

Effective 7/1/2015

Part 3
Civil Provisions of General Application

78B-14-301 Proceedings under chapter.

- (1) Except as otherwise provided in this chapter, this part applies to all proceedings under this chapter.
- (2) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

Revisor instructions Chapter 245, 2013 General Session
Amended by Chapter 412, 2011 General Session

78B-14-302 Action by minor parent.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-303 Application of law of state.

Except as otherwise provided in this chapter, a responding tribunal of this state shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-304 Duties of initiating tribunal.

- (1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents:
 - (a) to the responding tribunal or appropriate support enforcement agency in the responding state; or
 - (b) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.
- (2) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request, the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-305 Duties and powers of responding tribunal.

- (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Subsection 78B-14-301(2), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.
- (2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:
 - (a) establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;
 - (b) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
 - (c) order income withholding;
 - (d) determine the amount of any arrearages and specify a method of payment;
 - (e) enforce orders by civil or criminal contempt, or both;
 - (f) set aside property for satisfaction of the support order;
 - (g) place liens and order execution on the obligor's property;
 - (h) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;
 - (i) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
 - (j) order the obligor to seek appropriate employment by specified methods;
 - (k) award reasonable attorney fees and other fees and costs; and
 - (l) grant any other available remedy.
- (3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.
- (4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for parent-time.
- (5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.
- (6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-306 Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-307 Duties of support enforcement agency.

- (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.
- (2) A support enforcement agency of this state that is providing services to the petitioner shall:
 - (a) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;
 - (b) request an appropriate tribunal to set a date, time, and place for a hearing;
 - (c) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
 - (d) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;
 - (e) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and
 - (f) notify the petitioner if jurisdiction over the respondent cannot be obtained.
- (3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:
 - (a) to ensure that the order to be registered is the controlling order; or
 - (b) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.
- (4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.
- (5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirects payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 78B-14-319.
- (6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Amended by Chapter 45, 2015 General Session

78B-14-308 Duty of attorney general.

- (1) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.
- (2) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-309 Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-310 Duties of state information agency.

- (1) The Office of Recovery Services is the state information agency under this chapter.
- (2) The state information agency shall:
 - (a) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;
 - (b) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;
 - (c) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and
 - (d) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver licenses, and Social Security.

Amended by Chapter 45, 2015 General Session

78B-14-311 Pleadings and accompanying documents.

- (1) In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country shall file a petition. Unless otherwise ordered under Section 78B-14-312, the petition or accompanying documents shall provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, Social Security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition shall be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.
- (2) The petition shall specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-312 Nondisclosure of information in exceptional circumstances.

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which

a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-313 Costs and fees.

- (1) The petitioner may not be required to pay a filing fee or other costs.
- (2) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state or a foreign country, except as provided by law. Attorney fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.
- (3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under Part 6, Registration, Enforcement, and Modification of Support Order, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-314 Limited immunity of petitioner.

- (1) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support-enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.
- (2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.
- (3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-315 Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-14-316 Special rules of evidence and procedure.

- (1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

- (2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.
- (3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.
- (4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
- (5) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.
- (6) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.
- (7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
- (8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.
- (9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.
- (10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Amended by Chapter 45, 2015 General Session

78B-14-317 Communications between tribunals.

A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

Amended by Chapter 45, 2015 General Session

78B-14-318 Assistance with discovery.

A tribunal of this state may:

- (1) request a tribunal outside this state to assist in obtaining discovery; and
- (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

Revisor instructions Chapter 245, 2013 General Session

Amended by Chapter 412, 2011 General Session

78B-14-319 Receipt and disbursement of payments.

- (1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.
- (2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the Office of Recovery Services or a tribunal of this state shall:
 - (a) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and
 - (b) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.
- (3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to Subsection (2) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Revisor instructions Chapter 245, 2013 General Session
Amended by Chapter 412, 2011 General Session