

## Massachusetts Family Law- Jurisdiction and Service of Process

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

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### Custody Determination - Jurisdiction

#### Initial Custody Determination

##### Mass. Gen. Laws ch. 209B, § 2.

Section 2. (a) Any court which is competent to decide child custody matters has jurisdiction to make a custody determination by initial or modification judgment if:

(1) the commonwealth (i) is the home state of the child on the commencement of the custody proceeding, or (ii) had been the child's home state within six months before the date of the commencement of the proceeding and the child is absent from the commonwealth because of his or her removal or retention by a person claiming his or her custody or for other reasons, and a parent or person acting as parent continues to reside in the commonwealth; or

(2) it appears that no other state would have jurisdiction under paragraph (1) and it is in the best interest of the child that a court of the commonwealth assume jurisdiction because (i) the child and his or her parents, or the child and at least one contestant, have a significant connection with the commonwealth, and (ii) there is available in the commonwealth substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(3) the child is physically present in the commonwealth and (i) the child has been abandoned or (ii) it is necessary in an emergency to protect the child from abuse or neglect or for other good cause shown, provided that in the event that jurisdictional prerequisites are not established pursuant to any other paragraph of this subsection and a court of another state shall be entitled to assert jurisdiction under any other subparagraph of this paragraph then a court exercising jurisdiction pursuant to this clause of paragraph (3) may do so only by entering such temporary order or orders as it deems necessary unless the court of the other state has declined to exercise jurisdiction, has stayed its proceedings or has otherwise deferred to the jurisdiction of a court of the commonwealth; or

(4) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (1), (2) or (3), or another state has declined to exercise jurisdiction on the ground that the commonwealth is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that a court of the commonwealth assume jurisdiction.

(b) Except under subparagraphs (3) and (4) of paragraph (a), physical presence in the commonwealth of the child or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of the commonwealth to make a custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to make a custody determination.

(d) A court of the commonwealth shall not exercise jurisdiction in any custody proceeding commenced during the pendency of a proceeding in a court of another state where such court of that state is exercising jurisdiction consistently with the provisions of this section for the purpose of making a custody determination, except in accordance with paragraph (3) of subsection (a), unless the court of the other

state shall decline jurisdiction pursuant to paragraph (4) of subsection (a) or shall stay its proceedings or otherwise defer to the jurisdiction of a court of the commonwealth.

(e) If a court of another state has made a custody determination in substantial conformity with this chapter, a court of the commonwealth shall not modify that determination unless (1) it appears to the court of the commonwealth that the court which made the custody determination does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or that such court has declined to assume jurisdiction to modify its determination and (2) a court of the commonwealth now has jurisdiction pursuant to this chapter.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209B/Section2>

### **Mass. Gen. Laws ch. 209B, § 7.**

Section 7. (a) A court which has jurisdiction pursuant to section two may decline to exercise its jurisdiction at any time prior to making a custody determination upon finding that its assumption of jurisdiction would be (i) violative of the purposes of this chapter; or (ii) would be based upon the illegal or otherwise wrongful conduct of a party; or (iii) would constitute an inconvenient forum and that a court of another state would constitute a more convenient forum.

(b) A court may decline jurisdiction for any of the reasons set forth in paragraph (a) upon motion of a party or of any representative of the child entitled to appear before the court or upon the court's own motion.

(c) In order to determine whether it is the appropriate forum, a court of the commonwealth may, in its discretion, at any time during the pendency of the custody proceeding, communicate and exchange information with a court or courts of any other relevant jurisdiction.

(d) For the purposes of this section, a court may consider the following factors:

- (1) whether another state is or recently was the child's home state;
- (2) whether another state has a closer connection with the child and his family or with the child and one or more of the contestants;
- (3) whether more substantial evidence concerning the child's present or future care, protection, training, and personal relationships is available or whether such evidence is more readily available in another state;
- (4) whether the parties have agreed on another forum which is not less appropriate; and
- (5) whether the exercise of jurisdiction by a court of the commonwealth would contravene any of the purposes of this chapter.

(e) If a court shall find that a court of another jurisdiction is or may be a more appropriate forum under the terms of this chapter for the adjudication of the custody proceeding, it may do one or more of the following:

- (1) dismiss the proceeding with or without prejudice;
- (2) vacate any order or judgment already entered;
- (3) stay the proceeding upon condition that a custody proceeding be initiated or prosecuted in another state in a timely manner or upon any other condition that the court might deem just;
- (4) retain jurisdiction over any action to which the custody proceeding is incident, while declining to render a custody determination;
- (5) enter such temporary order or orders as may be required, in the court's discretion, pursuant to clause (ii) of paragraph (3) of section two;

- (6) assess any or all of the costs of the custody proceeding in this state, having due regard for the purposes of this chapter, including the reasonable travel and other expenses of any party and his or her witnesses, the reasonable attorneys' fees of any party, the costs of the court's communications and information exchanges with other courts and the fees and costs of any person entitled to appear before the court as the representative of a child;
  - (7) assess sanctions against any party whom the court finds has engaged in illegal or otherwise wrongful conduct;
  - (8) enter any other order or judgment which may be meet and just under the circumstances of the case.
- (f) A court shall communicate to the court of any other relevant jurisdiction any determination or finding made pursuant to this section.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209B/Section7>

### **Temporary Emergency Jurisdiction**

#### **Mass. Gen. Laws ch. 215, § 6C.**

Section 6C. Upon a complaint, after a judgment pursuant to this chapter relative to the care and custody of minor children, filed by either parent or by a next friend on behalf of the children, after notice to both parents, the court may make a judgment modifying its earlier judgment as to the care and custody of said minor children provided that the court finds that a material and substantial change in the circumstances of the parties has occurred and that a modification is necessary in the best interests of the children.

During the pendency of such an action, upon motion of either party or of a next friend on behalf of the minor children of the parties and notice to the other party or parties, the court may make temporary orders relative to the care and custody of such children. Every order entered shall include specific findings of fact made by the court which clearly demonstrate the injury, harm or damage that might reasonably be expected to occur if relief pending a judgment of modification is not granted. An order entered pursuant to this section may only be entered without advance notice if the court finds that an emergency exists, the nature of which requires the court to act before the opposing party or parties can be heard in opposition. In all such cases, such order shall be for a period not to exceed five days and written notice of the issuance of any such order and the reasons therefor shall be given to the opposing party or parties together with notice of the date, time and place that a hearing on the continuation of such order will be held.

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleI/Chapter215/Section6C>

### **Custody Determination – Service/Notification Requirements**

#### **Mass. Gen. Laws ch. 209B, § 5.**

Section 5. (a) Reasonable notice in conformity with section six and an opportunity to be heard shall be given to the contestants, to any parent whose parental rights have not been previously terminated, to any person acting as parent, and to any other persons designated proper parties by the court pursuant to section four, provided that in the event a court of the commonwealth assumes jurisdiction pursuant to clause (ii) of paragraph (3) of subsection

(a) of section two, then the court may waive such notice requirement for such period as may be allowed under applicable court rules.

(b) Any notice shall include the nature of the action, copies of all pleadings filed with the court, and the statement that any person so notified may apply to the court concerning allocation of the costs of those reasonable and necessary expenses to be incurred in connection with the custody proceeding in accordance with applicable sections of this chapter.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209B/Section5>

**Mass. Gen. Laws ch. 209B, § 6.**

Section 6. (a) Notice to a person in the commonwealth shall be given in accordance with the applicable Massachusetts rules of court or in such other manner as is prescribed by law.

(b) Notice required for the exercise of jurisdiction over a person outside the commonwealth shall be given in accordance with the applicable Massachusetts Rules of Court or statute or, in the discretion of the court, in the manner prescribed by the law of the place in which the service is made concerning service of process in an action of its court of general jurisdiction, provided, however, that in no event shall notice under this paragraph be served, mailed, delivered or last published less than twenty days before any custody determination is made in this state, other than a determination made pursuant to clause (ii) of paragraph (3) of subsection (a) of section two.

(c) Proof of service outside the commonwealth may be made by affidavit of the individual who made the service, in accordance with the applicable law or the Massachusetts rules of court, in accordance with the order pursuant to which the service is made, or, in the discretion of the court, otherwise in accordance with the law of the place in which the service is made.

(d) Notice is not required to be given to a contestant who submits to the jurisdiction of the court.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209B/Section6>

**Mass. Gen. Laws ch. 215, § 6C.**

Section 6C. Upon a complaint, after a judgment pursuant to this chapter relative to the care and custody of minor children, filed by either parent or by a next friend on behalf of the children, after notice to both parents, the court may make a judgment modifying its earlier judgment as to the care and custody of said minor children provided that the court finds that a material and substantial change in the circumstances of the parties has occurred and that a modification is necessary in the best interests of the children.

During the pendency of such an action, upon motion of either party or of a next friend on behalf of the minor children of the parties and notice to the other party or parties, the court may make temporary orders relative to the care and custody of such children. Every order entered shall include specific findings of fact made by the court which clearly demonstrate the injury, harm or damage that might reasonably be expected to occur if relief pending a judgment of modification is not granted. An order entered pursuant to this section may only be entered without advance notice if the court finds that an emergency exists, the nature of which requires the court to act before the opposing party or parties can be heard in opposition. In all such cases, such order shall be for a period not to exceed five days and written notice of the issuance of any such order and the reasons therefor shall be given to the opposing party or parties together with notice of the date, time and place that a hearing on the continuation of such order will be held.

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleI/Chapter215/Section6C>

## **Paternity and Child Support Proceeding – Jurisdiction**

### **Mass. Gen. Laws ch. 209D, § 1-105.**

Section 1–105. Application of this chapter to resident of foreign country and foreign support proceeding.

(a) A tribunal of the commonwealth shall apply Articles 1 to 6, inclusive, and, as applicable, Article 7, to a support proceeding involving:

- (1) a foreign support order;
- (2) a foreign tribunal; or
- (3) an obligee, obligor or child residing in a foreign country.

(b) A tribunal of the commonwealth that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 to 6, inclusive.

(c) Article 7 applies only to a support proceeding under the Convention. In such a proceeding, if a provision of Article 7 is inconsistent with Articles 1 to 6, inclusive, Article 7 controls.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article1/Section1-105>

### **Mass. Gen. Laws. ch. 209D, § 2-201.**

Section 2–201. Bases for jurisdiction over nonresident. (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of the commonwealth may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) the individual is personally served with a notice within the commonwealth;
- (2) the individual submits to the jurisdiction of the commonwealth 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 the commonwealth;
- (4) the individual resided in the commonwealth and provided prenatal expenses or support for the child;
- (5) the child resides in the commonwealth as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in the commonwealth and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage of a child under chapter 46 or chapter 209C; or
- (8) there is any other basis consistent with the constitutions of the commonwealth and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of the commonwealth may not be used to acquire personal jurisdiction for a tribunal of the commonwealth to modify a child support order of another state unless the requirements of Section 6–611 are met or, in the case of a foreign support order, unless the requirements of Section 6–615 are met.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article2/Section2-201>

### **Mass. Gen. Laws. ch. 209D, § 2-202.**

Section 2–202. Duration of personal jurisdiction. Personal jurisdiction acquired by a tribunal of the commonwealth in a proceeding under this chapter or other law of the commonwealth relating to a support

order continues as long as a tribunal of the commonwealth has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 2–205, 2–206 and 2–211.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article2/Section2-202>

**Mass. Gen. Laws ch. 209D, § 2-205.**

Section 2–205. Continuing, exclusive jurisdiction to modify child support order.

(a) A tribunal of the commonwealth that has issued a child support order consistent with the law of the commonwealth has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification the commonwealth is the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued; or

(2) even if the commonwealth is not the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of the commonwealth may continue to exercise jurisdiction to modify its order.

(b) A tribunal of the commonwealth that has issued a child support order consistent with the law of the commonwealth may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) all of the parties who are individuals file consent in a record with the tribunal of the commonwealth that a tribunal of another state that has jurisdiction over at least 1 of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or;

(2) its order is not the controlling order.

(c) If a tribunal of another state has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child support order of a tribunal of the commonwealth, tribunals of the commonwealth shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of the commonwealth that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article2/Section2-205>

**Mass. Gen. Laws ch. 209D, § 2-211.**

Section 2–211. Continuing, exclusive jurisdiction to modify spousal support order.

(a) A tribunal of the commonwealth issuing a spousal support order consistent with the law of the commonwealth has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(b) A tribunal of the commonwealth may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of the commonwealth that has continuing, exclusive jurisdiction over a spousal support order may serve as:

- (1) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in the commonwealth; or
- (2) a responding tribunal to enforce or modify its own spousal support order.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article2/Section2-211>

## **Paternity and Child Support Proceeding – Service/Notification**

### **Requirements Mass. Gen. Laws ch. 209D, § 6-605.**

Section 6–605. Notice of registration of order.

(a) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of the commonwealth shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the non registering party:

- (1) that a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of the commonwealth;
- (2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice unless the registered order is under section 7–707;
- (3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and
- (4) of the amount of any alleged arrearages.

(c) If the registering party asserts that 2 or more orders are in effect, a notice must also:

- (1) identify the 2 or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;
- (2) notify the non registering party of the right to a determination of which is the controlling order;
- (3) state that the procedures provided in subsection (b) apply to the determination of which is the controlling order; and
- (4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to section 12 of chapter 119A.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209D/Article6/Section6-605>

## **Child Abuse/Neglect Proceeding – Jurisdiction**

### **Mass. Gen. Laws ch. 209A, § 3.**

Authorizes a person suffering from abuse from an adult or minor family or household member to file a complaint in the court requesting protection from such abuse, including, but not limited to, the following orders:

- (a) ordering the defendant to refrain from abusing the plaintiff, whether the defendant is an adult or minor;
- (b) ordering the defendant to refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;
- (c) ordering the defendant to vacate forthwith and remain away from the household, multiple family dwelling, and workplace. Notwithstanding the provisions of section thirty-four B of chapter two hundred and eight, an order to vacate shall be for a fixed period of time, not to exceed one year, at the expiration of which time the court may extend any such order upon motion of the plaintiff, with notice to the defendant, for such additional time as it deems necessary to protect the plaintiff from abuse;
- (d) awarding the plaintiff temporary custody of a minor child; provided, however, that in any case brought in the probate and family court a finding by such court by a preponderance of the evidence that a pattern or serious incident of abuse, as defined in section 31A of chapter 208, toward a parent or child has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse; This Section also outlines the authority of a court that finds a pattern and practice of abuse, which includes a variety orders. And it grants the court the authority to modify its order at any subsequent time upon motion by either party.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A/Section3>

**Mass. Gen. Laws ch. 119, § 24. Procedure to commit child to state custody; notice and summons.**

Section 24. A person may petition under oath the juvenile court alleging on behalf of a child within its jurisdiction that the child: (a) is without necessary and proper physical or educational care and discipline; (b) is growing up under conditions or circumstances damaging to the child's sound character development; (c) lacks proper attention of the parent, guardian with care and custody or custodian; or (d) has a parent, guardian or custodian who is unwilling, incompetent or unavailable to provide any such care, discipline or attention.

The court may issue a precept to bring the child before the court, and shall issue a notice to the department and summonses to both parents of the child to show cause why the child should not be committed to the custody of the department or why any other appropriate order should not be made. A petition under this section may be brought in the judicial district where the child is located or where the parent, guardian with care and custody or custodian is domiciled. The summonses shall include notice that the court may dispense with the right of the parents to notice of or consent to the adoption, custody or guardianship or any other disposition of the child named therein if it finds that the child is in need of care and protection and that the best interests of the child would be served by any such disposition. Notice shall be by personal service upon the parent. If the identity or whereabouts of a parent is unknown, the petitioner shall cause notice in a form prescribed by the court to be served upon such parent by publication once in each of 3 successive weeks in any newspaper as the court may order. If no parent can be found after reasonable search, a summons shall be issued to the child's legal guardian, if any, known to reside within the commonwealth and, if none, to the person with whom such child last resided, if known.



If the court is satisfied after the petitioner testifies under oath that there is reasonable cause to believe that: (i) the child is suffering from serious abuse or neglect or is in immediate danger of serious abuse or neglect; and (ii) that immediate removal of the child is necessary to protect the child from serious abuse or neglect, the court may issue an emergency order transferring custody of the child for up to 72 hours to the department or to a licensed child care agency or individual described in subclause (ii) of clause (2) of subsection (b) of section 26.

Upon entry of the order, notice to appear before the court shall be given to either parents, both parents, a guardian with care and custody or another custodian. At that time, the court shall determine whether temporary custody shall continue beyond 72 hours until a hearing on the merits of the petition for care and protection is concluded before the court. The court shall also consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Upon the issuance of the precept and order of notice, the court shall appoint a person qualified under section 21A to investigate the conditions affecting the child and to make a report under oath to the court, which shall be attached to the petition and be a part of the record.

If the child is alleged to be abandoned, as defined in section 3 of chapter 210, hearings on the petition under section 26 shall be expedited. If the parents or guardians consent, a child may be committed to the department under this section without a hearing or notice.

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section24>

**Mass. Gen. Laws ch. 119, § 39E.** Grants jurisdiction to divisions of the juvenile court department to receive and hear requests for assistance stating that there is a child requiring assistance or a family requiring assistance as defined in section 21. The jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the territorial limits of Suffolk county.

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section39E>

## **Child Abuse/Neglect Proceeding – Service/Notification Requirements**

No separate service/notification requirements.

## **Divorce and Legal Separation – Jurisdiction**

**Mass. Gen. Laws ch. 215, § 3.**

Probate court has exclusive original jurisdiction of actions for divorce or for affirming or annulling marriage.

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleI/Chapter215/Section3>

**Mass. Gen. Laws ch. 208, § 4.**

Section 4. A divorce shall not, except as provided in the following section, be adjudged if the parties have never lived together as husband and wife in this commonwealth; nor for a cause which occurred in another jurisdiction, unless before such cause occurred the parties had lived together as husband and wife in this commonwealth, and one of them lived in this commonwealth at the time when the cause occurred.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section4>

**Mass. Gen. Laws ch. 208, § 5.**

Section 5. If the plaintiff has lived in this commonwealth for one year last preceding the commencement of the action if the cause occurred without the commonwealth, or if the plaintiff is domiciled within the commonwealth at the time of the commencement of the action and the cause occurred within the commonwealth, a divorce may be adjudged for any cause allowed by law, unless it appears that the plaintiff has removed into this commonwealth for the purpose of obtaining a divorce.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section5>

**Mass. Gen. Laws ch. 208, § 6.**

Section 6. Actions for divorce shall be filed, heard and determined in the probate court, held for the county where one of the parties lives, except that if either party still resides in the county where the parties last lived together, the action shall be heard and determined in a court for that county. In the event of hardship or inconvenience to either party, the court having jurisdiction may transfer such action for hearing to a court in a county in which such party resides.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section6>

## **Divorce and Legal Separation – Service/Notification Requirements**

**Mass. Gen. Laws ch. 208, § 8.**

Section 8. Actions for divorce in the probate courts shall be commenced in accordance with the Massachusetts Rules of Civil Procedure applicable to domestic relations procedure.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section8>

## **Adoption Proceeding – Jurisdiction**

**Mass. Gen. Laws ch. 210, § 1.**

Adoption petitions must be filed with the probate court. A district or juvenile court may, if it appears necessary or convenient, exercise the powers of Chapter 210, but only in respect to a proceeding then pending before it.

Full Text: Section 1. A person of full age may petition the probate court in the county where he resides for leave to adopt as his child another person younger than himself, unless such other person is his or her

wife or husband, or brother, sister, uncle or aunt, of the whole or half blood. A minor may likewise petition, or join in the petition of his or her wife or husband, for the adoption of a natural child of one of the parties. If the petitioner has a husband or wife living, competent to join in the petition, such husband or wife shall join therein, and upon adoption the child shall in law be the child of both; provided, however, that the prayer of the petition may be granted although the spouse of the petitioner is not a party to the petition if the court finds: (i) the failure of the spouse to join in the petition or to consent to the adoption is excused by reason of prolonged unexplained absence, legal separation, prolonged separation, incapacity or circumstances constituting an unreasonable withholding of consent; (ii) the husband and wife are not in the process of an ongoing divorce; and (iii) the granting of the petition is in the best interests of the child. If a person not an inhabitant of this commonwealth desires to adopt a child residing here, the petition may be made to the probate court in the county where the child resides. The district or juvenile court may, if it appears necessary or convenient, exercise the powers authorized by this chapter, but only in respect to a pending proceeding before such district or juvenile court.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter210/Section1>

## **Adoption Proceeding – Service/Notification Requirements**

### **Mass. Gen. Laws ch. 210, § 2.**

No decree of adoption shall be made absent written consent of the child to be adopted (if over 12 years old); the lawful parents; or the mother only if the child was born out of wedlock. This section sets forth the timing and content of such written consent.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter210/Section2>

### **Mass. Gen. Laws ch. 210, § 3.**

Sets forth several exceptions when requirement for written consent is dispensed.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter210/Section3>

### **Mass. Gen. Laws ch. 210, § 4.**

If the written consent required by section two is not submitted to the court with the petition, the court shall, except where the court under section three has determined that such consent and notice is not required, order notice by personal service upon the parties of an order of notice, in such form as shall be prescribed under section thirty of chapter two hundred and fifteen, or, if the parties are not found within this commonwealth, by publication of said order of notice once in each of three successive weeks in such newspaper as the court orders, the last publication to be seven days at least before the time appointed for the hearing, and the court may require additional notice and consent. But if such child is of unknown parentage and is a foundling, publication as herein set forth shall not be required; but notice of the petition shall be given to the department of children and families.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter210/Section4>

## Domestic Violence – Jurisdiction

### Mass. Gen. Laws ch. 209A, § 2.

Proceedings under this chapter shall be filed, heard and determined in the superior court department or the Boston municipal court department or respective divisions of the probate and family or district court departments having venue over the plaintiff's residence. If the plaintiff has left a residence or household to avoid abuse, such plaintiff shall have the option of commencing an action in the court having venue over such prior residence or household, or in the court having venue over the present residence or household.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A/Section2>

### Mass. Gen. Laws ch. 209A, § 3.

See quote above re: child abuse/neglect. Outlines broad authority a court has in issuing a protective order under ch. 209A.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A/Section3>

### Mass. Gen. Laws ch. 209A, § 7.

Long statute that include the authority a court had in considering and issuing a protective order.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A/Section7>

### Mass. Gen. Laws ch. 277, § 62A.

Any criminal violation of chapter two hundred and nine A may be prosecuted and punished in the territorial jurisdiction in which the violation was committed or in which the original order under said chapter two hundred and nine A was issued.

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter277/Section62A>

## Domestic Violence– Service/Notification Requirements

### Mass. Gen. Laws ch. 209A, § 7.

A lengthy statute setting forth manner and considerations for identifying and serving a defendant with a abuse prevention order under § 209A. Including that the court shall, upon considering a complaint of abuse, search the statewide domestic violence record keeping system to determine if the defendant has an civil or criminal record of domestic or other violence. If the court issues a protective order, it must send two certified copies of the order and one copy of the complaint and summons to the the appropriate law enforcement agency, which must serve on the defendant.

Bosse v. Bosse, SJC Single Justice 91-493, 1991

"[W]here in-hand service is not reasonably possible, post-facto notice by mail to last known address and by publication is consistent with § 7...Mandating personal service where the defendant has, by

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disappearing, made personal service impossible would enable defendants, the perpetrators of abuse, to deny their victims the protection of our courts under G. L. c. 209A."

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