

78B-9-105 Burden of proof.

- (1) The petitioner has the burden of pleading and proving by a preponderance of the evidence the facts necessary to entitle the petitioner to relief. The court may not grant relief without determining that the petitioner is entitled to relief under the provisions of this chapter and in light of the entire record, including the record from the criminal case under review.
- (2) The respondent has the burden of pleading any ground of preclusion under Section 78B-9-106, but once a ground has been pled, the petitioner has the burden to disprove its existence by a preponderance of the evidence.

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 288, 2008 General Session