



Ohio Revised Code

Section 3127.38 Petition for enforcement of custody determination - procedure - order.

Effective: April 11, 2005

Legislation: Senate Bill 185 - 125th General Assembly

(A) A petition for enforcement pursuant to sections 3127.31 to 3127.46 of the Revised Code must be verified. All orders sought to be enforced and any order confirming registration must be attached to the petition. The orders attached to the petition shall be the original or a certified copy, whichever a court requires.

(B) A petition for enforcement of a child custody determination shall state all of the following:

(1) Whether the court that issued the child custody determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding;

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings for enforcement of child custody determinations, proceedings relating to domestic violence or protection orders, proceedings to adjudicate the child as an abused, neglected, or dependent child, proceedings seeking termination of parental rights, and adoptions, and, if so, the court, the case number, and the nature of the proceeding;

(4) The present physical address of the child and the respondent, if known;

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought;

(6) If the child custody determination has been registered and confirmed under section 3127.35 of the Revised Code, the date and place of registration.



(C) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. If possible, the hearing must be held on the next judicial day after service of the order. If holding the hearing on that date is impossible, the court shall hold the hearing on the first judicial day possible. The court may extend the date of the hearing at the request of the petitioner.

(D) An order issued under division (C) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and that the respondent pay fees, costs, and expenses under section 3127.42 of the Revised Code and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

(1) That the child custody determination has not been registered and confirmed under section 3127.35 of the Revised Code and that one of the following circumstances applies:

(a) The issuing court did not have jurisdiction under sections 3127.15 to 3127.24 of the Revised Code or a similar statute of another state.

(b) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under sections 3127.15 to 3127.24 of the Revised Code or a similar statute of another state.

(c) The respondent was entitled to notice of the child custody proceeding for which enforcement is sought, but notice was not given in accordance with the standards of section 3127.07 of the Revised Code or a similar statute of another state.

(2) That the child custody determination for which enforcement is sought was registered and confirmed under section 3127.35 of the Revised Code but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 3127.15 to 3127.24 of the Revised Code or a similar statute of another state.