

Kansas Family Law- Jurisdiction and Service of Process

By Morgan, Lewis & Bockius LLP– March 31, 2021

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Custody Determination - Jurisdiction

Initial Child Custody Jurisdiction

K. S. A 23-37,201

A court of this state has jurisdiction to make an initial child-custody determination only if:

- (1) It is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;
- (2) a court of another state does not have jurisdiction under paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum and:
 - (A) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and
 - (B) substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;
- (3) All courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under K.S.A. 2337,207 or 23-37,208, and amendments thereto; or
- (4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).

Temporary Emergency Jurisdiction

K. S. A. 23-37,204(a)

A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

Custody Determination – Service/Notification Requirements

K. S. A. 23-37,205(a)

Before a child-custody determination is made under this act, notice and an opportunity to be heard in accordance with the standards of K.S.A. 23-37,108, and amendments thereto, must be given to all persons entitled to notice under the law of this state as in child-custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

K. S. A. 23-37,108(a)

Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

Paternity and Child Support Proceeding – Jurisdiction

Proceeding to establish or enforce a support order or to determine parentage of a child

K. S. A. 23-36,201.

In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) The individual is personally served with notice within this state;
- (2) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this state;
- (4) the individual resided in this state and provided prenatal expenses or support for the child;
- (5) the child resides in this state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage of a child in the putative father registry maintained in this state by the secretary of the Kansas department for children and families; or
- (8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

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Divorce and Legal Separation – Jurisdiction

K. S. A. 23-2703

- The petitioner or respondent in an action for divorce must have been an actual resident of the state for 60 days immediately preceding the filing of the petition.
- Military residence: Any person who has been a resident of or stationed at a United States post or military reservation within the state for 60 days immediately preceding the filing of the petition may file an action for divorce in any county adjacent to the post or reservation.

Divorce and Legal Separation – Service/Notification

Requirements No additional requirements.

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