

## Part 3 Voluntary Declaration of Paternity Act

### **78B-15-301 Declaration of paternity.**

The mother of a child and a man claiming to be the genetic father of the child may sign a declaration of paternity to establish the paternity of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78B-15-302 Execution of declaration of paternity.**

- (1) A declaration of paternity must:
  - (a) be in a record;
  - (b) be signed, or otherwise authenticated, under penalty of perjury, by the mother and by the declarant father;
  - (c) be signed by the birth mother and declarant father in the presence of two witnesses who are not related by blood or marriage; and
  - (d) state that the child whose paternity is being declared:
    - (i) does not have a presumed father, or has a presumed father whose full name is stated; and
    - (ii) does not have another declarant or adjudicated father;
  - (e) state whether there has been genetic testing and, if so, that the declarant man's claim of paternity is consistent with the results of the testing; and
  - (f) state that the signatories understand that the declaration is the equivalent of a legal finding of paternity of the child and that a challenge to the declaration is permitted only under the limited circumstances described in Section 78B-15-307.
- (2) If either the birth mother or the declarant father is a minor, the voluntary declaration must also be signed by that minor's parent or legal guardian.
- (3) A declaration of paternity is void if it:
  - (a) states that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Records in accordance with Section 78B-15-303;
  - (b) states that another man is a declarant or adjudicated father; or
  - (c) falsely denies the existence of a presumed, declarant, or adjudicated father of the child.
- (4) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.
- (5) The declaration of paternity shall be in a form prescribed by the Office of Vital Records and shall be accompanied with a written and verbal notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration.
- (6) The Social Security number of any person who is subject to declaration of paternity shall be placed in the records relating to the matter.
- (7) The declaration of paternity shall become an amendment to the original birth certificate. The original certificate and the declaration shall be marked as to be distinguishable. The declaration may be included as part of subsequently issued certified copies of the birth certificate. Alternatively, electronically issued copies of a certificate may reflect the amended information and the date of the amendment only.
- (8) A declaration of paternity may be completed and signed any time after the birth of the child. A declaration of paternity may not be signed or filed after consent to or relinquishment for adoption has been signed.

- (9) A declaration of paternity shall be considered effective when filed and entered into a database established and maintained by the Office of Vital Records.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-303 Denial of paternity.**

A presumed or declarant father may sign a denial of his paternity. The denial is valid only if:

- (1) a declaration of paternity signed, or otherwise authenticated, by another man is filed pursuant to Section 78B-15-305;
- (2) the denial is in a form prescribed by and filed with the Office of Vital Records, and is signed, or otherwise authenticated, under penalty of perjury; and
- (3) the presumed or declarant father has not previously:
  - (a) declared his paternity, unless the previous declaration has been rescinded pursuant to Section 78B-15-306 or successfully challenged pursuant to Section 78B-15-307; or
  - (b) been adjudicated to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-304 Rules for declaration and denial of paternity.**

- (1) A declaration of paternity and a denial of paternity shall be contained in a single document. If the declaration and denial are both necessary, neither is valid until both are signed and filed.
- (2) A declaration of paternity or a denial of paternity may not be signed before the birth of the child.
- (3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Records, whichever occurs later.
- (4) A declaration of paternity or denial of paternity signed by a minor and by the minor's parent or legal guardian is valid if it is otherwise in compliance with this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-305 Effect of declaration or denial of paternity.**

- (1) Except as otherwise provided in Sections 78B-15-306 and 78B-15-307, a valid declaration of paternity filed with the Office of Vital Records is equivalent to a legal finding of paternity of a child and confers upon the declarant father all of the rights and duties of a parent.
- (2) When a declaration of paternity is filed, it shall be recognized as a basis for a child support order without any further requirement or proceeding regarding the establishment of paternity.
  - (a) The liabilities of the father include, but are not limited to, the reasonable expense of the mother's pregnancy and confinement and for the education, necessary support, and any funeral expenses for the child.
  - (b) When a father declares paternity, his liability for past amounts due is limited to the period of four years immediately preceding the date that the voluntary declaration of paternity was filed.
- (3) Except as otherwise provided in Sections 78B-15-306 and 78B-15-307, a valid denial of paternity by a presumed or declarant father filed with the Office of Vital Records in conjunction with a valid declaration of paternity is equivalent to a legal finding of the nonpaternity of the presumed or declarant father and discharges the presumed or declarant father from all rights and duties of a parent. If a valid denial of paternity is filed with the Office of Vital Records, the declarant or presumed father may not recover child support he paid prior to the time of filing.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-306 Proceeding for rescission.**

- (1) A signatory may rescind a declaration of paternity or denial of paternity by filing a voluntary rescission document with the Office of Vital Records in a form prescribed by the office before the earlier of:
  - (a) 60 days after the effective date of the declaration or denial, as provided in Sections 78B-15-303 and 78B-15-304; or
  - (b) the date of notice of the first adjudicative proceeding to which the signatory is a party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support.
- (2) Upon receiving a voluntary rescission document from a signatory under Subsection (1), the Office of Vital Records shall provide notice of the rescission, by mail, to the other signatory at the last-known address of that signatory.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-307 Challenge after expiration of period for rescission.**

- (1) After the period for rescission under Section 78B-15-306 has expired, a signatory of a declaration of paternity or denial of paternity, or a support-enforcement agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact.
- (2) A party challenging a declaration of paternity or denial of paternity has the burden of proof.
- (3) A challenge brought on the basis of fraud or duress may be commenced at any time.
- (4) A challenge brought on the basis of a material mistake of fact may be commenced within four years after the declaration is filed with the Office of Vital Records. For the purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital Records prior to May 1, 2005, a challenge may be brought within four years after May 1, 2005.
- (5) For purposes of Subsection (4), genetic test results that exclude a declarant father or that rebuttably identify another man as the father in accordance with Section 78B-15-505 constitute a material mistake of fact.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-308 Procedure for rescission or challenge.**

- (1) Every signatory to a declaration of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the declaration or denial.
- (2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the declaration or denial, effective upon the filing of the document with the Office of Vital Records.
- (3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal may not suspend the legal responsibilities of a signatory arising from the declaration, including the duty to pay child support.
- (4) A proceeding to rescind or to challenge a declaration of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under Part 6, Adjudication of Parentage.

- (5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal shall order the Office of Vital Records to amend the birth record of the child, if appropriate.
- (6) If the declaration is rescinded, the declarant father may not recover child support he paid prior to the entry of an order of rescission.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-309 Ratification barred.**

A tribunal or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged declaration of paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-310 Full faith and credit.**

A tribunal of this state shall give full faith and credit to a declaration of paternity or denial of paternity effective in another state if the declaration or denial has been signed and is otherwise in compliance with the law of the other state.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-311 Forms for declaration and denial of paternity and for rescission of paternity.**

- (1) To facilitate compliance with this part, the Office of Vital Records shall prescribe forms for the declaration, denial, and rescission of paternity.
- (2) A valid declaration of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-312 Release of information.**

The Office of Vital Records may release information relating to the declaration of paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and federal, tribal, and state support-enforcement agencies of this or another state.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-15-313 Adoption of rules.**

The Office of Vital Records may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this part.

Renumbered and Amended by Chapter 3, 2008 General Session