

UNIFORM CHILD CUSTODY JURISDICTION & ENFORCEMENT ACT (UCCJEA) [R.C. CHAPTER 3127]

1. Addresses the interstate recognition and enforcement of child custody orders.
 2. A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of the Revised Code shall be recognized and enforced.
 - A court does not need to follow the provisions of the UCCJEA if the law governing child custody determinations in a foreign country violates fundamental principles of human rights.
 3. Child custody determinations made in Ohio bind all persons who were:
 - Served pursuant to the [Ohio Rules of Civil Procedure](#);
 - Notified pursuant to [R.C. 3127.07](#);
 - Submitted to the jurisdiction of the court; AND
 - Given an opportunity to be heard.
 4. Notice
 - Required pursuant to the [Ohio Rules of Civil Procedure](#) to exercise jurisdiction over a person outside the state;
 - Must be made in a manner reasonably calculated to give actual notice;
 - Is not required if a person submits to the jurisdiction of the court.
 5. Jurisdiction to make an initial determination of custody [[R.C. 3127.15](#)]
 - Ohio is the home state of the child on the date of the commencement of the proceeding;
 - **Home State** – The state in which the child lives with a parent for at least six consecutive months immediately preceding the commencement of a child custody proceeding.
 - Ohio was the home state within six months before the commencement of the proceedings and the child is absent from the state, but a parent still lives in Ohio;
 - A court of another state does not have jurisdiction;
 - A court of the home state declined to exercise jurisdiction because Ohio is a more appropriate forum and both of the following apply:
 - The child and the child’s parents or the child and one parent have significant connection to the state beyond physical presence; AND
 - Substantial evidence is available in Ohio regarding the child’s care, protection, training, and personal relationships.
 - All courts having jurisdiction declined to exercise jurisdiction on the basis that Ohio is a more appropriate forum.
 - No other court of any other state has jurisdiction.
6. Exclusive continuing jurisdiction
 - An Ohio court that has made a child custody determination has exclusive, continuing jurisdiction over the custody determination until the Ohio court or a court of another jurisdiction determines that the child, the child’s parents, or a person acting as a parent no longer resides in Ohio.
 - The continuing jurisdiction of the court is invoked by a motion filed in the original action.
 - Pursuant to [Civ.R 75\(J\)](#), service of process must be perfected pursuant to [Civ.R 4-4.6](#).
 - Post-decree motions must be served on the party to invoke the court’s continuing jurisdiction.
 7. Modification of child custody determination [[R.C. 3127.17](#)]
 - An Ohio court may not modify a child custody determination made by a court of another state unless the Ohio court has jurisdiction to make an initial custody determination, AND

- The court of the other state determines it no longer has exclusive, continuing jurisdiction or that the Ohio court would be a more convenient forum; OR
- The Ohio court or the other state court determines that the child, the child's parents, or any person acting as a parent no longer reside in Ohio.

8. Temporary emergency jurisdiction [R.C. 3127.18]

- An Ohio court has temporary emergency jurisdiction if a child is present in Ohio, AND
 - The child has been abandoned; OR
 - It is necessary in an emergency to protect the child because the child, sibling, or parent of the child is subjected to or threatened with mistreatment or abuse.
 - If there is no previous custody order and a child custody proceeding was not initiated in another state, then the temporary order will stay in effect until there is a custody determination made in an appropriate state.
 - If there is a previous custody order or custody proceeding initiated in another state, then the temporary custody order issued by the Ohio court shall specify in the order a period of time the court believes is adequate to allow the person seeking an order to obtain an order from the state having jurisdiction.
 - The temporary order is in effect until another order is issued; OR
 - Until the specified period of time expires.
 - The Ohio court must communicate with the other state court.

9. Proceedings pending in another state [R.C. 3127.20]

- An Ohio court may not exercise jurisdiction if, at the time of the commencement of the proceedings, a child custody proceeding

concerning the same child is pending in a court of another state having similar jurisdiction, unless, the proceeding was stayed or terminated by the other state because Ohio is a more convenient forum.

- Before hearing a custody proceeding, an Ohio court must determine whether a child custody proceeding is pending in another state.
 - If a another state, with similar jurisdiction as Ohio, has a pending child custody proceeding, then the Ohio court shall:
 - Stay its proceeding and communicate with the court of the other state.
 - If the courts do not determine that Ohio is a more appropriate forum, then the Ohio proceedings shall be dismissed.
 - If an Ohio court has a proceeding to modify a child custody determination, the Ohio court shall determine whether a proceeding to enforce the custody determination is pending in another state.
 - If an enforcement proceeding commenced in another state, then the Ohio court may do any of the following:
 - Stay the proceedings to modify the custody determination pending a ruling from the other state court enforcing, staying, denying, or dismissing the proceeding to enforce;
 - Enjoin the parties from continuing with the proceeding for enforcement;
 - Proceed with the modification under conditions the court considers appropriate when an emergency is demonstrated.

10. Inconvenient forum; more appropriate forum
[R.C. 3127.21]

- An Ohio court that has jurisdiction to make a custody determination may decline to exercise its jurisdiction at any time if it determines it is an inconvenient forum under the circumstances and that a court of another state is a more convenient forum.
- The issue of inconvenient forum may be raised by:
 - Motion of a party;
 - The court's own motion;
 - At the request of another court.
- The Ohio court shall consider whether it is appropriate for a court of another state to exercise jurisdiction before determining that Ohio is an inconvenient forum.
 - The court shall allow the parties to submit information and shall consider all relevant factors, including:
 - Whether domestic violence has occurred and is likely to continue and which state could protect the parties and the child;
 - The length of time the child resided outside the state;
 - The distance between the Ohio court and the other state court that would assume jurisdiction;
 - The relative financial resources of the parties;
 - Any agreement of the parties as to which state should assume jurisdiction;
 - The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
 - The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence;

- The familiarity of the court of each state with the facts and issues in the pending litigation.

- If the Ohio court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, then the Ohio court shall stay the proceedings upon condition that a child custody proceeding promptly commences in the other state court.
- The Ohio court may decline to exercise jurisdiction over the child custody proceeding incidental to a divorce, but still retain jurisdiction over the divorce.

11. Registration of out-of-state child custody determination [R.C. 3127.35]

- The clerk of a court with appropriate jurisdiction may register a child custody determination issued by a court of another state, with or without a simultaneous request for enforcement on receipt of all the following:
 - A letter or other document requesting the child custody determination be registered;
 - Two copies, including one certified copy, of the custody determination sought to be registered, and a statement under penalty of perjury, that the order was not modified to the best knowledge and belief of the person seeking registration;
 - The name and address of:
 - The person seeking registration;
 - Any parent who is designated the residential parent and legal custodian of the child or has parenting time with the child;
 - Any person acting as a parent who was awarded custody or visitation in the child custody determination.
 - An advanced deposit or fee requested by the court.

- Upon receipt of the documents required, the registering court shall:
 - Cause the child custody determination to be filed as a foreign judgment together with one copy of the accompanying documents; AND
 - Serve notice of the registration on the person named and provide them with an opportunity to contest the registration.
 - Notice required shall state all the following:
 - That the registered child custody determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by this state;
 - That a hearing to contest the validity of the registered determination must be requested within 30 days after service of the notice; AND
 - That failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been raised.
 - Contesting the validity of the registered order:
 - Person shall request a hearing within 30 days after service of the notice.
 - The court shall confirm the validity of the registered order, unless the person contesting the registration establishes one of the following:
 - The issuing court did not have jurisdiction;
 - The child custody determination sought to be registered was vacated, stayed, or modified by a court having jurisdiction to do so;
 - The person contesting registration was entitled to notice of the child custody proceeding for which the registration is sought, but notice was not given.
 - If no request for a hearing to contest the validity of the order is made, then the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.
 - Confirmation of the registered custody determination, whether by operation of law or after notice and hearing, precludes further contest of the determination with respect to any matter that could have been asserted at the time of registration.
12. Enforcement of custody determination of a court of another state [R.C. 3127.36]
- Ohio courts shall recognize and enforce a child custody determination of a court of another state if the other state exercised jurisdiction in conformity with R.C. Chapter 3127, and the determination was not modified.
 - The Ohio court may use any remedy available under laws of this state to enforce the out-of-state custody determination.
13. Communication between courts [R.C. 3127.37]
- If an Ohio court seeking to enforce an out-of-state custody determination determines that a proceeding to modify the custody determination is pending in a court of another state having jurisdiction to modify, then the Ohio court shall communicate immediately with the modifying court.
 - The enforcement proceeding shall continue, unless the enforcement court, after communication with the modifying court, stays or dismisses the proceedings.

14. Verification of enforcement orders [R.C. 3127.38]

- A petition for enforcement must be verified.
 - Attached to the petition must be all orders sought to be enforced and any order confirming registration.
 - The orders attached must be original or certified copies as required by the court.
 - The petition for enforcement must state:
 - Whether the court that issued the child custody order determined the jurisdictional basis it relied upon and, if so, what that jurisdictional basis was;
 - Whether the determination for which enforcement is sought was vacated, modified, or stayed by a court whose decision must be enforced;
 - Identify the court;
 - Identify the case number;
 - Identify the nature of the proceeding.
 - Whether any proceeding commenced that could affect the current proceedings, including:
 - Proceedings to enforce a custody determination;
 - Proceedings related to domestic violence or protection orders;
 - Proceedings to adjudicate the child as an abused, neglected, or dependent child;
 - Proceedings seeking termination of parental rights and adoptions:
 - Identify the court;
 - Identify the case number;
 - Identify the nature of the proceedings.
 - The present physical address of the child and the respondent, if known;
 - Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials;
 - If the child custody determination was registered and the date and place of registration was confirmed.
- Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter an order necessary to ensure the safety of the parties and the child.
 - If possible the court shall hold a hearing on the next judicial day after service of the order.
 - The order shall include the time and place of the hearing;
 - Advise the respondent that the court will order the petitioner to take immediate physical custody of the child at the time and place of the hearing;
 - That respondent pay fees, costs, and expenses;
 - May schedule a hearing to determine whether further relief is appropriate.
 - Unless the respondent appears and establishes either:
 - That the child custody determination was not registered and confirmed and one of the following apply:
 - The issuing court did not have jurisdiction;

- The child custody determination for which enforcement is sought was vacated, stayed, or modified by a court having appropriate jurisdiction;
- The respondent was entitled to notice of the child custody proceedings for which enforcement is sought, but notice was not given.
- That the child custody determination was registered and confirmed, but was vacated, stayed, or modified by a court having appropriate jurisdiction.

- The court's jurisdiction pursuant to the out-of-state custody determinations extends only to the modification or enforcement of parenting issues.
- The court's jurisdiction pursuant to out-of-state custody determinations does not include enforcing or modifying child support.

– UCCJEA Process Flow Charts Follow

REGISTRATION OF A FOREIGN ORDER

Is a Foreign Child Custody Determination Being Registered? [R.C. 3127.35]

YES

ITEMS REQUIRED FOR REGISTRATION [R.C. 3127.35(A)]

A letter or other document requesting that the determination be registered.
Two copies (one certified) of the determination sought to be registered, and a statement under penalty of perjury that the order was not modified to the best knowledge and belief of the person seeking registration.
Name and address of the person seeking registration and any parent who is designated the residential parent and legal custodian of the child or to have parenting time with respect to the child or any person acting as a parent who was awarded custody or visitation in the child custody determination sought to be registered.
An advance deposit or fee established by the court.

UPON RECEIPT, CLERK OF COURTS SHALL:

- File the determination as a foreign judgment.
- Serve notice of the registration on the other party and provide them an opportunity to contest.

THE NOTICE MUST PROVIDE:

- The registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.
- A hearing to contest the validity of the registered determination must be requested within 30 days after service of notice.
- Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

PROPER ISSUES TO CONTEST

The issuing court did not have jurisdiction under R.C. 3127.15 to R.C. 3127.24 or a similar statute of another state.
The determination sought to be registered was vacated, stayed, or modified by a court having jurisdiction to do so under R.C. 3127.15 to R.C. 3127.24 or a similar statute of another state.
The person contesting registration was entitled to notice of the child custody proceeding for which registration is sought, but notice was not given in accordance with the standards of R.C. 3127.07 or a similar statute of another state.

NO

Only child custody determinations
can be registered under R.C. Chapter 3127

Only out-of-state determinations
should be registered under R.C. Chapter 3127

IMPROPER ISSUES TO CONTEST

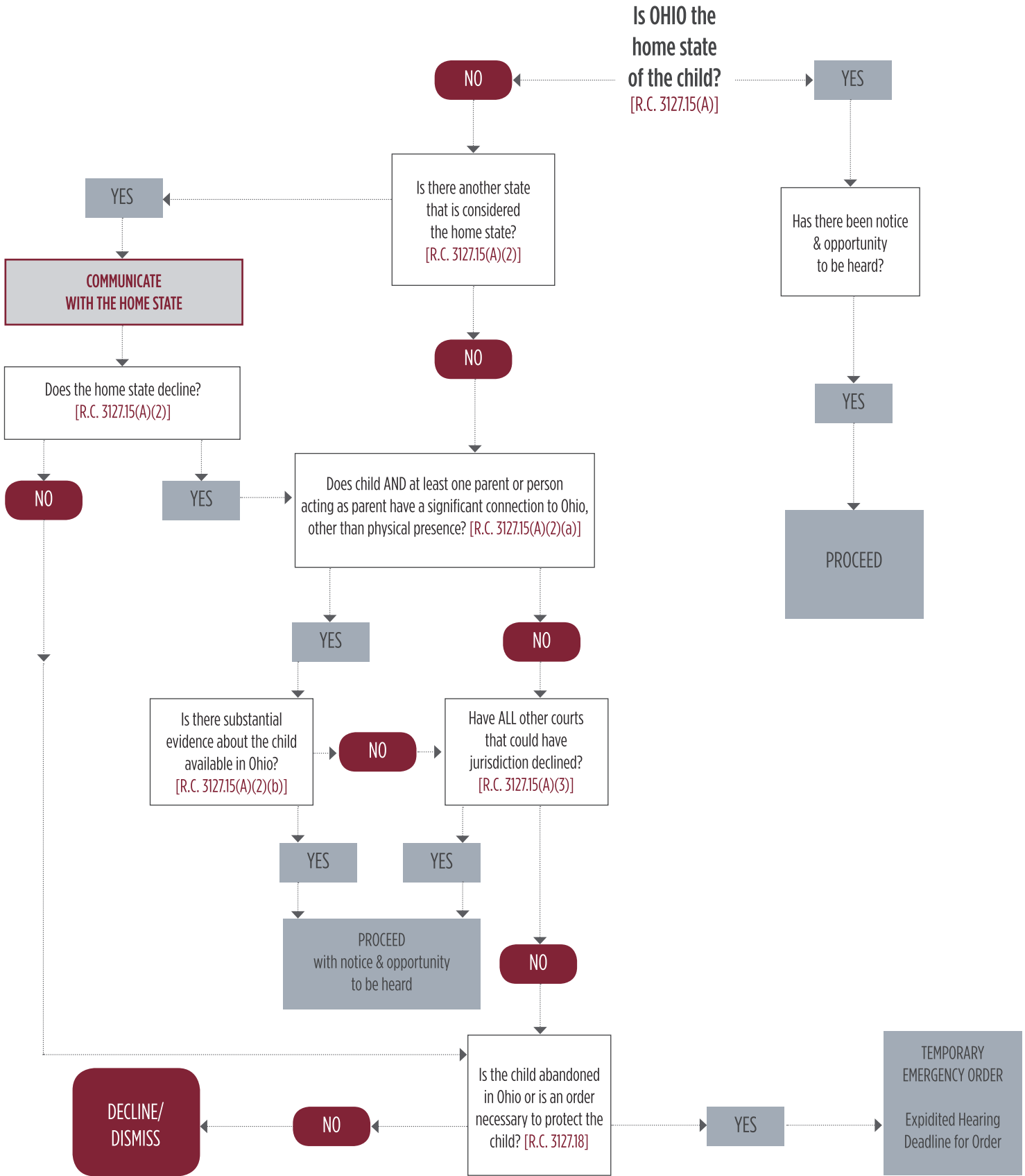
Contesting party does not like the determination.
Contesting party does not want the determination registered in Ohio.

CONFIRMATION

A timely request for hearing to contest registration was not made; the registration is confirmed as a matter of law.
Denial at a hearing to contest the registration.
Confirmation of a registered determination (by operation of law or after notice and hearing), precludes further contest of the determination with respect to any matter that could have been asserted at the time of registration.

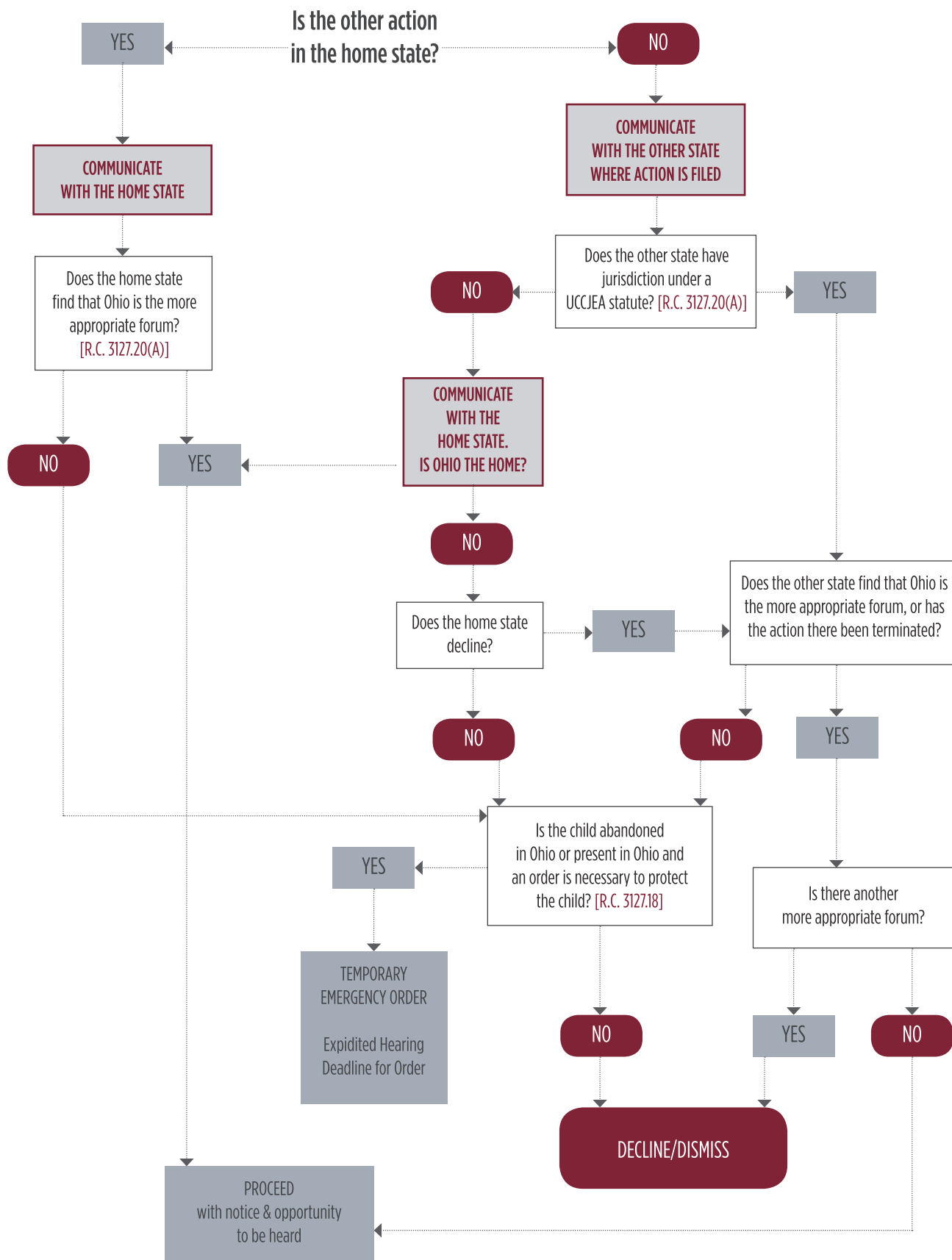
UCCJEA NEW ACTION

NO OTHER NEW PROCEEDINGS PENDING



UCCJEA NEW ACTION

A NEW PROCEEDINGS PENDING IN ANOTHER STATE



DETERMINATION OF INCONVENIENT FORUM

[R.C. 3127.21]

A court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. The court shall allow the submission of information and consider the relevant factors, including the following:

1. Whether domestic violence has occurred, whether it is likely to continue, and which state can best protect the parties and the child;
2. The length of time the child resided outside this state;
3. The distance between the court in this state and the court in the state that would assume jurisdiction;
4. The relative financial circumstances of the parties;
5. Any agreement of the parties as to which state should assume jurisdiction;
6. The nature and location of evidence required to resolve the pending litigation, including testimony of the child;
7. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence;
8. The familiarity of the court of each state with facts and issues in the pending litigation.

UCCJEA ENFORCEMENT

