

# Request for Enforcement of Child-Custody Determination Checklist (Preliminary Matters)

The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), [MCL 722.1101 et seq.](#),<sup>1</sup> prescribes the court’s powers and duties in a child-custody proceeding<sup>1</sup> that involves this state and a proceeding or party outside of this state. An Indian tribe and foreign country must be treated as a state of the United States for purposes of the UCCJEA. See [MCL 722.1104\(2\)](#); [MCL 722.1105\(1\)](#).

When requested to enforce an order issued by another state, a Michigan court must “accord full faith and credit to an order issued by another state and consistent with the [UCCJEA] that enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under [the UCCJEA,] article 2.”<sup>2</sup> [MCL 722.1312](#).

A certified copy of a child-custody determination sought to be enforced and of the order confirming registration, if any, must be attached to the petition. [MCL 722.1307\(1\)](#). A copy of a certified copy of an order may be attached instead of the original. *Id.*

The court must recognize and enforce a child-custody determination made by:

- a court of another state under factual circumstances that met the jurisdictional standards of the UCCJEA OR who exercised

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<sup>1</sup> For purposes of the UCCJEA, *child-custody proceeding* is defined in [MCL 722.1102\(d\)](#).

<sup>2</sup>A Michigan trial court is not required to afford full faith and credit to another state’s child-custody order when the other state lacked subject-matter jurisdiction over the case under the UCCJEA. *Nock v Miranda-Bermudez*, \_\_\_ Mich App \_\_\_, \_\_\_ (2023) (California lacked subject-matter jurisdiction over a custody dispute when the defendant filed for custody in California more than six months after the plaintiff moved the children with her to Michigan, making Michigan the home state for purposes of the UCCJEA and authorizing the Michigan trial court to issue orders concerning custody of the parties’ children).

jurisdiction in substantial conformity with the UCCJEA. [MCL 722.1303\(1\)](#).

- a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of the UCCJEA (unless the foreign country's child-custody law violates fundamental principles of human rights).<sup>3</sup> [MCL 722.1105\(2\)](#); [MCL 722.1105\(3\)](#).
- an Indian tribe under factual circumstances in substantial conformity with the jurisdictional standards of the UCCJEA. [MCL 722.1104\(3\)](#).

For a checklist specific to a Michigan court determining or modifying a child-custody determination under the UCCJEA, see the Michigan Judicial Institute's [Determine/Modify Interstate Child-Custody Dispute Checklist \(Preliminary Matters\)](#) and [Determine/Modify Interstate Child-Custody Dispute Checklist \(Hearing\)](#).

**If a question of existence or exercise of jurisdiction under the UCCJEA is raised, on a party's request, the question MUST be given priority on the court calendar and handled expeditiously.** [MCL 722.1107](#).

To make sure all the proper procedures have been followed leading up to an enforcement hearing, the court should make the following inquiries and determinations:<sup>4</sup>

- Ensure the filed petition:
  - is verified. [MCL 722.1307\(1\)](#).
  - includes attachment of
    - a certified copy of the child-custody determination the petitioner seeks to enforce AND
    - order confirming registration of the child-custody determination (if available). [MCL 722.1307\(1\)](#). For a checklist on the registration procedures, see the Michigan Judicial Institute's [Register Interstate Child-Custody Determination Checklist](#).

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<sup>3</sup>The court need not apply the UCCJEA if the child-custody law of a foreign country violates fundamental principles of human rights. [MCL 722.1105\(3\)](#).

<sup>4</sup>Ensure the case is not excluded from proceedings under the UCCJEA because the case is an adoption proceeding, or the case pertains to authorizing emergency medical care for the child, [MCL 722.1103](#). Determine the child is not an Indian child OR the child is or the court has reason to believe the child is an Indian child and the provisions of the Indian Child Welfare Act (ICWA), [25 USC 1901 et seq.](#), and the Michigan Indian Family Preservation Act (MIFPA), [MCL 712B.1 et seq.](#), are being followed. [MCL 722.1104\(1\)](#).

- states all of the following:
  - whether the court that issued the child-custody determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.
  - whether the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under the UCCJEA or federal law and, if so, identify the court, the case number of the proceeding, and the action taken.
  - whether a proceeding has been commenced that could affect the current proceeding, including a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption and, if so, identify the court and the case number and nature of the proceeding.
  - the present physical address of the child and the respondent, if known.
  - whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.
  - if the child-custody determination has been registered and confirmed under [MCL 722.1304](#) (setting out procedures for registering a child-custody determination),<sup>5</sup> the date and place of registration. [MCL 722.1307\(2\)](#).
- In a proceeding to contest registration of the foreign order, the respondent may use the following defenses to object to registration if the case has not been registered:
  - The issuing court did not have jurisdiction under [MCL 722.1201 et seq.](#)
  - The child-custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under [MCL 722.1201 et seq.](#)
  - The person contesting registration was entitled to notice in the proceedings before the court that issued the child-

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<sup>5</sup> For a checklist on the registration procedures, see the Michigan Judicial Institute's [Register Interstate Child-Custody Determination Checklist](#).

custody determination for which registration is sought, but notice of those proceedings was not given in accordance with the standards of [MCL 722.1108](#). [MCL 722.1304\(4\)](#).

- Order the respondent to appear (with or without the child). [MCL 722.1307\(3\)](#).
  - Ensure the order to appear states:
    - time and place of the enforcement hearing;
    - advises the respondent that at the enforcement hearing the court will order delivery of the child and the payment of fees, costs, and expenses under [MCL 722.1311](#),<sup>6</sup> and may schedule an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either:
      - the child-custody determination *was not* registered and confirmed under [MCL 722.1304](#)<sup>7</sup> and one or more of the following defenses that would have been available if registered:
        - the issuing court did not have jurisdiction under the UCCJEA, article 2.
        - the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under the UCCJEA, article 2, or federal law.
        - the child-custody determination for which enforcement is sought *was* registered and confirmed under [MCL 722.1304](#), but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under the UCCJEA, article 2, or federal law. [MCL 722.1307\(4\)](#).
- Enter any additional orders necessary to ensure the safety of the parties and the child. [MCL 722.1307\(3\)](#).

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<sup>6</sup> [MCL 722.1311\(1\)](#) requires the court to “award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, witness expenses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.” However, “[t]he court shall not assess fees, costs, or expenses against a state except as otherwise provided by law other than [the UCCJEA].” [MCL 722.1311\(2\)](#).

<sup>7</sup> For a checklist on the registration procedures, see the Michigan Judicial Institute’s [Register Interstate Child-Custody Determination Checklist](#).

- May grant any relief normally available under Michigan law to enforce a registered child-custody determination made by a court of another state. [MCL 722.1305\(1\)](#).
- Must recognize and enforce, but not modify except in accordance with [MCL 722.1201 et seq.](#), a registered child-custody determination of another state. [MCL 722.1305\(2\)](#).
- Determine whether petitioner filed with the petition a verified application for issuance of a warrant to take physical custody of the child. [MCL 722.1310\(1\)](#).
  - If YES, issue warrant to take physical custody of the child (as appropriate) if it is determined, following the petitioner's or other witness's testimony, that the child is likely to suffer serious imminent physical harm or imminent removal from Michigan. [MCL 722.1310\(2\)](#).
  - Ensure warrant includes:
    - recitation of facts on which a conclusion of serious imminent physical harm or imminent removal from the jurisdiction is based. [MCL 722.1310\(3\)](#).
    - an order directing law enforcement officers to take physical custody of the child immediately, and provide provisions for the placement of the child pending final relief. [MCL 722.1310\(3\)](#).
    - time and place of the enforcement hearing, that at the enforcement hearing, the court will order the payment of fees, costs, and expenses under [MCL 722.1311](#),<sup>8</sup> and may schedule an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either:
      - the child-custody determination *was not* registered and confirmed under [MCL 722.1304](#)<sup>9</sup> and one or more of the following:
        - the issuing court did not have jurisdiction under the UCCJEA, article 2.

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<sup>8</sup> [MCL 722.1311\(1\)](#) requires the court to “award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, witness expenses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.” However, “[t]he court shall not assess fees, costs, or expenses against a state except as otherwise provided by law other than [the UCCJEA].” [MCL 722.1311\(2\)](#).

<sup>9</sup> For a checklist on the registration procedures, see the Michigan Judicial Institute's [Register Interstate Child-Custody Determination Checklist](#).

- the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under the UCCJEA, article 2, or federal law.
- the child-custody determination for which enforcement is sought *was* registered and confirmed under [MCL 722.1304](#), but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under the UCCJEA, article 2, or federal law. [MCL 722.1307\(4\)](#); [MCL 722.1310\(2\)](#).
- May authorize law enforcement officers to:
  - enter private property to take physical custody of child (if based on the petitioner's or witness's testimony it is determined a less intrusive remedy is not effective), OR
  - make an enforceable entry at any hour (if exigent circumstances exists). [MCL 722.1310\(5\)](#).
- May impose conditions on child's placement to ensure the appearance of the child and the child's custodian. [MCL 722.1310\(6\)](#).
- Immediate** communication **MUST** be made with any court which has initiated modification proceedings if a proceeding for enforcement has been commenced **AND**
  - the court determines that a proceeding to modify the child-custody determination has been commenced in another state having jurisdiction to modify the child-custody determination under the UCCJEA, article 2. [MCL 722.1306](#).
  - the enforcement proceeding continues **UNLESS** the enforcing court, after consultation with the modifying court, **STAYS** or **DISMISSES** the proceeding. [MCL 722.1306](#).

Hold an enforcement hearing on the next judicial day following service of the order to appear (or the first judicial day possible unless the petitioner requests extension of the hearing date) OR on the next judicial day after the warrant to take physical custody of the child is executed. [MCL 722.1307\(3\)](#); [MCL 722.1310\(2\)](#).

**Note:** Communication **MAY** be made with the court of another state concerning the proceedings. [MCL 722.1110\(1\)](#).

- Promptly notify the parties of the communication (unless the communication pertained to schedules, calendars, court records, and similar matters). [MCL 722.1110\(2\)](#); [MCL 722.1110\(3\)](#).
- Allow the parties to participate in the communication OR permit the parties to present facts and legal arguments before a decision on jurisdiction is made. [MCL 722.1110\(2\)](#).
- Record<sup>10</sup> of the communication MUST be made and the parties MUST be granted access to the record (unless the communication pertained to schedules, calendars, court records, and similar matters). [MCL 722.1110\(3\)](#); [MCL 722.1110\(4\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

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<sup>10</sup> For purposes of [MCL 722.1110](#), *record* is defined in [MCL 722.1110\(5\)](#).

