

Maryland 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

Md. Code Ann., Family Law § 1-201. (b)

An equity court has jurisdiction over: ... (5) custody or guardianship of a child except for a child who is under the jurisdiction of any juvenile court and who previously has been adjudicated to be a child in need of assistance.

Md. Code Ann., Courts & Judicial Proceedings § 3-803 (Jurisdiction of court).

(b)(1) – The Juvenile Court has concurrent jurisdiction over: (i) Custody, visitation, support, and paternity of a child whom the court finds to be a CINA; and (ii) Custody of a child alleged to be a CINA under the circumstances described in § 3-819(d) of this subtitle.

(2) During pendency of an action under this subtitle, a party has a continuing duty to advise the court and any other court considering custody, support, visitation, or paternity of a child, of the pendency of any other action concerning the child, whether the action is in this or another state.

Md. Code Ann., Family Law § 9.5-201.

Except as provided in § 9.5-204, a Maryland court has jurisdiction to make initial child custody determination only if:

1. Maryland is child's home state (at commencement of the proceeding, or within six months prior and child is absent but at least one parent continues to live in State);
2. A court of another state does not have jurisdiction under paragraph (1), or a court of the child's home state declined jurisdiction on ground that Maryland is the more appropriate forum under § 9.5-207 or § 9.5-208, and

(i) the child and at least one parent has a significant connection to State other than mere physical presence; and

(ii) substantial evidence is available in Maryland re: the child's care, protection, training and personal relationships; or

3. All courts having jurisdiction under (1) or (2) have declined to exercise jurisdiction based on this forum being most convenient under §§ 9.5-207 or -208; or

4. No court of any other state would have jurisdiction under (1), (2), or (3).

<https://codes.findlaw.com/md/family-law/md-code-fam-law-sect-9-5-201.html>

Temporary Emergency Jurisdiction

Md. Code Ann., Family Law § 9.5-204. (a)

Maryland court has temporary emergency jurisdiction if child is present in Maryland and 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.

§ 9.5-204 contains other subsections addressing the period of time for which an order under this section remains in effect, and if there is a previous child custody determination entitled to be enforced by a court of another state having jurisdiction.

<https://codes.findlaw.com/md/family-law/md-code-fam-law-sect-9-5-204.html>

Custody Determination – Service/Notification Requirements

Md. Code Ann., Family Law § 9.5-205.

Before a child custody determination can be made, notice and opportunity to be heard (per Md. Code § 9.5-107) 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 previously been terminated and any person having physical custody of the child.”

<https://codes.findlaw.com/md/family-law/md-code-fam-law-sect-9-5-205.html>

Md. Code Ann., Family Law § 9.5-107.

(a) (1) 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.

(2) Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

<https://codes.findlaw.com/md/family-law/md-code-fam-law-sect-9-5-107.html>

Paternity and Child Support Proceeding – Jurisdiction

Md. Code Ann., Fam. Law § 1-201 (Jurisdiction of equity court). (a) An equity court has jurisdiction over: . . .

(8) paternity; and (9) support of a child.

(c) In exercising such jurisdiction, an equity court may . . . (3) decide who shall be charged with the support of the child, pendent lite or permanently;

Md. Code Ann., Cts. & Jud. Pro. § 6-103.1 (Nonresident defendant in civil action involving child support or alimony)

A court may exercise personal jurisdiction over a nonresident defendant in any civil proceeding arising out of the marital relationship or involving a demand for child support, spousal support, or counsel fees if the plaintiff resides in this State at the time suit is filed and the nonresident defendant has been personally served with process in accordance with the Maryland Rules and:

(1) This State was the matrimonial domicile of the parties immediately before their separation; or

(2) The obligation to pay child support, spousal support, or counsel fees arose under the laws of this State or under an agreement executed by one of the parties in this State.

<https://law.justia.com/codes/maryland/2010/courts-and-judicial-proceedings/title-6/subtitle-1/6-103-1/>

Md. Code Ann., Cts. & Jud. Pro. § 6-103.2 (Nonresident defendant in paternity proceeding).

A court may exercise personal jurisdiction over a nonresident defendant alleged to be the father in a paternity proceeding if:

- (1) The mother resides in this State at the time the suit is filed;
- (2) The nonresident alleged father personally has been served with process in accordance with the Maryland Rules; and
- (3) The act of conception is alleged to have occurred in this State.

<https://law.justia.com/codes/maryland/2010/courts-and-judicial-proceedings/title-6/subtitle-1/6-103-2/>

Md. Code Ann., Fam. Law § 10-304 (Uniform Interstate Family Support Act).

In a proceeding to establish or enforce a support order or to determine parentage of a child, a Maryland court may exercise personal jurisdiction over a non-resident individual if:

- A. Personal service with notice in the State;
- B. The individual submits to jurisdiction by consent in the record, entering a general appearance, or filing responsive document have the effect of waiving any contest to personal jurisdiction;
- C. Individual resided with child in the State;
- D. Individual resided in the State and provided prenatal expenses or support for the child;
- E. Child resides in State as a result of the individual's acts or directives;
- F. Individual engaged in sexual intercourse in the State, and child may have been conceived by that act; or
- G. There is any other basis for jurisdiction consistent with Maine and U.S. constitutions.

<https://law.justia.com/codes/maryland/2018/family-law/title-10/subtitle-3/part-ii/section-10-304/>

Md. Code Ann., Fam. Law § 10-350 (Modification of child support order of another state).

Court may modify another state's child support order that has been registered in Maryland if, after notice and hearing, the court finds that: (1) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state; (2) a nonresident plaintiff seeks modification; and (3) the defendant is subject to personal jurisdiction of the Maryland court. Or that Maryland is the child's state of residence, or a party is subject to personal jurisdiction of a Maryland court and all parties have filed consents in a record of the issuing state court for Maryland to modify the support order.

<https://law.justia.com/codes/maryland/2018/family-law/title-10/subtitle-3/part-vi/subpart-c/section-10-350/>

Md. Code Ann., Fam. Law § 10-352 (Jurisdiction to modify child support order of another state when individual parties reside in State).

(a) If all parties reside in Maryland, and the child does not reside in the state that issued the support order, Maryland court has jurisdiction to enforce and modify the issuing state's support order in a proceeding to register that order.

<https://law.justia.com/codes/maryland/2018/family-law/title-10/subtitle-3/part-vi/subpart-c/section-10-352/>

Md. Code Ann., Fam. Law § 10-353.1 (Jurisdiction to modify child support order of foreign country).

If a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, Maryland court may assume jurisdiction to modify the child support order and bind all individuals subject to personal jurisdiction of the Maryland court.

<https://law.justia.com/codes/maryland/2018/family-law/title-10/subtitle-3/part-vi/subpart-d/section-10-353.1/>

Paternity and Child Support Proceeding – Service/Notification Requirements

Md. Code Ann., Fam. Law § 5-1015.

Process under this subtitle shall be served or executed in the way provided by law or rule of court for service on a person who is not under a legal disability.

<https://law.justia.com/codes/maryland/2018/family-law/title-5/subtitle-10/part-iii/section-5-1015/>

Md. Code Ann., Fam. Law § 5-306 (Paternity).

Notice and hearing on paternity claim

(b)(1) A petitioner under Part II or Part III of this subtitle shall give a juvenile court notice that a man who is not named in the petition and has not been excluded as a father claims paternity.

(2) After a request of a party or claimant and before ruling on a petition under Part II or Part III of this subtitle, a juvenile court shall hold a hearing on the issue of paternity.

<https://law.justia.com/codes/maryland/2018/family-law/title-5/subtitle-3/part-i/section-5-306/>

Child Abuse/Neglect Proceeding – Jurisdiction

Md. Code Ann., Fam. Law § 1-201 (Jurisdiction of equity court).

(b) An equity court has jurisdiction over: . . . (5) custody or guardianship of a child except for a child who is under the jurisdiction of any juvenile court and who previously has been adjudicated to be a child in need of assistance.

(c) In exercising its jurisdiction over the custody, guardianship, visitation, or support of a child, an equity court may: . . . (5) issue an injunction to protect a party to the action from physical harm or harassment.

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Child Abuse/Neglect Proceeding – Service/Notification Requirements

No separate service/notification requirements.

Divorce and Legal Separation – Jurisdiction

Md. Code Ann., Fam. Law § 1-201 (Jurisdiction of equity court.).

- (b) An equity court has jurisdiction over:
- (2) alimony;
 - (3) annulment;
 - (4) divorce.

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Md. Code Ann., Cts. & Jud. Pro. § 6-102.

- (a) A court may exercise personal jurisdiction as to any cause of action over a person domiciled in, served with process in, organized under the laws of, or who maintains his principal place of business in the State.

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Md. Code Ann., Fam. Law § 7-101 (Residence requirement).

If the grounds for the divorce occurred outside Maryland, a party may not apply for a divorce unless one of the parties has resided in Maryland for at least 6 months before the application is filed. (If the grounds for divorce occurred within the State, one party need only be currently living in Maryland at the time the application is filed).

<https://law.justia.com/codes/maryland/2018/family-law/title-7/section-7-101/>

Divorce and Legal Separation – Service/Notification Requirements

No separate service/notification requirements.

Adoption Proceeding – Jurisdiction

Md. Code Ann., Family Law § 1-201 (Jurisdiction of equity court).

- (b) An equity court has jurisdiction over:
- (1) adoption of a child, except for a child who is under the jurisdiction of any juvenile court and who previously has been adjudicated to be a child in need of assistance[.]

[https://govt.westlaw.com/mdc/Document/N31D5E410019A11E48DF2F0BE520B16F0?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/mdc/Document/N31D5E410019A11E48DF2F0BE520B16F0?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Md. Code Ann., Cts. & Jud. Pro. § 6-203 (Venue: Real estate, liens, adoption, and guardianship actions).

- (e)(1) Venue for an adoption proceeding of an individual physically in the state or subject to the jurisdiction of an equity court is in a county where:
- (i) The petitioner is domiciled;
 - (ii) The petitioner has resided for at least 90 days next preceding the filing of the petition;
 - (iii) A licensed child placement agency having legal or physical custody of the individual is located;

(iv) The individual is domiciled, if the individual is related to the petitioner by blood or marriage or is an adult; or

(v) An equity court has continuing jurisdiction over the custody of the individual.

(2) The venue in an adoption of an individual under Title 5, Subtitle 3, Part III of the Family Law Article is in the court with jurisdiction over the individual under Title 3, Subtitle 8 of this article.

(3) The venue in an adoption of an individual under Title 5, Subtitle 3, Part IV of the Family Law Article is in the court where the individual's guardianship case is pending.

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Md. Code Ann., Fam. Law § 5-335 (Hearing on adoption petition).

(a) A juvenile court shall hold a hearing before entering an order for adoption under this Part III of this subtitle.

(b) Before a hearing under this section, a juvenile court shall give notice to all of the parties.

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Adoption Proceeding – Service/Notification Requirements

Adoption Without Prior Termination of Parental Rights

Md. Code Ann., Fam. Law § 5-333 (Notice of filing).

(a) Within 5 days after a petition for adoption of a child is filed under this Part III of this subtitle with a juvenile court, the clerk shall send a copy of the petition, with the notice of filing that was attached to the petition, to:

- (1) the local department with custody of the child;
- (2) each of the child's living parents who has not waived the right to notice;
- (3) each living parent's last attorney of record in the CINA case; and
- (4) the child's last attorney of record in the CINA case.

(b) Notice under this section shall be by first-class mail.

(c) Notice to a parent under this section shall be sent to the parent's last address known to the juvenile court.

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Adoption After Termination of Parental Rights

Md. Code Ann., Fam. Law § 5-346. (Notice of filing).

(a) Within 5 days after a petition for adoption of a child is filed under this Part IV of this subtitle with a juvenile court, the clerk shall send a copy of the petition, with the notice of filing that was attached to the petition, to: (1) the local department; and (2) the child's last attorney of record in the guardianship case.

(b) Notice under this section shall be by first-class mail.

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Domestic Violence – Jurisdiction

Md. Code Ann., Fam. Law § 4-504 (Petition for relief from abuse).

Who may file

(a)(1) A petitioner may seek relief from abuse by filing with a court, or with a commissioner under the circumstances specified in § 4-504.1(a) of this subtitle, a petition that alleges abuse of any person eligible for relief by the respondent.

(2) A petition may be filed under this subtitle if: (i) the abuse is alleged to have occurred in the State; or (ii) the person eligible for relief is a resident of the State, regardless of whether the abuse is alleged to have occurred in the State.

Contents of petition

(b)(1) The petition shall: (i) be under oath; and (ii) include any information known to the petitioner of:

1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;
2. each previous action between the parties in any court;
3. each pending action between the parties in any court;
4. the whereabouts of the respondent, if known;
5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and
6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.

(2) If the petition states that disclosure of the address of a person eligible for relief would risk further abuse of a person eligible for relief, or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with a commissioner or filed with, or transferred to, a court. If disclosure is necessary to determine jurisdiction or consider any venue issue, it shall be made orally and in camera and may not be disclosed to the respondent.

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Md. Code Ann., Family Law § 1-203 (Alimony, annulment, divorce; court's authority).;

(a) In an action for alimony, annulment, or divorce, an equity court: (1) has all the powers of a court of equity; and (2) may issue an injunction to protect any party to the action from physical harm or harassment.

[https://govt.westlaw.com/mdc/Document/N51DF9150310211E5AA0FA4865C814B64?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/mdc/Document/N51DF9150310211E5AA0FA4865C814B64?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Domestic Violence– Service/Notification Requirements

Md. Code Ann., Fam. Law § 4-504 (Petition for relief from abuse).

Notification of service

(d)(1) If a petitioner has requested notification of the service of a protective order, the Department of Public Safety and Correctional Services shall:

- (i) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies the Department of Public Safety and Correctional Services of the service; and
- (ii) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent.
- (2) The Department of Public Safety and Correctional Services shall develop a notification request form and procedures for notification under this subsection.
- (3) The court clerk or Commissioner shall provide the notification request form to a petitioner.

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