

Nevada Family Law – Jurisdiction and Service of Process

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

Disclaimer: This Toolkit was developed under grant number SJI-20-E-005 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute. While the Jurisdiction and Service of Process Chart is a useful resource, it does not remove the responsibility of each and every lawyer to engage in original analysis and research.

Custody Determination - Jurisdiction

1. Initial Custody Determination – NV Rev St 125A.305

Permissible if:

1. State is child's home state (at commencement of proceeding or six months prior and child is absent but at least one parent or person acting as a parent resides); 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; or
4. no court of any other state would have jurisdiction under (1), (2), or (3).

“Person acting as a parent” means a person, other than a parent, who (1) has physical custody of the child or has had physical custody of the child for a period of 6 consecutive months, including any temporary absence, within 1 year immediately before the commencement of a child custody proceeding; and (2) has been awarded legal custody by a court or claims a right to legal custody pursuant to the law of this state.

NV Rev St 125A.135

1. Temporary Emergency Jurisdiction relating to Child Custody – NV Rev St 125A.335

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. Proceeding to Establish, Enforce, Modify Support Order or Determine Parentage – NV Rev St 130.201

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 provided 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. any other basis for jurisdiction consistent with State and US constitutions.

The bases of personal jurisdiction set forth under (1) may not be used to acquire personal jurisdiction to modify a child support order of another state unless the requirements of NV Rev St 130.611 (see below) are met or, in the case of a foreign support order, unless the requirements of NV Rev St 130.6115 (see below) are met.

Modification of child-support order of another state; modification of child-support order of this State if one party resides outside this State and other party resides outside United States – NV Rev St 130.611

Permissible if:

(a) The following requirements are met:

- (1) Neither the child, nor the obligee who is a natural person, nor the obligor resides in the issuing state;
- (2) A petitioner who is a nonresident of the State seeks modification; and
- (3) The respondent is subject to the personal jurisdiction of the tribunal of the State; or

(b) The State is the state of residence of the child, or a party who is a natural person is subject to the personal jurisdiction of the tribunal of this State, and all of the parties who are natural persons have filed consents in a record in the issuing tribunal for a tribunal of the State to modify the support order and assume continuing and exclusive jurisdiction.

Modification of child-support order of foreign country – NV Rev St 130.6115

Permissible if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support orders pursuant to its laws.

Custody Determination – Service/Notification Requirements

In actions for custody of children, the court may make prohibitive or mandatory orders, with or without notice or bond, as may be just. Nev. R. Civ. P. 65(e).

Paternity and Child Support Proceeding – Jurisdiction

NV Rev St 125B.014

- (1) Each district court has jurisdiction of an action brought under this chapter.
- (2) In addition to any other method authorized by law for obtaining jurisdiction over a person inside or outside of this state, personal jurisdiction may be acquired anywhere within the territorial limits of this state by service of process in any manner prescribed by the Nevada Rules of Civil Procedure.
- (3) If an action to establish or enforce an obligation for the support of a child is transferred from one judicial district in this state to another judicial district in this state, the district court to which the action is transferred shall not require the petitioner to file additional documents with the court or provide additional service of process upon the respondent to maintain jurisdiction over the parties.

Paternity and Child Support Proceeding – Service/Notification Requirements

NV Rev. St. 125B.135

If, after a court issues an order for the support of a child, a subsequent cause of action between the parties concerning the support of the child is initiated, the requirements for notice and service of process shall be deemed to have been met with respect to a party to the proceeding who cannot be found if:

- (1) The party initiating the proceeding shows proof that diligent effort has been made to ascertain the location of the missing party; and
- (2) Written notice of the initiation of the proceeding has been mailed to the mailing address of the missing party or the address of the missing party's employer as those addresses appear in the information required to be filed pursuant to subsection 2 of NRS 125B.055.

Child Abuse/Neglect Proceeding – Jurisdiction

Jurisdiction – NV Rev St 432B.410

Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, the court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is a child in need of protection or may be a child in need of protection.

Child Abuse/Neglect Proceeding – Service/Notification Requirements

Notice – NV Rev St 432B.315

If an agency which provides child welfare services determines pursuant to NRS 432B.300 that a report made pursuant to NRS 432B.220 is substantiated, the agency shall provide written notification to the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child which includes statements indicating that:

- (1) The report which was made against the person has been substantiated and the agency which provides child welfare services intends to place the person's name in the Central Registry pursuant to NRS 432B.310; and
- (2) The person may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required pursuant to NRS 432B.317.

Divorce and Legal Separation – Jurisdiction

NV Rev. St. 125.020

(1) Divorce from the bonds of matrimony may be obtained for the causes provided in NRS 125.010, by verified complaint to the district court of any county:

- (a) In which the cause therefor accrued;
 - (b) In which the defendant resides or may be found;
 - (c) In which the plaintiff resides;
 - (d) In which the parties last cohabited; or
 - (e) If plaintiff resided 6 weeks in the State before suit was brought.
- (2) Unless the cause of action accrued within the county while the plaintiff and defendant were actually domiciled therein, no court has jurisdiction to grant a divorce unless either the plaintiff or defendant has been resident of the State for a period of not less than 6 weeks preceding the commencement of the action.

Divorce and Legal Separation – Service/Notification Requirements

NV Rev. St. 125.090

Except in a summary proceeding for divorce, the proceedings, pleadings and practice must conform to the Nevada Rules of Civil Procedure as nearly as conveniently possible, but all preliminary and final orders may be in such form as best effects the object of this chapter, and produces substantial justice.

Adoption Proceeding – Jurisdiction

- (1) Except as otherwise provided in subsection 3 (see below), the petition for adoption shall not be granted unless the petitioners have resided in the State of Nevada for a period of 6 months prior to the granting of the petition.
- (3) The provisions of subsection 1 do not apply if the petition for adoption is filed for the adoption of a child who is in the custody of an agency which provides child welfare services or a child-placing agency licensed by the Division pursuant to this chapter.

Original Jurisdiction – NV Rev St 127.010.

Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, the district courts of the State have original jurisdiction in adoption proceedings.

Adoption Proceeding – Service/Notification Requirements

Consent Requirements To Authorized Agency – NV Rev St 127.040

(1) Except as provided in NRS 127.090 (see below), written consent to the specific adoption proposed by the petition or for relinquishment to an agency authorized to accept relinquishments acknowledged by the person or persons consenting, is required from:

- (a) Both parents if both are living;
- (b) One parent if the other is dead; or
- (c) The guardian of the person of a child appointed by a court of competent jurisdiction.

2. Consent is not required of a parent who has been adjudged insane for 2 years if the court is satisfied by proof that such insanity is incurable.

When Consent Unnecessary – NV Rev St 127.090

Consent of a parent to an adoption shall not be necessary where parental rights have been terminated by an order of a court of competent jurisdiction.

To Adoptive Home – NV Rev St 127.043

(1) Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070.

(2) The provisions of this section do not apply if one petitioner or the spouse of a petitioner is related to the child within the third degree of consanguinity.

Appointment of Guardian – NV Rev St 127.045

(1) Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:

- (a) Petition any court for the appointment of a guardian; or
- (b) Be appointed the temporary guardian, of the person of the child to be adopted.

(2) The provisions of subsection 1 do not apply to any person who is related or whose spouse is related to the child within the third degree of consanguinity.

Domestic Violence – Jurisdiction

Jurisdiction – NV Rev St 64.010

Justice Courts have jurisdiction over domestic violence-related protective orders.

Domestic Violence– Service/Notification Requirements

Temporary Order without Notice – NV Rev St 33.020

A temporary order (30 day expiration per NV Rev St 33.080) may be granted with or without notice to the adverse party. An extended order may only be granted after notice to the adverse party and a hearing on the application. A hearing on an application for an extended order must be held within 45 days after the date on which the application for the extended order is filed.

Alternative Method of Service – NV Rev St 33.065

(1) If the current address where the adverse party resides is unknown and the law enforcement agency has made at least two attempts to personally serve the adverse party at the adverse party's current place of

employment, the law enforcement agency or a person designated by the law enforcement agency may serve the adverse party by:

- (a) Delivering a copy of the application for an extended order, the notice of hearing thereon and a copy of the temporary order to the current place of employment of the adverse party; and
 - (b) Thereafter, mailing a copy of the application for an extended order, the notice of hearing thereon and a copy of the temporary order to the adverse party at the adverse party's current place of employment.
- (2) Delivery pursuant to paragraph (a) of subsection 1 must be made by leaving a copy of the documents specified at the current place of employment of the adverse party with the manager of the department of human resources or another similar person. Such a person shall:
- (a) Accept service of the documents and make a reasonable effort to deliver the documents to the adverse party;
 - (b) Identify another appropriate person who will accept service of the documents and who shall make a reasonable effort to deliver the documents to the adverse party; or
 - (c) Contact the adverse party and arrange for the adverse party to be present at the place of employment to accept service of the documents personally.
- (3) After delivering the documents to the place of employment of the adverse party, a copy of the documents must be mailed to the adverse party by first-class mail to the place of employment of the adverse party in care of the employer.
- (4) The adverse party shall be deemed to have been served 10 days after the date on which the documents are mailed to the adverse party.
- (5) Upon completion of service pursuant to this section, the law enforcement agency or the person designated by the law enforcement agency who served the adverse party in the manner set forth in this section shall file with or mail to the clerk of the court proof of service in this manner.