



## Mecklenburg County Self-Serve Center

### Registration of a Foreign Child Custody Order

§ 50A-305. Registration of child-custody determination.

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§ 50A-305. Registration of child-custody determination.

(a) A child-custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the appropriate court in this State:

- (1) A letter or other document requesting registration;
- (2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
- (3) Except as otherwise provided in G.S. 50A-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

- (1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and
- (2) Direct the petitioner to serve notice upon the persons named pursuant to subdivision (a)(3), including notice of their opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b)(2) must state that:

- (1) A 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;
- (2) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and
- (3) Failure to contest the registration will 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.

(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

- (1) The issuing court did not have jurisdiction under Part 2;
- (2) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2; or
- (3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of G.S.

50A-108 in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the 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.

(f) 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 that could have been asserted at the time of registration. (1979, c. 110, s. 1; 1997-81, s. 1; 1999-223, s. 3.)

#### § 50A-306. Enforcement of registered determination.

(a) A court of this State may grant any relief normally available under the law of this State to enforce a registered child-custody determination made by a court of another state.

(b) A court of this State shall recognize and enforce, but may not modify, except in accordance with Part 2, a registered child-custody determination of a court of another state. (1999-223, s. 3.)

#### § 50A-307. Simultaneous proceedings.

If a proceeding for enforcement under this Part is commenced in a court of this State and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Part 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding. (1999-223, s. 3.)

#### § 50A-308. Expedited enforcement of child-custody determination.

(a) A petition under this Part must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child-custody determination must state:

- (1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;
- (2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this Article and, if so, identify the court, the case number, and the nature of the proceeding;
- (3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental

rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

- (4) The present physical address of a child and the respondent, if known;
- (5) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and
- (6) If the child-custody determination has been registered and confirmed under G.S. 50A-305, the date and place of registration.

(c) 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 any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under G.S. 50A-312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

- (1) The child-custody determination has not been registered and confirmed under G.S. 50A-305 and that:
  - a. The issuing court did not have jurisdiction under Part 2;
  - b. The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2;
  - c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 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 G.S. 50A-304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2. (1999-223, s. 3.)

#### § 50A-309. Service of petition and order.

Except as otherwise provided in G.S. 50A-311, the petition and order must be served, by any method authorized by the law of this State, upon respondent and any person who has physical custody of the child. (1999-223, s. 3.)

§ 50A-310. Hearing and order.

(a) Unless the court issues a temporary emergency order pursuant to G.S. 50A-204 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 G.S. 50A-305 and that:
  - a. The issuing court did not have jurisdiction under Part 2;
  - 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 Part 2; or
  - c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 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 G.S. 50A-305 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2.

(b) The court shall award the fees, costs, and expenses authorized under G.S. 50A-312 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 this Part. (1979, c. 110, s. 1; 1999-223, s. 3.)

§ 50A-311. Warrant to take physical custody of child.

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by G.S. 50A-308(b).

(c) A warrant to take physical custody of a child must:

- (1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
- (2) Direct law enforcement officers to take physical custody of the child immediately; and
- (3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian. (1999-223, s. 3.)

#### § 50A-312. Costs, fees, and expenses.

(a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this Article. (1999-223, s. 3.)

#### § 50A-313. Recognition and enforcement.

A court of this State shall accord full faith and credit to an order issued by another state and consistent with this Article which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2. (1979, c.110, s.1; 1999-223, s. 3.)

#### § 50A-314. Appeals.

An appeal may be taken from a final order in a proceeding under this Part in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under G.S. 50A-204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal. (1999-223, s. 3.)

## INSTRUCTIONS FOR REGISTRATION OF FOREIGN CHILD CUSTODY ORDER

**NOTE:** *A foreign child custody order IS NOT required to be registered before it can be enforced in North Carolina. If you are seeking immediate enforcement of a foreign child custody order, see Instructions For Expedited Enforcement Of Foreign Child Custody Order.*

To register a foreign child custody order, you need to fill out the following forms:

I. Petition For Registration Of Foreign Child Custody Order (AOC-CV-660).

1. You will need three (3) copies of this form, plus one (1) additional form for each person other than the defendant who is listed in paragraph three (3) of the Petition For Registration Of Foreign Child Custody Order.
2. Fill in:
  - (a) Name of county where registration is being filed.
  - (b) Plaintiff's name - you are the plaintiff.
  - (c) Defendant's name and address.
  - (d) The name of the state or country in which the foreign child custody order was entered.
  - (e) The date the foreign child custody order was entered.
  - (f) List the name(s) and address(es) of any person or parent who has been awarded custody or visitation in the foreign child custody order (you do NOT need to list yourself).
  - (g) Date and sign the verification of the petition. The verification must be signed before a clerk or a notary public.
  - (h) Attach two (2) copies, including one (1) certified copy, of the foreign child custody order.

II. Notice Of Registration Of Foreign Child Custody Order (AOC-CV-661).

1. You will need three (3) copies of this form, plus one (1) additional form for each person other than the defendant who is listed in paragraph three (3) of the Petition For Registration Of Foreign Child Custody Order.
2. Fill in:
  - (a) Name of county where registration is being filed.
  - (b) Plaintiff's name - you are the plaintiff.
  - (c) Defendant's name and address.
  - (d) The name of the state or country in which the foreign child custody order was entered.
  - (e) The date the foreign child custody order was entered.
  - (f) List the name(s) and address(es) of any person listed in paragraph 3 of the Petition For Registration Of Foreign Child Custody Order, AOC-CV-660.
3. One (1) copy of the Petition For Registration Of Foreign Child Custody Order (AOC-CV-660) and one (1) copy of the Notice Of Registration Of Foreign Child Custody Order must be served upon the defendant and any other person listed in paragraph 3 of the Petition For Registration Of Foreign Child Custody Order. Instructions regarding service are found in the "Notice To Plaintiff" section of the Notice Of Registration, AOC-CV-661.

**NOTICE:** *If one of the parties served with the Petition For Registration Of Foreign Child Custody Order and Notice Of Registration files a motion to contest the validity of the foreign child custody order, you will receive a copy of the motion and a notice of hearing informing you of the date and time the court will hear the matter.*

*If no one files a motion to contest the validity of the foreign child custody order, the clerk of court will mail you a copy of the Order Confirming Registration Or Denying Confirmation Of Registration Of Foreign Child Custody Order.*

Take all forms to the Clerk of Superior Court for further direction and instruction.

(See Side Two for Instructions For Expedited Enforcement Of Foreign Child Custody Order)

STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

PETITION FOR REGISTRATION OF  
FOREIGN CHILD CUSTODY ORDER

G.S. 50A-305

State Or Country In Which Foreign Child Custody Order Entered

Date Foreign Child Custody Order Entered In Other State Or Country

Pursuant to G.S. 50A-305(a), the undersigned states that:

1. I request registration of a child custody order entered in another state or country;
2. I have attached two (2) copies, including one (1) certified copy, of the foreign custody order;
3. The following is the name and address of any parent or person acting as a parent who has been awarded custody or visitation in the attached foreign custody order:

NOTE: Each person listed must be served with a Notice of Registration Of Foreign Child Custody Order, AOC-CV-661.

Name Of Parent/Person Awarded Custody/Visitation	Address Of Parent/Person Awarded Custody/Visitation

4. Under penalty of perjury, I state that to the best of my knowledge and belief, the attached custody order has not been modified.

VERIFICATION

I, the undersigned being first duly sworn, depose and say that I am the plaintiff in this matter, that I have read and understand this Petition For Registration Of Foreign Child Custody Order and know the contents to be true of my personal knowledge, except for those matters and things set forth upon information and belief, and as to those matters and things, I believe them to be true.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Plaintiff

Date Signature Of Person Authorized To Administer Oaths

Name (Type Or Print)

Notary

Date My Commission Expires

SEAL

County Where Notarized

NOTICE TO CLERK OF SUPERIOR COURT:

Upon receipt of this completed motion and attached documents, the foreign child custody order must be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

In addition, the clerk must direct the plaintiff to serve a Notice Of Registration Of Foreign Child Custody Order (AOC-CV-661) upon all of the persons listed in Paragraph 3 of this Petition and upon defendant, if different.

**IMPORTANT:** The Notice Of Registration Of Foreign Child Custody Order will inform the recipient of his or her right to contest the validity of the foreign order. If a timely request for hearing to contest the validity of the foreign order is not filed, the registration is confirmed as a matter of law, and the person requesting registration and all persons served with the Notice of Registration Of Foreign Child Custody Order **MUST BE NOTIFIED BY THE COURT** of the confirmation. Form AOC-CV-664 Order Confirming Registration Or Denying Confirmation Or Registration Of Foreign Child Custody Order is available for a judge to sign. The clerk must notify all persons who received Notice Of Registration Of Foreign Child Custody Order and the plaintiff that the foreign child custody order has been confirmed.



**STATE OF NORTH CAROLINA**

File No. \_\_\_\_\_

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

Name And Address Of Plaintiff

**MOTION TO CONTEST VALIDITY  
OF A REGISTERED FOREIGN CHILD  
CUSTODY ORDER AND  
NOTICE OF HEARING**

**VERSUS**

Name And Address Of Defendant

G.S. 50A-305(d)

State Or Country In Which Foreign Child Custody Order Entered

Date Foreign Child Custody Order Entered In Other State Or Country

Name And Address Of Person Receiving Notice, If Different Than Defendant

The undersigned states as follows:

1. I contest the validity of the foreign child custody order registered in the above captioned matter.
2. The foreign child custody order is not valid and should not be confirmed because: (NOTE TO PERSON FILING THIS MOTION: You must check at least one of the following.)
  - The issuing court did not have jurisdiction to enter the order.
  - The foreign child custody order has been vacated, stayed or modified by a court with appropriate jurisdiction.
  - I was entitled to notice but was not given appropriate notice in the proceedings when the foreign child custody order was entered.
3. I request a hearing to contest the validity of the foreign child custody order.

Date	Signature	Name (Type Or Print)
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**CERTIFICATE OF SERVICE**

I certify that this *Motion To Contest Validity Of A Registered Foreign Child Custody Order And Notice Of Hearing* has been served on the plaintiff named above by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Other _____

**NOTICE OF HEARING**

NOTICE TO:  PLAINTIFF  DEFENDANT  
 OTHER \_\_\_\_\_  OTHER \_\_\_\_\_

You are notified to appear at the date, time and place shown below for a hearing on the above *Motion To Contest Validity Of A Registered Foreign Child Custody Order*.

Date Of Hearing	Time Of Hearing	<input type="checkbox"/> AM	Date Of Notice
		<input type="checkbox"/> PM	

Place Of Hearing	Signature
	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

Name Of Plaintiff

VERSUS

Name And Address of Defendant

NOTICE OF REGISTRATION OF  
FOREIGN CHILD CUSTODY ORDER

State Or Country In Which Foreign Child Custody Order Entered

Name And Address Of Person Receiving Notice, If Different Than Defendant

G.S. 50A-105, -305

Date Foreign Child Custody Order Entered In Other State Or Country

TO THE DEFENDANT OR OTHER PERSON NAMED ABOVE:

Pursuant to G.S. 50A-305, take notice that the Foreign Child Custody Order, referenced in the caption above, was registered in the office of the Clerk of Superior Court in the above named county on \_\_\_\_\_ (date). The foreign child custody order is enforceable as of the date of registration in the same manner as a child-custody determination issued by a court of this State.

If you want to contest the validity of the registered foreign child custody order, you must file a written request for a hearing to contest the confirmation of the registered order. See Form AOC-CV-663, *Motion To Contest Validity Of A Registered Foreign Child Custody Order And Notice Of Hearing*. Your request for a hearing must be filed with the Clerk of Superior Court in the above named county within 20 DAYS after you are served with this Notice. Failure to contest the validity of the foreign child custody order will result in the confirmation of the order and preclude further contest of the order with respect to any matter that could have been asserted.

Date

Signature

Deputy CSC

Clerk Of Superior Court

Assistant CSC

NOTICE TO PLAINTIFF:

*This Notice Of Registration Of Foreign Child Custody Order must be served upon the defendant and upon any other person entitled to receive notice of the Petition For Registration Of Foreign Child Custody Order. Service can be accomplished by the Sheriff of the County wherein this action is filed. Or, service can be accomplished by mailing a copy of this Notice by registered, certified mail, return receipt requested, or by designated delivery service. If you use registered or certified mail, you must complete and file with the court an Affidavit Of Service By Registered Mail, Certified Mail, Or Designated Delivery Service, AOC-CV-662.*

**NOTE TO CLERK:** *If a foreign country issued the child-custody determination, see G.S. 50A-105 for the authorization to register the order.*

(Over)

RETURN OF SERVICE

I certify that I served the person(s) listed below with a copy of the Notice Of Registration Of Foreign Child Custody Order as follows:

DEFENDANT

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- By personally delivering the same to the defendant named above.
- By leaving the same at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. (name of person with whom papers were left) \_\_\_\_\_
- The defendant was NOT served for the following reason: \_\_\_\_\_

OTHER PERSON 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Other Person
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- By personally delivering the same to the person named above.
- By leaving the same at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein. (name of person with whom papers were left) \_\_\_\_\_
- The person was NOT served for the following reason: \_\_\_\_\_

OTHER PERSON 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Other Person
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- By personally delivering the same to the person named above.
- By leaving the same at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein. (name of person with whom papers were left) \_\_\_\_\_
- The person was NOT served for the following reason: \_\_\_\_\_

Date Received	Name Of Deputy Sheriff Making Return (type or print)
Date Of Return	Signature Of Deputy Sheriff Making Return
County Of Deputy Sheriff Making Return	

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

ORDER CONFIRMING REGISTRATION
OR DENYING CONFIRMATION OF
REGISTRATION OF FOREIGN CHILD
CUSTODY ORDER

G.S. 50A-305(d), (e)

FINDINGS OF FACT

This matter coming on before the undersigned judge, the court makes the following Findings of Fact:

- 1. A foreign child custody order was entered in the State or Country of ...
2. That foreign child custody order was registered in North Carolina in the above-captioned action by plaintiff on ...
3. A Notice Of Registration Of Foreign Custody Order was properly served on the defendant on ...
4. A request for hearing to contest the validity of the foreign child custody order WAS NOT filed within the required time.
5. A request for hearing to contest the validity of the foreign child custody order WAS filed on ...
6. Plaintiff, ... and (other person(s) entitled to notice) ...
7. The hearing was held before the undersigned judge on ...
8. No person at the hearing established grounds to deny registration and confirmation of the foreign child custody order.
9. The foreign child custody order should not be registered and confirmed because:
a. The state or country that issued the order did not have jurisdiction to enter the order, in that ...
b. The foreign child custody order has been vacated stayed modified by a court with appropriate jurisdiction, ...
c. The person contesting the validity of the foreign child custody order was entitled to notice but was not given appropriate notice in the proceedings when the order was entered.
d. In addition, the Court makes the following Findings Of Fact: ...

(Over)

**CONCLUSIONS**

Therefore, the Court concludes as a matter of law:

- 1. That the foreign child custody order should be confirmed.
- 2. That the foreign child custody order should NOT be confirmed.
- 3. The Court also concludes:

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**ORDER**

It is therefore ordered, adjudged, and decreed as follows:

- 1. The foreign child custody order filed in this matter is confirmed.
- 2. The foreign child custody order filed in this matter is not confirmed and is no longer registered in the State of North Carolina.
- 3. (additional decrees):

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- 4. The Clerk of Superior Court shall serve a copy of this order on all parties,  and on the following additional person(s):

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Date	Name Of District Court Judge (Type Or Print)	Signature Of District Court Judge
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**CERTIFICATION**

I certify this date, that a copy of this *Order Confirming Registration Or Denying Confirmation Of Registration Of Foreign Child Custody Order* was sent by first class mail to plaintiff and defendant,  and other persons named above.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> Assistant CSC
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