

Family - Out-of-State Custody/Parenting Time/Visitation Orders - Procedures for Filing and Enforcement

Directive #7-02
Issued by:

September 26, 2002
Richard J. Williams
Administrative Director

N.J.S.A. 2A:34-44 requires the Clerk of the Superior Court to maintain a registry of out-of-state custody orders. Furthermore, pursuant to *N.J.S.A. 2A:34-41*, New Jersey courts must recognize and enforce orders from courts in other states that have assumed jurisdiction of a matter in accordance with the provisions of the Uniform Child Custody Jurisdiction Act ("UCCJA"), *N.J.S.A. 2A:34-38* to *N.J.S.A. 2A:34-52*. Once a certified copy of a custody decree of another state has been filed with the Clerk of the Superior Court it has the same effect as a custody decree rendered by a New Jersey court and shall be enforced in like manner. *N.J.S.A. 2A:34-43*.

The Supreme Court has authorized the Clerk of the Superior Court to delegate this responsibility to the Family Division Managers in order to facilitate the filing and enforcement process. The following procedures were developed to allow each vicinage to accept out-of-state custody, parenting time, or visitation orders presented for filing and/or enforcement and to provide guidance to the vicinages in that regard. These procedures have been approved by the Supreme Court and are in accordance with the UCCJA.

I. Registration of Out-of-State Custody/Parenting Time/Visitation Orders

A. Local Filing for Entry on Registry

To facilitate the filing and enforcement process for out-of-state custody orders, the Supreme Court has authorized the Clerk of the Superior Court to delegate the responsibility for recording out-of-state custody, parenting time, and visitation orders to the Family Division Manager in the county of venue as designee of the Deputy Clerk of the Superior Court (the Trial Court Administrator). The out-of-state custody order registry will be maintained on the Family Automated Case Tracking System (FACTS).

B. Required Documentation for Registration

Any person seeking to file an out-of-state custody, parenting time, or visitation order for inclusion on the registry may do so by filing with the appropriate county of venue all of the following:

- (1) A written request to file the out-of-state order.
- (2) Two copies of the out-of-state order, at least one of which must be certified, and a certified statement that the order is authentic and has not been modified, vacated, stayed or otherwise altered. (See Appendix A, Certification form.)

(3) The name and address of the person seeking to have the order entered in the registry and the name and address of any other party who has been awarded custody/parenting time/visitation. (Again, see Appendix A.)

(4) A \$5.00 filing fee (*N.J.S.A. 22A:2-20*).

C. Establishment of Case File and Entry onto Registry

Upon receipt of the required documentation (as indicated in Section B, above), Family Division staff shall docket the out-of-state order in FACTS under the FD docket as a “registration of a foreign order” and create a court jacket. All related documentation or communications pertaining to that matter will be kept in that file. The \$5.00 filing fee shall be collected by the Vicinage Finance Division pursuant to the vicinage’s procedures for collection of fees.

II. Enforcement of Out-of-State Custody/Parenting Time/Visitation Orders

A. Procedures for Emergent Applications for Enforcement

Any person seeking enforcement of an out-of-state custody, parenting time, or visitation order on an emergent basis must make application by way of an order to show cause in the county in which that order was filed and entered on the registry as set forth in Section I, above. If, however, the order has not previously been filed and entered onto the registry, the person seeking enforcement must make the application for enforcement in the appropriate county of venue and, at that time, also request that the order be filed for entry on the registry.

The procedures are as follows:

(1) If the order has not previously been filed for entry on the registry, the procedures set forth above under Section I-B must be followed.

(2) A proposed Order to Show Cause to Enforce Out-of-State Custody/Visitation/Parenting Time Order must be submitted. (See Appendix B for the form of order.)

(3) A copy of the court order for which enforcement is sought and any other documentation pertinent to the matter before the court must be submitted.

(4) A Certification (see Appendix C for the form of certification) must be submitted containing the following information:

(a) Whether the order to be enforced has been vacated, stayed, or

modified by the court that issued the order or by another court in a subsequent order.

- (b) Whether there currently is a proceeding in another court that may affect this proceeding, including any proceedings relating to domestic violence, other protective orders, termination of parental rights, abuse and neglect, or adoptions. For any such other proceedings, the name of the court and case number must be provided.
- (c) The present address of the child and the party against whom the order is being enforced, including the present location if different from the address. If the party's address must be kept confidential due to a domestic violence restraining order or other protective order, that fact must be so indicated.
- (d) A clear statement of any other relief being sought in addition to the immediate physical custody of the child, such as attorney fees and requests for assistance by law enforcement officials.
- (e) Whether the out-of-state custody order to be filed and/or enforced previously has been filed for entry on the New Jersey registry. If this or any other prior order has been previously entered in the registry, the date and place of such entry must be provided and the party must indicate whether that order is the subject of the application for enforcement.

(5) Upon receipt of the order to show cause, Family Division staff are to check FACTS to see whether the order was filed previously. If not, the case should be docketed under the FD docket as a "registration of a foreign order." If, however, the order was filed previously, the existing docket number is to be utilized and all subsequent proceedings should take place in the county in which the order was originally filed, unless venue is transferred to another county pursuant to court order. Court staff must attempt to verify that the order is authentic and has not been modified, vacated, or stayed by contacting the foreign court by telephone or by fax. Court staff should also inquire as to whether there are any other relevant proceedings of which that the foreign court is aware. Family Division staff shall place in the court jacket written documentation of the steps taken to verify the order (see Appendix D for the documentation form) and forward the case to a judge for emergent review.

(6) After review of the submitted material, the court may issue an order directing the respondent to appear in person at an emergent hearing, with or without the child, or may enter any other order necessary to ensure the safety of the child and the parties.

(7) The court may direct the moving party to serve the signed order to show cause on the other party by any method authorized by statute and the Rules of Court. The order to show cause will set forth the return date and time for appearance of the parties.

(8) The case shall be scheduled to be heard during regular court hours on the next court business day after service of the order and/or petition or as soon thereafter as possible, as determined by the court. Family Division staff shall schedule the hearing on FACTS.

(9) The court shall hear the case on the scheduled return date and issue a final order in accordance with the UCCJA and other laws of the State of New Jersey (see Appendix E for the form of final order). A copy of the final order shall be distributed to all affected parties and to the foreign court.

B. Procedures for Non-Emergent Applications for Enforcement

If the enforcement application is not emergent, the procedures set forth in Section II-A above shall be followed except that the application will be by way of notice of motion pursuant to Rule 5:5-4, rather than by order to show cause.

APPENDIX A

**CERTIFICATION OF
OUT-OF-STATE CUSTODY/VISITATION/PARENTING TIME ORDER
FILING FOR ENTRY ON REGISTRY ONLY**

TO BE COMPLETED BY REGISTRANT

Plaintiff's Name:

Defendant's Name:

Address:

Address:

Date of Order:

Expiration Date (if applicable):

Issuing State:

County/City of Venue:

**Issuing Court Docket/Case
Number:**

Issuing Court Phone Number:

**Name and address of any other party(ies) who has been awarded custody,
visitation and/or parenting time:**

CERTIFICATION:

I _____ certify that to the best of my knowledge the above identified Order presented to the New Jersey Superior Court, Chancery Division, Family Part, County of _____ represents a true copy of the original Order issued by _____ (location of jurisdiction/venue) on _____ date. This Order represents the last Order issued in this matter and has not be vacated, stayed, or modified to the best of my knowledge.

I certify that the foregoing statements made by me are true. I am aware that if any statements made by me are willfully false I am subject to punishment.

Signature: _____ Date: _____

APPENDIX B
[ORDER TO SHOW CAUSE TO ENFORCE OUT-OF-STATE
CUSTODY/VISITATION/PARENTING TIME ORDER]

Applicant' Name:

Applicant' Address and Telephone Number

Plaintiff' Name

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
FAMILY PART

_____ COUNTY

vs.

DOCKET NO. _____

CIVIL ACTION

Defendant' Name

ORDER TO SHOW CAUSE
TO ENFORCE OUT-OF-STATE
CUSTODY/VISITATION/PARENTING
TIME ORDER

This matter being brought to the attention of the court by _____,
plaintiff/defendant (circle one) and it appearing upon a reading of the pleadings submitted,
including the certification(s) in support thereof, that the out-of-state order submitted is a true
copy and that there have been no intervening orders, and for good cause being shown,

It is, on this day of _____,

ORDERED, that the defendant/plaintiff (circle one) show cause before this court at
the _____ Court House _____, New Jersey, on the
day of _____ at _____ o'clock in the _____, or as soon

thereafter as counsel/litigant may be heard, as to why an order should not be entered as follows:

It is further ORDERED that:

The opposing party was/was not (circle one) given Notice prior to entry of this Order to Show Cause.

If Notice was given, it was by: (a) telephone, (b) in person, (c) written (circle one).

**THIS ORDER IS FOR ENFORCEMENT OF AN OUT-OF-STATE
CUSTODY/VISITATION/PARENTING TIME ORDER ONLY. THIS COURT HAS NOT
ASSUMED JURISDICTION OF THIS CASE.**

APPENDIX C

**CERTIFICATION OF
OUT-OF-STATE CUSTODY/VISITATION/PARENTING TIME ORDER
(FOR FILING WHEN REQUESTING ENFORCEMENT)**

TO BE COMPLETED BY REGISTRANT

Plaintiff's Name:

Defendant's Name:

Address:

Address:

Date of Order:

Expiration Date (if applicable):

Issuing State:

County/City of Venue:

**Issuing Court Docket/Case
Number:**

Issuing Court Phone Number:

1. Are there any other proceedings in any other court that may affect this proceeding?
Yes/No (circle one). If so, give name of the case, docket number, location of proceeding
(state/county), and type of proceeding.

2 (a) Is the address at which the children who are the subject of the out-of-state order are located confidential pursuant to a domestic violence restraining order or other protective order? Yes/No (circle one). If yes, provide the jurisdiction, date and other details about the order.

(b) At what address are the child(ren) who are the subject of the out-of-state order presently located and what is their permanent address, if different from their present location?

3. At what address is the adverse party presently located and what is his or her permanent address, if different from his or her present location?

4. Was this out-of-state order previously registered in New Jersey? If so, indicate the date and place (county) of such previous registration.

5. Please indicate any other requests you are making to the court in addition to the immediate custody of the child(ren).

6. Please indicate any facts of your case that you want to bring to the attention of the court.

CERTIFICATION:

I _____ certify that representations made herein are accurate to the best of my knowledge and that the above identified order presented to the New Jersey Superior Court, Chancery Division, Family Part, County of _____ represents a true copy of the original order issued by _____ (location of jurisdiction/venue) on _____ date. This order represents the last order issued in this matter and has not be vacated or modified to the best of my knowledge.

I certify that the foregoing statements made by me are true. I am aware that if any statements made by me are willfully false I am subject to punishment.

Signature: _____ Date: _____

APPENDIX D

Documentation of Steps Taken to Verify Out-of-State Order

To be completed by Family Division Staff:

Staff member name:

Date Order presented for registration/enforcement:

Date case established on FACTS:

New Jersey Docket No.:

Name, address and telephone number of out-of-state court:

Name of contact person from out-of-state court:

Date order verified by phone:

Date received faxed/original copy of certified court order from other state:

Other pending proceedings, if applicable (include case name(s); docket number(s); location(s)--state and county; and type of proceeding)_____

APPENDIX E

Applicant' Name:

Applicant' Address and Telephone Number

Plaintiff' Name:

_____ COUNTY

CIVIL ACTION

Defendant' Name:

ORDER FOR ENFORCEMENT OF OUT-OF-STATE

It is, on this day of ,
