



## Jurisdiction Requirements under the UCCJEA in Texas

Special immigrant juvenile status (SIJS) petitions require a state court order with certain judicial determinations.<sup>1</sup> In Texas, a custody order through a Suit Affecting the Parent-Child Relationship (SAPCR) is the most common state court order obtained to meet the SIJS requirements. To adjudicate a case regarding a child's custody, a Texas court must have subject matter jurisdiction over the issue. Jurisdiction should not be confused with venue or standing. Venue, the proper location to file a suit, is typically in the county where the child resides.<sup>2</sup> Standing, the capacity of a party to bring suit, in a SAPCR is outlined in Tex. Fam. Code § 102.003.

A Texas court must have jurisdiction, or the power to make legal decisions and judgments, to hear a case. To make a "child custody determination,"<sup>3</sup> the court must have jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Tex. Fam. Code § 152.201(a) requires that the court have "home state" jurisdiction or meet one of the other jurisdictional requirements. Tex. Fam. Code § 152.102(7) states:

"Home state" means the state in which **a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.** In the case of a child less than six months of age, the term means the state in which the child lived from birth with a parent or a person acting as a parent. A period of temporary absence of a parent or a person acting as a parent is part of the period.

(Emphasis added). A "person acting as a parent" is a person with physical custody and either legal custody or a claim to legal custody.<sup>4</sup>

If a child has lived in Texas for six months with a parent or a person acting as a parent (the petitioner and proposed conservator meet this requirement because they have a claim to legal custody of the child), Texas is the child's home state, and the court has jurisdiction to hear the case.<sup>5</sup> If the child did not live with a parent or person acting as a parent prior to living in Texas, the child has no home state. A Texas court can proceed with the case if the court meets the requirements of significant-connection jurisdiction.<sup>6</sup> The child, child's parents, or person acting as a parent, must have a significant connection with Texas and substantial evidence should exist in Texas about the child's care. A parent may be able to use this provision to avoid the six-month home state jurisdiction requirement if the child has no home state. Texas may also hear the case if all other courts have declined jurisdiction<sup>7</sup> or if the requirements for temporary emergency jurisdiction are met.<sup>8</sup>

<sup>1</sup> See 8 U.S.C. §1101(a)(27)(J); see also USCIS Policy Manual, Special Immigrant Juveniles at <https://www.uscis.gov/policy-manual/volume-6-part-j>.

<sup>2</sup> Tex. Fam. Code § 103.001(a).

<sup>3</sup> Tex. Fam. Code § 152.102(3).

<sup>4</sup> Tex. Fam. Code § 152.102(13).

<sup>5</sup> Tex. Fam. Code § 152.201(a)(1).

<sup>6</sup> Tex. Fam. Code § 152.201(a)(2).

<sup>7</sup> Tex. Fam. Code § 152.201(a)(4).

<sup>8</sup> Tex. Fam. Code § 152.204.

