

78B-13-208 Jurisdiction declined by reason of conduct.

- (1) Except as otherwise provided in Section 78B-13-204 or by other law of this state, if a court of this state has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:
 - (a) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
 - (b) a court of the state otherwise having jurisdiction under Sections 78B-13-201 through 78B-13-203 determines that this state is a more appropriate forum under Section 78B-13-207;
or
 - (c) no other state would have jurisdiction under Sections 78B-13-201 through 78B-13-203.
- (2) If a court of this state declines to exercise its jurisdiction pursuant to Subsection (1), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 78B-13-201 through 78B-13-203.
- (3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to Subsection (1), it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state except as otherwise provided by law other than this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session