Abuse/Neglect Proceeding — Service/Notification Requirements

No independent statute identified for child abuse/neglect proceeding.

Divorce and Legal Separation —Jurisdiction

CT Gen St. § 46b-44

(a) A complaint for dissolution of a marriage or for legal separation may be filed at any time after either party has established residence in this state.

(b) Temporary relief pursuant to the complaint may be granted in accordance with sections 46b-56 and 46b-83

at any time after either party has established residence in this state.

(c) A decree dissolving a marriage or granting a legal separation may be entered if: (1) One of the parties to the marriage has been a resident of this state for at least the twelve months next preceding the date of the filing of the complaint or next preceding the date of the decree; or (2) one of the parties was domiciled in this state at the time of the marriage and returned to this state with the intention of permanently remaining before the filing of the complaint; or (3) the cause for the dissolution of the marriage arose after either party moved into this state.

(d) For the purposes of this section, any person who has served or is serving with the armed forces, as defined by section 27-103, or the merchant marine, and who was a resident of this state at the time of his or her entry shall be deemed to have continuously resided in this state during the time he or she has served or is serving with the armed forces or merchant marine.

Divorce and Legal Separation —Service/Notification Requirements
CT Gen St. § 46b-45

(a) A proceeding for annulment, dissolution of marriage or legal separation shall be commenced by the service and filing of a complaint as in all other civil actions in the Superior Court for the judicial district in which one of the parties resides. The complaint may also be made by the Attorney General in a proceeding for annulment of a void marriage. The complaint shall be served on the other party.

(b) If any party is an inmate of a mental institution in this state, a copy of the complaint shall be served on the Commissioner of Administrative Services personally or by registered or certified mail. If any party is confined in an institution in any other state, a copy shall be so served on the superintendent of the institution in which the party is confined.

Adoption Proceeding — Service/Notification Requirements
CT Gen St. § 46b-129b

(a) If the Superior Court grants a petition to terminate parental rights and appoints the Commissioner of Children and Families as statutory parent, the commissioner may, after the expiration of any appeal or appeal period, file a petition for adoption, together with a written agreement of adoption, in the Superior Court that granted the termination of parental rights.

(b) All social studies, psychological reports and court documents previously filed in the termination of parental rights proceeding shall be available to the court, subject to the rules of evidence, for review and consideration in acting upon the petition for adoption of such child. The court shall, to the extent possible, protect the confidentiality of biological relatives, unless such information has been previously disclosed.

(c) The Department of Children and Families shall prepare and submit with the petition for adoption an adoption social study regarding the proposed adoption, which shall include, but not be limited to, information required in reports filed with courts of probate pursuant to subdivisions (2) and (3) of subsection (b) of section 45a-727. All studies and reports filed with or subsequent to the filing of the petition for adoption shall be available to the adoptive parents. The studies and reports shall be admissible in evidence subject to the right of any interested party to require that the person making it appear as a witness, if available, and such person shall be subject to examination. The court shall, to the extent possible, protect the confidentiality of the biological relatives, unless such information has been previously disclosed.

(d) Upon receipt of the petition and the adoption social study, the court shall set a time and date for a hearing and shall give reasonable notice to the Department of Children and Families and all other parties of the adoption agreement, the child, if over twelve years of age, the attorney for the child, and any such other parties, as the court may require.

(e) Prior to acting on the petition, the court may continue the matter for further investigation and report, issue orders of notice or take other action. At the hearing, the court may deny the petition, or, if the court is satisfied that the adoption is in the best interests of the child, the court shall enter a decree approving the adoption.

(f) The adoptive parents shall be entitled to receive copies of the records and other information relating to the history of the child maintained by the commissioner. The adoptive parents shall be entitled to receive copies of the records, provided, if required by law, the copies have been edited to protect the identity of the biological parents and any other person whose identity is confidential.

(g) The provisions of subdivision (3) of subsection (c) of section 45a-727, sections 45a-731, 45a-732, 45a-736, 45a-737, 45a-743 to 45a-746, inclusive, 45a-748 to 45a-753, inclusive, 45a-755 and 45a-756 shall apply to

adoption proceedings in the Superior Court and the Superior Court shall have all the powers granted to probate courts under said subdivision and sections.

Domestic Violence — Jurisdiction
CT Gen St. § 46b-15

(a) Any family or household member, as defined in section 46b-38a, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a-62, by another family or household member may make an application to the Superior Court for relief under this section.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

(c) Every order of the court made in accordance with this section shall contain the following language: "This order may be extended by the court beyond one year. In accordance with section 53a-107, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars or both."

(d) No order of the court shall exceed one year, except that an order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at the respondent's last-known address.

(e) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than five days before the hearing. The cost of such service shall be paid for by the Judicial Branch. Upon the granting of an ex parte order, the clerk of the court shall provide two copies of the order to the applicant. Upon the granting of an order after notice and hearing, the clerk of the court shall provide two copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the **full** faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order. If the victim is enrolled in a public or private elementary or secondary school, including a technical high school, or an institution of higher education, as defined in section 10a-55, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such ex parte order or of any order after notice and hearing, or the information contained in any such order, to such school or institution of higher education, the president of any institution of higher education at which the victim is enrolled and the special police force established pursuant to section 10a-142, if any, at the institution of higher education at which the victim is enrolled.

(f) A caretaker who is providing shelter in his or her residence to a person sixty years or older shall not be enjoined from the full use and enjoyment of his or her home and property. The Superior Court may make any other appropriate order under the provisions of this section.

(g) When a motion for contempt is filed for violation of a restraining order, there shall be an expedited hearing. Such hearing shall be held within five court days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four hours before the hearing. if the court finds the respondent in contempt for violation of an order, the court may impose such sanctions as the court deems appropriate.

(h) An action under this section shall not preclude the applicant from seeking any other civil or criminal relief.