

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

[MCL 722.1303\(2\)](#) permits a Michigan court to “utilize a remedy available under another law of this state to enforce a child-custody determination<sup>[1]</sup> made by a court of another state.”<sup>2</sup>

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\(2\)](#).

Procedures to follow during the enforcement hearing:

- Ensure proper notice was provided to the respondent and any person with physical custody of the child OR if a warrant was issued, ensure the respondent was served with the petition, warrant, and order to appear *immediately* after the child was taken into physical custody. [MCL 722.1108\(1\)](#); [MCL 722.1308](#); [MCL 722.1310\(4\)](#).
- May request the prosecutor or attorney general to take lawful action to locate a child, obtain the return of a child, or enforce a child-custody determination. [MCL 722.1314\(1\)](#).
- In a hearing to *enforce* a child-custody determination issued by another tribunal, determine if the petitioner is entitled to immediate physical custody of the child.
- Order that the child must be delivered to the petitioner UNLESS the petitioner establishes either:

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

<sup>2</sup> Note that the enforcement provisions set out under the UCCJEA, [MCL 722.1301 et seq.](#), do not affect the availability of other remedies to enforce a child-custody determination. [MCL 722.1303\(2\)](#).

- the child-custody determination *was not* registered and confirmed under [MCL 722.1304](#)<sup>3</sup> and one or more of the following:
  - 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 respondent was entitled to notice, but notice was not given in accordance with the standards of [MCL 722.1108](#) in the proceedings before the court that issued the order for which enforcement is sought. [MCL 722.1309\(1\)\(a\)](#).
- 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. [MCL 722.1309\(1\)\(b\)](#).
- May grant any relief normally available under the law of this state to enforce a registered child-custody determination made by a court of another state. Note, however, that the child-custody determination **MUST** not be modified except in accordance with the UCCJEA, article 2.<sup>4</sup> [MCL 722.1305](#).
- Award prevailing party fees, costs, and expenses authorized under [MCL 722.1311](#).<sup>5</sup> [MCL 722.1309\(2\)](#); [MCL 722.1311\(1\)](#).
- May grant additional relief (including request for the assistance of law enforcement officials). [MCL 722.1309\(2\)](#).
- Schedule a follow-up hearing to determine whether additional relief is appropriate. [MCL 722.1309\(2\)](#).

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<sup>3</sup> For a checklist on the registration procedures, see the Michigan Judicial Institute's [Register Interstate Child-Custody Determination Checklist](#).

<sup>4</sup> For a checklist specific to modifying an interstate child-custody determination, refer to the Michigan Judicial Institute's [Determine/Modify an Interstate Child-Custody Dispute Checklist \(Preliminary Matters\)](#) and [Determine/Modify an Interstate Child-Custody Dispute Checklist \(Hearing\)](#).

<sup>5</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\(2\)](#).

- May draw an adverse inference from a party's refusal to testify on the grounds of self-incrimination. [MCL 722.1309\(3\)](#).
- Spousal or parent-child privileges CANNOT be invoked. [MCL 722.1309\(4\)](#).
- May assess the respondent all direct expenses incurred by the prosecutor/attorney general and law enforcement officers, IF action was taken by prosecutor/attorney general to locate a child, obtain the return of a child, or enforce a child-custody determination and the respondent was not the prevailing party. [MCL 722.1316](#).

**Appeal.** Unless the court issued a temporary emergency order under [MCL 722.1204](#), the court may NOT stay an order enforcing a child-custody determination pending appeal. [MCL 722.1313](#).

**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](#).

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](#).

