

Louisiana 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

La. Rev. Stat. § 13:1813(A)-(C).

A court of this state has jurisdiction 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,
 - or was the child's home state within twelve months before commencement of the proceeding and the child is absent from the state because the child was required to leave or was evacuated due to an emergency or disaster and was unable to return for an extended period of time.
- (2) Court of another state does not have jurisdiction or a court of the home state 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 physical presence;
 - (b) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.
- (3) Courts having jurisdiction have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum.
- (4) No court of any other state would have jurisdiction under the criteria specified in Paragraph (1), (2), or (3).

Temporary Emergency Jurisdiction

La. Rev. Stat. § 13:1816(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

La. Rev. Stat. § 13:1817(A): Notice and an opportunity to be heard in accordance with the standards of R.S. 13:1808 shall be given to all persons entitled to notice under the laws 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.

La. Rev. Stat. §13:1808(A). Notice to persons outside 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 shall 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

LSA-Ch.C. Art. 1302.1(1)-(8)

In a proceeding to establish or enforce a support order or to determine parentage of a child, jurisdiction permitted over the nonresident individual if:

1. The individual is personally served with citation, summons, or 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 Louisiana Department of Health, office of public health; or
8. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Paternity and Child Support Proceeding – Service/Notification Requirements

Follow service requirements set out in Louisiana Code of Civil Procedure (service rules provided for in Louisiana’s Children’s Code do not apply).

Child Abuse/Neglect Proceeding – Jurisdiction

LSA-Ch.C. Art. 303

Exclusive jurisdiction over children, youth, and minors.

A juvenile court has original jurisdiction over: child in need of care proceedings pursuant to Title VI (See LSA—Ch.C. Art. 601 below).

LSA-Ch.C. Art. 601

“The purpose of this Title is to protect children whose physical or mental health and welfare is substantially at risk of harm by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others, by providing for the reporting of suspected cases of abuse, exploitation, or

neglect of children; by providing for the investigation of such complaints; and by providing, if necessary, for the resolution of child in need of care proceedings in the courts.”

Child Abuse/Neglect Proceeding – Service/Notification Requirements

LSA-Ch.C. Art. 640(A)

If a parent resides within the state, service of the petition, summons, and notice shall be made as soon as possible, and not less than fifteen days prior to commencement of the adjudication hearing on the matter, by any of the following means:

- (1) Personal service.
- (2) Domiciliary service.
- (3) Certified mail.
- (4) Electronic mail to the electronic mail address expressly designated by the parent in a pleading, at the continued custody or continued safety plan hearing, or at any other hearing at which the parent personally appeared before the court.

Divorce and Legal Separation – Jurisdiction

LSA-C.C.P. Art. 10(A)(6)-(7).

Court has jurisdiction under the following conditions:

- (6) An action to annul a marriage if one or both of the parties are domiciled in this state.
- (7) An action of divorce, if, at the time of filing, one or both of the spouses are domiciled in this state.

Divorce and Legal Separation – Service/Notification Requirements

No separate service/notification requirements.

Adoption Proceeding – Jurisdiction

LSA-C.C.P. Art. 10(A)(1).

Court has jurisdiction under the following conditions:

An adoption proceeding in accordance with Title XII of the Children’s Code, if the surrendering parent of the child, a prospective adoptive parent, the adoptive parent or parents, or any parent of the child has been domiciled in this state for at least eight months, or if the child is in the custody of the Department of Children and Family Services; and an adoption proceeding in accordance with Civil Code Article 212, if either party to the adoption of an adult is domiciled in this state.

LSA-C.C. Art. 212.

Adult adoption requirements:

A person who has attained the age of majority may be adopted without judicial authorization only when the adoptive parent is the spouse or the surviving spouse of a parent of the person to be adopted. In other

proposed adult adoptions, the court, upon the joint petition of the adoptive parent and the person to be adopted, may authorize the adoption of a person who has attained the age of majority if the court finds after a hearing that the adoption is in the best interest of both parties.

Adoption Proceeding – Service/Notification Requirements

No separate service/notification requirements.

Domestic Violence – Jurisdiction

Domestic Violence Protection Order

LSA-R.S. §46:2133(A)-(C).

(A) Any court in the state of Louisiana which is empowered to hear family or juvenile matters shall have jurisdiction over proceedings appropriate to it under this Part.

(B) Venue lies:

1. In the parish where the marital domicile is located or where the household is located.
2. In the parish where the defendant resides.
3. In the parish where the abuse is alleged to have been committed.
4. In the parish where the petitioner resides.
5. In the parish where an action for annulment of marriage or for a divorce could be brought pursuant to Code of Civil Procedure Article 3941(A).

Domestic Violence– Service/Notification Requirements

LSA-R.S. 46:2136(E).

A protective order to bring about a cessation of domestic abuse shall be served on the person to whom the order applies in open court at the close of the hearing, or in the same manner as a writ of injunction.

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