

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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DIRECTIVE # 9-07
Supersedes Directive # 7-02

[Questions or comments may be
addressed to (609) 984-0066]

TO: Assignment Judges
Family Presiding Judges
Trial Court Administrators
Family Division Managers

FROM: Philip S. Carchman, J.A.D.

SUBJECT: Family/Updated Procedures for Filing and Enforcement of Out-of-State (“Foreign”) Custody/Parenting/Visitation Orders

DATE: September 28, 2007

This superseding Directive, approved by the Supreme Court on September 24, 2007, updates the filing and enforcement procedures for out-of-state custody/parenting time/visitation orders pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”), N.J.S.A. 2A:34-53 to -95.

The superseded Directive – Directive # 7-02 – outlined procedures for filing and enforcement of such orders under Uniform Child Custody Jurisdiction Act (“UCCJA”). The UCCJA, adopted in 1979, was intended to avoid jurisdictional competition and conflict between states in child custody matters. Its primary goal was to ensure that custody litigation occurred in the place where the child and her/his family had the closest connection and required the clerks of state courts to maintain a registry of certified copies of out-of-state custody determinations.

In 2004 New Jersey adopted the UCCJEA, superseding the UCCJA. This new act provides clearer standards for states to exercise original jurisdiction over a child custody dispute, provides standards for continuing jurisdiction, and clarifies the determination of jurisdiction for modification of custody decrees. Based on a model developed by the National Conference of Commissioners on Uniform State Laws, the New Jersey UCCJEA is an effective tool for determining in each particular case which state court has jurisdiction to make child custody determinations. The UCCJEA defines a “child custody determination” as a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation but does not include

provisions relating to child support or other monetary obligations of an individual. Like its predecessor statute, the UCCJEA is intended to avoid jurisdictional competition and to promote cooperation among the state courts in the handling of child custody determinations and requires the clerks of state courts to maintain a registry of certified copies of custody determinations of other states.

Under the UCCJEA, New Jersey courts have a duty to enforce out-of-state custody/parenting time/visitation orders. N.J.S.A. 2A:34-77a. Pursuant to N.J.S.A. 2A:34-79, an out-of-state custody/parenting time/visitation order may be registered in New Jersey either with or without a simultaneous request for enforcement. See Section I.B. of the attached procedures. New Jersey courts have the authority to enforce a registered out-of-state custody/parenting time/visitation order pursuant to N.J.S.A. 2A:34-80 and must accord full faith and credit to an order made consistent with the UCCJEA that enforces an out-of-state custody/parenting time/visitation order. N.J.S.A. 2A:34-87.

The UCCJEA also was intended to clarify various ambiguities in and omissions from the previous statute. One significant statutory change provides that priority shall be given to the home state. N.J.S.A. 2A:34-65. Further, under the UCCJEA, once a New Jersey court has made a child custody determination, New Jersey has exclusive, continuing jurisdiction over the determination until specific contrary determinations are made by the court.

Under the prior statute, when a party registered a custody determination, there was no requirement that notice of such registration be given to the non-registering party. The UCCJEA now requires such notice of registration, with the non-registering party to be given the opportunity to request a hearing to contest the validity of the registered determination. Additionally, the UCCJEA allows for the issuance of a warrant to take physical custody of a child if there is an imminent likelihood that the child either would be removed from the state or would suffer serious physical harm. N.J.S.A. 2A:34-85. The UCCJEA, through its temporary emergency jurisdiction provisions, stresses the importance of protecting victims of abuse and their children. N.J.S.A. 2A:34-68.

Key revisions in the UCCJEA to the procedures for filing and enforcing out-of-state custody/parenting/visitation orders are summarized as follows:

Filing

- A notice of registration must now be provided to the non-registering person. Section I.D of the attached procedures details the contents of that notice.
- Detailed information on Hearings to Contest the Validity of a registered out-of-state child custody determination is in Section I.E.

Enforcement

- the UCCJEA provides that a person seeking enforcement of an out-of-state custody/visitation/parenting time order may apply for a warrant to take physical custody of a child if the child is likely to suffer serious imminent physical harm or removal from New Jersey. See Section II.C of the attached procedures.

The Supreme Court previously authorized the Clerk of the Superior Court to delegate the responsibility for filing out-of-state custody/parenting time/visitation orders to the Family Division Managers in the vicinages in order to facilitate the filing and enforcement process. The procedures promulgated by this superseding directive continue to allow each vicinage to accept out-of-state custody/parenting time/visitation orders presented for filing and/or enforcement and provide guidance to the vicinages in that regard.

Questions or comments concerning these revisions to these procedures may be addressed to Assistant Director Harry T. Cassidy at 609-984-4228 or Chief Geraldine Washington at 609-984-0066.

P.S.C.

Attachment: Procedures for Filing and Enforcement of Out-of-State (“Foreign”)
Custody/Parenting Time/Visitation Orders

cc: Chief Justice Stuart Rabner
Family Presiding Judges
Theodore J. Fetter, Deputy Administrative Director and Acting Clerk of the Superior Court
AOC Directors and Assistant Directors
Geraldine Washington, Chief
Gina G. Bellucci, Esq. Family Practice Division
Francis W. Hoerber, Special Assistant
Steven D. Bonville, Special Assistant

Procedures for Filing and Enforcement of Out-of-State (“Foreign”) Custody/Parenting Time/Visitation Orders

Pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”)

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). The following procedures thus allow each vicinage to accept out-of-state custody/parenting time/visitation orders presented for filing and/or enforcement and provide guidance to the vicinages in that regard.

B. Required Documentation for Registration

Pursuant to N.J.S.A. 2A:34-79, 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 parent or person acting as a parent who has been awarded custody/parenting time/visitation. (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 indicated in Section I. B., above, Family Division staff:

- (1) shall docket the out-of-state order in FACTS under the FD docket as a “registration of a out-of-state 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.
- (2) shall cause notice to be served upon the persons named in paragraph B.(3) above and provide them with an opportunity to contest the registration in accordance with sections I. D & E below.

D. Notice of Registration to the Non-Registering Person (s)

See Appendix F for a sample Notice of Registration

The Notice required by Section C. 2 above shall state that:

- (1) a registered out-of-state custody/visitation/parenting time order is enforceable as of the date of the registration in the same manner as a determination issued by a court of New Jersey;
- (2) a hearing to contest the validity of the registered custody or visitation/parenting time order shall be requested 20 days after service of notice; and
- (3) failure to contest the registration will result in confirmation of the custody/visitation/parenting time order and preclude further contest of that determination with respect to any matter that could have been asserted. See N.J.S.A. 2A:34-79.

E. Hearing to Contest the Validity of a Registered Out-of-State Custody or Visitation/Parenting Time Order

- (1) A person seeking to contest the validity of a registered out-of-state custody or visitation/parenting time order shall request a hearing, in writing, within 20 days after service of the notice required pursuant to Section 1. D. above. N.J.S.A. 2A:34-79.
- (2) At the hearing, the court shall confirm the registered custody or visitation/parenting time order unless the person contesting registration establishes that:
 - a. the issuing court did not have jurisdiction under article 2 of the UCCJEA;
 - b. the out-of-state custody or visitation/parenting time order sought to be

registered has been vacated, stayed or modified;

- c. the person contesting registration was entitled to notice but was not given notice in accordance with the UCCJEA in the proceedings before the court that issued the order for which registration is sought. N.J.S.A. 2A:34-79d(3).

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

- (1) If a timely request for a hearing to contest the validity of registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation. N.J.S.A. 2A:34-79.
- (2) Confirmation of a registered order, whether by operation of law or after notice and hearing precludes further contest of the order with respect to any matter which could have been asserted at the time of registration. N.J.S.A. 2A:34-79.

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 registered as set forth in Section I above.

If, however, the order has not been previously 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 certified copy of the court order for which enforcement is sought and any other documentation pertinent to the matter before the court must be

submitted, including, but not limited to, a certified copy of any order that confirms registration of the order sought to be enforced.

- (4) A Certification (see Appendix C for the form of certification) must be submitted containing the following information pursuant to N.J.S.A. 2A:34-82b:
- a. Whether the court that issued the order for which enforcement is sought identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.
 - b. 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 and, if so, identify the court, case number and nature of the proceedings.
 - c. 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 and the nature of the proceeding must be provided.
 - d. 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.
 - e. 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.
 - f. Whether the out-of-state custody order to be filed and/or enforced has been previously filed for entry on the New Jersey registry. If this or any other prior order has been previously registered in New Jersey, 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 shall 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 out-of-state 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. Family Division Staff must attempt to verify that the order is authentic and has not been modified, vacated, or stayed by contacting the out-of-state court by telephone or by fax. Family Division Staff should also inquire as to whether there are any other relevant proceedings of which the foreign/out-of-state 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 UCCJEA provides that the court “shall” issue an order directing the respondent to appear in person at an emergent hearing, with or without the child, and may enter any other order necessary to ensure the safety of the child and the parties. N.J.S.A. 2A:34-82c.
- (7) 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.
- (8) 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.
- (9) An order issued directing respondent to appear at the emergent hearing shall advise the respondent that at the hearing the court may order that the petitioner take immediate physical custody of the child and be awarded costs and fees unless respondent appears and establishes that
 - a. the order has not been registered and confirmed; and
 - b. the order sought to be enforced should not be enforced.
- (10) The court shall hear the case on the scheduled return date and issue a final order in accordance with the UCCJEA 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 out-of-state 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.

C. Warrant to Take Physical Custody of the Child

(1) Pursuant to NJSA 2A:34 -85, a person seeking enforcement of an out-of-state custody/parenting time/visitation order may apply for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or be removed from New Jersey.

(2) Pursuant to N.J.S.A. 2A:34-85b, the Court may issue a warrant directing law enforcement officers to take physical custody of the child if it finds that the child is likely to suffer serious imminent physical harm or be removed from New Jersey. The warrant shall comport with the statements required in Section II.A (4) above (N.J.S.A. 2A:34-82 criteria).

D. Involvement of Prosecutors Or Other Appropriate Public Officials

N.J.S.A. 2A:34-89 and N.J.S.A. 2A:34-90 authorize prosecutors and other appropriate public officials to take lawful action to locate a child, obtain the return of a child, or enforce a custody/parenting time/visitation order under certain circumstances.

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 parent or person acting as parent 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 been 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's Name:

Applicant's Address and Telephone Number

Plaintiff's Name

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
FAMILY PART

_____ COUNTY

vs.

DOCKET NO. _____

CIVIL ACTION

Defendant's 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 OUT-OF-STATE 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:

Address:

Date of Order:

Issuing State:

**Issuing Court Docket/Case
Number:**

Case Type:

Defendant's Name:

Address:

Expiration Date (if applicable):

County/City of Venue:

Issuing Court Phone Number:

1. Has the order that you are seeking to enforce been vacated, stayed or modified? Yes/No (circle one). If so, give name of the case, docket number, location of proceeding (state/county), and type of proceeding.

2. 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.

3. (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?

4. 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?

5. Was this out-of-state order, that you are now seeking to enforce, previously registered in New Jersey? If so, indicate the date and place (county) of such previous registration.

6. Were any other custody/visitation time/parenting orders involving you, the other party listed above or the child(ren) ever registered in New Jersey? If so, indicate the date and place (county) of such previous registration.

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

8. 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 been 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 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) _____

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

APPENDIX F

Superior Court of New Jersey
Chancery Division, Family Part
County of _____

Plaintiff's Name

vs.

Defendant's Name

NOTICE OF
REGISTRATION OF OUT-
OF-STATE CUSTODY
ORDER

DOCKET NO.

Dear Parent/Person Acting as Parent:

PLEASE BE ADVISED that an Order in the above captioned matter was presented to the New Jersey Superior Court, Chancery Division, Family Part, County of _____ for inclusion on the New Jersey out-of-state custody order registry.

Please be further advised a registered foreign custody/visitation/parenting time order is enforceable as of the date of the registration in the same manner as a determination issued by a court of New Jersey.

IF YOU WISH TO REQUEST A HEARING TO CONTEST THE VALIDITY of the registered custody/ visitation/parenting time, YOU MUST DO SO, IN WRITING, WITHIN 20 DAYS after you are served with this Notice. Failure to contest the registration within 20 days after you are served with this Notice will result in confirmation of the custody/ visitation/parenting time order and preclude further contest of that determination with respect to any matter that could have been asserted.

Questions about this Notice?

Contact _____ at _____

Dated:

Name, Family Division staff