

Wisconsin Family Law – Jurisdiction and Service of Process

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

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Custody Determination – Jurisdiction

§ 822.21 Initial child custody jurisdiction (1) Except as provided in Section 822.24, a court of this state has jurisdiction to make an initial determination only if any of the following applies:

(a) 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 6 months before 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.

(b) A court of another state does not have jurisdiction under par. (a), 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 822.27 or 822.28, and all of the following apply:

1. The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

(c) All courts having jurisdiction under par. (a) or (b) 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 822.27 or 822.28. (d) No court of any other state would have jurisdiction under the criteria specified in par. (a), (b), or (c). (2) Subsection (1) 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.

Custody Determination – Service/Notification Requirements

§ 822.25 Notice; opportunity to be heard; joinder (1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of Section 822.08 shall 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 been previously terminated, and any person having physical custody of the child. (2) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard. (3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state.

Paternity and Child Support Proceeding – Jurisdiction

A "Child custody proceeding" includes proceedings for paternity, abuse, neglect, dependency, guardianship, termination of parental rights or protection from domestic abuse. We note that the provisions in the Wisconsin UCCJEA does not address jurisdiction or service/notification requirements for "Child custody proceedings" (rather, it only addresses "Child custody determinations", so there are no special requirements for these proceedings. The payment of child support is explicitly carved out from the

definition of "child custody determination" in the Wisconsin UCCJEA, so there are no special jurisdictional or service/notification requirements.

Paternity and Child Support Proceeding – Service/Notification Requirements

See Paternity and Child Support Proceeding - Jurisdiction Section.

Child Abuse/Neglect Proceeding – Jurisdiction

See Paternity and Child Support Proceeding - Jurisdiction Section.

Child Abuse/Neglect Proceeding – Service/Notification Requirements

See Paternity and Child Support Proceeding - Jurisdiction Section.

Divorce and Legal Separation – Jurisdiction

See Paternity and Child Support Proceeding - Jurisdiction Section.

Divorce and Legal Separation – Service/Notification Requirements

See Paternity and Child Support Proceeding - Jurisdiction Section.

Adoption Proceeding – Jurisdiction

The Wisconsin UCCJEA does not cover adoption proceedings.

§ 20-5-203 Proceedings governed by other law

This act shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Adoption Proceeding – Service/Notification Requirements

The Wisconsin UCCJEA does not cover adoption proceedings. 20-5-203 Proceedings governed by other law This act shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Domestic Violence – Jurisdiction

No independent statute identified.

Domestic Violence– Service/Notification Requirements

No independent statute identified.

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