

Jurisdiction and Venue

Deciding where you may – and where you **might** – press your custody case is the first and one of the most important considerations you must undertake. Custody cases are usually brought in conjunction with a divorce case and, therefore, the location where a divorce case is started is sometimes – though not always – determined by the state and county of residence of the children. Custody cases, however, may be filed without a divorce.¹ A “uniform” law² (passed in virtually every state in one form or another) defines the general rule as this: the last state where the child lived for at least six months should be the state that should hold jurisdiction over a custody trial. Exceptions to the rule began to abound, however, and soon exceeded the rule itself. In response, the law was revised January 1, 2004 and the new law³ is very specific about where a custody case may be initiated.

The new law quickly developed it’s own rules and exceptions and they can be very tricky – some periods of absence from the state count and some do not, and sometimes a period of residence don’t count – so be sure to work with an experienced attorney. Under the new, uniform law, the basic idea is to conduct the trial in the locale where the majority of witnesses and evidence can be found and to prevent one parent from gaining an advantage by grabbing the kids and running to a different state to file a case – in other words, to make the administration of the case flow as smoothly as is feasible and ensure justice. Still, talk with our attorneys to learn your options – it could make a world of difference in how your case plays out.

The uniform law gives Illinois courts the authority to make custody determinations even if the court doesn’t have “personal jurisdiction” over one of the parents. Under the uniform law, custody determinations may be made “**in rem**” or “**quasi in rem**”⁴ – that is, even in cases where one parent is out-of-state and has never set foot in Illinois or even where his or her whereabouts are unknown. In some cases, notice may be given simply by running an ad in a newspaper. Illinois’ main child custody law, however, makes it clear that the other parent must be given adequate and proper notice.⁵

This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or info@illinoisdivorce.com.