

**403.860 Hearing and order.**

- (1) Unless the court issues a temporary emergency order pursuant to KRS 403.828, 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:
  - (a) The child custody determination has not been registered and confirmed under KRS 403.850 and that:
    1. The issuing court did not have jurisdiction under Article 2;
    2. 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 Article 2; or
    3. The respondent was entitled to notice, but notice was not given in accordance with the standards of KRS 403.812, in the proceedings before the court that issued the order for which enforcement is sought; or
  - (b) The child custody determination for which enforcement is sought was registered and confirmed under KRS 403.850 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.
- (2) The court shall award the fees, costs, and expenses authorized under KRS 403.864 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.
- (3) 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.
- (4) 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 Article 3.

**Effective:** July 13, 2004

**History:** Created 2004 Ky. Acts ch. 133, sec. 31, effective July 13, 2004.