UCCJEA¹

Family Code §§ 3400 - 3465

Has another

state⁴ made a

custody

determination5?

Has child² lived in CA for 6 months³?

Yes No

CA has jurisdiction UCCJEA analysis

UCCJEA analysis

§3423

Has CA obtained jx to modify other state's order?

CA may not modify custody determination made by another state unless CA has jx to make an initial custody determination (per §3421(a)(1) or (2) and either:

No

Yes

- a) Other state determines it no longer has exclusive, continuing jx under §3422 or that CA would be more convenient forum per §3427, or
- b) CA or other state determines that child and parents do not presently reside in other state.

CA may be able to make temporary custody orders even if no jx to:
1) make initial custody order, or
2) modify other state's order. (see back page)

§3421(a) Exclusive jurisdictional basis for making custody determination⁵ in CA (§3421(b))

Does CA have jx to make an initial custody determination⁵? (i.e., one of the following is true)

- CA is home state on date proceedings began, or was home state of child within six months before commencement of proceeding and child is absent from state but parent continues to live in state; or
- Another state is not home state, or court of the home state
 has declined jx because CA is more appropriate forum per §3427 or §3428, and
 - Child and parents have significant connection with CA other than mere presence, and
 - Substantial evidence is available in CA concerning child's care, protection, training and relationships; or
- 3) All courts having jx under (1) and (2) have declined to exercise jx on ground that CA is more appropriate forum; or
- 4) No other state has jx under (1), (2) or (3).

§3422

CA's exclusive, continuing jurisdiction

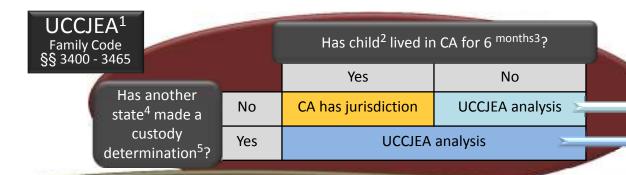
- (a) Except as provided in §3424, CA court that has made custody determination per §3421 or §3423 has exclusive, continuing jx unless:
 - 1) CA determines that neither child nor parent has significant connection with CA and that substantial evidence is no longer available in CA concerning child's care, protection, training and relationships; or
 - 2) CA or other state determines that child and parents do not presently reside in CA.
- (b) CA court that has made custody determination and does not have exclusive, continuing jx under this section may modify the determination only if it has jx to make an initial determination under §3421.

Communicate per §3410

§3402(g)

"Home state" – defined as state in which child lived with parent or person acting as parent for at least six consecutive months immediately before commencement of child custody proceeding, or for child under six months old, state in which child lived from birth. Period of temporary absence of any of the parties is part of the period.

- 1 Uniform Child Custody Jurisdiction and Enforcement Act; confers subject matter jurisdiction.
- 2 Child with parent or person acting as parent per §3402(m).
- Six consecutive months immediately before commencement of child custody proceeding; for child under six months, state in which child fived from birth [§3402[g]].
- 4 Foreign countries are treated as states for purposes of UCCJEA (§3405(a)), unless child custody law of foreign country violates fundamental principles of human rights [53405(c)].
- 5 Child custody determination: a judgment, decree, or other order of a court providing for legal custody, physical custody, or visitation with respect to child. (3402(c)).



Even if CA does not have jx to make initial custody determination, and even if another state has made a previous custody determination, CA may still be able to make temporary orders if child is in danger and needs immediate protection by asserting temporary emergency jurisdiction.

Temporary Emergency Jurisdiction

§3424(a)

Court may assert temporary emergency jurisdiction if:

Child has been

It is necessary

to protect

child because

child or sibling

or parent is

subjected to

or threatened

with

mistreatment

or abuse

abandoned

Child is present in CA

and

After issuing order for temporary emergency jurisdiction, court must determine if there is custody order from another state.

§3424(b)

If there is no custody determination from other state having jx under §§3421-3423, and if a custody proceeding has not begun in state having jx under §§3421-3423, custody determination made by CA remains in effect until order is obtained from state having jx.

If custody proceeding in other state has not or does not commence, custody determination made by CA may become final determination, and CA becomes the home state.

§3424(c)

If there is previous custody determination from other state or if a custody proceeding has begun in state having jx under §§3421-3423, order issued by CA must specify period that court considers adequate to allow person seeking order to get order from other state.

Order issued by CA remains in effect until order is obtained from other state within period specified or the period expires.

§3424(d)

CA court that has been asked to take temporary emergency jurisdiction, upon being informed that custody proceeding has commenced or custody determination has been made by another state, shall immediately communicate with other court.

CA court with jx per §§3421-3423 that has been informed that out-of-state court has taken emergency jurisdiction shall immediately communicate with other court.

Communicate per §3410