

**23-37,310. Hearing and order.** (UCCJEA 310). (a) Unless the court issues a temporary emergency order pursuant to K.S.A. 2016 Supp. 23-37,204, and amendments thereto, 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 that:

(1) The child-custody determination has not been registered and confirmed under K.S.A. 2016 Supp. 23-37,305, and amendments thereto, and that:

(A) The issuing court did not have jurisdiction under K.S.A. 2016 Supp. 23-37,201 through 23-37,210, and amendments thereto;

(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 K.S.A. 2016 Supp. 23-37,201 through 23-37,210, and amendments thereto; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of K.S.A. 2016 Supp. 23-37,108, and amendments thereto, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child-custody determination for which enforcement is sought was registered and confirmed under K.S.A. 2016 Supp. 23-37,305, and amendments thereto, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under K.S.A. 2016 Supp. 23-37,201 through 23-37,210, and amendments thereto.

(b) The court shall award the fees, costs, and expenses authorized under K.S.A. 2016 Supp. 23-37,312, and amendments thereto, and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground 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 K.S.A. 2016 Supp. 23-37,301 through 23-37,317, and amendments thereto.

**History:** L. 2000, ch. 171, § 62; July 1.