

Ohio 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 – **Ohio R.C. 3127.15** (<http://codes.ohio.gov/orc/3127.15>)

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 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 has significant connection to State; (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 most convenient;
4. no court of any other state would have jurisdiction under (1), (2), or (3).
5. The above grounds constitute the exclusive jurisdictional basis for making a child custody determination by a court of this state.
6. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Temporary Emergency Jurisdiction relating to Child Custody – **See Ohio R.C. 3127.18**

(<http://codes.ohio.gov/orc/3127.18>) – 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

3127.07 Notice and proof of service for personal jurisdiction outside Ohio.

(<http://codes.ohio.gov/orc/3127>)

(A) Notice required for the exercise of jurisdiction over a person outside this state may be given in a manner prescribed by the Rules of Civil Procedure, or the Rules of Juvenile Procedure, as appropriate, 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.

(B) Proof of service may be made in the manner prescribed by the Rules of Civil Procedure, or the Rules of Juvenile Procedure, as appropriate, or by the law of the state in which the service is made.

(C) Notice is not required if the person submits to the jurisdiction of the court.

Ohio F. R. Civ. P. 5

Service in General. A paper is served under this rule by:

- (A) handing it to the person;
- (B) leaving it:

- (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
- (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address—in which event service is complete upon mailing;
- (D) leaving it with the court clerk if the person has no known address;
- (E) sending it to a registered user by filing it with the court's electronic-filing system or sending it by other electronic means that the person consented to in writing—in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or
- (F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Paternity and Child Support Proceeding – Jurisdiction

Proceeding to Establish, Enforce, Modify Support Order or Determine Parentage –Ohio R.C. 3115.201
(<http://codes.ohio.gov/orc/3115.201v1>)

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 allows for personal service outside the state;
7. individual acknowledged parentage in form submitted to Department of Human Resources;
8. any other basis for jurisdiction consistent with Ohio and US constitutions.

Paternity and Child Support Proceeding – Service/Notification Requirements

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 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address—in which event service is complete upon mailing;
- (D) leaving it with the court clerk if the person has no known address;
- (E) sending it to a registered user by filing it with the court's electronic-filing system or sending it by other electronic means that the person consented to in writing—in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or
- (F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Child Abuse/Neglect Proceeding – Jurisdiction

No independent statute identified.

Child Abuse/Neglect Proceeding – Service/Notification Requirements

Ohio F. R. Civ. P. 5

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 - (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address—in which event service is complete upon mailing;
- (D) leaving it with the court clerk if the person has no known address;
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- (F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Divorce and Legal Separation – Jurisdiction

No independent statute identified.

Divorce and Legal Separation – Service/Notification Requirements

No independent statute identified.

Adoption Proceeding – Jurisdiction

The probate court shall have original jurisdiction over proceedings brought under the chapter. **See Ohio R.C. 3107.01(D)** (<http://codes.ohio.gov/orc/3107>)

When consent to adoption is not required. See Ohio R.C. 3107.07 (<http://codes.ohio.gov/orc/3107.07v1>)

Consent to adoption is not required of any of the following:

- (A) A parent of a minor, when it is alleged in the adoption petition and the court, after proper service of notice and hearing, finds by clear and convincing evidence that the parent has failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.
- (B) The putative father of a minor if either of the following applies:
 - (1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 of the Revised Code not later than fifteen days after the minor's birth;
 - (2) The court finds, after proper service of notice and hearing, that any of the following are the case:
 - (a) The putative father is not the father of the minor;
 - (b) The putative father has willfully abandoned or failed to care for and support the minor;
 - (c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.

- (C) Except as provided in section 3107.071 of the Revised Code, a parent who has entered into a voluntary permanent custody surrender agreement under division (B) of section 5103.15 of the Revised Code;
- (D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;
- (E) A parent who is married to the petitioner and supports the adoption;
- (F) The father, putative father, or mother, of a minor if the minor is conceived as the result of the commission of rape or sexual battery by the father , putative father, or mother and the father , putative father, or mother is convicted of or pleads guilty to the commission of that offense. As used in this division, "rape" means a violation of section 2907.02 of the Revised Code or a similar law of another state and "sexual battery" means a violation of section 2907.03 of the Revised Code or a similar law of another state.
- (G) A legal guardian or guardian ad litem of a parent judicially declared incompetent in a separate court proceeding who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;
- (H) Any legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;
- (I) The spouse of the person to be adopted, if the failure of the spouse to consent to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain the consent or refusal of the spouse;
- (J) Any parent, legal guardian, or other lawful custodian in a foreign country, if the person to be adopted has been released for adoption pursuant to the laws of the country in which the person resides and the release of such person is in a form that satisfies the requirements of the immigration and naturalization service of the United States department of justice for purposes of immigration to the United States pursuant to section 101(b)(1)(F) of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 (b)(1)(F), as amended or reenacted.
- (K) Except as provided in divisions (G) and (H) of this section, a juvenile court, agency, or person given notice of the petition pursuant to division (A)(1) of section 3107.11 of the Revised Code that fails to file an objection to the petition within fourteen days after proof is filed pursuant to division (B) of that section that the notice was given;
- (L) Any guardian, custodian, or other party who has temporary custody of the child.

Adoption Proceeding – Service/Notification Requirements

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 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address—in which event service is complete upon mailing;
- (D) leaving it with the court clerk if the person has no known address;

(E) sending it to a registered user by filing it with the court's electronic-filing system or sending it by other electronic means that the person consented to in writing—in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or

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Domestic Violence – Jurisdiction

Domestic Violence Protection Order – Ohio R.C. 3113.31 (<http://codes.ohio.gov/orc/3113.31>)

Jurisdiction – Manner of seeking and filing protective orders.

1. The courts, as provided in this chapter, shall have jurisdiction to issue protection orders.

Courts are defined as domestic relations division of the court of common pleas in counties that have a domestic relations division and the court of common pleas in counties that do not have a domestic relations division, or the juvenile division of the court of common pleas of the county in which the person to be protected by a protection order issued or a consent agreement approved under this section resides if the respondent is less than eighteen years of age

a) A person may seek relief under this section on the person's own behalf, or any parent or adult household member may seek relief under this section on behalf of any other family or household member, by filing a petition with the court. The petition shall contain or state:

(1) An allegation that the respondent engaged in domestic violence against a family or household member of the respondent or against a person with whom the respondent is or was in a dating relationship, including a description of the nature and extent of the domestic violence;

(2) The relationship of the respondent to the petitioner, and to the victim if other than the petitioner.

Domestic Violence– Service/Notification Requirements

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