

Part 6 Adjudication of Parentage

78B-15-601 Proceeding authorized -- Definition.

- (1) An adjudicative proceeding may be maintained to determine the parentage of a child. A judicial proceeding is governed by the rules of civil procedure. An administrative proceeding is governed by Title 63G, Chapter 4, Administrative Procedures Act.
- (2) For the purposes of this part, "divorce" also includes an annulment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-602 Standing to maintain proceeding.

Subject to Part 3, Voluntary Declaration of Paternity Act, and Sections 78B-15-607 and 78B-15-609, a proceeding to adjudicate parentage may be maintained by:

- (1) the child;
- (2) the mother of the child;
- (3) a man whose paternity of the child is to be adjudicated;
- (4) the support-enforcement agency or other governmental agency authorized by other law;
- (5) an authorized adoption agency or licensed child-placing agency;
- (6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
- (7) an intended parent under Part 8, Gestational Agreement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-603 Parties to proceeding.

The following individuals shall be joined as parties in a proceeding to adjudicate parentage:

- (1) the mother of the child;
- (2) a man whose paternity of the child is to be adjudicated; and
- (3) the state pursuant to Section 78B-12-113.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-604 Personal jurisdiction.

- (1) An individual may not be adjudicated to be a parent unless the tribunal has personal jurisdiction over the individual.
- (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section 78B-14-201 are fulfilled, or the individual has signed a declaration of paternity.
- (3) Lack of jurisdiction over one individual does not preclude the tribunal from making an adjudication of parentage binding on another individual over whom the tribunal has personal jurisdiction.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-605 Venue.

Venue for a judicial proceeding to adjudicate parentage is in the county of this state in which:

- (1) the child resides or is found;
- (2) the respondent resides or is found if the child does not reside in this state; or
- (3) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-606 No limitation -- Child having no declarant or adjudicated father.

A proceeding to adjudicate the parentage of a child having no declarant or adjudicated father may be commenced at any time. If initiated after the child becomes an adult, only the child may initiate the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-607 Limitation -- Child having presumed father.

- (1) Paternity of a child conceived or born during a marriage with a presumed father as described in Subsection 78B-15-204(1)(a), (b), or (c), may be raised by the presumed father or the mother at any time prior to filing an action for divorce or in the pleadings at the time of the divorce of the parents.
 - (a) If the issue is raised prior to the adjudication, genetic testing may be ordered by the tribunal in accordance with Section 78B-15-608. Failure of the mother of the child to appear for testing may result in an order allowing a motherless calculation of paternity. Failure of the mother to make the child available may not result in a determination that the presumed father is not the father, but shall allow for appropriate proceedings to compel the cooperation of the mother. If the question of paternity has been raised in the pleadings in a divorce and the tribunal addresses the issue and enters an order, the parties are estopped from raising the issue again, and the order of the tribunal may not be challenged on the basis of material mistake of fact.
 - (b) If the presumed father seeks to rebut the presumption of paternity, then denial of a motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence.
 - (c) If the mother seeks to rebut the presumption of paternity, the mother has the burden to show by a preponderance of the evidence that it would be in the best interests of the child to disestablish the parent-child relationship.
- (2) For the presumption outside of marriage described in Subsection 78B-15-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.
- (3) The presumption may be rebutted by:
 - (a) genetic test results that exclude the presumed father;
 - (b) genetic test results that rebuttably identify another man as the father in accordance with Section 78B-15-505;
 - (c) evidence that the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; or
 - (d) an adjudication under this part.
- (4) There is no presumption to rebut if the presumed father was properly served and there has been a final adjudication of the issue.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-608 Authority to deny motion for genetic testing or disregard test results.

- (1) In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the paternity of a child having a declarant father, the tribunal may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed or declarant father, or if testing has been completed, the tribunal may disregard genetic test results that exclude the presumed or declarant father if the tribunal determines that:
 - (a) the conduct of the mother or the presumed or declarant father estops that party from denying parentage; and
 - (b) it would be inequitable to disrupt the father-child relationship between the child and the presumed or declarant father.
- (2) In determining whether to deny a motion seeking an order for genetic testing or to disregard genetic test results under this section, the tribunal shall consider the best interest of the child, including the following factors:
 - (a) the length of time between the proceeding to adjudicate parentage and the time that the presumed or declarant father was placed on notice that he might not be the genetic father;
 - (b) the length of time during which the presumed or declarant father has assumed the role of father of the child;
 - (c) the facts surrounding the presumed or declarant father's discovery of his possible nonpaternity;
 - (d) the nature of the relationship between the child and the presumed or declarant father;
 - (e) the age of the child;
 - (f) the harm that may result to the child if presumed or declared paternity is successfully disestablished;
 - (g) the nature of the relationship between the child and any alleged father;
 - (h) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child-support obligation in favor of the child; and
 - (i) other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed or declarant father or the chance of other harm to the child.
- (3) If the tribunal denies a motion seeking an order for genetic testing or disregards genetic test results that exclude the presumed or declarant father, it shall issue an order adjudicating the presumed or declarant father to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-609 Limitation -- Child having declarant father.

- (1) If a child has a declarant father, a signatory to the declaration of paternity or denial of paternity or a support-enforcement agency may commence a proceeding seeking to rescind the declaration or denial or challenge the paternity of the child only within the time allowed under Section 78B-15-306 or 78B-15-307.
- (2) A proceeding under this section is subject to the application of the principles of estoppel established in Section 78B-15-608.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-610 Joinder of judicial proceedings.

- (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.
- (2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

Amended by Chapter 45, 2015 General Session

78B-15-611 Proceeding before birth.

A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

- (1) service of process;
- (2) discovery; and
- (3) except as prohibited by Section 78B-15-502, collection of specimens for genetic testing.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-612 Minor as party -- Representation.

- (1) A minor is a permissible party, but is not a necessary party to a proceeding under this part.
- (2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902, or a private attorney guardian ad litem under Section 78A-2-705, to represent a minor or incapacitated child if the child is a party.

Amended by Chapter 258, 2015 General Session

78B-15-613 Admissibility of results of genetic testing -- Expenses.

- (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion. Unless a party files a timely objection, testimony shall be in affidavit form. The admissibility of the report is not affected by whether the testing was performed:
 - (a) voluntarily or pursuant to an order of the tribunal; or
 - (b) before or after the commencement of the proceeding.
- (2) A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, video conference, deposition, or another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party offering the testimony bears the expense for the expert testifying.
- (3) If a child has a presumed or declarant father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:
 - (a) pursuant to Section 78B-15-503;
 - (b) within the time periods set forth in this chapter; and
 - (c) pursuant to a tribunal order or administrative process; or
 - (d) with the consent of both the mother and the presumed or declarant father.

- (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge paternity except as set forth in Sections 78B-15-607 and 78B-15-608.
- (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:
 - (a) the amount of the charges billed; and
 - (b) that the charges were reasonable, necessary, and customary.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-614 Consequences of failing to submit to genetic testing.

- (1) An order for genetic testing is enforceable by contempt.
- (2) If an individual whose paternity is being determined fails to submit to genetic testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to the position of that individual.
- (3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or fails to submit to genetic testing, the tribunal may order the testing of the child and every man who is potentially the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-615 Admission of paternity authorized.

- (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.
- (2) If the tribunal finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the tribunal shall issue an order adjudicating the child to be the child of the man admitting paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-616 Temporary order.

- (1) In a proceeding under this part, the tribunal shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:
 - (a) a presumed father of the child;
 - (b) petitioning to have his paternity adjudicated;
 - (c) identified as the father through genetic testing under Section 78B-15-505;
 - (d) an alleged father who has failed to submit to genetic testing;
 - (e) shown by clear and convincing evidence to be the father of the child; or
 - (f) the mother of the child.
- (2) A temporary tribunal order may include provisions for custody and visitation as provided by other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-617 Rules for adjudication of paternity.

The tribunal shall apply the following rules to adjudicate the paternity of a child:

- (1) The paternity of a child having a presumed, declarant, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.
- (2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under Section 78B-15-505 must be adjudicated the father of the child, unless an exception is granted under Section 78B-15-608.
- (3) If the tribunal finds that genetic testing under Section 78B-15-505 neither identifies nor excludes a man as the father of a child, the tribunal may not dismiss the proceeding. In that event, the tribunal shall order further testing.
- (4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man properly excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-618 Adjudication of parentage -- Jury trial prohibited.

A jury trial is prohibited to adjudicate paternity of a child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-619 Adjudication of parentage -- Hearings -- Inspection of records.

- (1) On request of a party and for good cause shown, the tribunal may close a proceeding under this part.
- (2) A final order in a proceeding under this part is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the tribunal for good cause.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-620 Adjudication of parentage -- Order on default.

The tribunal shall issue an order adjudicating the paternity of a man who:

- (1) after service of process, is in default; and
- (2) is found by the tribunal to be the father of a child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-621 Adjudication of parentage -- Dismissal for want of prosecution.

The tribunal may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-622 Order adjudicating parentage.

- (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.
- (2) An order adjudicating parentage must identify the child by name and date of birth.

- (3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees, reasonable attorney fees, fees for genetic testing, other costs, necessary travel, and other reasonable expenses incurred in a proceeding under this part. The tribunal may award attorney fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.
- (4) The tribunal may not assess fees, costs, or expenses against the support-enforcement agency of this state or another state, except as provided by law.
- (5) On request of a party and for good cause shown, the tribunal may order that the name of the child be changed.
- (6) If the order of the tribunal is at variance with the child's birth certificate, the tribunal shall order the Office of Vital Records to issue an amended birth registration.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-623 Binding effect of determination of parentage.

- (1) Except as otherwise provided in Subsection (2), a determination of parentage is binding on:
 - (a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary Declaration of Paternity Act; and
 - (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy the jurisdictional requirements of Section 78B-14-201.
- (2) A child is not bound by a determination of parentage under this chapter unless:
 - (a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing;
 - (b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or
 - (c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem.
- (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of paternity is raised and the tribunal adjudicates according to Part 6, Adjudication of Parentage, and the final order:
 - (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or
 - (b) provides for support of the child by the husband unless paternity is specifically disclaimed in the order.
- (4) The tribunal is not considered to have made an adjudication of the parentage of a child if the child was born at the time of entry of the order and other children are named as children of the marriage, but that child is specifically not named.
- (5) Once the paternity of a child has been adjudicated, an individual who was not a party to the paternity proceeding may not challenge the paternity, unless:
 - (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;
 - (b) the challenger can demonstrate by clear and convincing evidence that the challenger did not know about the adjudicatory proceeding or did not have a reasonable opportunity to know of the proceeding; and
 - (c) there would be harm to the child to leave the order in place.
- (6) A party to an adjudication of paternity may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, or other judicial review.

Renumbered and Amended by Chapter 3, 2008 General Session

