

Missouri Family Law – Jurisdiction and Service of Process

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

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Custody Determination - Jurisdiction

MO ST 452.740:

“1. Except as otherwise provided in Section 452.755, a court of this state has jurisdiction to make an initial child custody determination only if:

(1) This state 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 prior to 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 subdivision (1) of this subsection, 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 under section 452.770 or 452.775, and:

(a) The child and the child's parents, or 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

(b) Substantial evidence is available in this state concerning the child's care, protection, training and personal relationships;

(3) All courts having jurisdiction under subdivisions (1) and (2) of this subsection 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 section 452.770 or 452.775; or

(4) No state would have jurisdiction under subdivision (1), (2) or (3) of this subsection.

2. Subsection 1 of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

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

MO ST 452.755:

“1. 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.

2. If there is no previous child custody determination that is entitled to be enforced under sections 452.700 to 452.930, and if no child custody proceeding has been commenced in a court of a state having jurisdiction under sections 452.740 to 452.750, 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 sections 452.740 to 452.750. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 452.740 to 452.750, a child custody determination made under this section becomes a final determination if:

(1) It so provides; and

(2) This state becomes the home state of the child.

3. If there is a previous child custody determination that is entitled to be enforced under sections 452.700 to 452.930, or a child custody proceeding has been commenced in a court of a state having jurisdiction

under sections 452.740 to 452.750, any order issued by a court of this state under this section shall specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 452.740 to 452.750. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made, by a court of a state having jurisdiction under sections 452.740 to 452.750, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction under sections 452.740 to 452.750, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made by a court of another state under a statute similar to this section shall immediately communicate with the court of that state. The purpose of such communication is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.”

Mo. Rev. Stat. § 452.740.1:

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.

A court of Missouri has jurisdiction to make an initial child custody determination only if:

(1) State is child's home state (at commencement of proceeding or six months prior or was the child's home

state within six months prior and the child is absent, but a parent or person acting as a parent continues to live in the state); or

(2) Court of another state does not have jurisdiction under paragraph (1) or court of home state of child declines jurisdiction and (a) child and at least one parent or person acting as a parent has significant connection to State (other than mere physical presence); (b) substantial evidence is available re: child's care, protection, training and personal relationships; or

(3) all courts having jurisdiction under (1) and (2) declined to exercise jurisdiction based on this forum being more appropriate;

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

Custody Determination – Service/Notification Requirements

See Custody Determination - Jurisdiction Section.

Paternity and Child Support Proceeding – Jurisdiction

Jurisdiction permitted over non-resident individual if:

(1) personal service in the State

(2) consent (by entering general appearance or filing responsive document)

(3) individual resided with child in the State

(4) individual resided in the State and previously paid prenatal expenses or support for child

(5) child resides in State as a result of the individual's acts or directives;

(6) individual engaged in sexual intercourse in State and child may have been conceived thereof;

- (7) individual acknowledged parentage in the punitive father registry maintained in the state by the department of health and senior services;
- (8) any other basis for jurisdiction consistent with MO and US constitutions.

Child Abuse/Neglect Proceeding – Jurisdiction

MO ST 455.503:

“1. A petition for an order of protection for a child shall be filed in the county where the child resides, where the alleged incident of domestic violence, stalking, or sexual assault occurred, or where the respondent may be served.

2. Such petition may be filed by any of the following:

- (1) A parent or guardian of the victim;
- (2) A guardian ad litem or court-appointed special advocate appointed for the victim; or
- (3) The juvenile officer.”

MO ST 210.166:

“The children's division, any juvenile officer, any physician licensed under chapter 334, any hospital or other health care institution, and any other person or institution authorized by state or federal law to provide medical care may bring an action in the circuit court in the county where any child under eighteen years of age resides or is located, alleging the child is suffering from the denial or deprivation, by those responsible for the care, custody, and control of the child, of medical or surgical treatment or intervention which is necessary to remedy or ameliorate a medical condition which is life-threatening or causes injury. Those responsible for the care, custody and control of the child include, but is not limited to, the parents or guardian of the child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. A petition filed under this section shall be expedited by the court involved in every manner practicable, including, but not limited to, giving such petition priority over all other matters on the court's docket and holding a hearing, at which the parent, guardian or other person having authority to consent to the medical care in question shall, after being notified thereof, be given the opportunity to be heard, and issuing a ruling as expeditiously as necessary when the child's condition is subject to immediate deterioration. Any circuit or associate circuit judge of this state shall have the authority to ensure that medical services are provided to the child when the child's health requires it.”

Child Abuse/Neglect Proceeding – Service/Notification Requirements

See Child Abuse/Neglect Proceeding Jurisdiction Section.

Divorce and Legal Separation – Jurisdiction

MO ST 210.829(2)-(4):

“... 2. A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state to an action brought under sections 210.817 to 210.852 with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by rule or statute, including

sections 506.160 and 506.510, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt

3. Notwithstanding subsection 2 of this section, personal jurisdiction may be asserted over any person if there is any basis consistent with the constitution of this state or the United States.

4. An action brought under sections 210.817 to 210.852 may be brought in the county in which the child resides, the mother resides, or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his or her estate have been or could be commenced.”

MO ST 506.500

“1. Any person or firm, whether or not a citizen or resident of this state, or any corporation, who in person or through an agent does any of the acts enumerated in this section, thereby submits such person, firm, or corporation, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of such acts:

- (1) The transaction of any business within this state;
- (2) The making of any contract within this state;
- (3) The commission of a tortious act within this state;
- (4) The ownership, use, or possession of any real estate situated in this state;
- (5) The contracting to insure any person, property or risk located within this state at the time of contracting;
- (6) Engaging in an act of sexual intercourse within this state with the mother of a child on or near the probable period of conception of that child.

2. Any person, whether or not a citizen or resident of this state, who has lived in lawful marriage within this state, submits himself to the jurisdiction of the courts of this state as to all civil actions for dissolution of marriage or for legal separation and all obligations arising for maintenance of a spouse, support of any child of the marriage, attorney's fees, suit money, or disposition of marital property, if the other party to the lawful marriage lives in this state or if a third party has provided support to the spouse or to the children of the marriage and is a resident of this state.

3. Only causes of action arising from acts enumerated in this section may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.”

Sufficient contacts with state exist to confer jurisdiction over non-resident defendant who “has lived in lawful marriage within this state, submits himself to the jurisdiction of the courts of this state as to all civil actions for dissolution of marriage or for legal separation and all obligations arising for maintenance of a spouse, support of any child of the marriage, attorney's fees, suit money, or disposition of marital property, if the other party to the lawful marriage lives in this state or if a third party has provided support to the spouse or to the children of the marriage and is a resident of this state.”

Divorce and Legal Separation – Service/Notification Requirements

See Divorce and Legal Separation Jurisdiction Section.

Adoption Proceeding – Jurisdiction

MO ST 453.010:

“1. Any person desiring to adopt another person as his or her child shall petition the juvenile division of the circuit court of the county in which:

- (1) The person seeking to adopt resides;

- (2) The child sought to be adopted was born;
 - (3) The child is located at the time of the filing of the petition; or
 - (4) Either birth person resides.
2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of subsection 1 of this section.
3. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, any person desiring to adopt such person as his or her child shall petition the juvenile division of the circuit court which has jurisdiction over the child for permission to adopt such person as his or her child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.
4. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.
5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile. The court shall expedite the placement of a child for adoption pursuant to subsection 3 of this section.
6. A licensed child-placing agency may file a petition for transfer of custody if a birth parent consents in writing by power of attorney for placement of a minor child, a consent to adoption, or any other document which evidences a desire to place the child with the licensed child-placing agency for the purposes of transfer of custody of the child to the licensed child-placing agency. The written consent obtained from the birth parent shall strictly comply with section 453.030.”

Adoption Proceeding – Service/Notification Requirements

See Adoption Proceeding Jurisdiction Section.

Domestic Violence – Jurisdiction

MO ST 455.503:

- “1. A petition for an order of protection for a child shall be filed in the county where the child resides, where the alleged incident of domestic violence, stalking, or sexual assault occurred, or where the respondent may be served.
2. Such petition may be filed by any of the following:
 - (1) A parent or guardian of the victim;
 - (2) A guardian ad litem or court-appointed special advocate appointed for the victim; or
 - (3) The juvenile officer.”

MO ST 455.505:

“1. An order of protection for a child who has been subject to domestic violence by a present or former household member or sexual assault or stalking by any person may be sought under sections 455.500 to

455.538 by the filing of a verified petition alleging such domestic violence, stalking, or sexual assault by the respondent.

2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by the child's leaving the residence or household to avoid domestic violence.

3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective throughout the state in all cities and counties.”

MO ST 455.524:

“1. The court shall retain jurisdiction over the full order of protection issued under sections 455.500 to 455.538 for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

2. The terms of the child order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the child order of protection to the same extent as provided by law for contempt of the court in any suit or proceeding cognizable by the court.”

Domestic Violence– Service/Notification Requirements

See Domestic Violence - Jurisdiction Section.

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