

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

§ 1608. Inconvenient Forum.

(a) The Commonwealth Trial Court may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(1) If another state is or recently was the child's home state;

(2) If another state has a closer connection with the child and family or with the child and one or more of the contestants;

(3) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;

(4) If the parties have agreed on another forum which is no less appropriate; and

(5) If the exercise of jurisdiction by the Commonwealth Trial Court would contravene any of the purposes stated in 8 CMC § 1602.

(d) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his or her consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in the Commonwealth, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(i) Any communication received from another state informing the Commonwealth of a finding of inconvenient forum because a court of the Commonwealth is the more appropriate forum shall be filed with the clerk of the Commonwealth Trial Court. Upon assuming jurisdiction the Commonwealth Trial Court shall inform the original court of this fact.

Source: PL 3-50, § 8.

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."