

TITLE 8: FAMILY LAW AND PROBATE
DIVISION 1: DOMESTIC RELATIONS

§ 1604. Jurisdiction.

(a) The Commonwealth Trial Court has jurisdiction to make a child custody determination by initial or modification decree if:

(1) The Commonwealth:

(A) Is the home state of the child at the time of commencement of the proceeding;

(B) Had been the child's home state within six months before commencement of the proceeding and the child is absent from the Commonwealth because of his or her removal or retention by a person claiming custody or for other reasons, and a parent or person acting as parent continues to live in the Commonwealth; or

(2) It is in the best interest of the child that the Commonwealth Trial Court assume jurisdiction because:

(A) The child and his or her parents, or the child and at least one contestant, have a significant connection with the Commonwealth; and

(B) There is available in the Commonwealth substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(3) The child is physically present in the Commonwealth and:

(A) The child has been abandoned; or

(B) It is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(4)(A) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with subsections (a)(1), (2), or (3) of this section, or another state has declined to exercise jurisdiction on the ground that the Commonwealth is the more appropriate forum to determine the custody of the child; and

(B) It is in the best interest of the child that the Commonwealth Trial Court assume jurisdiction.

(b) Except under subsections (a)(3) and (4) of this section, physical presence in the Commonwealth of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on the Commonwealth Trial Court to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine the child's custody.

Source: PL 3-50, § 4.

Commission Comment: Section 4 of PL 6-25, the "Commonwealth Judicial Reorganization Act of 1989," provides that "[w]herever the term 'Commonwealth Trial Court' appears in the Commonwealth Code, it is henceforth to be interpreted and understood to refer to the Commonwealth Superior Court."