

IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION, GEAUGA COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Temporary Emergency Jurisdiction

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background

Since the mid-1990s, there have been changes in state law regarding child custody, parenting time, and child support issues. The need for changes results from the fact that parents and their children freely move from State to State for any number of reasons. Examples are job opportunities, family relations, education, or medical concerns. Moving to another State can also result from a couple deciding to separate and one or both parents move to another State. Another reason might be that one of the parents has abused or has threatened to abuse the other parent or a child.

When a couple with children separates, issues can arise regarding who should have custody of those children or what should be the parenting time (i.e., visitation rights) of the noncustodial parent. For many years, the parents might file a legal proceeding in two different states asking the judge to determine custodial or parenting time rights. Often the result would be conflicting court orders. To avoid such confusion and conflict, the States enacted uniform laws so that all the States are using the same set of rules. Regarding a court determination of child custody and parenting time, in 1997 the national conference of commissioners on uniform state laws proposed what is known as *The Uniform Child Custody Jurisdiction and Enforcement Act*. Ohio adopted that Act, which is set forth in R.C. Chapter 3127.

Essentially, that Act provides that the State, which meets the definition of the “Home State,” is the only State that has the legal authority (attorneys call it “jurisdiction”) to determine who has legal custody of a child and what are the parenting time rights (i.e., visitation rights) of the noncustodial parent. The definition of “Home State” is:

"Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of a child custody proceeding and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.¹

The key statute that describes the legal authority of an Ohio court to determine child custody and parenting time is set forth in R.C. 3127.15. For detailed information, you should read the information sheet titled "Jurisdiction of Ohio Juvenile Courts." Generally, an Ohio court does not have such authority until Ohio meets the definition of the Home State - i.e., the child and a parent have lived in Ohio for six consecutive months. To explain the Home State concept, consider the following example:

A woman was raised in Chardon, Ohio and her parents still live in Chardon. That woman meets a man and they have two children. The man finds a job opportunity in Arizona and the couple moves to that State, where live for two years. After two years, the couple separates, and the woman returns to Chardon, Ohio, with the children, to live with her parents.

If either parent needs a court order regarding child custody or parenting time, then, in that example, only an Arizona court can issue such court order until the mother and child have lived in Ohio for six consecutive months (at which time Ohio becomes the Home State). Until that time, the father could file a legal proceeding in Arizona for child custody or parenting time and the mother would have to appear in the Arizona court and perhaps obtain an Arizona attorney. A key point is that if the Arizona court exercises its authority and issues a child custody or parenting time order, then, with few exceptions, the Arizona court retains its authority to make further orders or modifications so long as the father continues to reside in Arizona, and Ohio has no authority to determine child custody or parenting time even after the mother and child have resided in Ohio for more than six consecutive months.²

Temporary Emergency Jurisdiction - R.C. 3127.18

There is a key exception to the Home State rule, which is designed to temporarily protect the safety of a child (or a child's parent or sibling) in an emergency situation. In Ohio, that exception is set forth in R.C. 3127.18, which allows an Ohio court, in an emergency situation, to issue a temporary court order regarding child custody or parenting time even if Ohio is not the Home State.

To explain the purpose and effect of Temporary Emergency Jurisdiction, consider the example set forth above, but assume that the reason the mother left Arizona with her children and returned to her parent's home in Chardon, Ohio, is that the father actually mistreated or abused (or threatened to do so) the child and it is likely that the mistreatment or abuse will occur in the near future - i.e. there is an emergency! Based upon that fact pattern, an Ohio court could issue a temporary order regarding child custody or parenting time, including an order that modifies an existing similar order by the Arizona court, even though Ohio is not the Home State.

¹ R.C. 3127.01(B)(7).

² R.C. 3127.16 and R.C. 3127.17.

A key point is that, in all events, if Ohio is not the Home State, then the Ohio court cannot issue any temporary court order regarding child custody or parenting time unless the Ohio court finds that:³

(1) The child has been abandoned; or

(2) It is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

If the Ohio court finds that there is an emergency (as described above), then the manner in which the Ohio court exercises its authority (i.e. its “jurisdiction”) to issue such a temporary court order differs depending upon the action or inaction by the Home State (Arizona in the example).

1. No Home State Action.⁴ If (1) the Home State has not previously issued a court order to determine child custody or parenting time, and (2) no legal proceeding is pending in the Home State to make that determination, then the Ohio court may issue a temporary court order regarding child custody or parenting time. The following applies to that court order:
 - a. Effective Time Period of Court Order. The Ohio court may issue its temporary court order and in that order provide that the court order remains effective until the earlier of: (1) a legal proceeding is commenced in the Home State, or (2) Ohio becomes the Home State. When Ohio become the Home State, then the Ohio court order can provide that the temporary court order becomes a permanent court order, thus requiring no further Ohio court order.
 - b. Communication with Home State Judge.⁵ Upon being informed that a legal proceeding is pending in the Home State regarding child custody or parenting time, the Ohio judge shall immediately communicate with the Home State judge to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the Ohio temporary order.
2. Home State Action.⁶ If (1) the Home State has previously issued a court order to determine child custody or parenting time, or (2) a legal proceeding is pending in the Home State to make that determination, then the Ohio court may issue a temporary court order regarding child custody or parenting time, but the Ohio court must follow these requirements:
 - a. Effective Time Period of Court Order.⁷ Unlike where there is no Home State action, as described above, the Ohio court must limit the duration of the temporary court order to that which is adequate to allow the person seeking the Ohio court order to seek an order from the Home State court. In effect, the Ohio temporary court order buys time for that person to engage in a legal proceeding in the Home State. The Ohio temporary order remains effective until the earlier of: (1) an order is obtained by the Home State court, or (2) the specific time period in the Ohio temporary order expires.

³ R.C. 3127.18(A)

⁴ R.C. 3127.18(B)

⁵ R.C. 3127.18(D)

⁶ R.C. 3127.18(C) and R.C. 3127.18(D)

⁷ R.C. 3127.18(C)

- b. Communication with Home State Judge.⁸ Upon being informed that either: (1) a legal proceeding is pending in the Home State regarding child custody or parenting time, or (2) the Home State has issued an order regarding child custody or parenting time, the Ohio judge shall immediately communicate with the Home State judge to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the Ohio temporary order.

The ability to obtain a temporary emergency order regarding child custody is not limited to a parent. Rather, a nonparent (who has child custody rights) may seek a temporary emergency order in an Ohio juvenile court if there is an “emergency” as described above.

LEGAL PRACTICE IN THE JUVENILE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY JUVENILE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

⁸ R.C. 3127.18(D)