



Ohio Revised Code

Section 3127.40 Order to take immediate physical possession of child - additional relief - privileges.

Effective: April 11, 2005

Legislation: Senate Bill 185 - 125th General Assembly

(A) Unless the court issues a temporary emergency order pursuant to section 3127.18 of the Revised Code, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent 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 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.

(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.

(B) The court shall award the fees, costs, and expenses authorized under section 3127.42 of the Revised Code, and may grant additional relief, including a request for the assistance of law enforcement officials, and shall set a further hearing to determine whether the additional relief is



appropriate.

(C) If a party called to testify in a proceeding to enforce a child custody determination refuses to answer on the basis that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(D) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.