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## **New Mexico Divorce and Family Law Jurisdiction**

Jurisdiction is the term used to refer to a court's authority to decide certain cases. In order to hear a case, the court must have jurisdiction of the subject matter of the case and over the parties involved in a case. In a divorce or family law case, issues of jurisdiction can get somewhat complicated when the parties are living in different states.

In New Mexico, the district courts (as opposed to the magistrate or metropolitan courts) have subject-matter jurisdiction over family law cases. The baseline rule is that any person can file a petition for dissolution of marriage with the district court of the New Mexico County in which they have resided for at least six months. The New Mexico resident can file the petition whether or not their spouse currently lives in New Mexico.

However, in cases where the spouse lives outside of the state, the New Mexico courts may not have personal jurisdiction over that spouse and may not be able to issue a complete divorce ruling. The New Mexico courts can exercise personal jurisdiction over the out-of-state spouse under the following circumstances: 1) the out-of-state spouse agrees to submit to the jurisdiction of the New Mexico courts; 2) the out-of-state spouse actually participates in the divorce litigation by filing pleadings and appearing at hearings; or 3) the out-of state spouse lived in a marital relationship within New Mexico at any point in the past.

If none of the preceding conditions exist, the New Mexico district court may have jurisdiction to dissolve the marriage, but may not be authorize to distribute any of the parties' property or debts. The general rule is that the courts here have no jurisdiction over property located in another state without the consent of both parties. The issue of jurisdiction can be further complicated if there are child custody or child support issues between states.

Improper jurisdiction can result in an entire divorce decree being set aside, including the orders from the court addressing the division of property and debt, alimony, child custody and child support. Anyone faced with a divorce action in which one spouse lives outside of the state of New Mexico should consult with an experienced divorce and family law attorney prior to initiating court action in order to ensure that jurisdiction is proper.

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