

Kentucky Family Law- Jurisdiction and Service of Process

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

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Paternity and Child Support Proceeding – Service/Notification Requirements

Ky. Rev. Stat. § 405.440

The notice of a minimum monthly support obligation shall be served in person or by certified mail, return receipt requested, and shall include at least the following:

- (1) The name of the child for whom the support obligation is owed;
- (2) The amount of the support debt accrued or accruing;
- (3) A statement that the parent's earnings and property, both real and personal, are subject to judicial and administrative enforcement;
- (4) That he may dispute the obligation amount or any other matter contained in the notice by requesting a dispute hearing within twenty (20) days;
- (5) That, unless there is good cause as determined by the secretary for his failure to request a hearing, if he does not request a hearing, his agreement will be presumed and the first payment will be due twenty (20) days after receipt of the notice; and
- (6) That if he requests a hearing and fails to appear, the hearing officer shall affirm the determination of minimum monthly support obligation.

Child Abuse/Neglect Proceeding – Service/Notification Requirements

KY Fam. Ct. R. Prac. P. 18(1)

A copy of the petition and summons, and an emergency custody order, if any, shall be served upon parents or persons exercising custodial control or supervision or who have been awarded legal custody by a court or claims a right to legal custody under the law of this state. It may be served by any person authorized to serve process except the state child protective service agency.

Divorce and Legal Separation – Service/Notification Requirements

KY Fam. Ct. R. Prac. P. 2(1)(a), (b)

In a divorce proceeding, the other party must be served with the verified complaint when it is filed with the Clerk of Court.

KY Rev. Stats. § 403.150(4)

(4) If a proceeding is commenced by one (1) of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

KY Rules of Civ. Pro. 4.04(2)

Service shall be made upon an individual within this Commonwealth, other than an unmarried infant or person of unsound mind, by delivering a copy of the summons and of the complaint (or other initiating document) to him personally or, if acceptance is refused by offering personal delivery to such person, or

by delivering a copy of the summons and of the complaint (or other initiating document) to an agent authorized by appointment or by law to receive service of process for such individual.

Adoption Proceeding – Jurisdiction

KY Ann. Stat. § 199.470 - Petition for Adoption of Child -- Parties -- Residence Requirement -- Approval of Secretary -- Exceptions

(1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.

KY Ann. Stat. § 199.585 – Recognition of Foreign Adoptions

(1) The Commonwealth of Kentucky shall recognize a decree, judgment, or final order of adoption issued by a court or other governmental authority with appropriate jurisdiction in a foreign country when the child to be adopted has been approved for United States citizenship, or as otherwise provided by federal law.

(2) Upon presentation of an original decree, judgment, or final order of adoption issued by a court or other governmental authority with appropriate jurisdiction in a foreign country, the secretary or his or her designee shall issue, within thirty (30) days, a certified notice that the foreign adoption is registered in the Commonwealth of Kentucky. The secretary or his or her designee may require a translated copy if the original decree, judgment, or final order is not in English. The cabinet shall maintain all records and notices of foreign adoptions in a manner similar to other adoption records.

Paternity and Child Support Proceeding – Jurisdiction

Ky. Rev. Stat. § 407.5205

(1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(a) At the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(a) All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one (1) of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) Its order is not the controlling order.

- (3) If a tribunal of another state has issued a child support order pursuant to the provisions of the Uniform Interstate Family Support Act as provided in KRS 407.5101 to 407.5902 or a law substantially similar to KRS 407.5101 to 407.5902 which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.
- (4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.
- (5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Adoption Proceeding – Service/Notification Requirements

KY Ann. Stat. § 199.500 – Consent to Adoption

- (1) An adoption shall not be granted without the voluntary and informed consent, as defined in KRS 199.011, of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:
 - (a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;
 - (b) The parental rights of the parents have been terminated under KRS Chapter 625;
 - (c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or
 - (d) The biological parent has not established parental rights as required by KRS 625.065.
- (2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.
- (3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.
- (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to the child.
- (5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable seventy-two (72) hours after it is signed.

KY Ann. Stat. § 625.040 – Petition

- (1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of.., a child." The petition may be filed by a parent or counsel when the appearance-waiver and consent-to-adopt forms are signed by the parent, counsel, and cabinet representative under the conditions described in KRS 625.041(3) and (4).
- (2) The petition for the voluntary termination of parental rights

shall be filed in the Circuit Court of the judicial circuit where the petitioner or child resides or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced, and shall be verified and contain the following:

- (a) Name and place of residence of each petitioner;
 - (b) Name, sex, date of birth, and place of residence of the child; (c) Name and relationship of each petitioner to the child;
 - (d) A concise statement of the factual basis for the termination of parental rights;
 - (e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and
 - (f) A statement that the person, cabinet, or authorized agency to whom custody is to be given has facilities available, is willing to receive the custody of the child, and the person, if not excepted by KRS 199.470(4), has applied for the written permission of the secretary or the secretary's designee for the child's placement. This provision shall not affect the right of a court to grant temporary custody under KRS 199.473.
- (3) No petition may be filed under this chapter prior to three (3) days after the birth of the child.
- (4) Any petition filed pursuant to this section shall be fully adjudicated and a final judgment shall be entered by the court within six (6) months of the filing of the petition.

KY Ann. Stat. § 199.470 – Petition for Adoption

- (1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.
- (2) If the petitioner is married, the husband or wife shall join in a petition for leave to adopt a child unless the petitioner is married to a biological parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, the requirement may be waived.
- (3) If a child is placed for adoption by the cabinet, by an agency licensed by the cabinet, or with written approval by the secretary of the cabinet, the petition may be filed at the time of placement. In all other adoptions, the petition shall not be filed until the child has resided continuously in the home of the petitioner for at least ninety (90) days immediately prior to the filing of the adoption petition.
- (4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a child-placing institution or agency, or by the cabinet, or the child has been placed with written approval of the secretary; but no approval shall be necessary in the case of:
- (a) A child sought to be adopted by a blood relative, including a relative of half-blood, first cousin, aunt, uncle, nephew, niece, and a person of a preceding generation as denoted by prefixes of grand, great, or great-great; stepparent; step-sibling; or fictive kin; however, the court in its discretion may order a report in accordance with KRS 199.510 and a background check as provided in KRS 199.473(8);
 - (b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary;

- (c) A child adopted under the provisions of KRS 199.585(1); or
- (d) A child who has been approved under KRS Chapter 615.

KY Ann. Stat. § 199.585 – Recognition of Foreign Adoptions – When KRS 199.470 Petition Required

(3) A petition for adoption under KRS 199.470 shall be required for a child born outside the United States without a decree, judgment, or final order of adoption issued by a court or other governmental authority with appropriate jurisdiction in a foreign country, or for any child born outside of the United States who does not qualify for United States citizenship upon entry into the United States.

Child Abuse/Neglect Proceeding – Jurisdiction

KY Rev. Stats. § 620.027

The District Court has jurisdiction, concurrent with that of the Circuit Court, to determine matters of child custody and visitation in cases that come before the District Court where the need for a permanent placement and custody order is established as set forth in this chapter. The District Court, in making these determinations, shall utilize the provisions of KRS Chapter 403 relating to child custody and visitation. In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interest of the child.

Domestic Violence– Service/Notification Requirements

KY Rev Stat § 403.735 – Access to Emergency Protective Orders

(5) An order of protection issued under the provisions of KRS 403.715 to 403.785 shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

KY Rev Stat § 403.740 – Emergency Protective Orders

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

KY Rev Stat § 403.745 – Hearing

(3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the petition shall be personally served upon the adverse party. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure.

KY Rev Stat § 403.812 – Notices to Persons Outside State

- (1) Notice required for the exercise of jurisdiction when a person is outside this state shall 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. Notice shall be given in a manner reasonably calculated to give actual notice but may be by warning order if other means are not effective.
- (2) Proof of service shall 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.
- (3) Notice shall not be required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Divorce and Legal Separation – Jurisdiction

KY Rev. Stats. § 403.140(1)(a)

Court has jurisdiction under the following conditions:

- (a) The court finds that one (1) of the parties, at the time the action was commenced, resided in this state, or was stationed in this state while a member of the armed services, and that the residence or military presence has been maintained for 180 days next preceding the filing of the petition.

Domestic Violence – Jurisdiction

KY Rev Stat § 403.725 – Petition for Order of Protection – Venue; Concurrent Jurisdiction

- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.
- (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed. (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection. (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.

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