Title 78B. Judicial Code

Chapter 1
Juries and Witnesses

Part 1
Jury and Witness Act

78B-1-101 Title.

This part is known as the "Jury and Witness Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-102 Definitions.

As used in this part:

(1) "Clerk" or "clerk of the court" means the person so designated by title and includes any deputy clerk.

(2) "Court" means trial court.

(3) "Jury" means a body of persons temporarily selected from the citizens of a particular county invested with the power to present and indict a person for a public offense or to try a question of fact.

(4) "Master jury list" means the source lists as prescribed by the Judicial Council under Section 78B-1-106.

(5) " Prospective jury list" means the list of prospective jurors whose names are drawn at random from the master jury list and are determined to be qualified to serve as jurors.

(6) "Public necessity" means circumstances in which services performed by the prospective juror to members of the public in either a public or a private capacity cannot adequately be performed by others.

(7) "Trial jury" means a body of persons selected from the citizens of a particular county before a court or officer of competent jurisdiction and sworn to try and determine by verdict a question of fact.

(8) "Undue hardship" means circumstances in which the prospective juror would:

(a) be required to abandon a person under his or her personal care or incur the cost of substitute care which is unreasonable under the circumstances;

(b) suffer extreme physical hardship due to an illness, injury, or disability; or

(c) incur substantial costs or lost opportunities due to missing an event that was scheduled prior to the initial notice of potential jury service.

Amended by Chapter 115, 2017 General Session

78B-1-103 Jurors selected from random cross section -- Opportunity and obligation to serve.

(1) It is the policy of this state that:

(a) persons selected for jury service be selected at random from a fair cross section of the population of the county:

(b) all qualified citizens have the opportunity in accordance with this chapter to be considered for service; and

(c) all qualified citizens are obligated to serve when summoned, unless excused.
(2) A qualified citizen may not be excluded from jury service on account of race, color, religion, sex, national origin, age, occupation, disability, or economic status.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-104 Jury composition.
(1) A trial jury consists of:
(a) 12 persons in a capital case;
(b) eight persons in a noncapital first degree felony aggravated murder or other criminal case which carries a term of incarceration of more than one year as a possible sentence for the most serious offense charged;
(c) six persons in a criminal case which carries a term of incarceration of more than six months but not more than one year as a possible sentence for the most serious offense charged;
(d) four persons in a criminal case which carries a term of incarceration of six months or less as a possible sentence for the most serious offense charged; and
(e) eight persons in a civil case at law except that the jury shall be four persons in a civil case for damages of less than $20,000, exclusive of costs, interest, and attorney fees.
(2) Except in the trial of a capital felony, the parties may stipulate upon the record to a jury of a lesser number than established by this section.
(3)
(a) The verdict in a criminal case shall be unanimous.
(b) The verdict in a civil case shall be by not less than three-fourths of the jurors.
(4) There is no jury in the trial of small claims cases.
(5) There is no jury in the adjudication of a minor charged with what would constitute a crime if committed by an adult.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-105 Jurors -- Competency to serve -- Individuals not competent to serve as jurors -- Court to determine disqualification.
(1) An individual is competent to serve as a juror if the individual is:
(a) a citizen of the United States;
(b) 18 years old or older;
(c) a resident of the county; and
(d) able to read, speak, and understand the English language.
(2) An individual who has been convicted of a felony in a state or federal court of the United States is not competent to serve as a juror unless the felony conviction has been expunged or reduced to a misdemeanor.
(3) The court, on the court's own initiative or when requested by a prospective juror, shall determine whether the prospective juror is disqualified from jury service.
(4) The court shall base the court's decision on:
(a) information provided on the juror qualification form;
(b) an interview with the prospective juror; or
(c) other competent evidence.
(5) The clerk shall enter the court's determination in the records of the court.

Amended by Chapter 180, 2025 General Session

78B-1-106 Master jury list -- Inclusive -- Review -- Renewal -- Public examination.

(1) The Judicial Council shall designate one or more regularly maintained lists of persons residing in each county as the source lists for the master jury list. The master jury list shall be as inclusive of the adult population as is reasonably practicable.

(2) The Judicial Council shall by rule provide for the biannual review of the master jury list to evaluate the master jury list's inclusiveness of the adult population.

(3) Not less than once every six months the Administrative Office of the Courts shall renew the master jury list by incorporating any additions, deletions, or amendments to the source lists. The Administrative Office of the Courts shall include any additional source lists designated by the Judicial Council upon the next renewal of the master jury list.

(4) The person having custody, possession, or control of any list used in compiling the master jury list shall make the list available to the Administrative Office of the Courts at all reasonable times without charge.

Amended by Chapter 115, 2017 General Session

78B-1-107 Master prospective jury list -- Juror qualification form -- Content.

(1) When a jury trial is anticipated, the jury clerk shall obtain from the master jury list the number of prospective jurors necessary to qualify jurors to empanel a jury in that case.

(2) Prospective jurors shall be randomly selected from the county in which the trial will be held. A prospective juror shall remain on the prospective jury list until there is no longer a need to empanel a jury in that case.

(3) The Judicial Council shall by rule govern the process for the qualification of jurors and the selection of qualified jurors for voir dire.

(4) The process shall gather the following from a prospective juror:

(a) confirmation of the prospective juror's name, address, email address, and daytime telephone number;

(b) information on whether the prospective juror is competent under statute to serve as a juror; and

(c) the prospective juror's declaration that the responses to the requests for information are true to the best of the person's knowledge.

Amended by Chapter 115, 2017 General Session

78B-1-108 Qualified prospective jurors not exempt from jury service.

No qualified prospective juror is exempt from jury service.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-109 Excuse from jury service -- Postponement.

(1) A court may excuse an individual from jury service:

(a) upon a showing:

(i) of undue hardship;

(ii) of public necessity;

(iii) that the individual is a mother who is breastfeeding a child; or

(iv) that the individual is incapable of jury service; and

(b) for any period for which the grounds described in Subsection (1)(a) exist.

(2) An individual described in Subsection (1) shall make the showing described in Subsection (1)(a) by affidavit, sworn testimony, or other competent evidence.
(3) The court may postpone jury service upon a showing of good cause.

Amended by Chapter 69, 2015 General Session

78B-1-110 Limitations on jury service.
(1) In any two-year period, a person may not:
(a) be required to serve on more than one grand jury;
(b) be required to serve as both a grand and trial juror;
(c) be required to attend court as a trial juror more than one court day, except if necessary to complete service in a particular case; or
(d) if summoned for jury service and the summons is complied with as directed, be selected for the prospective jury list more than once.
(2)
(a) Subsection (1)(d) does not apply to counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000.
(b) The population for each county used for this section shall be derived from, to the extent not otherwise required by federal law:
(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or
(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

Amended by Chapter 400, 2025 General Session

78B-1-111 Food allowance for jurors -- Sequestration costs.
(1) Jurors may be provided with a reasonable food allowance under the rules of the Judicial Council.
(2) When a jury has been placed in sequestration by order of the court, the necessary expenses for food and lodging shall be provided in accordance with the rules of the Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-112 Jurors -- Preservation of records.
All records and papers compiled in connection with the selection and service of jurors shall be preserved by the clerk for four years, or for any longer period ordered by the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-113 Jury not selected in conformity with chapter -- Procedure to challenge -- Relief available -- Exclusive remedy.
(1) Within seven days after the moving party discovered, or by the exercise of diligence could have discovered the grounds therefore, and in any event before the trial jury is sworn to try the case, a party may move to stay the proceedings or to quash an indictment, or for other appropriate relief, on the ground of substantial failure to comply with this act in selecting a grand or trial jury.
(2) Upon motion filed under this section containing a sworn statement of acts which if true would constitute a substantial failure to comply with this act, the moving party may present testimony of the county clerk, the clerk of the court, any relevant records and papers not public or

otherwise available used by the jury commission or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand or a trial jury there has been a substantial failure to comply with this act and it appears that actual and substantial injustice and prejudice has resulted or will result to a party in consequence of the failure, the court shall stay the proceedings pending the selection of the jury in conformity with this act, quash an indictment, or grant other appropriate relief.

(3) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-114 Jury fee assessments -- Payment.

(1) The court has discretionary authority in any civil or criminal action or proceeding triable by jury to assess the entire cost of one day's juror fees against either the plaintiff or defendant or their counsel, or to divide the cost and assess them against both plaintiff and defendant or their counsel, or additional parties plaintiff or defendant, if:
  (a) a jury demand has been made and is later withdrawn within the 48 hours preceding the commencement of the trial; or
  (b) the case is settled or continued within 48 hours of trial without just cause for not having settled or continued the case prior to the 48-hour period.

(2) The party assessed shall make payment to the clerk of the court within a prescribed period. Payment shall be enforced by contempt proceedings.

(3) The court clerk shall transfer the assessment to the state treasury, or the auditor of the city or county incurring the juror expenses.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-115 Jurors -- Penalties.

(1) A person who fails to respond timely to questions regarding qualification for jury service shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(2) A person summoned for jury service who fails to appear or to complete jury service as directed shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(3) Any person who willfully misrepresents a material fact regarding qualification for, excuse from, or postponement of jury service is guilty of an infraction.

Amended by Chapter 303, 2016 General Session

78B-1-116 Jurors -- Employer not to discharge or threaten employee for jury service -- Criminal penalty -- Civil action by employee.

(1) An employer may not deprive an employee of employment, threaten or take any adverse employment action, or otherwise coerce the employee regarding employment because the employee receives a summons, responds to it, serves as a juror, or a grand juror, or attends court for prospective jury or grand jury service.

(2) An employee may not be required or requested to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or for time spent actually serving on a jury. Nothing in this provision shall be

construed to require an employer to provide annual, vacation, or sick leave to employees under the provisions of this statute who otherwise are not entitled to those benefits under company policies.

(3) Any employer who violates this section is guilty of criminal contempt and upon conviction may be fined not more than $500 or imprisoned not more than six months, or both.

(4) If any employer discharges an employee in violation of this section, the employee within 30 days may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable may not exceed lost wages for six weeks. If the employee prevails, the employee shall be allowed reasonable attorney fees fixed by the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-117 Jurors and witnesses -- State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

(1) The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the courts of record and actions in the juvenile court. The state is responsible for payment of all fees and expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.

(2) If expenses, for the purposes of this section, exceed the line item appropriation, the state court administrator shall submit a claim against the state to the Board of Examiners and request the board to recommend and submit a supplemental appropriation request to the Legislature for the deficit incurred.

(3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by the county if the action is prosecuted by the county attorney or district attorney.

(4) Beginning July 1, 2014, the state court administrator shall provide a report during each interim to the Criminal Justice Appropriations Subcommittee detailing expenses, trends, and efforts made to minimize expenses and maximize performance of the costs under this section.

(5) The funding of additional full-time equivalent employees shall be authorized by the Legislature through specific intent language.

Amended by Chapter 271, 2025 General Session

78B-1-118 Jurors and witnesses -- Judicial Council rules governing fee payment.

The Judicial Council shall adopt rules governing the method of payment of fees, mileage, and other expenses of jurors and witnesses, authorization for payment, record of payment, and the audit of payment records.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-119 Jurors and witnesses -- Fees and mileage.

(1) Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:

(a) $18.50 for the first day of attendance and $49 per day for each subsequent day of attendance; and
(b) if traveling more than 50 miles, $1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.
(2) Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.
(3) A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.
(4) If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under Section 77-21-3.
(5) A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.
(6) A witness subpoenaed to testify in court proceedings in a civil action shall receive reimbursement for necessary and reasonable parking expenses from the attorney issuing the subpoena under rule of the Judicial Council or Supreme Court.

Amended by Chapter 56, 2017 General Session

78B-1-120 Jurors and witnesses -- Fees in criminal cases -- Daily report of attendance.

Every witness in a criminal case subpoenaed for the state, or for a defendant by order of the court at the expense of the state, and every juror, whether grand or trial, shall, unless temporarily excused, in person report daily to the clerk. No per diem shall be allowed for any day upon which attendance is not so reported.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-121 Jurors and witnesses -- Statement of service -- Certificate.

Whenever a grand juror, or a witness for the state before the grand jury, is finally discharged, the foreman of the grand jury shall furnish to the clerk of the district court a statement containing information necessary for the clerk to make the juror's or witness's certificate.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-122 Jurors and witnesses -- Justice court judge -- Certificate of attendance -- Records and reporting.

Every justice court shall follow the established disbursement process for juror and witness fees within the town, city, or county, or use the following procedure.
(1) A justice court judge shall provide to each person who has served as a juror or as a witness in a criminal case when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate that contains:
(a) the name of the juror or witness;
(b) the title of the proceeding;
(c) the number of days in attendance;
(d) the number of miles traveled if the witness has traveled more than 50 miles in going only; and
(e) the amount due.

(2) The certificate shall be presented to the county or city attorney. When certified as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw a warrant for it on the treasurer.
(3) Every justice court judge shall keep a record of all certificates issued. The record shall show all of the facts stated in each certificate. On the first Monday of each month a detailed statement of all certificates issued shall be filed with the treasurer.

Amended by Chapter 99, 2015 General Session

78B-1-123 Jurors and witnesses -- Limit of time for presentation of certificate.

Any holder of a witness's or juror's certificate specified in this title shall be required to present it to the county treasurer or to the county auditor, as the case may be, of the county where the certificate was issued within one year from the date of its issuance. If the same is not presented for payment within that time, it is invalid and will not be paid.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-124 Jurors and witnesses -- Statement of certificates -- Contents -- Payment by state.

(1) At the end of each quarter it shall be the duty of the county treasurer and the county auditor of each county to prepare in duplicate and verify under oath a full and complete itemized statement of all certificates issued by the clerk of the district court since the date of the last statement for mileage and attendance of:
  (a) grand jurors;
  (b) trial jurors engaged in the trial of criminal causes in the district court; and
  (c) witnesses summoned by or on behalf of the state in criminal causes in the district court.
(2) The statement shall set forth in detail for each certificate:
  (a) the number of the certificate;
  (b) the date issued;
  (c) the name of the person in whose favor it was issued;
  (d) the nature of the service rendered; and
  (e) any other information as may be necessary and required by the state auditor.
(3) Within 30 days of the end of the quarter one of these statements shall be transmitted to the state auditor and the other filed in the office of the county clerk. Upon the timely receipt of this statement the state auditor shall, unless it is found to be incorrect, draw a warrant in favor of the county treasurer upon the state treasurer for the whole amount of jurors' and witnesses' certificates as shown by the statement, and transmit it to the county treasurer.
(4) The county treasurer shall hold the funds drawn from the state treasury upon the certificates for mileage and attendance of jurors and witnesses as a separate fund for the redemption of jurors' and witnesses' certificates.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-125 Jurors and witnesses -- Certifying excessive fees a felony.

Any clerk or judge of any court, county attorney, district attorney, or other officer who certifies false information as a fact, whereby any witness or juror shall be allowed a greater sum than otherwise entitled to under the provisions of this title, is guilty of a felony.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-126 Jurors and witnesses -- Purchase of certificate forbidden -- Penalty.

(1) No person connected officially with any of the district courts of this state, and no state, district, county or precinct officer, shall purchase or cause to be purchased any certificate issued to any juror or witness under the provisions of this title.

(2) Any person who violates the provisions of this section is guilty of a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

78B-1-127 Witnesses -- Competency.

Every person is competent to be a witness except as otherwise provided in the Utah Rules of Evidence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-128 Who may be witnesses -- Jury to judge credibility.

(1) All persons, without exception, otherwise than as specified in this part, who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others, may be witnesses.

(2) Neither parties nor other persons who have an interest in the event of an action or proceeding are excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief.

(3) The credibility of a witness may be questioned by:

(a) the manner in which the witness testifies;

(b) the character of the witness testimony;

(c) evidence affecting the witness' character for truth, honesty, or integrity;

(d) the witness' motives; or

(e) contradictory evidence.

(4) The jury is the exclusive judge of credibility.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-129 Witnesses -- Subpoena defined.

The process by which the attendance of a witness is required is a subpoena. It is a writ or order directed to a person and requiring the person's attendance at a particular time and place to testify as a witness. The person may also be required to bring any books, documents, or other things under the person's control which is required to be produced in evidence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-130 Witnesses -- Duty when served with subpoena.

A witness served with a subpoena shall:

(1) attend at the time appointed with any papers required by the subpoena;

(2) answer all pertinent and legal questions; and

(3) unless sooner discharged, remain until the testimony is closed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-131 Witnesses -- Liability to forfeiture and damages.

A witness who disobeys a subpoena shall, in addition to any penalty imposed for contempt, be liable to the party aggrieved in the sum of $100, and all damages sustained by the failure of the witness to attend. Forfeiture and damages may be recovered in a civil action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-132 Employer not to discharge or threaten employee for responding to subpoena -- Criminal penalty -- Civil action by employee.

(1) An employer may not deprive an employee of employment or threaten or otherwise coerce the employee regarding employment because the employee attends a deposition or hearing in response to a subpoena.
(2) Any employer who violates this section is guilty of criminal contempt and upon conviction may be fined not more than $500 or imprisoned not more than six months or both.
(3)
  (a) If an employer violates this section, in addition to any other remedy, the employee may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee.
  (b) Damages recoverable may not exceed lost wages for six weeks.
  (c) If the employee prevails, the employee shall be allowed reasonable attorney fees.

Amended by Chapter 401, 2023 General Session

78B-1-133 Witnesses -- Judge or juror may be witness -- Procedure.

The judge or any juror may be called as a witness by either party. It is in the discretion of the court to order the trial to be postponed, suspended, or take place before another judge or jury.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-134 Witnesses -- Duty to answer questions -- Privilege.

(1) A witness shall answer all questions legal and pertinent to the matter in issue, although an answer may establish a claim against the witness.
(2) A witness need not give an answer which will subject him to punishment for a felony.
(3) A witness need not give an answer which will degrade his character, unless it is to the very fact in issue or to a fact from which the fact in issue would be presumed.
(4) A witness must answer as to the fact of any previous conviction of a felony.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-135 Witnesses -- Proceedings in aid of or supplemental to attachment, garnishment, or execution.

(1) Notwithstanding the provisions of Section 78B-1-134, a party or a witness examined in proceedings in aid of or supplemental to attachment, garnishment, or execution is not excused from answering a question on the ground that;
  (a) the answer will tend to convict the party or witness of the commission of a fraud;
  (b) the answer will prove the party or witness has been a party or privy to, or has knowledge of, a conveyance, assignment, transfer or other disposition of property concerned for any purpose;

(c) the party, witness, or any other person claims to be entitled, as against the judgment creditor or a receiver appointed or to be appointed in the proceedings, to hold property derived from or through the judgment debtor or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in the debtor's behalf.

(2) An answer cannot be used as evidence against the person so answering in a criminal action or proceeding, except in an action for perjury against the person for falsely testifying.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-136 Witnesses -- Rights.

It is the right of a witness to be protected from irrelevant, improper or insulting questions, and from harsh or insulting demeanor, to be detained only so long as the interests of justice require it, and to be examined only as to matters legal and pertinent to the issue.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-137 Witnesses -- Privileged communications.

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

(1)

(a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.

(b) This exception does not apply:

(i) to a civil action or proceeding by one spouse against the other;

(ii) to a criminal action or proceeding for a crime committed by one spouse against the other;

(iii) to the crime of deserting or neglecting to support a spouse or child;

(iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or

(v) if otherwise specifically provided by law.

(2) An attorney cannot, without the consent of the client, be examined as to any communication made by the client to the attorney or any advice given regarding the communication in the course of the professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any fact, the knowledge of which has been acquired as an employee.

(3) A member of the clergy or priest cannot, without the consent of the person making the confession, be examined as to any confession made to either of them in their professional character in the course of discipline enjoined by the church to which they belong.

(4) A physician, surgeon, or physician assistant cannot, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable the physician, surgeon, or physician assistant to prescribe or act for the patient. However, this privilege shall be waived by the patient in an action in which the patient places the patient's medical condition at issue as an element or factor of the claim or defense. Under those circumstances, a physician, surgeon, or physician assistant who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.

(5) A public officer cannot be examined as to communications made in official confidence when the public interests would suffer by the disclosure.
(6)
(a) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 77-38-203 made by the victim.
(b) A victim advocate as defined in Section 77-38-403 may not, without the written consent of the victim, or the victim's guardian or conservator if the guardian or conservator is not the accused, be examined in a civil or criminal proceeding as to a confidential communication, as defined in Section 77-38-403, unless the victim advocate is a criminal justice system victim advocate, as defined in Section 77-38-403, and is examined in camera by a court to determine whether the confidential communication is privileged.

Amended by Chapter 349, 2019 General Session
Amended by Chapter 361, 2019 General Session

78B-1-138 Witnesses -- Exempt from arrest in civil action.

Every person who has been in good faith served with a subpoena to attend as a witness before a court, judge, commissioner, referee or other person, in a case where the disobedience of the witness may be punished as a contempt, is exempt from arrest in a civil action while going to the place of attendance, necessarily remaining there and returning therefrom.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-139 Witnesses -- Unlawful arrest -- Void -- Damages recoverable.

The arrest of a witness contrary to Section 78B-1-138 is void, and when willfully made is a contempt of the court. The person making the arrest is responsible to the witness arrested for double the amount of the damages which may be assessed against the witness, and is also liable to an action at the suit of the party serving the witness with the subpoena for the damages sustained by the party in consequence of the arrest.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-140 Liability of officer making arrest.

(1) An officer is not liable for making the arrest in ignorance of the facts creating the exemption, but is liable for any subsequent detention of the witness, if the witness claims the exemption and makes an affidavit stating:
(a) he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued;
(b) he has not been served by his own procurement, with the intention of avoiding an arrest; and
(c) he is at the time going to the place of attendance, returning therefrom, or remaining there in obedience to the subpoena.
(2) The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-141 Witnesses -- Discharge when unlawfully arrested.

The court or officer issuing the subpoena, and the court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of Section 78B-1-138. If the court has adjourned before the arrest or before application for the discharge, a judge of the court may grant the discharge.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-142 Witnesses -- Oaths -- Who may administer.

Every court, every judge, clerk and deputy clerk of any court, every justice, every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-143 Witnesses -- Form of oath.

(1) An oath or affirmation in an action or proceeding may be administered in the following form:

You do solemnly swear (or affirm) that the evidence you shall give in this issue (or matter) pending between ____ and ____ shall be the truth, the whole truth and nothing but the truth, so help you God (or, under the pains and penalties of perjury).

(2) The person swearing or affirming shall express assent when addressed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-144 Witnesses -- Affirmation or declaration instead of oath allowed.

Any person may, instead of taking an oath, opt to make a solemn affirmation or declaration, by assenting, when addressed in the following form:

"You do solemnly affirm (or declare) that... ." etc., as in Section 78B-1-143.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-145 Witnesses -- Variance in form of swearing to suit beliefs.

(1) Whenever the court before which a person is offered as a witness is satisfied that the person has a peculiar mode of swearing, connected with or in addition to the usual form, which in the person's opinion is more solemn or obligatory, the court may in its discretion adopt that mode.

(2) A person who believes in a religion other than the Christian religion may be sworn according to the particular ceremonies of the person's religion, if there are any.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-146 Witnesses -- Interpreters -- Subpoena -- Contempt -- Costs.

(1) When a witness does not understand and speak the English language, an interpreter shall be sworn in to interpret. Any person may be subpoenaed by any court or judge to appear before the court or judge to act as an interpreter in any action or proceeding. Any person so subpoenaed who fails to attend at the time and place named is guilty of a contempt.

(2) The Judicial Council may establish a fee for the issuance and renewal of a license of a certified court interpreter. Any fee established under this section shall be deposited as a dedicated credit to the Judicial Council.

(3) If the court appoints an interpreter, the court may assess all or part of the fees and costs of the interpreter against the person for whom the service is provided. The court may not assess interpreter fees or costs against a person found to be impecunious.

Amended by Chapter 391, 2010 General Session

78B-1-147 Witnesses -- Fees in civil cases -- How paid -- Taxed as costs.

(1) The fees and compensation of witnesses in all civil causes shall be paid by the party who causes the witnesses to attend. A person is not obliged to attend court in a civil cause when subpoenaed unless the person's:
  (a) fees for one day's attendance are tendered or paid on demand; or
  (b) fees for attendance for each day are tendered or paid on demand.
(2) The fees of witnesses paid in civil causes may be taxed as costs against the losing party.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-148 Witnesses -- Only one fee per day allowed.

No witness shall receive fees in more than one criminal cause on the same day.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-149 Witnesses -- Officials subpoenaed not entitled to fee or per diem -- Exception.

No officer of the United States, or the state, or of any county, incorporated city or town within the state, may receive any witness fee or per diem when testifying in a criminal proceeding unless the officer is required to testify at a time other than during normal working hours.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-150 Witnesses -- When criminal defense witness may be called at expense of state.

A witness for a defendant in a criminal cause may not be subpoenaed at the expense of the state, county, or city, except upon order of the court. The order shall be made only upon affidavit of the defendant, showing:
(1) the defendant is impecunious and unable to pay the per diems of the witness;
(2) the evidence of the witness is material for defendant's defense as advised by counsel, if counsel is in place; and
(3) the defendant cannot safely proceed to trial without the witness.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-151 Witnesses -- Expenses for expert witnesses.

(1) The court may appoint any expert witness agreed upon by the parties or of its own selection. The court shall inform the expert of required duties in writing and a copy shall be filed with the court record.
(2) The appointed expert shall advise the court and the parties of findings and may be called to testify by the court or by any party. The expert witness is subject to cross-examination by each party.
(3) The court shall determine the reasonable compensation of the expert and order payment. The parties may call expert witnesses of their own at their own expense. Upon a showing

that a defendant is financially unable to pay the compensation of an expert whose services are necessary for an adequate defense, the compensation shall be paid as if the expert were called on behalf of the prosecution.

(4) Payment by the court for an expert witness in a criminal case is limited to the fee and mileage allowance for witnesses under Section 78B-1-119 and necessary meals and lodging expenses as provided by rule of the Judicial Council. Compensation of an expert witness beyond the statutory fee and mileage allowance shall be paid by the parties under Subsection (3).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-152 Witnesses -- Prohibition of expert witness contingent fees in civil actions.

(1) As used in this section, "contingent fee agreement" means an agreement for the provision of testimony or other evidence and related services by an expert witness in a civil action that specifies:

(a) the payment of compensation to the expert witness for the testimony, other evidence, and services is contingent, in whole or in part, upon a judgment being rendered in favor of the plaintiff or defendant in a civil action, upon a favorable settlement being obtained by the plaintiff or defendant in a civil action, or upon the plaintiff in a civil action being awarded in a judgment or settlement damages in at least a specified amount; and

(b) upon satisfaction of the contingency described in Subsection (1)(a), the compensation to be paid to the expert witness is in a fixed amount or an amount to be determined by a specified formula, including, but not limited to, a percentage of a judgment rendered in favor of the plaintiff or a percentage of a favorable settlement obtained by the plaintiff.

(2) A plaintiff or defendant in a civil action may not engage an expert witness by means of a contingent fee agreement unless approval is sought and received from the court.

(3) An expert witness may be engaged by the plaintiff or defendant on the contingency that the expert actually qualify as an expert. Once the witness is qualified as an expert Subsection (2) applies to his continued participation in the action.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2
Interpreters for Hearing Impaired

78B-1-201 Definitions.

As used in this part:

(1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, authority, department, agency, legislative body, or of any proceeding of any nature where a qualified interpreter is required under this part.

(2) " Deaf or hard of hearing person" and " deaf or hard of hearing parent" means a deaf or hard of hearing person who, because of sensory or environmental conditions, requires the assistance of a qualified interpreter or other special assistance for communicative purposes.

(3) "Necessary steps" or "necessary services" include provisions of qualified interpreters, lip reading, pen and paper, typewriters, closed-circuit television with closed-caption translations, computers with print-out capability, and telecommunications devices for the deaf or similar devices.

(4) "Qualified interpreter" means a sign language or oral interpreter as provided in Sections 78B-1-203 and 78B-1-206 of this part.

Amended by Chapter 43, 2017 General Session

78B-1-202 Proceedings at which interpreter is to be provided for the deaf or hard of hearing.

(1) If a deaf or hard of hearing person is a party or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a deaf or hard of hearing person may be subjected to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing person and to interpret the deaf or hard of hearing person's testimony. If the deaf or hard of hearing person does not understand sign language, the appointing authority shall take necessary steps to ensure that the deaf or hard of hearing person may effectively and accurately communicate in the proceeding.

(2) If a juvenile whose parent or parents are deaf or hard of hearing is brought before a court for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing parent and to interpret the deaf or hard of hearing parent's testimony. If the deaf or hard of hearing parent or parents do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing parent may effectively and accurately communicate in the proceeding.

(3) In any hearing, proceeding, or other program or activity of any department, board, licensing authority, commission, or administrative agency of the state or of its political subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the deaf or hard of hearing participants if the interpreter is not otherwise compensated for those services. If the deaf or hard of hearing participants do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing participant may effectively and accurately communicate in the proceeding.

(4) If a deaf or hard of hearing person is a witness before any legislative committee or subcommittee, or legislative research or interim committee or subcommittee or commission authorized by the state Legislature or by the legislative body of any political subdivision of the state, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the deaf or hard of hearing witness and to interpret the deaf or hard of hearing witness's testimony. If the deaf or hard of hearing witness does not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the deaf or hard of hearing witness may effectively and accurately communicate in the proceeding.

(5) If it is the policy and practice of a court of this state or of its political subdivisions to appoint counsel for indigent people, the appointing authority shall appoint and pay for a qualified interpreter or other necessary services for deaf or hard of hearing, indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.

(6) If a deaf or hard of hearing person is involved in administrative, legislative, or judicial proceedings, the appointing authority shall recognize that family relationship between the particular deaf or hard of hearing person and an interpreter may constitute a possible conflict of interest and select a qualified interpreter who will be impartial in the proceedings.

Amended by Chapter 43, 2017 General Session

78B-1-203 Effectiveness of interpreter determined.

(1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah State Office of Rehabilitation created in Section 35A-1-202 and on the basis of the deaf or hard of hearing person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.

(2) If the interpreter is not able to provide effective communication with the deaf or hard of hearing person, the appointing authority shall appoint another qualified interpreter.

Amended by Chapter 43, 2017 General Session

78B-1-204 Appointment of more qualified interpreter.

If a qualified interpreter is unable to render a satisfactory interpretation, the appointing authority shall appoint a more qualified interpreter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-205 Readiness of interpreter prerequisite to commencement of proceeding.

If an interpreter is required to be appointed under this part, the appointing authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure effective communication with the deaf or hard of hearing participants.

Amended by Chapter 43, 2017 General Session

78B-1-206 List of qualified interpreters -- Use -- Appointment of another.

(1) The Utah State Office of Rehabilitation created in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.

(2)

(a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah State Office of Rehabilitation.

(b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular deaf or hard of hearing person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular deaf or hard of hearing person involved.

Amended by Chapter 43, 2017 General Session

78B-1-207 Oath of interpreter.

Before he or she begins to interpret, every interpreter appointed under this part shall take an oath that he or she will make a true interpretation in an understandable manner to the best of his or her skills and judgment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-208 Compensation of interpreter.

(1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.

(2) The fee shall be based on a fee schedule for interpreters recommended by the Utah State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.
(3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.
(4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Amended by Chapter 271, 2016 General Session

78B-1-209 Waiver of right to interpreter.

The right of a deaf or hard of hearing person to an interpreter may not be waived, except by a deaf or hard of hearing person who requests a waiver in writing. The waiver is subject to the approval of counsel to the deaf or hard of hearing person, if existent, and is subject to the approval of the appointing authority. In no event may the failure of the deaf or hard of hearing person to request an interpreter be considered a waiver of that right.

Amended by Chapter 43, 2017 General Session

78B-1-210 Privileged communications.

If a deaf or hard of hearing person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the person could not be compelled to testify as to the communications, this privilege shall apply to the interpreter as well.

Amended by Chapter 43, 2017 General Session

78B-1-211 Video recording of testimony of deaf or hard of hearing person.

The appointing authority, on his or her own motion or on the motion of a party to the proceedings, may order that the testimony of the deaf or hard of hearing person and its interpretation be electronically recorded by a video recording device for use in verification of the official transcript of the proceedings.

Amended by Chapter 43, 2017 General Session

Chapter 2
Statutes of Limitations

Part 1
General Provisions and Special Actions

78B-2-101 Definitions of "tax title" and "action."

(1) The word "action" as used in this chapter includes counterclaims and cross-complaints and all other civil actions in which affirmative relief is sought.
(2) The term "tax title" as used in Sections 59-2-1364 and 78B-2-206, and the related amended Sections 78B-2-204, 78B-2-208, and 78B-2-214, means any title to real property, whether valid or not, which has been derived through, or is dependent upon, any sale, conveyance, or

transfer of property in the course of a statutory proceeding for the liquidation of any tax levied against the property whereby the property is relieved from a tax lien.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-102 Time for commencement of actions generally.

Civil actions may be commenced only within the periods prescribed in this chapter, after the cause of action has accrued, except in specific cases where a different limitation is prescribed by statute.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-103 Action barred in another state barred in Utah.

A cause of action which arises in another jurisdiction, and which is not actionable in the other jurisdiction by reason of the lapse of time, may not be pursued in this state, unless the cause of action is held by a citizen of this state who has held the cause of action from the time it accrued.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-104 Effect of absence from state.

If a cause of action accrues against a person while the person is out of the state and the person is not subject to the jurisdiction of the courts of this state in accordance with Section 78B-3-205, the action may be commenced within the term as limited by this chapter after his return to the state. If after a cause of action accrues the person departs from the state, the time of his absence is not part of the time limited for the commencement of the action unless Section 78B-3-205 applies.

Amended by Chapter 342, 2009 General Session

78B-2-105 Effect of death.

If an individual entitled to bring an action dies before the expiration of the statute of limitations and the cause of action survives, an action may be brought by the individual's representatives within the later of:
(1) the statute of limitations; or
(2) one year after the day on which the individual died.

Amended by Chapter 46, 2019 General Session

78B-2-106 Effect of death of defendant outside this state.

If a person against whom a cause of action exists dies outside the state, the time which elapses between his death and the expiration of one year after this state issues letters testamentary or letters of administration is not a part of the time limited for the commencement of an action against his executor or administrator.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-107 Effect of war.

When a person is an alien subject or a citizen of a country at war with the United States, the duration of the war may not be counted as part of the statute of limitations for the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-108 Effect of disability -- Minority or mental incompetence -- Damages.

(1) An individual may not bring a cause of action while the individual is:
  (a) under 18 years old; or
  (b) mentally incompetent without a legal guardian.
(2) During the time that an individual is underage or mentally incompetent, the statute of limitations for a cause of action other than for the recovery of real property may not run.
(3) A cause of action under this section includes any claim:
  (a) for general or special damages; or
  (b) for which a parent or legal guardian of an individual described in Subsection (1) may be financially responsible for the payment of general or special damages.

Amended by Chapter 67, 2021 General Session

78B-2-109 Disability must exist when right of action accrues.

A person may not take advantage of a disability, unless it existed when the person's right of action accrued.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-110 All disabilities must be removed.

When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until all are removed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-111 Failure of action -- Right to commence new action.

(1) If any action is timely filed and the judgment for the plaintiff is reversed, or if the plaintiff fails in the action or upon a cause of action otherwise than upon the merits, and the time limited either by law or contract for commencing the action has expired, the plaintiff, or if he dies and the cause of action survives, his representatives, may commence a new action within one year after the reversal or failure.
(2) On and after December 31, 2007, a new action may be commenced under this section only once.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-112 Effect of injunction or prohibition.

The duration of an injunction or statutory prohibition which delays the filing of an action may not be counted as part of the statute of limitations.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-113 Effect of payment, acknowledgment, or promise to pay.

(1) An action for recovery of a debt may be brought within the applicable statute of limitations from the date:
  (a) the debt arose;
  (b) a written acknowledgment of the debt or a promise to pay is made by the debtor; or
  (c) a payment is made on the debt by the debtor.
(2) If a right of action is barred by the provisions of any statute, it shall be unavailable either as a cause of action or ground for defense.

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 123, 2008 General Session

78B-2-114 Separate trial of statute of limitations issue in malpractice actions.

(1) An issue raised by the defense regarding the statute of limitations in a case may be tried separately if the action is for professional negligence or for rendering professional services without consent, and against:
  (a) a physician;
  (b) a surgeon;
  (c) a physician assistant;
  (d) a dentist;
  (e) an osteopathic physician;
  (f) a chiropractor;
  (g) a physical therapist;
  (h) a registered nurse;
  (i) a clinical laboratory bioanalyst;
  (j) a clinical laboratory technologist; or
  (k) a licensed hospital, person, firm, or corporation as the employer of any of the persons in Subsection (1)(a) through (j).
(2) The issue raised may be tried before any other issues in the case are tried. If the issue raised by the defense of the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried.

Amended by Chapter 349, 2019 General Session

78B-2-115 Actions by state or other governmental entity.

Except for the provisions of Section 78B-2-116, and the collection of criminal fines, fees, and restitution by the Office of State Debt Collection in accordance with Sections 63A-3-502, 77-32b-103, and 77-18-114, the limitations in this chapter apply to actions brought in the name of or for the benefit of the state or other governmental entity the same as to actions by private parties.

Amended by Chapter 260, 2021 General Session

78B-2-116 Statute of limitations -- Asbestos damages -- Action by state or governmental entity.

(1)
  (a) A statute of limitations or repose may not bar an action by the state or other governmental entity to recover damages from any manufacturer of any construction materials containing asbestos, when the action arises out of the manufacturer's providing the materials, directly or

through other persons, to the state or other governmental entity or to a contractor on behalf of the state or other governmental entity.

(b) Subsection (1)(a) provides for actions not yet barred, and also acts retroactively to permit actions under this section that are otherwise barred.

(2) As used in this section, "asbestos" means asbestiform varieties of:

(a) chrysotile (serpentine);

(b) crocidolite (riebeckite);

(c) amosite (cummingtonite-grunerite);

(d) anthophyllite;

(e) tremolite; or

(f) actinolite.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-117 Statute of limitations -- Asbestos damages.

(1)

(a) Notwithstanding any other provision of law, a statute of limitation or repose may not bar an action to recover damages from any manufacturer of any construction materials containing asbestos and arising out of the manufacturer's providing of the materials, directly or through other persons, for use in construction of any building within the state until July 1, 1991, or until three years after the person or entity bringing the action discovers or with reasonable diligence could have discovered the injury or damages, whichever is later.

(b) Subsection (1)(a) provides a statute of limitation for the specified actions, and also acts retroactively to permit, within time limits, the commencement of actions under this section that are otherwise barred.

(2) As used in this section, "asbestos" means asbestiform varieties of:

(a) chrysotile (serpentine);

(b) crocidolite (riebeckite);

(c) amosite (cummingtonite-grunerite);

(d) anthophyllite;

(e) tremolite; or

(f) actinolite.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-118 Actions against the United States.

Actions against the federal government regarding real property and that are subject to the federal Quiet Title Act, 28 U.S.C. Sec. 2409a, do not expire under this chapter.

Enacted by Chapter 90, 2015 General Session

78B-2-119 Statute of limitations after criminal proceeding.

(1) As used in this section:

(a) "Cause of action" means any civil claim that a victim could bring against a defendant for criminal conduct committed against the victim.

(b) "Criminal conduct" means any act that is charged as a felony under:

(i) Title 76, Chapter 5, Offenses Against the Individual; or

(ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct under Title 76, Chapter 5, Offenses Against the Individual.

(c) "Victim" means an individual directly harmed by criminal conduct or the individual's representative.

(2)

(a) Notwithstanding any statute of limitations, a victim may bring a cause of action if:

(i) the defendant to the cause of action was charged by a criminal complaint, indictment, or information for criminal conduct;

(ii) the cause of action is brought within one year from the day on which a final disposition for the criminal proceeding is issued;

(iii) the cause of action is brought to address any harm resulting from the criminal conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

(iv) the applicable statute of limitations that would apply to the conduct at issue in the cause of action did not expire before May 4, 2022.

(b) A defendant does not need to be convicted of the criminal conduct for an individual to bring a cause of action under Subsection (2)(a).

(3) Subsection (2)(a) does not:

(a) shorten an applicable statute of limitations or an applicable tolling provision;

(b) toll or extend an applicable statute of limitations for an action that is brought against an employer or former employer of a defendant described in Subsection (2)(a)(i); or

(c) require an insurer to defend or indemnify a defendant for a cause of action that would otherwise be barred if not for Subsection (2)(a).

Enacted by Chapter 474, 2022 General Session

Part 2
Real Property

78B-2-201 Actions by the state.

(1) The state may not bring an action against any person for or with respect to any real property, its issues or profits, based upon the state's right or title to the real property, unless:

(a) the right or title to the property accrued within seven years before any action or other proceeding is commenced; or

(b) the state or those from whom it claims received all or a portion of the rents and profits from the real property within the immediately preceding seven years.

(2) The statute of limitations in this section runs from the date on which the state or those from whom it claims received actual notice of the facts giving rise to the action.

Amended by Chapter 2, 2015 Special Session 1

78B-2-202 Actions by patentees or grantees from state.

A person receiving letters patent or a grant of real property from the state may not bring an action based on the patent or grant unless the state would have been able to bring an action had the patent or grant not been made.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-203 When letters patent or grants declared void.

When letters patent or grants of real property issued or made by the state are declared void by a court of competent jurisdiction, an action for the recovery of the property shall be brought either by the state, or by any subsequent patentee or grantee of the property, his heirs or assigns, within seven years after such determination.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-204 Seizure or possession within seven years necessary.

An action for the recovery or possession of real property may not be maintained, unless it appears the plaintiff, his ancestor, grantor, or predecessor owned or possessed the property in question within seven years before the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-205 Seizure or possession within seven years -- Proviso -- Tax title.

(1) An action for the recovery or possession of real property may not be maintained, unless the plaintiff or his predecessor owned or possessed the property within seven years before the commencement of the action.
(2) Actions or defenses brought to recover, take possession of, quiet title, or determine the ownership of real property against the holder of a tax title to the property, may not be commenced more than four years after the date of the tax deed, conveyance, or transfer creating the tax title unless the person commencing the action or defense or his predecessor has actually occupied or been in possession of the property within four years prior to the commencement of the action or defense.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-206 Holder of tax title -- Limitations of action or defense -- Proviso.

An action or defense to recover, take possession of, quiet title to, or determine the ownership of real property may not be commenced against the holder of a tax title after the expiration of four years from the date of the sale, conveyance, or transfer of the tax title to any county, or directly to any other purchaser at any public or private tax sale. This section may not bar any action or defense by the owner of the legal title to the property which he or his predecessor actually occupied or possessed within four years from the commencement of an action or defense. This section may not bar any defense by a city or town to an action by the holder of a tax title, to the effect that the city or town holds a lien against the property which is equal or superior to the claim of the holder of the tax title.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-207 Actions or defenses founded upon title to real estate.

An action, defense, or counterclaim to an action based upon title to the property or entitlement to the rents or profits from the property shall be brought:
(1) not later than seven years after the act on which it is based; and
(2) by the ancestor, predecessor, or grantor of the person who owned or possessed the property for seven years before the act in Subsection (1) took place.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-208 Adverse possession -- Possession presumed in owner.

(1) In an action for the recovery of real property, it is presumed that:
  (a) the person establishing legal title to the property has been in possession of the property; and
  (b) any occupation of the property has been under and in subordination to the legal title.
(2) Subsection (1) may be rebutted by a showing that the property has been held and possessed adversely to the legal title for at least seven years before commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-209 Adverse possession -- Presumption -- Proviso -- Tax title.

(1) In an action for the recovery or possession of real property, to quiet title to or determine the property's owner, the person establishing a legal title to the property is presumed to have been in possession of the property within the time required by law. The occupation of the property by any other person is considered to have been under and in subordination to the legal title, unless it appears that the property has been held and possessed adversely to the legal title for seven years before the commencement of the action.
(2) If in any action a party establishes prima facie evidence of ownership of any real property under a tax title held by him and his predecessors for four years prior to the commencement of the action, he is presumed to be the owner of the property by adverse possession. This presumption may be rebutted if it appears that the owner of the legal title or his predecessor has actually occupied or been in possession of the property under the title or that the tax title owner and his predecessors have failed to pay all the taxes levied or assessed upon the property within the four-year period.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-210 Adverse possession -- Under written instrument or judgment.

(1) Property is considered to have been adversely held if a person in possession of the property, either personally or through another:
  (a)
    (i) possesses a written document purporting to convey title; or
    (ii) possesses a decree or judgment from a court of competent jurisdiction conveying title; and
  (b) has occupied the property continuously for at least seven years.
(2) If the property consists of a tract divided into lots, the possession of one lot is not considered a possession of any other lot in the same tract.

Amended by Chapter 141, 2023 General Session

78B-2-211 What constitutes adverse possession under written instrument.

For the purpose of constituting an adverse possession by any person claiming a title based upon a written instrument or a judgment or decree, the property is considered to have been possessed if:
(1) it has been usually cultivated or improved;
(2) it has been protected by a substantial enclosure;

(3) although not enclosed, it has been used for the supply of fuel, fencing timber, for the purpose of husbandry, or for pasturage or for the ordinary use of the occupant; or
(4) where a known farm or single lot has been partly improved, the portion of the farm or lot which may have been left not cleared or not inclosed according to the usual course and custom of the adjoining county is considered to have been occupied for the same length of time as the part improved and cultivated.

Amended by Chapter 146, 2009 General Session

78B-2-212 Adverse possession -- Under claim not founded on written instrument or judgment.

Where it appears that there has been an actual continued occupation of land under claim of title, exclusive of any other right, but not founded upon a written instrument, judgment or decree, the land actually occupied and no other, is considered to have been held adversely.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-213 What constitutes adverse possession not under written instrument.

Land is considered to be possessed and occupied adversely by a person claiming title not founded upon a written instrument, judgment, or decree in the following cases only, where:
(1) it has been protected by a substantial enclosure;
(2) it has been usually cultivated or improved; or
(3) labor or money amounting to the sum of $5 per acre has been expended upon dams, canals, embankments, aqueducts, or otherwise for the purpose of irrigating the land.

Amended by Chapter 33, 2016 General Session

78B-2-214 Adverse possession -- Continuous -- Seven years -- Taxes paid.

Adverse possession may not be established unless it is shown that the land has been occupied and claimed continuously for seven years, and that the party and the party's predecessors and grantors have paid all taxes which have been levied and assessed upon the land according to law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-215 Adverse possession -- Payment of taxes -- Proviso -- Tax title.

Payment of all the taxes levied and assessed upon the real property for a period of not less than four years by the holder of a tax title to the real property or his predecessors is sufficient to satisfy the requirements of this chapter regarding the payment of taxes necessary to establish adverse possession.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-216 Adverse possession of certain real property.

(1) As used in this section:
(a) "Government entity" means a town, city, county, metropolitan water district, or special district.
(b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:
(a) held by a government entity; and
(b) designated for any present or future public use, including:
(i) a street;
(ii) a lane;
(iii) an avenue;
(iv) an alley;
(v) a park;
(vi) a public square;
(vii) a water facility; or
(viii) a water conveyance right-of-way or water conveyance corridor.
(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:
(a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and
(b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).
(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

Amended by Chapter 16, 2023 General Session

78B-2-217 Adverse possession -- Possession of tenant considered possession of landlord.

When a landlord and tenant relationship exists between persons, the possession of the tenant is considered the possession of the landlord until the expiration of seven years after the termination of the tenancy, or, if there has been no written lease, until seven years from the time of the last payment of rent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-218 Adverse possession -- Possession not affected by descent cast.

The right of a person to the possession of real property is not impaired or affected by a descent cast in consequence of the death of a person in possession of the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-219 Adverse possession -- Action to redeem mortgage of real property.

An action to redeem a mortgage of real property, with or without an account of rents and profits, may not be brought by the mortgagor, or those claiming under him, against the mortgagee in possession, or those claiming under him, unless an adverse possession of the mortgaged premises for seven years after breach of some condition of the mortgage has been continuously maintained by the mortgagor or those claiming under him.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-220 Redemption when more than one mortgagor.

If there is more than one mortgagor, or more than one person claiming under a mortgagor, some of whom are not entitled to maintain an action under the provisions of this article, any one of them who is entitled to maintain an action may redeem a divided or undivided part of the mortgaged premises as his interest may appear, and have an accounting for a part of the rents and profits proportionate to his interest in the mortgaged premises, on payment of a part of the mortgage money, bearing the same proportion to the whole of the money as the value of his divided or undivided interest in the premises bears to the whole of the premises.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-221 Actions to recover estate sold by guardian.

An action for the recovery of an estate sold by a guardian shall be brought by the ward, or any person claiming under the ward, within three years after the termination of the guardianship.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-222 Actions to recover estate sold by executor or administrator.

An action for the recovery of an estate sold by an executor or administrator in the course of a probate proceeding shall be maintained by an heir or other person claiming under the decedent within three years after the sale. An action to set aside the sale shall be instituted and maintained within three years from the discovery of the fraud or other lawful grounds upon which the action is based.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-223 Minority or disability prevents running of period.

Sections 78B-2-221 and 78B-2-222 shall not apply to minors or others under any legal disability to sue at the time when the right of action first accrues. Section 78B-2-224 shall apply in those circumstances.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-224 Disabilities -- Time tolled.

A statute of limitations may not be applied to a person's ability to bring an action during a period in which the person is:
(1) a minor; or
(2) mentally incompetent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-225 Actions related to improvements in real property.

(1) As used in this section:
(a) "Abandonment" means that there has been no design or construction activity on an improvement for a continuous period of at least one year.
(b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, regardless of whether that action is based in tort, contract, warranty, strict liability, product liability, indemnity, contribution, or other source of law.

(c) "Completion" means the date of substantial completion of an improvement to real property as established by the earliest of:
(i) a Certificate of Substantial Completion;
(ii) a Certificate of Occupancy issued by a governing agency; or
(iii) the date of first use or possession of the improvement.
(d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.
(e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.
(f) "Provider" means any person:
(i) contributing to, providing, or performing:
(A) studies, plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys, staking, construction, installation, or labor to an improvement; or
(B) the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement; or
(ii) providing or contributing materials, products, or equipment that is incorporated into an improvement.

(2) The Legislature finds that:
(a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;
(b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;
(c) these costs and hardships constitute clear social and economic evils;
(d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and
(e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action by or against a provider arising out of or related to the design, construction, or installation of an improvement.

(3)
(a) Except as provided in Subsections (3)(b) and (c), an action by or against a provider based in contract or warranty shall be commenced within six years after the date of completion or abandonment of an improvement.
(b) If a provider is required by an express term of a contract or warranty to perform an obligation later than the six-year period described in Subsection (3)(a), and the provider fails to perform the obligation as required, an action for that breach of the contract or warranty shall be commenced within two years after the day on which the breach is discovered or should have been discovered.
(c) If a contract or warranty expressly establishes a different period of limitations than this section, the action shall be commenced within that limitations period.

(4)
(a) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of action should have been discovered through reasonable diligence.
(b) If the cause of action is discovered or discoverable before completion or abandonment of an improvement, the two-year period begins to run upon completion or abandonment.

(c) Notwithstanding Subsection (4)(a), and except as provided in Subsection (4)(d), an action under this Subsection (4) may not be commenced against a provider more than nine years after completion or abandonment of an improvement.
(d) If an action under Subsection (4)(a) is discovered or discoverable in the eighth or ninth year of the nine-year period, a claimant shall have two years from the date of discovery to commence an action.
(5) Subsection (4) does not apply to an action against a provider:
(a) who has fraudulently concealed the provider's act, error, omission, or breach of duty, or the injury, damage, or other loss caused by the provider's act, error, omission, or breach of duty; or
(b) for a willful or intentional act, error, omission, or breach of duty.
(6) If an individual otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that individual was a minor or mentally incompetent and without a legal guardian, that individual shall have two years from the date the disability is removed to commence the action.
(7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.
(8) This section does not apply to any action against any person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.
(9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.
(10) This section does not create or modify any claim or cause of action.
(11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.

Amended by Chapter 97, 2020 General Session

78B-2-226 Boundary surveys.

An action against a surveyor for acts, errors, or omissions in the performance of a boundary survey filed pursuant to Section 17-23-17 shall be brought within five years of the date of the filing.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3
Other than Real Property

78B-2-301 Within six months.

An action may be brought within six months against a tax collector or the tax collector's designee:
(1) to recover any goods, wares, merchandise, other property seized in his official capacity, or the price or value of any of it;
(2) for damages for the seizure, detention, sale of, or injury to, any goods, wares, merchandise, or other personal property seized;
(3) for damages done to any person or property in making a seizure;
(4) for money paid or seized under protest and which, it is claimed, ought to be refunded.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-302 Within one year.

An action may be brought within one year:

(1) for liability created by the statutes of a foreign state;

(2) upon a statute for a penalty or forfeiture where the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation;

(3) except as provided in Section 78B-2-307.5, upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the state;

(4) for libel, slander, false imprisonment, or seduction;

(5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned upon either civil or criminal process;

(6) against a municipal corporation for damages or injuries to property caused by a mob or riot;

(7) except as otherwise expressly provided by statute, against a county legislative body or a county executive to challenge a decision of the county legislative body or county executive, respectively;

(8) on a claim for relief or a cause of action under Title 63L, Chapter 5, Utah Religious Land Use Act; or

(9) for a claim for relief or a cause of action under Subsection 25-6-203(2).

Amended by Chapter 204, 2017 General Session

78B-2-303 One year -- Actions on claims against county, city, or town.

Actions on claims against a county, city, or incorporated town, which have been rejected by the county executive, city commissioners, city council, or board of trustees shall be brought within one year after the first rejection.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-304 Within two years.

An action may be brought within two years:

(1) against a marshal, sheriff, constable, or other officer for liability incurred during the performance of the officer's official duties or by the omission of an official duty, including the nonpayment of money collected upon an execution;

(2) for recovery of damages for a death caused by the wrongful act or neglect of another;

(3) in causes of action against the state and its employees, for injury to the personal rights of another if not otherwise provided by state or federal law; or

(4) in causes of action against a political subdivision of the state and its employees, for injury to the personal rights of another arising after May 1, 2000, if not otherwise provided by state or federal law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-305 Within three years.

An action may be brought within three years:

(1) for waste, trespass upon, or injury to real property; except that when waste or trespass is committed by means of underground works upon any mining claim, the cause of action does

not accrue until the discovery by the aggrieved party of the facts constituting the waste or trespass;
(2) for taking, detaining, or injuring personal property, including actions for specific recovery, except that:
(a) in cases where the subject of the action is a domestic animal usually included in the term "livestock," which at the time of its loss has a recorded mark or brand, if the animal strayed or was stolen from the true owner without the owner's fault, the cause does not accrue until the owner has actual knowledge of facts that would put a reasonable person upon inquiry as to the possession of the animal by the defendant; and
(b) as provided in Subsection 78B-2-307(3), for a claim involving damage to personal property from an accident involving a motor vehicle as defined in Section 41-6a-102, including an accident involving a motor vehicle and bicycle, the action may be brought within four years;
(3) for relief on the ground of fraud or mistake; except that the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting the fraud or mistake;
(4) for a liability created by the statutes of this state, other than for a penalty or forfeiture under the laws of this state, except where in special cases a different limitation is prescribed by the statutes of this state; or
(5) to enforce liability imposed by Section 78B-3-603, or for damages under Section 78B-6-1701, except that the cause of action does not accrue until the aggrieved party knows or reasonably should know of the harm suffered.

Amended by Chapter 185, 2023 General Session

78B-2-306 Action against corporate stockholders or directors.

Actions against directors or stockholders of a corporation to recover a penalty or forfeiture imposed, or to enforce a liability created shall be brought within three years after the discovery by the aggrieved party of the facts upon which the penalty or forfeiture attached, or the liability accrued. Actions against stockholders of a bank pursuant to levy of assessment to collect their statutory liability must be brought within three years after the levy of the assessment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-307 Within four years.

An action may be brought within four years:
(1) after the last charge is made or the last payment is received:
(a) upon a contract, obligation, or liability not founded upon an instrument in writing;
(b) on an open store account for any goods, wares, or merchandise; or
(c) on an open account for work, labor or services rendered, or materials furnished;
(2) for a claim for relief or a cause of action under the following sections of Title 25, Chapter 6, Uniform Voidable Transactions Act:
(a) Subsection 25-6-202(1)(a), except in specific situations where the time for action is limited to one year under Section 25-6-305;
(b) Subsection 25-6-202(1)(b); or
(c) Subsection 25-6-203(1);
(3) for a claim involving personal property damage to the aggrieved party's motor vehicle, as defined in Section 41-6a-102, or personal property from an accident involving a motor vehicle; and
(4) for relief not otherwise provided for by law.

Amended by Chapter 185, 2023 General Session

78B-2-307.5 Within two years.

An action may be brought within two years upon a statute in Title 19, Environmental Quality Code, for a forfeiture or penalty to the state, if the violation occurred on or after May 10, 2016.

Enacted by Chapter 388, 2016 General Session

78B-2-308 Legislative findings -- Civil actions for sexual abuse of a child -- Window for revival of time barred claims.

(1) The Legislature finds that:

(a) child sexual abuse is a crime that hurts the most vulnerable in our society and destroys lives;

(b) research over the last 30 years has shown that it takes decades for children and adults to pull their lives back together and find the strength to face what happened to them;

(c) often the abuse is compounded by the fact that the perpetrator is a member of the victim's family and when such abuse comes out, the victim is further stymied by the family's wish to avoid public embarrassment;

(d) even when the abuse is not committed by a family member, the perpetrator is rarely a stranger and, if in a position of authority, often brings pressure to bear on the victim to ensure silence;

(e) in 1992, when the Legislature enacted the statute of limitations requiring victims to sue within four years of majority, society did not understand the long-lasting effects of abuse on the victim and that it takes decades for the healing necessary for a victim to seek redress;

(f) the Legislature, as the policy-maker for the state, may take into consideration advances in medical science and understanding in revisiting policies and laws shown to be harmful to the citizens of this state rather than beneficial; and

(g) the Legislature has the authority to change old laws in the face of new information, and set new policies within the limits of due process, fairness, and justice.

(2) As used in this section:

(a) "Child" means an individual under 18 years old.

(b) "Discovery" means when a victim knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any individual cohabiting in the child's home.

(f) "Perpetrator" means an individual who has committed an act of sexual abuse.

(g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.

(h) "Victim" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.

(3)

(a) A victim may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time.

(b) A victim may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:

(i) within four years after the individual attains the age of 18 years; or

(ii) if a victim discovers sexual abuse only after attaining the age of 18 years, that individual may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.

(4) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.

(5) The knowledge of a custodial parent or guardian may not be imputed to an individual under the age of 18 years.

(6) A civil action may be brought only against a living individual who:

(a) intentionally perpetrated the sexual abuse;

(b) would be criminally responsible for the sexual abuse in accordance with Section 76-2-202; or

(c) negligently permitted the sexual abuse to occur.

(7) A civil action against an individual described in Subsection (6)(a) or (b) for sexual abuse that was time barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of the effective date of this Subsection (7), whichever is longer.

(8) A civil action may not be brought as provided in Subsection (7) for:

(a) any claim that has been litigated to finality on the merits in a court of competent jurisdiction prior to July 1, 2016, however termination of a prior civil action on the basis of the expiration of the statute of limitations does not constitute a claim that has been litigated to finality on the merits; and

(b) any claim where a written settlement agreement was entered into between a victim and a defendant or perpetrator, unless the settlement agreement was the result of fraud, duress, or unconscionability. There is a rebuttable presumption that a settlement agreement signed by the victim when the victim was not represented by an attorney admitted to practice law in this state at the time of the settlement was the result of fraud, duress, or unconscionability.

Amended by Chapter 430, 2022 General Session

78B-2-309 Within six years -- Mesne profits of real property -- Instrument in writing -- Fire suppression.

(1) An action may be brought within six years:

(a) for the mesne profits of real property;

(b) subject to Subsection (2), upon any contract, obligation, or liability founded upon an instrument in writing, except those mentioned in Section 78B-2-311; or

(c) to recover fire suppression costs or other damages caused by wildland fire.

(2) For a credit agreement, as defined in Section 25-5-4, the six-year period described in Subsection (1) begins the later of the day on which:

(a) the debt arose;

(b) the debtor makes a written acknowledgment of the debt or a promise to pay the debt; or

(c) the debtor or a third party makes a payment on the debt.

Amended by Chapter 107, 2019 General Session

78B-2-310 Actions against public officers -- Within six years.

An action by the state, an agency, or a public corporation against a public officer for malfeasance, misfeasance, or nonfeasance in office or against a crime insurance policy in relation to the public officer's duties may be brought within six years after the officer ceases to hold the office.

Amended by Chapter 76, 2025 General Session

78B-2-311 Eight years.

An action may be brought within eight years upon the date of:

(1) entry of a judgment or decree of any court of the United States, or of any state or territory within the United States; or

(2) renewal of a judgment described in Subsection (1) according to the procedures and requirements of Title 78B, Chapter 6, Part 18, Renewal of Judgment Act.

Amended by Chapter 493, 2025 General Session

78B-2-312 Action on mutual account -- When considered accrued.

In an action brought to recover a balance due upon a mutual, open, and current account, where there have been reciprocal demands between the parties, the cause of action shall be considered to have accrued from the time of the last item proved in the account on either side.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-313 Action to recover deficiency after short sale.

(1) As used in this section:

(a) "Deficiency" means the balance owed to a secured lender under a secured loan after completion of a short sale of the secured property.

(b) "Obligor" means the person or persons obligated to pay a secured loan.

(c) "Secured lender" means the person or persons to whom the obligation under a secured loan is owed.

(d) "Secured loan" means a loan or other credit for personal, family, or household purposes secured by a mortgage or trust deed on secured property.

(e) "Secured property" means single-family, residential real property located in the state that is the subject of a mortgage or trust deed to secure a secured loan.

(f) "Short sale" means a sale:

(i) of secured property;

(ii) by the owner of the secured property;

(iii) that results in the secured lender being paid less than the balance owing under the secured loan; and

(iv) made with the secured lender's consent and resulting in the secured lender releasing the mortgage or reconveying the trust deed on the secured property.

(2) An action to recover a deficiency is barred unless it is commenced no more than three months after the date of recording of a release of mortgage or reconveyance of trust deed with respect to secured property and resulting from a short sale of that property.
(3) Subsection (2) does not apply if the obligor or owner engaged in fraud in connection with the short sale.
(4) Subsection (2) does not apply to an agreement that:
(a) is executed:
(i) between one or more obligors under a secured loan and the secured lender; and
(ii) in connection with a short sale; and
(b) obligates an obligor to pay some or all of a deficiency.

Amended by Chapter 278, 2013 General Session

78B-2-314 Statute of limitations -- Permanent or continuing trespass -- Damages.

In accordance with Section 78B-2-305, an action for damage created by trespass shall be brought within three years of discovery of the last trespass incident which includes a permanent or continuing trespass that caused the damage.

Enacted by Chapter 401, 2013 General Session

Chapter 3
Civil Actions

Part 1
Right to Sue and Be Sued

78B-3-101.1 Definitions for part.

As used in this part:
(1) "Defendant" means a person against which a civil action is brought.
(2) "Plaintiff" means a person that brings a civil action.
(3) "Third party" means a person other than the plaintiff.
(4) "Traditional standing requirement" means the requirement established by the Utah Supreme Court that a plaintiff bringing a private right of action can establish that the plaintiff has an injury in fact, causation, and redressability.

Enacted by Chapter 454, 2025 General Session

78B-3-101.3 Requirements for a private right of action -- Findings.

(1) The Legislature finds that:
(a) the traditional standing requirement in a private right of action is important to ensure that a plaintiff has a personal stake in the outcome of the action;
(b) the traditional standing requirement respects and safeguards the core constitutional principles of separation of powers by limiting a court's authority to hear only a private right of action where the plaintiff has a personal stake in the outcome of the action;

(c) the traditional standing requirement protects the legal rights and interests of the person with the right to bring the private right of action; and
(d) allowing a plaintiff that does not meet the traditional standing requirement for a claim that asserts the constitutional rights of a third party in a private right of action:
(i) infringes on the constitutional and statutory rights of the third party to bring a private right of action on the third party's own behalf;
(ii) conflicts with statutory and procedural laws that recognize that a real party in interest is the proper party for bringing a private right of action; and
(iii) circumvents class action laws that protect a third party from having claims litigated on the third party's behalf without the third party's knowledge or consent.
(2) For a plaintiff to bring a private right of action in a court of this state, the plaintiff shall meet the traditional standing requirement in a private right of action.
(3) If a plaintiff brings a private right of action in a court of this state with a claim asserting the constitutional rights of a third party, the plaintiff shall establish that:
(a) the third party meets the traditional standing requirement for bringing the action;
(b) the plaintiff has a substantial relationship with the third party;
(c) there is no way for the third party to bring a private right of action to assert the third party's own constitutional rights; and
(d) the third party's constitutional rights would be weakened without the plaintiff bringing the action.
(4) If the plaintiff is an association bringing a private right of action on behalf of any member of the association, the plaintiff shall plead with particularity that:
(a) the member meets the traditional standing requirement for bringing a private right of action;
(b) the member consents to the association bringing the action on the behalf of the member; and
(c) the participation of the member is not necessary to the resolution of the action.
(5) Notwithstanding Subsection (1) or (2), a plaintiff may bring a private right of action in a court of this state if the plaintiff is authorized by statute to bring the private right of action.
(6) A court shall dismiss a private right of action if the plaintiff cannot demonstrate that the plaintiff meets the requirements of this section.

Enacted by Chapter 454, 2025 General Session

78B-3-101.5 Husband and wife -- Actions -- Defense -- Absent spouse.

(1) If a husband and wife are sued jointly, either or both may defend in each one's own right or for both parties.
(2) Either party to a marriage may sue and be sued in the same manner as if the person is unmarried.
(3)
(a) When a spouse has deserted the family, the remaining spouse may prosecute or defend in the absent spouse's name any action which the absent spouse might have prosecuted or defended.
(b) All powers and rights the absent spouse might have shall be extended to the remaining spouse.

Renumbered and Amended by Chapter 454, 2025 General Session

78B-3-102 Injury of a child -- Suit by parent or guardian.

(1) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, a parent or guardian may bring an action for the injury of a minor child when the injury is caused by the wrongful act or neglect of another.
(2) A civil action may be maintained against the person causing the injury or, if the person is employed by another person who is responsible for that person's conduct, also against the employer.
(3) If a parent, stepparent, adoptive parent, or legal guardian is the alleged defendant in an action for the injury of a child, a guardian ad litem may be appointed for the injured child according to the procedures outlined in Sections 78A-2-703 and 78A-2-705.

Amended by Chapter 267, 2014 General Session

78B-3-103 Successive actions on same contract.

Successive actions may be maintained upon the same contract or transaction if, after a former action, a new cause of action arises from it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-104 Actions against officers -- Bond required -- Costs and attorney fees.

(1) A person may not file an action against a law enforcement officer acting within the scope of the officer's official duties unless the person has posted a bond in an amount determined by the court.
(2) The bond shall cover all estimated costs and attorney fees the officer may be expected to incur in defending the action, in the event the officer prevails.
(3) The prevailing party shall recover from the losing party all costs and attorney fees allowed by the court.
(4) In the event the plaintiff prevails, the official bond of the officer shall be liable for the plaintiff's costs and attorney fees.

Enacted by Chapter 3, 2008 General Session

78B-3-105 Definition of heirs.

As used in Sections 78B-3-106 and 78B-3-107, "heirs" means the following surviving persons:
(1) the decedent's spouse;
(2) the decedent's children as provided in Section 75-2-114;
(3)
  (a) the decedent's natural parents; or
  (b) if the decedent was adopted, the decedent's adoptive parents;
(4) the decedent's stepchildren who:
  (a) are younger than 18 years old at the time of decedent's death; and
  (b)
    (i) received financial support from the decedent at the time of decedent's death; or
    (ii) resided with the decedent on at least a part-time basis at the time of the decedent's death; or
(5) any blood relative as provided by the law of intestate succession if the decedent is not survived by a person under Subsection (1), (2), or (3).

Amended by Chapter 190, 2022 General Session

78B-3-106 Death of a person -- Suit by heir or personal representative.

(1) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, when the death of a person is caused by the wrongful act or neglect of another, his heirs, or his personal representatives for the benefit of his heirs, may maintain an action for damages against the person causing the death, or, if the person is employed by another person who is responsible for his conduct, then against the other person.

(2) If the adult person has a guardian at the time of his death, only one action may be maintained for the person's injury or death.

(3) The action may be brought by either the personal representatives of the adult deceased person, for the benefit of the person's heirs, or by the guardian for the benefit of the heirs, as defined in Section 78B-3-105.

(4) In every action under this section and Section 78B-3-105 damages may be given as under all the circumstances of the case may be just.

Amended by Chapter 79, 2009 General Session
Amended by Chapter 146, 2009 General Session

78B-3-106.5 Claims brought by presumptive personal representative.

(1) "Presumptive personal representative" means:

(a) the spouse of the decedent not alleged to have contributed to the death of the decedent;

(b) if no spouse exists, the spouse of the decedent is incapacitated, or if the spouse of the decedent is alleged to have contributed to the death of the decedent, then an adult child of the decedent not alleged to have contributed to the death of the decedent; or

(c) if the spouse and all children of the decedent are incapacitated, or are alleged to have contributed to the death of the decedent, then a parent of the decedent.

(2)

(a) Forty-five days after the death of a person, including a minor, caused by the wrongful act or neglect of another, the presumptive personal representative may present to an insurer and resolve with the insurer a claim for policy limits up to $25,000 for liability and uninsured motorist claims, $10,000 for underinsured motorist claims, and execute any applicable release of liability upon presentation of an affidavit, properly notarized, stating that:

(i) the person presenting the affidavit is the presumptive personal representative;

(ii) 45 days have elapsed since the death of the decedent;

(iii) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(iv) notice of intent to resolve the claim has been sent to the last-known addresses of all heirs as defined by Section 78B-3-105.

(b) Claims for personal injury protection benefits resulting from the death of an insured are exempt from the 45-day waiting requirement, but shall include all information required in Subsections (2)(a)(i), (iii), and (iv).

(3) The presumptive personal representative's claim shall be on behalf of all heirs of the decedent as defined by Section 78B-3-105. The personal representative shall have the same duties toward other heirs as those duties provided in Sections 75-3-701 through 75-3-720.

(4) Any insurer and its insured paying a claim arising out of the wrongful death of a person, including a minor, including but not limited to claims for uninsured or underinsured motorist coverage as provided in Section 31A-22-305, to a presumptive personal representative upon presentation of an affidavit as described in Subsection (2) are discharged and released to

the same extent as if the insurer and its insured dealt with a personal representative of the decedent. The insurer and its insured are not required to inquire into the truth of any statement in the affidavit.

(5) Nothing in this section affects or prevents, to the limits of insurance protection only, any claim for first party benefits or a proceeding to establish the liability of a tort feasor insured under any policy of insurance in addition to the policy under which the claim was presented and paid under Subsection (2).

(6) If any heirs are minors, the presumptive personal representative may not distribute more than 50% of the proceeds of the settlement until the distribution has been approved by a court approved settlement in which a conservator is appointed for any minor heirs.

Amended by Chapter 274, 2022 General Session

78B-3-107 Survival of action for injury or death to individual, upon death of wrongdoer or injured individual -- Exception and restriction to out-of-pocket expenses.

(1)

(a) A cause of action arising out of personal injury to an individual, or death caused by the wrongful act or negligence of a wrongdoer, does not abate upon the death of the wrongdoer or the injured individual. The injured individual, or the personal representatives or heirs of the individual who died, has a cause of action against the wrongdoer or the personal representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).

(b) If, prior to judgment or settlement, the injured individual dies as a result of a cause other than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal representatives or heirs of the individual have a cause of action against the wrongdoer or personal representatives of the wrongdoer for special and general damages which resulted from the injury caused by the wrongdoer and which occurred prior to death of the injured individual from the unrelated cause.

(c) If the death of the injured individual from an unrelated cause occurs more than six months after the incident giving rise to the claim for damages, the claim shall be limited to special damages unless, prior to the injured individual's death:

(i) written notice of intent to hold the wrongdoer responsible has been mailed to or served upon the wrongdoer or the wrongdoer's insurance carrier or the uninsured motorist carrier of the injured individual, and proof of mailing or service can be produced upon request; or

(ii) a claim for damages against the wrongdoer or against the uninsured motorist carrier of the injured individual is the subject of ongoing negotiations between the parties or persons representing the parties or their insurers.

(d) A subsequent claim against an underinsured motorist carrier for which the injured individual was a covered person is not subject to the notice requirement described in Subsection (1)(c).

(2) Under Subsection (1) neither the injured individual nor the personal representatives or heirs of the individual who dies may recover judgment except upon competent satisfactory evidence other than the testimony of the injured individual.

(3) This section may not be construed to be retroactive.

Amended by Chapter 387, 2019 General Session

78B-3-108 Shoplifting -- Merchant's rights -- Civil liability for shoplifting by adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice required for penalty demand.

(1) As used in this section:
(a) "Merchandise" has the same meaning as provided in Section 76-6-601.
(b) "Merchant" has the same meaning as provided in Section 76-6-601.
(c) "Minor" has the same meaning as provided in Section 76-6-601.
(d) "Premises" has the same meaning as "retail mercantile establishment" found in Section 76-6-601.
(2)
(a) A merchant may request an individual on the merchant's premises to place or keep in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.
(b) The merchant may not be criminally or civilly liable for having made the request.
(3)
(a) A merchant who has reason to believe that an individual has committed any of the offenses listed in Subsection 76-6-404(3)(b)(ii)(A), (B), or (C) and that the merchant can recover the merchandise by taking the individual into custody and detaining the individual may, for the purpose of attempting to recover the merchandise or for the purpose of informing a peace officer of the circumstances of the detention, take the individual into custody and detain the individual in a reasonable manner and for a reasonable length of time.
(b) Neither the merchant nor the merchant's employee may be criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type of claim or action unless the custody and detention are unreasonable under all the circumstances.
(4)
(a) A merchant may prohibit an individual who has committed any of the offenses listed in Subsection 76-6-404(3)(b)(ii) from reentering the premises on which the individual has committed the offense.
(b) The merchant shall give written notice of this prohibition to the individual under Subsection (4)(a). The notice may be served by:
(i) delivering a copy to the individual personally;
(ii) sending a copy through registered or certified mail addressed to the individual at the individual's residence or usual place of business;
(iii) leaving a copy with an individual of suitable age and discretion at either location under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or place of business if the individual is absent from the residence or usual place of business; or
(iv) affixing a copy in a conspicuous place at the individual's residence or place of business.
(c) The individual serving the notice may authenticate service with the individual's signature, the method of service, and legibly documenting the date and time of service.
(5) An adult who commits any of the offenses listed in Subsection 76-6-404(3)(b)(ii)(A), (B), or (C) is also liable in a civil action for:
(a) actual damages;
(b) a penalty to the merchant in the amount of the retail price of the merchandise not to exceed $1,000; and
(c) an additional penalty as determined by the court of not less than $100 nor more than $500, plus court costs and reasonable attorney fees.

(6) A minor who commits any of the offenses listed in Subsection 76-6-404(3)(b)(ii)(A), (B), or (C) and the minor's parents or legal guardian are jointly and severally liable in a civil action to the merchant for:
  (a) actual damages;
  (b) a penalty to be remitted to the merchant in the amount of the retail price of the merchandise not to exceed $500 plus an additional penalty as determined by the court of not less than $50 nor more than $500; and
  (c) court costs and reasonable attorney fees.
(7) A parent or guardian is not liable for damages under this section if the parent or guardian made a reasonable effort to restrain the wrongful taking and reported it to the merchant involved or to the law enforcement agency having primary jurisdiction once the parent or guardian knew of the minor's unlawful act. A report is not required under this section if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.
(8) A conviction in a criminal action for any of the offenses listed in Subsection 76-6-404(3)(b)(ii)(A), (B), or (C) is not a condition precedent to a civil action authorized under Subsection (5) or (6).
(9)
  (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give written notice to the individual or individuals from whom the penalty is sought. The notice shall state:
    "IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."
  (b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Subsection (5) or (6).
(10) The provision of Section 78B-8-201 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant either prior to or as part of a civil action.

Amended by Chapter 434, 2025 General Session

78B-3-109 Right to life -- State policy -- Act or omission preventing abortion not actionable -- Failure or refusal to prevent birth not a defense.
(1) The Legislature finds and declares that it is the public policy of this state to encourage all persons to respect the right to life of all other persons, regardless of age, development, condition, or dependency, including all persons with a disability and all unborn persons.
(2) A cause of action may not arise, and damages may not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.
(3) The failure or refusal of any person to prevent the live birth of a person may not be a defense in any action, and may not be considered in awarding damages or child support, or imposing a penalty, in any action.

Enacted by Chapter 3, 2008 General Session

78B-3-110 Defense to civil action for damages resulting from commission of crime.
(1) A person may not recover from the victim of a crime for personal injury or property damage if:

(a) the person entered the property of the victim or the victim's family with criminal intent and the injury or damage was inflicted by the victim or occurred while the person was on the victim's property; or
(b) the person committed a crime against the victim or the victim's family, during which the damage or injury occurred.
(2) The provisions of Subsection (1) do not apply if the person can prove by clear and convincing evidence that the person's actions did not constitute a crime.
(3) Subsection (1) applies to any next-of-kin, heirs, or personal representatives of the person if the person acquires a disability or is killed.
(4) Subsections (1) and (2) do not apply if the person committing or attempting to commit the crime has clearly retreated from the criminal activity.
(5) "Clearly retreated" means that the person committing the criminal act has fully, clearly, and immediately ceased all hostile, threatening, violent, or criminal behavior or activity.

Amended by Chapter 36, 2012 General Session

78B-3-111 Cause of action against attorney or law firm for referral fee -- Exceptions.
(1) As used in this section:
(a) "Attorney" means an individual who is authorized to provide legal services in any state or territory of the United States.
(b) "Client" means an individual who is provided legal services by an attorney or a law firm.
(c) "Client referral fee" means any amount paid by an attorney or a law firm to a person that is not an attorney for the purpose of referring the client to receive legal services from the attorney.
(d) "Law firm" means a person that employs an attorney.
(e) "Legal services" means any form of legal advice or legal representation that is subject to the laws of this state.
(2) A client may bring a cause of action against an attorney or a law firm to recover a client referral fee if:
(a) the attorney or the law firm pays a client referral fee; and
(b) the client referral fee was not disclosed to the client before the client paid for, or was obligated to pay for, legal services from the attorney or the law firm.
(3) A client may not bring a cause of action under this section if the client referral fee was paid:
(a) as part of a profit-sharing plan that complies with the requirements of Section 401, Internal Revenue Code;
(b) to a person that provides marketing services, including pay-per-click advertising, for the attorney or the law firm, and the client referral fee was not contingent on whether the attorney or the law firm retains a client; or
(c) to a third party debt collection agency, as that term is defined in Section 12-1-11, for the purpose of recovering money owed to the attorney by the client.
(4) Any attorney or law firm that provides legal services to the client in the matter for which the client referral fee was paid shall be jointly and severally liable in a cause of action under Subsection (2).
(5) This section applies to a cause of action described in Subsection (2) that arises on or after May 5, 2021.

Enacted by Chapter 128, 2021 General Session

78B-3-112 Action for mistaken or fraudulent transaction on a reversible blockchain.

(1) As used in this section:
(a) "Blockchain" means a digital ledger of transactions:
(i) that is distributed across multiple nodes;
(ii) that is mathematically verified; and
(iii) where the validity of transactions is maintained by consensus of nodes.
(b) "Blockchain administrator" means a person that is responsible for maintaining and overseeing a blockchain.
(c) "Division" means the Division of Consumer Protection created in Section 13-2-1.
(d) "Fraudulent transaction" means a transaction that a person undertakes with the intent to deceive another person, including a transaction that involves:
(i) false representation;
(ii) omissions of material fact; or
(iii) the use of a false or stolen identity.
(e) "Node" means a computer connected to a blockchain.
(f) "Proof of identity" means government-issued identification that contains the following information:
(i) a person's name;
(ii) an individual's date of birth;
(iii) a person's address, which is:
(A) for an individual, a residential or business street address;
(B) for an individual who does not have a residential or business street address, a Post Office box number or the residential or business street address of next of kin or of another contact individual; or
(C) for a person other than an individual, the principal place of business; and
(iv) an identification number, which is:
(A) for a United States person, a taxpayer identification number; or
(B) for a non-United States person, a taxpayer identification number, passport number and country of issuance, alien identification card number, or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.
(g) "Reversible blockchain" means a blockchain that:
(i) requires the blockchain's users to:
(A) provide proof of identity to the blockchain administrator;
(B) acknowledge and agree that all transactions occurring on the blockchain are subject to reversal by a sheriff node; and
(C) agree to be subject to jurisdiction of a court in Utah; and
(ii) requires the blockchain administrator to:
(A) verify a user's identity by checking the user's proof of identity against government-issued identification databases; and
(B) maintain records of a user's proof of identity for a minimum of five years.
(h) "Sheriff node" means the same as that term is defined in Section 67-5-39.
(i) "Transaction" means the transfer of digital assets, rights, privileges, or obligations from one person to another that occurs on a blockchain.
(j)
(i) "User" means a person that interacts with a blockchain.
(ii) "User" includes a person that is:
(A) sending or receiving transactions;
(B) accessing data stored on the blockchain;

(C) participating in consensus or governance mechanisms;
(D) running a node on the blockchain;
(E) interacting with smart contracts or decentralized applications; or
(F) holding or managing digital assets.
(2) A plaintiff may bring a cause of action against a person to reverse:
(a) a fraudulent transaction if:
(i) the transaction occurred on a reversible blockchain;
(ii) the plaintiff entered into the transaction with reasonable reliance on the person's:
(A) fraudulent representation;
(B) omission of material fact; or
(C) use of a false or stolen identity; and
(iii) the plaintiff was injured as a result of that reasonable reliance; or
(b) a mistaken transaction if:
(i) the transaction occurs on a reversible blockchain;
(ii) the transaction resulted in a transfer of assets:
(A) to the wrong recipient; or
(B) in the wrong amount; and
(iii) the recipient's refusal to return the assets resulted in the unjust enrichment of the recipient.
(3) Upon a finding of a mistaken or fraudulent transaction, the court shall issue an order to the Office of the Attorney General to reverse the transaction in accordance with Section 67-5-39.

Enacted by Chapter 365, 2023 General Session

78B-3-113 Right of action for a victim of a human trafficking offense.
(1) As used in this section:
(a) "Human trafficking offense" means an offense for:
(i) human trafficking for labor under Section 76-5-308;
(ii) human trafficking for sexual exploitation under Section 76-5-308.1;
(iii) human smuggling under Section 76-5-308.3;
(iv) human trafficking of a child under Section 76-5-308.5;
(v) aggravated human trafficking under Section 76-5-310;
(vi) aggravated human smuggling under Section 76-5-310.1; or
(vii) benefitting from human trafficking under Section 76-5-309.
(b) "Victim" means an individual against whom a human trafficking offense has been committed.
(2) A victim has a right of action against a person that committed a human trafficking offense against the victim to recover:
(a) actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief for the human trafficking offense; and
(b) treble damages on proof of actual damages for the human trafficking offense if the court finds that the person's acts were willful and malicious.
(3) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, a victim may only bring an action described in this section within 10 years after the later of:
(a) the day on which the victim was freed from the human trafficking or human smuggling situation;
(b) the day on which the victim reaches 18 years old; or
(c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.

(4) The time period described in Subsection (3) is tolled during a period of time when the victim fails to bring an action due to the person:
(a) inducing the victim to delay filing the action;
(b) preventing the victim from filing the action; or
(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.
(5) The court shall credit any restitution paid by the person to the victim as described in Subsection 77-38b-303(5)(b).
(6) The court shall award reasonable attorney fees and costs as described in Subsection 77-38b-303(7) in an action brought under this section.
(7)
(a) Notwithstanding Chapter 3a, Venue for Civil Actions, a victim shall bring an action under this section in the county in which:
(i) the human trafficking offense occurred;
(ii) the victim resides; or
(iii) the defendant resides at the commencement of the action.
(b) If the defendant is a business organization as defined in Section 78B-3a-101, the residence of the business organization is as described in Section 78B-3a-104.
(8) If the victim is deceased or otherwise unable to represent the victim's own interests in the action, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.
(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

Renumbered and Amended by Chapter 331, 2024 General Session

Part 2
Nonresident Jurisdiction Act

78B-3-201 Title -- Purpose.
(1) This part is known as the "Nonresident Jurisdiction Act."
(2) It is declared, as a matter of legislative policy, that the public interest demands the state provide its citizens with an effective means of redress against nonresident persons, who, through certain significant minimal contacts with this state, incur obligations to citizens entitled to the state's protection. This legislative action is necessary because of technological progress which has substantially increased the flow of commerce between the several states resulting in increased interaction between persons of this state and persons of other states.
(3) The provisions of this part, to ensure maximum protection to citizens of this state, should be applied so as to assert jurisdiction over nonresident defendants to the fullest extent permitted by the due process clause of the Fourteenth Amendment to the United States Constitution.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-202 Definitions.
As used in this part:
(1) The words "any person" mean any individual, firm, company, association, or corporation.

(2) The words "transaction of business within this state" mean activities of a nonresident person, his agents, or representatives in this state which affect persons or businesses within the state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-204 Effect of failure to appoint registered agent -- Service of process upon nonresident.

If a nonresident person doing business fails to appoint a registered agent within the state in accordance with Title 16, Chapter 17, Model Registered Agents Act, service of process may be made by serving any person employed by or acting as an agent for the nonresident.

Amended by Chapter 43, 2010 General Session

Superseded 9/1/2025

78B-3-205 Acts submitting person to jurisdiction.

Notwithstanding Section 16-10a-1501, any person or personal representative of the person, whether or not a citizen or resident of this state, who, in person or through an agent, does any of the following enumerated acts is subject to the jurisdiction of the courts of this state as to any claim arising out of or related to:

(1) the transaction of any business within this state;
(2) contracting to supply services or goods in this state;
(3) the causing of any injury within this state whether tortious or by breach of warranty;
(4) the ownership, use, or possession of any real estate situated in this state;
(5) contracting to insure any person, property, or risk located within this state at the time of contracting;
(6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or
(7) the commission of sexual intercourse within this state which gives rise to a paternity suit under Title 78B, Chapter 15, Utah Uniform Parentage Act, to determine paternity for the purpose of establishing responsibility for child support.

Renumbered and Amended by Chapter 3, 2008 General Session

Effective 9/1/2025

78B-3-205 Acts submitting person to jurisdiction.

Notwithstanding Section 16-10a-1501, any person or personal representative of the person, whether or not a citizen or resident of this state, who, in person or through an agent, does any of the following enumerated acts is subject to the jurisdiction of the courts of this state as to any claim arising out of or related to:

(1) the transaction of any business within this state;
(2) contracting to supply services or goods in this state;
(3) the causing of any injury within this state whether tortious or by breach of warranty;
(4) the ownership, use, or possession of any real estate situated in this state;
(5) contracting to insure any person, property, or risk located within this state at the time of contracting;

(6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or
(7) the commission of sexual intercourse within this state which gives rise to a parentage action under Title 81, Chapter 5, Uniform Parentage Act, to determine parentage for the purpose of establishing responsibility for child support.

Amended by Chapter 426, 2025 General Session

78B-3-206 Service of process.
(1) Service of process on any party outside the state may be made pursuant to the applicable provisions of Rule 4 of the Utah Rules of Civil Procedure.
(2) Service of summons and of a copy of the complaint, if any, may also be made upon any person located without this state by any individual over 21 years of age, not a party to the action, with the same force and effect as though the summons had been personally served within this state. No order of court is required. An affidavit of the server shall be filed with the court stating the time, manner and place of service. The court may consider the affidavit, or any other competent proofs, in determining whether proper service has been made.
(3) Nothing contained in this section shall be construed to limit or affect the right to serve process in any other manner provided by law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-207 Only claims arising from enumerated acts may be asserted.
Only claims arising from acts enumerated in this part may be asserted against a defendant in an action in which jurisdiction over him is based upon this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-208 Default judgments.
(1) A default judgement may not be entered until the expiration of at least 30 days after service.
(2) A default judgment entered on service may be set aside only on a showing which would be timely and sufficient to set aside a default judgment entered on personal service within this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-209 When exercisable.
Subject to the applicable statute of limitations, jurisdiction established under this part may be exercised regardless of when the claim arose.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Utah Health Care Malpractice Act

78B-3-401 Title.

This part shall be known and may be cited as the "Utah Health Care Malpractice Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-402 Legislative findings and declarations -- Purpose of act.

(1) The Legislature finds and declares that the number of suits and claims for damages and the amount of judgments and settlements arising from health care has increased greatly in recent years. Because of these increases the insurance industry has substantially increased the cost of medical malpractice insurance. The effect of increased insurance premiums and increased claims is increased health care cost, both through the health care providers passing the cost of premiums to the patient and through the provider's practicing defensive medicine because he views a patient as a potential adversary in a lawsuit. Further, certain health care providers are discouraged from continuing to provide services because of the high cost and possible unavailability of malpractice insurance.

(2) In view of these recent trends and with the intention of alleviating the adverse effects which these trends are producing in the public's health care system, it is necessary to protect the public interest by enacting measures designed to encourage private insurance companies to continue to provide health-related malpractice insurance while at the same time establishing a mechanism to ensure the availability of insurance in the event that it becomes unavailable from private companies.

(3) In enacting this act, it is the purpose of the Legislature to provide a reasonable time in which actions may be commenced against health care providers while limiting that time to a specific period for which professional liability insurance premiums can be reasonably and accurately calculated; and to provide other procedural changes to expedite early evaluation and settlement of claims.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-403 Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dental care provider" means any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders dental care or professional services as a dentist, dental hygienist, or other person rendering similar care and services relating to or arising out of the practice of dentistry or the practice of dental hygiene, and the officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.
(9) "Division" means the Division of Professional Licensing created in Section 58-1-103.
(10) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.
(11)
(a) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.
(b) "Health care" does not include an act that, based on the totality of the circumstances, is sexual in nature regardless of whether:
(i) the act was committed under the auspice of providing professional diagnosis, counseling, or treatment; or
(ii) at the time the act occurred, the victim believed the act was for medically or professionally appropriate diagnosis, counseling, or treatment.
(12) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.
(13) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.
(14) "Hospital" means a public or private institution licensed under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
(15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.
(16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.
(17) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.
(18) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.
(19) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.
(20) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.
(22) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.
(23) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
(24) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.
(25) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.
(26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.
(27) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.
(28) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.
(29) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.
(30) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
(31) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.
(32) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
(33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.
(34) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.
(35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.
(36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.
(37) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.
(38) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.
(39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.
(40) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

Amended by Chapter 330, 2023 General Session
Amended by Chapter 523, 2023 General Session

78B-3-404 Statute of limitations -- Exceptions -- Application.

(1) A malpractice action against a health care provider shall be commenced within two years after the plaintiff or patient discovers, or through the use of reasonable diligence should have discovered the injury, whichever first occurs, but not to exceed four years after the date of the alleged act, omission, neglect, or occurrence.

(2) Notwithstanding Subsection (1):

(a) in an action where the allegation against the health care provider is that a foreign object has been wrongfully left within a patient's body, the claim shall be barred unless commenced within one year after the plaintiff or patient discovers, or through the use of reasonable diligence should have discovered, the existence of the foreign object wrongfully left in the patient's body, whichever first occurs; or

(b) in an action where it is alleged that a patient has been prevented from discovering misconduct on the part of a health care provider because that health care provider has affirmatively acted to fraudulently conceal the alleged misconduct, the claim shall be barred unless commenced within one year after the plaintiff or patient discovers, or through the use of reasonable diligence, should have discovered the fraudulent concealment, whichever first occurs.

Amended by Chapter 384, 2012 General Session

78B-3-405 Amount of award reduced by amounts of collateral sources available to plaintiff -- No reduction where subrogation right exists -- Collateral sources defined -- Procedure to preserve subrogation rights -- Evidence admissible -- Exceptions.

(1) In all malpractice actions against health care providers as defined in Section 78B-3-403 in which damages are awarded to compensate the plaintiff for losses sustained, the court shall reduce the amount of the award by the total of all amounts paid to the plaintiff from all collateral sources which are available to him. No reduction may be made for collateral sources for which a subrogation right exists as provided in this section nor shall there be a reduction for any collateral payment not included in the award of damages.

(2) Upon a finding of liability and an awarding of damages by the trier of fact, the court shall receive evidence concerning the total amounts of collateral sources which have been paid to or for the benefit of the plaintiff or are otherwise available to him. The court shall also take testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of the plaintiff or members of his immediate family to secure his right to any collateral source benefit which he is receiving as a result of his injury, and shall offset any reduction in the award by those amounts. Evidence may not be received and a reduction may not be made with respect to future collateral source benefits except as specified in Subsection (5).

(3) For purposes of this section "collateral source" means payments made to or for the benefit of the plaintiff for:

(a) medical expenses and disability payments payable under the United States Social Security Act, any federal, state, or local income disability act, or any other public program, except the federal programs which are required by law to seek subrogation;

(b) any health, sickness, or income replacement insurance, automobile accident insurance that provides health benefits or income replacement coverage, and any other similar insurance benefits, except life insurance benefits available to the plaintiff, whether purchased by the plaintiff or provided by others;

(c) any contract or agreement of any person, group, organization, partnership, or corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or other health care services, except benefits received as gifts, contributions, or assistance made gratuitously; and
(d) any contractual or voluntary wage continuation plan provided by employers or any other system intended to provide wages during a period of disability.
(4) To preserve subrogation rights for amounts paid or received prior to settlement or judgment, a provider of collateral sources shall, at least 30 days before settlement or trial of the action, serve a written notice upon each health care provider against whom the malpractice action has been asserted. The written notice shall state:
(a) the name and address of the provider of collateral sources;
(b) the amount of collateral sources paid;
(c) the names and addresses of all persons who received payment; and
(d) the items and purposes for which payment has been made.
(5) Evidence is admissible of government programs that provide payments or benefits available in the future to or for the benefit of the plaintiff to the extent available irrespective of the recipient's ability to pay. Evidence of the likelihood or unlikelihood that the programs, payments, or benefits will be available in the future is also admissible. The trier of fact may consider the evidence in determining the amount of damages awarded to a plaintiff for future expenses.
(6) A provider of collateral sources is not entitled to recover any amount of benefits from a health care provider, the plaintiff, or any other person or entity as reimbursement for collateral source payments made prior to settlement or judgment, including any payments made under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, except to the extent that subrogation rights to amounts paid prior to settlement or judgment are preserved as provided in this section.
(7) All policies of insurance providing benefits affected by this section are construed in accordance with this section.

Amended by Chapter 330, 2023 General Session

78B-3-405.5 Economic damages -- Judgments against personal assets.
(1) This section applies to malpractice actions against health care providers, as defined in Section 78B-3-403.
(2) In a trial, the factfinder or court may not prejudice a defendant by knowing or considering evidence of the claimant's alleged losses for past medical expenses or the cost of medical equipment before:
(a) liability for the alleged losses has been established; and
(b) any claim for or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.
(3)
(a) Subject to Subsection (3)(b):
(i) the court may add economic damages to an award, if any, under Subsection (2)(b) based on amounts that the plaintiff or a third party insurer, whether public or private, actually paid for medical expenses related to the injury at issue; and
(ii) if a plaintiff did not have insurance to pay medical expenses related to the injury at issue, the court may award economic damages for amounts the plaintiff actually paid or owes for medical care resulting from the loss.
(b) The court may not calculate an award of economic damages based solely on amounts indicated on a medical bill or invoice.

(4) A plaintiff may not pursue, collect, or execute on a judgment against an individual health care provider's personal income or assets, unless the court finds that:
(a) the provider's conduct was willful and malicious or intentionally fraudulent; or
(b) the defendant provider failed to maintain an insurance policy with a policy limit of at least $1,000,000.
(5) Prior to any award of damages to a plaintiff, a plaintiff may not make allegations that the court finds:
(a) are irrelevant to the adjudication of the claims at issue;
(b) are made primarily to coerce or induce settlement in an individual defendant provider; and
(c) pertain to a provider's personal income or assets.

Enacted by Chapter 503, 2025 General Session

78B-3-406 Failure to obtain informed consent -- Proof required of patient -- Defenses -- Consent to health care.

(1)
(a) When a person submits to health care rendered by a health care provider, it is presumed that actions taken by the health care provider are either expressly or impliedly authorized to be done.
(b) For a patient to recover damages from a health care provider in an action based upon the provider's failure to obtain informed consent, the patient must prove the following:
(i) that a provider-patient relationship existed between the patient and health care provider;
(ii) the health care provider rendered health care to the patient;
(iii) the patient suffered personal injuries arising out of the health care rendered;
(iv) the health care rendered carried with it a substantial and significant risk of causing the patient serious harm;
(v) the patient was not informed of the substantial and significant risk;
(vi) a reasonable, prudent person in the patient's position would not have consented to the health care rendered after having been fully informed as to all facts relevant to the decision to give consent; and
(vii) the unauthorized part of the health care rendered was the proximate cause of personal injuries suffered by the patient.
(2) In determining what a reasonable, prudent person in the patient's position would do under the circumstances, the finder of fact shall use the viewpoint of the patient before health care was provided and before the occurrence of any personal injuries alleged to have arisen from said health care.
(3) It shall be a defense to any malpractice action against a health care provider based upon alleged failure to obtain informed consent if:
(a) the risk of the serious harm which the patient actually suffered was relatively minor;
(b) the risk of serious harm to the patient from the health care provider was commonly known to the public;
(c) the patient stated, prior to receiving the health care complained of, that he would accept the health care involved regardless of the risk; or that he did not want to be informed of the matters to which he would be entitled to be informed;
(d) the health care provider, after considering all of the attendant facts and circumstances, used reasonable discretion as to the manner and extent to which risks were disclosed, if the health care provider reasonably believed that additional disclosures could be expected to have a substantial and adverse effect on the patient's condition; or

(e) the patient or the patient's representative executed a written consent which sets forth the nature and purpose of the intended health care and which contains a declaration that the patient accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial results of health care and which acknowledges that health care providers involved have explained the patient's condition and the proposed health care in a satisfactory manner and that all questions asked about the health care and its attendant risks have been answered in a manner satisfactory to the patient or the patient's representative.

(4) The written consent shall be a defense to an action against a health care provider based upon failure to obtain informed consent unless the patient proves that the person giving the consent lacked capacity to consent or shows by clear and convincing evidence that the execution of the written consent was induced by the defendant's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) This act may not be construed to prevent any person 18 years old or over from refusing to consent to health care for the patient's own person upon personal or religious grounds.

(6) Except as provided in Section 76-7-304.5, the following persons are authorized and empowered to consent to any health care not prohibited by law:

(a) any parent, whether an adult or a minor, for the parent's minor child;

(b) any married person, for a spouse;

(c) any person temporarily standing in loco parentis, whether formally serving or not, for the minor under that person's care and any guardian for the guardian's ward;

(d) any person 18 years old or older for that person's parent who is unable by reason of age, physical or mental condition, to provide such consent;

(e) any patient 18 years old or older;

(f) any female regardless of age or marital status, when given in connection with her pregnancy or childbirth;

(g) in the absence of a parent, any adult for the adult's minor brother or sister;

(h) in the absence of a parent, any grandparent for the grandparent's minor grandchild;

(i) an emancipated minor as provided in Section 80-7-105;

(j) a minor who has contracted a lawful marriage;

(k) an unaccompanied homeless minor, as that term is defined in the McKinney-Vento Homeless Assistance Act of 1987, Pub. L. 100-77, as amended, who is 15 years old or older; and

(l) a minor receiving tobacco and nicotine cessation services under Section 26B-7-522.

(7) A person who in good faith consents or authorizes health care treatment or procedures for another as provided by this act may not be subject to civil liability.

(8) Notwithstanding any other provision of this section, if a health care provider fails to comply with the requirement in Section 58-1-509, the health care provider is presumed to have lacked informed consent with respect to the patient examination, as defined in Section 58-1-509.

Amended by Chapter 278, 2024 General Session

78B-3-407 Limitation on actions against health care providers when parent or guardian refuses to consent to health care of child.

(1) A malpractice action against a health care provider may not be brought on the basis of the consequences resulting from the refusal of a child's parent or guardian to consent to the child's health care, if:

(a) the health care is recommended by the health care provider;

(b) the parent or guardian is provided with sufficient information to make an informed decision regarding the recommendation of the health care provider; and

(c) the consent of the parent or guardian is required by law before the health care may be administered.

(2) The sole purpose of this section is to prohibit a malpractice action against a health care provider under the circumstances set forth by this section. This section may not be construed to:

(a) create a new cause of action;

(b) expand an existing cause of action;

(c) impose a new duty on a health care provider; or

(d) expand an existing duty of a health care provider.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-407.5 Requirements for written agreement or consent for egg retrieval.

(1) As used in this section:

(a) "Assisted reproduction" means the same as that term is defined in Section 78B-15-102.

(b) "Donor" means an individual who provides the individual's egg for use in assisted reproduction that is to be performed on a recipient other than the individual or the individual's regular sexual partner.

(c) "Egg retrieval" means a procedure by which an egg is collected from an individual's ovarian follicles.

(d) "Reproductive tissue facility" means the facility that performs an egg retrieval.

(2) A written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval shall contain a clause that discloses any reasonably foreseeable complication associated with the egg retrieval.

(3) A clause in a written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval is against public policy and is void and unenforceable if the clause requires the donor to release the reproductive tissue facility from liability for any complication associated with the egg retrieval that arises within 90 days after the day on which the egg retrieval occurs.

Enacted by Chapter 43, 2025 General Session

78B-3-408 Writing required as basis for liability for breach of guarantee, warranty, contract, or assurance of result.

Liability may not be imposed upon any health care provider on the basis of an alleged breach of guarantee, warranty, contract, or assurance of result to be obtained from any health care rendered unless the guarantee, warranty, contract, or assurance is set forth in writing and signed by the health care provider or an authorized agent of the provider.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-409 Ad damnum clause prohibited in complaint.

A dollar amount may not be specified in the prayer of a complaint filed in a malpractice action against a health care provider. The complaint shall merely pray for such damages as are reasonable in the circumstances.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-410 Limitation of award of noneconomic damages and economic damages in malpractice actions.

(1) Subject to Subsection (3), an injured plaintiff in a malpractice action against a health care provider may only recover noneconomic losses to compensate for pain, suffering, and inconvenience. The amount of damages awarded for noneconomic loss may not exceed:
  (a) for a cause of action arising before July 1, 2001, $250,000;
  (b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the limitation is adjusted for inflation to $400,000;
  (c) for a cause of action arising on or after July 1, 2002, and before May 15, 2010 the $400,000 limitation described in Subsection (1)(b) shall be adjusted for inflation as provided in Subsection (2); and
  (d) for a cause of action arising on or after May 15, 2010, $450,000.

(2)
  (a) Beginning July 1, 2002 and each July 1 thereafter until July 1, 2009, the limit for damages under Subsection (1)(c) shall be adjusted for inflation by the Administrative Office of the Courts.
  (b) The amount resulting from Subsection (2)(a) shall:
    (i) be rounded to the nearest $10,000; and
    (ii) apply to a cause of action arising on or after the date the annual adjustment is made.

(3) As used in this section, "inflation" means the seasonally adjusted consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The limit under Subsection (1) does not apply to awards of punitive damages.

Amended by Chapter 503, 2025 General Session

78B-3-411 Limitation on attorney's contingency fee in malpractice action.

(1) In any malpractice action against a health care provider as defined in Section 78B-3-403, an attorney may not collect a contingent fee for representing a client seeking damages in connection with or arising out of personal injury or wrongful death caused by the negligence of another which exceeds 33-1/3% of the amount recovered.

(2) This limitation applies regardless of whether the recovery is by settlement, arbitration, judgment, or whether appeal is involved.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-412 Notice of intent to commence action.

(1) A malpractice action against a health care provider may not be initiated unless and until the plaintiff:
  (a) gives the prospective defendant or his executor or successor, at least 90 days' prior notice of intent to commence an action; and
  (b) except for an action against a dentist or a dental care provider, the plaintiff receives a certificate of compliance from the division in accordance with Section 78B-3-418.

(2) The notice shall include:
  (a) a general statement of the nature of the claim;
  (b) the persons involved;
  (c) the date, time, and place of the occurrence;
  (d) the circumstances surrounding the claim;

(e) specific allegations of misconduct on the part of the prospective defendant; and
(f) the nature of the alleged injuries and other damages sustained.
(3) Notice may be in letter or affidavit form executed by the plaintiff or his attorney. Service shall be accomplished by persons authorized and in the manner prescribed by the Utah Rules of Civil Procedure for the service of the summons and complaint in a civil action or by certified mail, return receipt requested, in which case notice shall be considered served on the date of mailing.
(4) Notice shall be served within the time allowed for commencing a malpractice action against a health care provider. If the notice is served less than 90 days prior to the expiration of the applicable time period, the time for commencing the malpractice action against the health care provider shall be extended to 120 days from the date of service of notice.
(5) This section shall, for purposes of determining its retroactivity, not be construed as relating to the limitation on the time for commencing any action, and shall apply only to causes of action arising on or after April 1, 1976. This section shall not apply to third party actions, counterclaims or crossclaims against a health care provider.

Amended by Chapter 356, 2022 General Session

78B-3-413 Professional liability insurance coverage for providers -- Insurance commissioner may require joint underwriting authority.
(1) The commissioner may, after a public hearing, find that professional liability insurance coverage for health care providers is not readily available in the voluntary market in a specific part of this state, and that the public interest requires that action be taken.
(2) The commissioner may promulgate rules and implement plans to provide insurance coverage through all insurers issuing professional liability policies and individual and group accident and sickness policies providing medical, surgical or hospital expense coverage on either a prepaid or an expense incurred basis, including personal injury protection and medical expense coverage issued incidental to liability insurance policies.

Amended by Chapter 146, 2009 General Session

78B-3-414 Periodic payment of future damages in malpractice actions.
(1) In any malpractice action against a health care provider, as defined in Section 78B-3-403, the court shall, at the request of any party, order that future damages which equal or exceed $100,000, less amounts payable for attorney fees and other costs which are due at the time of judgment, shall be paid by periodic payments rather than by a lump sum payment.
(2) In rendering a judgment which orders the payment of future damages by periodic payments, the court shall order periodic payments to provide a fair correlation between the sustaining of losses and the payment of damages.
(a) Lost future earnings shall be paid over the judgment creditor's work life expectancy.
(b) The court shall also order, when appropriate, that periodic payments increase at a fixed rate, equal to the rate of inflation which the finder of fact used to determine the amount of future damages, or as measured by the most recent Consumer Price Index applicable to Utah for all goods and services.
(c) The present cash value of all periodic payments shall equal the fact finder's award of future damages, less any amount paid for attorney fees and costs.
(d) The present cash value of periodic payments shall be determined by discounting the total amount of periodic payments projected over the judgment creditor's life expectancy, by

the rate of interest which the finder of fact used to reduce the amount of future damages to present value, or the rate of interest available at the time of trial on one year U.S. Government Treasury Bills.

(3) Before periodic payments of future damages may be ordered, the court shall require a judgment debtor to post security which assures full payment of those damages. Security for payment of a judgment of periodic payments may be in one or more of the following forms:
  (a) a bond executed by a qualified insurer;
  (b) an annuity contract executed by a qualified insurer;
  (c) evidence of applicable and collectable liability insurance with one or more qualified insurers;
  (d) an agreement by one or more qualified insurers to guarantee payment of the judgment; or
  (e) any other form of security approved by the court.

(4) Security which complies with this section may also serve as a supersedeas bond, where one is required.

(5) A judgment which orders payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Those payments may only be modified in the event of the death of the judgment creditor.

(6) If the court finds that the judgment debtor, or the assignee of his obligation to make periodic payments, has failed to make periodic payments as ordered by the court, it shall, in addition to the required periodic payments, order the judgment debtor or his assignee to pay the judgment creditor all damages caused by the failure to make payments, including court costs and attorney fees.

(7) The obligation to make periodic payments for all future damages, other than damages for loss of future earnings, shall cease upon the death of the judgment creditor. Damages awarded for loss of future earnings may not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death. In that case the court which rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this section.

(8) If security is posted in accordance with Subsection (3), and approved by a final judgment entered under this section, the judgment is considered to be satisfied, and the judgment debtor on whose behalf the security is posted shall be discharged.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-415 Actions under Utah Governmental Immunity Act.

The provisions of this part shall apply to malpractice actions against health care providers which are brought under the Utah Governmental Immunity Act if applicable. This part may not affect the requirements for filing notices of claims, times for commencing actions and limitations on amounts recoverable under the Utah Governmental Immunity Act.

Renumbered and Amended by Chapter 3, 2008 General Session

Superseded 9/1/2025

78B-3-416 Division to provide review panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1)
(a) The division shall provide a prelitigation review panel to conduct a panel review in accordance with this part, in all malpractice actions against a health care provider, except dentists or dental care providers.
(b)
(i) The division shall establish procedures for panel reviews.
(ii) The division may establish rules necessary to administer the process and procedures related to a panel review and the conduct of a member of a prelitigation review panel or participant in a panel review in accordance with Sections 78B-3-416 through 78B-3-420.
(c) A panel review is informal, nonbinding, and not subject to Title 63G, Chapter 4, Administrative Procedures Act, but is compulsory as a condition precedent to commencing litigation.
(d) A panel review that is conducted under authority of this section is confidential, privileged, and immune from civil process.
(e) The division may not provide more than one review panel for each alleged malpractice action against a health care provider.
(2)
(a) The party initiating a malpractice action against a health care provider shall file a request for a prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.
(b) The request shall include a copy of the notice of intent to commence action and the claimant shall mail the request and notice of intent to all health care providers named in the notice and request.
(3)
(a) As used in this Subsection (3):
(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.
(ii) "Domestic case" means a proceeding under:
(A) Chapter 7, Protective Orders and Stalking Injunctions;
(B) Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
(C) Chapter 15, Utah Uniform Parentage Act;
(D) Title 81, Chapter 4, Dissolution of Marriage; or
(E) Title 81, Chapter 9, Custody, Parent-time, and Visitation.
(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:
(i) the party has requested that the court release the court-appointed therapist from the appointment; and
(ii) the court finds good cause to release the court-appointed therapist from the appointment.
(c) If a party is prohibited from filing a request for a panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:
(i) the court releasing the court-appointed therapist from the appointment as described in Subsection (3)(b); or
(ii) the court entering a final order in the domestic case.
(4)
(a) The filing of a request for a prelitigation panel review under this section tolls the applicable statute of limitations until the later of:
(i) 60 days following the division's issuance of:

(A) an opinion by the review panel; or
(B) a certificate of compliance under Section 78B-3-418; or
(ii) the expiration of the time for holding a panel review under Subsection (4)(b)(ii).
(b) The division shall:
(i) send any opinion issued by the panel to all parties by regular mail; and
(ii) complete a panel review under this section within:
(A) 180 days after the filing of the request for prelitigation panel review; or
(B) any longer period as agreed upon in writing by all parties to the review.
(c) If a panel review does not occur within the time limits under Subsection (4)(b)(ii), the claimant or respondent may, no later than 180 days after the day on which the request for a panel review was filed under Subsection (2), file with the division an affidavit alleging with supporting attachments, if any:
(i) that the claimant or respondent failed to reasonably cooperate in scheduling the panel review; or
(ii) any other reason that the panel review did not occur within the time limits under Subsection (4)(b)(ii).
(d) If the claimant or respondent files an affidavit under Subsection (4)(c):
(i) within 15 days of the filing of the affidavit, the division shall conclude, based solely on the affidavit and any supporting attachments, whether the claimant or respondent failed to reasonably cooperate in the scheduling of the panel review; and
(ii)
(A) if the division finds that the claimant or respondent did not fail to reasonably cooperate, the division shall issue a certificate of compliance for the claimant in accordance with Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based; or
(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the division shall, subject to Subsection (4)(f), issue a certificate of compliance for the claimant, in accordance with Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based.
(e)
(i) The claimant and any respondent may agree by written stipulation to waive the requirement to convene a panel review under this section.
(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Subsection 78B-3-418(3)(c), as it concerns the stipulating respondent, and stating that the claimant has satisfied, by stipulation, the condition precedent under Subsection (1)(c) to commencing litigation.
(f) The division may not issue a certificate of compliance if the division finds under Subsection (4)(d)(ii)(B) that the claimant failed to reasonably cooperate in the scheduling of the panel review.
(5) The division shall provide for and appoint an appropriate panel to consider complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of malpractice. The panels are composed of:
(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel reviews;

(b)
(i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed respondent, and who are appointed by the division in accordance with Subsection (6); or
(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and
(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel reviews.
(6)
(a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a prelitigation review panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.
(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.
(c) A licensee who the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.
(d) A licensee who the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.
(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.
(f) The director of the division may collect a fine that is not paid by:
(i) referring the matter to a collection agency; or
(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.
(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.
(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.
(7) Each person selected as a panel member shall certify, under oath, that the member has no bias or conflict of interest with respect to any matter under consideration.
(8) A member of a prelitigation review panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
(9)
(a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Amended by Chapter 503, 2025 General Session

Effective 9/1/2025

78B-3-416 Division to provide review panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1)

(a) The division shall provide a prelitigation review panel to conduct a panel review in accordance with this part, in all malpractice actions against a health care provider, except dentists or dental care providers.

(b)

(i) The division shall establish procedures for panel reviews.

(ii) The division may establish rules necessary to administer the process and procedures related to a panel review and the conduct of a member of a prelitigation review panel or participant in a panel review in accordance with Sections 78B-3-416 through 78B-3-420.

(c) A panel review is informal, nonbinding, and not subject to Title 63G, Chapter 4, Administrative Procedures Act, but is compulsory as a condition precedent to commencing litigation.

(d) A panel review that is conducted under authority of this section is confidential, privileged, and immune from civil process.

(e) The division may not provide more than one review panel for each alleged malpractice action against a health care provider.

(2)

(a) The party initiating a malpractice action against a health care provider shall file a request for a prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action and the claimant shall mail the request and notice of intent to all health care providers named in the notice and request.

(3)

(a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Chapter 7, Protective Orders and Stalking Injunctions;

(B) Title 81, Chapter 4, Dissolution of Marriage;

(C) Title 81, Chapter 5, Uniform Parentage Act;

(D) Title 81, Chapter 9, Custody, Parent-time, and Visitation; or

(E) Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:
(i) the court releasing the court-appointed therapist from the appointment as described in Subsection (3)(b); or
(ii) the court entering a final order in the domestic case.
(4)
(a) The filing of a request for a prelitigation panel review under this section tolls the applicable statute of limitations until the later of:
(i) 60 days following the division's issuance of:
(A) an opinion by the review panel; or
(B) a certificate of compliance under Section 78B-3-418; or
(ii) the expiration of the time for holding a panel review under Subsection (4)(b)(ii).
(b) The division shall:
(i) send any opinion issued by the panel to all parties by regular mail; and
(ii) complete a panel review under this section within:
(A) 180 days after the filing of the request for prelitigation panel review; or
(B) any longer period as agreed upon in writing by all parties to the review.
(c) If a panel review does not occur within the time limits under Subsection (4)(b)(ii), the claimant or respondent may, no later than 180 days after the day on which the request for a panel review was filed under Subsection (2), file with the division an affidavit alleging with supporting attachments, if any:
(i) that the claimant or respondent failed to reasonably cooperate in scheduling the panel review; or
(ii) any other reason that the panel review did not occur within the time limits under Subsection (4)(b)(ii).
(d) If the claimant or respondent files an affidavit under Subsection (4)(c):
(i) within 15 days of the filing of the affidavit, the division shall conclude, based solely on the affidavit and any supporting attachments, whether the claimant or respondent failed to reasonably cooperate in the scheduling of the panel review; and
(ii)
(A) if the division finds that the claimant or respondent did not fail to reasonably cooperate, the division shall issue a certificate of compliance for the claimant in accordance with Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based; or
(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the division shall, subject to Subsection (4)(f), issue a certificate of compliance for the claimant, in accordance with Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based.
(e)
(i) The claimant and any respondent may agree by written stipulation to waive the requirement to convene a panel review under this section.
(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Subsection 78B-3-418(3)(c), as it concerns the stipulating respondent, and stating that the claimant has satisfied, by stipulation, the condition precedent under Subsection (1)(c) to commencing litigation.
(f) The division may not issue a certificate of compliance if the division finds under Subsection (4)(d)(ii)(B) that the claimant failed to reasonably cooperate in the scheduling of the panel review.

(5) The division shall provide for and appoint an appropriate panel to consider complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of malpractice. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel reviews;

(b)

(i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed respondent, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel reviews.

(6)

(a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a prelitigation review panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee who the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee who the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(7) Each person selected as a panel member shall certify, under oath, that the member has no bias or conflict of interest with respect to any matter under consideration.

(8) A member of a prelitigation review panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
(9)
(a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.
(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Amended by Chapter 426, 2025 General Session

78B-3-417 Proceedings -- Authority of panel -- Rights of parties to proceedings.
(1) No record of the proceedings is required and all evidence, documents, and exhibits are returned to the parties or witnesses who provided the evidence, documents, and exhibits at the end of the proceedings upon the request of the parties or witnesses who provided the evidence.
(2) The division may issue subpoenas for medical records directly related to the claim of medical liability in accordance with division rule and in compliance with the following:
(a) the subpoena shall be prepared by the requesting party in proper form for issuance by the division; and
(b) the subpoena shall be accompanied by:
(i) an affidavit prepared by the person requesting the subpoena attesting to the fact the medical record subject to subpoena is believed to be directly related to the medical liability claim to which the subpoena is related; or
(ii) by a written release for the medical records to be provided to the person requesting the subpoena, signed by the individual who is the subject of the medical record or by that individual's guardian or conservator.
(3) Per diem reimbursement to panel members and expenses incurred by the panel in the conduct of prelitigation panel hearings shall be paid by the division. Expenses related to subpoenas are paid by the requesting party, including witness fees and mileage.
(4) The proceedings are informal and formal rules of evidence are not applicable. There is no discovery or perpetuation of testimony in the proceedings, except upon special order of the panel, and for good cause shown demonstrating extraordinary circumstances.
(5)
(a) A party is entitled to attend, personally or with counsel, and participate in the proceedings, except upon special order of the panel and unanimous agreement of the parties. The proceedings are confidential and closed to the public.
(b) No party has the right to cross-examine, rebut, or demand that customary formalities of civil trials and court proceedings be followed. The panel may, however, request special or supplemental participation of some or all parties in particular respects.
(c) Communications between the panel and the parties, except the testimony of the parties on the merits of the dispute, are disclosed to all other parties.
(6) The division shall appoint a panel to consider the claim and set the matter for panel review as soon as practicable after receipt of a request.
(7) Parties may be represented by counsel in proceedings before a panel.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-418 Opinion and recommendations of panel.

(1)
(a) The prelitigation review panel shall issue an opinion and the division shall issue a certificate of compliance with the prelitigation requirements of this part in accordance with this section.
(b) A certificate of compliance issued in accordance with this section is proof that the claimant has met all conditions precedent under this section to commencing litigation.

(2)
(a) The panel shall render an opinion in writing not later than 30 days after the day on which the panel review concludes, and determine on the basis of the evidence whether:
(i) each claim against each health care provider has merit or has no merit; and
(ii) if a claim is deemed meritorious under Subsection (2)(a)(i), the conduct complained of resulted in harm to the claimant.
(b) There is no judicial or other review or appeal of the panel's opinion under Subsection (2)(a).

(3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the notice of intent to file a claim under this part, if:
(a) for a named respondent, the panel issues an opinion under Subsection (2)(a);
(b) the claimant has complied with the provisions of Subsections 78B-3-416(4)(c) and (d); or
(c) the parties submitted a stipulation under Subsection 78B-3-416(4)(e).

Amended by Chapter 503, 2025 General Session

78B-3-418.5 Attorney fees.

(1) The court may award attorney fees and costs to a respondent provider if:
(a)
(i) a prelitigation review panel renders an opinion under Subsection 78B-3-418(2)(a) that a claimant's claim or cause of action has no merit; or
(ii) the court finds that the claimant did not receive a certificate of compliance because the plaintiff failed to reasonably cooperate in the scheduling of the prelitigation panel review under Subsection 78B-3-416(4)(f);
(b) the claimant proceeds to litigate the malpractice action against a health care provider without obtaining an affidavit of merit under Section 78B-3-423; and
(c) the court finds that the claimant did not substantially prevail.

(2) A claimant in a malpractice action against a health care provider, or the claimant's attorney, is liable to any respondent for the reasonable attorney fees and costs incurred by the respondent, or by the respondent's insurer, in connection with any filing, submission, panel review, arbitration, or judicial proceeding under this part for which a claimant files or submits an affidavit containing an allegation that the court or arbitrator finds that the claimant knew, or should have known, to be baseless or false at the time the affidavit was signed, filed, or submitted.

(3) A court, or an arbitrator under Section 78B-3-421, may award reasonable attorney fees or costs under Subsection (1) only if the respondent files a motion for the attorney fees or costs no later than 60 days after the day on which the court's or arbitrator's final decision, judgment, or dismissal of all claims in the action is entered.

Enacted by Chapter 503, 2025 General Session

78B-3-419 Evidence of proceedings not admissible in subsequent action -- Panelist may not be compelled to testify -- Immunity of panelist from civil liability -- Information regarding professional conduct.

(1) Evidence of the proceedings conducted by the medical review panel and its results, opinions, findings, and determinations are not admissible as evidence in any civil action or arbitration proceeding subsequently brought by the claimant against any respondent and are not reportable to any health care facility or health care insurance carrier as a part of any credentialing process.

(2) No panelist may be compelled to testify in a civil action subsequently filed with regard to the subject matter of the panel's review. A panelist has immunity from civil liability arising from participation as a panelist and for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by this section.

(3) Nothing in this chapter may be interpreted to prohibit the division from considering any information contained in a statutory notice of intent to commence action, request for prelitigation panel review, or written findings of a panel with respect to the division's determining whether a licensee engaged in unprofessional or unlawful conduct.

Amended by Chapter 275, 2013 General Session

78B-3-420 Proceedings considered a binding arbitration hearing upon written agreement of parties -- Compensation to members of panel.

Upon written agreement by all parties, the proceeding may be considered a binding arbitration hearing and proceed under Title 78B, Chapter 11, Utah Uniform Arbitration Act, except for the selection of the panel, which is done as set forth in Subsection 78B-3-416(5). If the proceeding is considered an arbitration proceeding, the parties are equally responsible for compensation to the members of the panel for services rendered.

Amended by Chapter 212, 2022 General Session

78B-3-421 Arbitration agreements.

(1) After May 2, 1999, for a binding arbitration agreement between a patient and a health care provider to be validly executed or, if the requirements of this Subsection (1) have not been previously met on at least one occasion, renewed:

(a) the patient shall be given, in writing, the following information on:

(i) the requirement that the patient must arbitrate a claim instead of having the claim heard by a judge or jury;

(ii) the role of an arbitrator and the manner in which arbitrators are selected under the agreement;

(iii) the patient's responsibility, if any, for arbitration-related costs under the agreement;

(iv) the right of the patient to decline to enter into the agreement and still receive health care if Subsection (3) applies;

(v) the automatic renewal of the agreement each year unless the agreement is canceled in writing before the renewal date;

(vi) the right of the patient to have questions about the arbitration agreement answered;

(vii) the right of the patient to rescind the agreement within 10 days of signing the agreement; and

(viii) the right of the patient to require mediation of the dispute prior to the arbitration of the dispute;

(b) the agreement shall require that:
(i) except as provided in Subsection (1)(b)(ii), a panel of three arbitrators shall be selected as follows:
(A) one arbitrator collectively selected by all persons claiming damages;
(B) one arbitrator selected by the health care provider; and
(C) a third arbitrator:
(I) jointly selected by all persons claiming damages and the health care provider; or
(II) if both parties cannot agree on the selection of the third arbitrator, the other two arbitrators shall appoint the third arbitrator from a list of individuals approved as arbitrators by the state or federal courts of Utah; or
(ii) if both parties agree, a single arbitrator may be selected;
(iii) all parties waive the requirement of Section 78B-3-416 to appear before a hearing panel in a malpractice action against a health care provider;
(iv) the patient be given the right to rescind the agreement within 10 days of signing the agreement;
(v) the term of the agreement be for one year and that the agreement be automatically renewed each year unless the agreement is canceled in writing by the patient or health care provider before the renewal date;
(vi) the patient has the right to retain legal counsel;
(vii) the agreement only apply to:
(A) an error or omission that occurred after the agreement was signed, provided that the agreement may allow a person who would be a proper party in court to participate in an arbitration proceeding;
(B) the claim of:
(I) a person who signed the agreement;
(II) a person on whose behalf the agreement was signed under Subsection (6); and
(III) the unborn child of the person described in this Subsection (1)(b)(vii)(B), for 12 months from the date the agreement is signed; and
(C) the claim of a person who is not a party to the contract if the sole basis for the claim is an injury sustained by a person described in Subsection (1)(b)(vii)(B); and
(c) the patient shall be verbally encouraged to:
(i) read the written information required by Subsection (1)(a) and the arbitration agreement; and
(ii) ask any questions.
(2) When a medical malpractice action is arbitrated, the action shall:
(a) be subject to Chapter 11, Utah Uniform Arbitration Act; and
(b) include any one or more of the following when requested by the patient before an arbitration hearing is commenced:
(i) mandatory mediation;
(ii) retention of the jointly selected arbitrator for both the liability and damages stages of an arbitration proceeding if the arbitration is bifurcated; and
(iii) the filing of the panel's award of damages as a judgement against the provider in the appropriate district court.
(3) Notwithstanding Subsection (1), a patient may not be denied health care on the sole basis that the patient or a person described in Subsection (6) refused to enter into a binding arbitration agreement with a health care provider.
(4) A written acknowledgment of having received a written explanation of a binding arbitration agreement signed by or on behalf of the patient shall be a defense to a claim that the patient

did not receive a written explanation of the agreement as required by Subsection (1) unless the patient:
(a) proves that the person who signed the agreement lacked the capacity to do so; or
(b) shows by clear and convincing evidence that the execution of the agreement was induced by the health care provider's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.
(5) The requirements of Subsection (1) do not apply to a claim governed by a binding arbitration agreement that was executed or renewed before May 3, 1999.
(6) A legal guardian or a person described in Subsection 78B-3-406(6), except a person temporarily standing in loco parentis, may execute or rescind a binding arbitration agreement on behalf of a patient.
(7) This section does not apply to any arbitration agreement that is subject to the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq.

Amended by Chapter 189, 2014 General Session

78B-3-422 Evidence of disclosures -- Civil proceedings -- Unanticipated outcomes -- Medical care.
(1) As used in this section:
(a) "Defendant" means the defendant in a malpractice action against a health care provider.
(b) "Health care provider" includes an agent of a health care provider.
(c) "Patient" includes any person associated with the patient.
(2) In any civil action or arbitration proceeding relating to an unanticipated outcome of medical care, any unsworn statement, affirmation, gesture, or conduct made to the patient by the defendant shall be inadmissible as evidence of an admission against interest or of liability if it:
(a) expresses:
(i) apology, sympathy, commiseration, condolence, or compassion; or
(ii) a general sense of benevolence; or
(b) describes:
(i) the sequence of events relating to the unanticipated outcome of medical care;
(ii) the significance of events; or
(iii) both.
(3) Except as provided in Subsection (2), this section does not alter any other law or rule that applies to the admissibility of evidence in a medical malpractice action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-423 Affidavit of merit.
(1)
(a) A claimant who elects to file an affidavit of merit shall file the affidavit of merit:
(i) within 60 days after the day on which the pre-litigation panel issues an opinion, if the claimant receives a finding from the pre-litigation panel in accordance with Section 78B-3-418 of non-meritorious for either:
(A) the claim of breach of applicable standard of care; or
(B) that the breach of care was the proximate cause of injury;
(ii) within 60 days after the day on which the time limit in Subsection 78B-3-416(4)(b)(ii) expires, if a pre-litigation hearing is not held within the time limits under Subsection 78B-3-416(4)(b)(ii); or

(iii) within 30 days after the day on which the division makes a determination under Subsection 78B-3-416(4)(d)(ii)(B), if the division makes a determination under Subsection 78B-3-416(4)(d)(ii)(B).

(b) A claimant who elects to file an affidavit of merit under Subsection (1)(a) shall:

(i) file the affidavit of merit with the division; and

(ii) serve each defendant with the affidavit of merit in accordance with Subsection 78B-3-412(3).

(2) A claimant may proceed to litigate and pursue a judicial remedy regardless of whether:

(a) the claimant has obtained or filed an affidavit of merit under this section;

(b) a review panel deemed the claimant's claims to have merit; or

(c) the claimant participated in a review panel.

(3) The affidavit of merit shall:

(a) be executed by the claimant's attorney or the claimant if the claimant is proceeding pro se, stating that the affiant has consulted with and reviewed the facts of the case with a health care provider who has determined after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of a medical liability action; and

(b) include an affidavit signed by a health care provider who meets the requirements of Subsection (5):

(i) stating that in the health care provider's opinion, there are reasonable grounds to believe that the applicable standard of care was breached;

(ii) stating that in the health care provider's opinion, the breach was a proximate cause of the injury claimed in the notice of intent to commence action; and

(iii) stating the reasons for the health care provider's opinion.

(4) The statement required in Subsection (3)(b)(i) shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

(5) A health care provider who signs an affidavit under Subsection (3)(b) shall:

(a) if none of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state in the same specialty or of the same class of license as the respondents; or

(b) if at least one of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state to practice medicine in all its branches.

(6) A claimant's attorney or claimant may obtain up to a 60-day extension to file the affidavit of merit if:

(a) the claimant or the claimant's attorney submits a signed affidavit for extension with notice to the division attesting to the fact that the claimant is unable to submit an affidavit of merit as required by this section because:

(i) a statute of limitations would impair the action; and

(ii) the affidavit of merit could not be obtained before the expiration of the statute of limitations; and

(b) the claimant or claimant's attorney submits the affidavit for extension to each named respondent in accordance with Subsection 78B-3-412(3) no later than 60 days after the date specified in Subsection (1)(a)(i).

(7)

(a) A claimant or claimant's attorney who submits allegations in an affidavit of merit that are found to be without reasonable cause and untrue, based on information available to the plaintiff at the time the affidavit was submitted to the division, is liable to the defendant for the payment

of reasonable expenses and reasonable attorney fees actually incurred by the defendant or the defendant's insurer.

(b) An affidavit of merit is not admissible, and cannot be used for any purpose, in a subsequent lawsuit based on the claim that is the subject of the affidavit, except for the purpose of establishing the right to recovery under Subsection (7)(c).

(c) A court, or arbitrator under Section 78B-3-421, may award costs and attorney fees under Subsection (7)(a) if the defendant files a motion for costs and attorney fees within 60 days of the judgment or dismissal of the action in favor of the defendant. The person making a motion for attorney fees and costs may depose and examine the health care provider who prepared the affidavit of merit under Subsection (3)(b).

(8) For each request for prelitigation panel review under Subsection 78B-3-416(2), the division shall compile the following information:

(a) whether the cause of action arose on or after July 1, 2010;

(b) the number of respondents named in the request; and

(c) for each respondent named in the request:

(i) the respondent's license class;

(ii) if the respondent has a professional specialty, the respondent's professional specialty;

(iii) if the division does not issue a certificate of compliance at the conclusion of the prelitigation process, the reason a certificate was not issued;

(iv) if the division issues a certificate of compliance, the reason the certificate of compliance was issued;

(v) if an affidavit of merit was filed by the claimant, for each health care provider who submitted an affidavit under Subsection (3)(b):

(A) the health care provider's license class and professional specialty; and

(B) whether the health care provider meets the requirements of Subsection 78B-3-416(5)(b); and

(vi) whether the claimant filed an action in court against the respondent.

(9) The division may require the following persons to submit the information to the division necessary for the division to comply with Subsection (8):

(a) a claimant;

(b) a respondent;

(c) a health care provider who submits an affidavit under Subsection (3)(b); and

(d) a medical liability pre-litigation panel.

Amended by Chapter 503, 2025 General Session

78B-3-423.1 Division collection of panel review data.

(1) The division shall:

(a) compile a written report summarizing the division's administration of panel reviews, including at least the information described in Subsection (2);

(b) in compiling the written report under Subsection (1)(a), review information obtained from the court's Xchange database, made available to the division without cost by the Administrative Office of the Courts; and

(c) provide the written report under Subsection (1)(a) to the Judiciary Interim Committee no later than November 1 of each year.

(2) The report under Subsection (1) shall detail, for the period beginning on the day after the day through which the last report covered, and ending on the day through which data is available:

(a) the number of panel reviews the division convened, by respective license class;

(b) the number of cases for which a claimant filed a complaint in court;
(c) the number of cases in which a provider and claimant agreed to forgo a panel review;
(d) the number of cases in which a provider and claimant agreed to use a panel review as binding arbitration;
(e) for each panel review the division convened, the prelitigation review panel's determinations regarding merit under Subsection 78B-3-418(2)(a);
(f) the number of cases that were settled after a panel review and:
(i) before a complaint alleging a malpractice action against a health care provider in court is filed; and
(ii) after a complaint alleging a malpractice action against a health care provider in court is filed; and
(g) for cases alleging a malpractice action against a health care provider that were resolved, including by adjudication or stipulated settlement:
(i) the amount of damages sought as compared to the amount of damages awarded or otherwise obtained, if known, including by the following categories:
(A) noneconomic;
(B) economic; and
(C) punitive; and
(ii) the number of cases that were dismissed with prejudice and without an award of damages or any other economic relief to the claimant.

Enacted by Chapter 503, 2025 General Session

78B-3-424 Limitation of liability for ostensible agent.

(1) For purposes of this section:
(a) "Agent" means a person who is an "employee," "worker," or "operative," as defined in Section 34A-2-104, of a health care provider.
(b) "Ostensible agent" means a person:
(i) who is not an agent of the health care provider; and
(ii) who the plaintiff reasonably believes is an agent of the health care provider because the health care provider intentionally, or as a result of a lack of ordinary care, caused the plaintiff to believe that the person was an agent of the health care provider.
(2) A health care provider named as a defendant in a medical malpractice action is not liable for the acts or omissions of an ostensible agent if:
(a) the ostensible agent has privileges with the health care provider, but is not an agent of the health care provider;
(b) the health care provider has, by policy or practice, ensured that a person providing professional services has insurance of a type and amount required, if any is required, by the rules or regulations as established in:
(i) medical staff by-laws for a health care facility; or
(ii) other health care facility contracts, indemnification agreements, rules or regulations;
(c) the insurance required in Subsection (2)(b) is in effect at the time of the alleged act or omission of the ostensible agent; and
(d) there is a claim of agency or ostensible agency in a plaintiff's notice of intent to commence an action, the health care provider, within 60 days of the service of the notice of intent to commence an action, lists each person identified by the plaintiff who the provider claims is not an agent or ostensible agent of the provider.
(3) This section applies to a cause of action that arises on or after July 1, 2010.

Enacted by Chapter 97, 2010 General Session

78B-3-425 Prohibition on cause of action for negligent credentialing.

It is the policy of this state that the question of negligent credentialing, as applied to health care providers in malpractice suits, is not recognized as a cause of action.

Enacted by Chapter 430, 2011 General Session

78B-3-426 Nonpatient plaintiffs.

(1) For purposes of this section, a nonpatient plaintiff does not include a patient, as defined in Section 78B-3-403.
(2) This section does not apply to a health care malpractice action brought or seeking recovery under Section 78B-3-106, 78B-3-107, 78B-3-502, or 81-3-111.
(3) To establish a malpractice action against a health care provider, a nonpatient plaintiff shall be required to show that:
  (a) the health care provider owes a duty to the nonpatient plaintiff;
  (b) the nonpatient plaintiff suffered a foreseeable injury;
  (c) the nonpatient plaintiff's injury was proximately caused by an act or omission of the health care provider; and
  (d) the health care provider's act or omission was conduct that manifests a knowing and reckless indifference toward, and a disregard of, the injury suffered by the nonpatient plaintiff.

Amended by Chapter 366, 2024 General Session

78B-3-427 Transgender procedures upon a minor -- Right of action -- Informed consent requirements -- Statute of limitations.

(1) As used in this section:
  (a) "Hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.
  (b) "Minor" means the same as that term is defined in Section 58-1-603.
(2)
  (a) Notwithstanding any other provision of law, a malpractice action against a health care provider may be brought against a health care provider for damages arising from:
    (i) providing a hormonal transgender treatment to a minor without complying with the requirements described in Section 58-1-603;
    (ii) negligence in providing a hormonal transgender treatment to a minor; or
    (iii) providing a treatment or procedure described in Subsection (2)(b)(ii) to a minor without the minor's consent including if the minor disaffirms consent under Subsection (3).
(3)
  (a) Notwithstanding any other provision of law, an individual who gave informed consent as a minor or for whom consent was given under Section 78B-3-406, may disaffirm the consent if:
    (i) the treatment at issue began after January 28, 2023;
    (ii) the consent was provided for any of the following:
      (A) a hormonal transgender treatment;
      (B) a primary sex characteristic surgical procedure as defined in Section 58-67-102; or
      (C) a secondary sex characteristic surgical procedure as defined in Section 58-67-102;

(iii) under the totality of the circumstances, a health care provider would have reason to believe that the minor, or a similarly situated minor, could later regret having given consent;
(iv) the individual suffered a permanent physical injury; and
(v) the consent is disaffirmed in writing before the individual reaches the age of 25 years old.
(b) A disaffirmation of consent under this Subsection (3) relates back to the day the original consent was given.
(4) Notwithstanding any other provision of law, a malpractice action against a health care provider described in Subsection (2)(a) may be brought before the patient is 25 years old if the treatment at issue in the malpractice action began, occurred, or continued on or after January 28, 2023.
(5) Sections 78B-3-404 and 78B-3-406 do not apply to an action described in this section.

Revisor instructions Chapter 2, 2023 General Session
Enacted by Chapter 2, 2023 General Session

78B-3-428 Breach of duty for deviating from established practices.
(1) A health care provider does not breach the duty of care the health care provider owes to a patient:
(a) to the extent any alleged breach is based on actions related to the health care provider's deviation from medical norms or established practices; and
(b) if the conditions described in Subsection 58-1-501(5) have been met.
(2) A health care facility is not vicariously liable for an action or claim described in Subsection (1)
(a) if the conditions described in Subsection 58-1-501(5) have been met.

Enacted by Chapter 321, 2023 General Session

Part 4a
Utah Medical Candor Act

78B-3-450 Definitions.
As used in this part:
(1) "Adverse event" means an injury or suspected injury that is associated with a health care process rather than an underlying condition of a patient or a disease.
(2) "Affected party" means:
(a) a patient; and
(b) any representative of a patient.
(3) "Communication" means any written or oral communication created for or during a medical candor process.
(4) "Governmental entity" means the same as that term is defined in Section 63G-7-102.
(5) "Health care" means the same as that term is defined in Section 78B-3-403.
(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.
(7) "Malpractice action against a health care provider" means the same as that term is defined in Section 78B-3-403.
(8) "Medical candor process" means the process described in Section 78B-3-451.
(9) "Patient" means the same as that term is defined in Section 78B-3-403.
(10) "Public employee" means the same as the term "employee" as defined in Section 63G-7-102.
(11)

(a) Except as provided in Subsection (11)(c), "representative" means the same as that term is defined in Section 78B-3-403.
(b) "Representative" includes:
(i) a parent of a child regardless of whether the parent is the custodial or noncustodial parent;
(ii) a legal guardian of a child;
(iii) a person designated to make decisions on behalf of a patient under a power of attorney, an advanced health care directive, or a similar legal document;
(iv) a default surrogate as defined in Section 75-2a-108; and
(v) if the patient is deceased, the personal representative of the patient's estate or the patient's heirs as defined in Sections 75-1-201 and 78B-3-105.
(c) "Representative" does not include a parent of a child if the parent's parental rights have been terminated by a court.
(12) "State" means the same as that term is defined in Section 63G-7-102.

Amended by Chapter 139, 2023 General Session

78B-3-451 Medical candor process.

In accordance with this part, a health care provider may engage an affected party in a process where the health care provider and any other health care provider notified in Subsection 78B-3-452(1)(b) that chooses to participate in the process that:
(1) conducts an investigation into an adverse event involving a patient and the health care provided to the patient;
(2) communicates information to the affected party regarding information gathered during an investigation described in Subsection (1);
(3) communicates to the affected party the steps that the health care provider will take to prevent future occurrences of the adverse event; and
(4) determines whether to make an offer of compensation to the affected party for the adverse event.

Enacted by Chapter 366, 2022 General Session

78B-3-452 Notice of medical candor process.

(1) If a health care provider wishes to engage an affected party in a medical candor process, the health care provider shall:
(a) provide a written notice described in Subsection (2) to the affected party within 365 days after the day on which the health care provider knew of the adverse event involving a patient;
(b) provide a written notice, in a timely manner, to any other health care provider involved in the adverse event that invites the health care provider to participate in a medical candor process; and
(c) inform, in a timely manner, any health care provider described in Subsection (1)(b) of an affected party's decision of whether to participate in a medical candor process.
(2) A written notice under Subsection (1)(a) shall:
(a) include an explanation of:
(i) the patient's right to receive a copy of the patient's medical records related to the adverse event; and
(ii) the patient's right to authorize the release of the patient's medical records related to the adverse event to any third party;

(b) include a statement regarding the affected party's right to seek legal counsel at the affected party's expense and to have legal counsel present throughout a medical candor process;
(c) notify the affected party that there are time limitations for a malpractice action against a health care provider and that a medical candor process does not alter or extend the time limitations for a malpractice action against a health care provider;
(d) if the health care provider is a public employee or a governmental entity, notify the affected party that participation in a medical candor process does not alter or extend the deadline for filing the notice of claim required under Section 63G-7-401;
(e) notify the affected party that if the affected party chooses to participate in a medical candor process with a health care provider:
(i) any communication, material, or information created for or during the medical candor process, including a communication to participate in the medical candor process, is confidential, not discoverable, and inadmissible as evidence in a judicial, administrative, or arbitration proceeding arising out of the adverse event; and
(ii) a party to the medical candor process may not record any communication without the mutual consent of all parties to the medical candor process; and
(f) advise the affected party that the affected party, the health care provider, and any other person that participates in a medical candor process must agree, in writing, to the terms and conditions of the medical candor process in order to participate.
(3) If, after receiving a written notice, an affected party wishes to participate in a medical candor process, the affected party must agree, in writing, to the terms and conditions provided in the written notice described in Subsection (2).
(4) If an affected party agrees to participate in a medical candor process, the affected party and the health care provider may include another person in the medical candor process if:
(a) the person receives written notice in accordance with this section; and
(b) the person agrees, in writing, to the terms and conditions provided in the written notice described in Subsection (2).

Enacted by Chapter 366, 2022 General Session

78B-3-453 Nonparticipating health care providers -- Offer of compensation -- Payment.
(1) If any communications, materials, or information in any form during a medical candor process involve a health care provider that was notified under Subsection 78B-3-452(1)(b) but the health care provider is not participating in the medical candor process, a participating health care provider:
(a) may provide only materials or information from the medical record to the affected party regarding any health care provided by the nonparticipating health care provider;
(b) may not characterize, describe, or evaluate health care provided or not provided by the nonparticipating health care provider;
(c) may not attribute fault, blame, or responsibility for the adverse event to the nonparticipating health care provider; and
(d) shall inform the affected party of the limitations and requirements described in Subsections (1)(a), (b), and (c) on any communications, materials, or information made or provided by the participating health care provider in regard to a nonparticipating health care provider.
(2)
(a) If a health care provider determines that no offer of compensation is warranted during a medical candor process, the health care provider may orally communicate that decision to the affected party.

(b) If a health care provider determines that an offer of compensation is warranted during a medical candor process, the health care provider shall provide the affected party with a written offer of compensation.

(3) If a health care provider makes an offer of compensation to an affected party during a medical candor process and the affected party is not represented by legal counsel, the health care provider shall:

(a) advise the affected party of the affected party's right to seek legal counsel, at the affected party's expense, regarding the offer of compensation; and

(b) notify the affected party that the affected party may be legally required to repay medical and other expenses that were paid by a third party, including private health insurance, Medicare, or Medicaid.

(4)

(a) All parties to an offer of compensation shall negotiate the form of the relevant documents.

(b) As a condition of an offer of compensation under this section, a health care provider may require an affected party to:

(i) execute any document that is necessary to carry out an agreement between the parties regarding the offer of compensation; and

(ii) if court approval is required for compensation to a minor, obtain court approval for the offer of compensation.

(5) If an affected party did not present a written claim or demand for payment before the affected party accepts and receives an offer of compensation as part of a medical candor process, the payment of compensation to the affected party is not a payment resulting from:

(a) a written claim or demand for payment; or

(b) a professional liability claim or a settlement for purposes of Sections 58-67-302, 58-67-302.7, 58-68-302, and 58-71-302.

Enacted by Chapter 366, 2022 General Session

78B-3-454 Confidentiality and effect of medical candor process -- Recording of medical candor process -- Exception for deidentified information or data.

(1) Except as provided in Subsections (2), (3), and (4), all communications, materials, and information in any form specifically created for or during a medical candor process, including the findings or conclusions of the investigation and any offer of compensation, are confidential and privileged in any administrative, judicial, or arbitration proceeding.

(2) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not specifically created for or during a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(3)

(a) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(b) Information described in Subsection (3)(a) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(4)

(a) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.
(b) Any communication, material, or information described in Subsection (4)(a) does not include a written notice described in Section 78B-3-452.
(5) A communication or offer of compensation made in preparation for or during a medical candor process does not constitute an admission of liability.
(6) Nothing in this part alters or limits the confidential, privileged, or protected nature of communications, information, memoranda, work product, documents, and other materials under other provisions of law.
(7)
(a) Notwithstanding Section 77-23a-4, a party to a medical candor process may not record any communication without the mutual consent of all parties to the medical candor process.
(b) A recording made without mutual consent of all parties to the medical candor process may not be used for any purpose.
(8)
(a) Notwithstanding any other provision of law, any communication, material, or information created for or during a medical candor process:
(i) is not subject to reporting requirements by a health care provider; and
(ii) does not create a reporting requirement for a health care provider.
(b) If there are reporting requirements independent of, and supported by, information or evidence other than any communication, material, or information created for or during a medical candor process, the reporting shall proceed as if there were no communication, material, or information created for or during the medical candor process.
(c) This Subsection (8) does not release an individual or a health care provider from complying with a reporting requirement.
(9)
(a) A health care provider that participates in a medical candor process may provide deidentified information or data about the adverse event to an agency, company, or organization for the purpose of research, education, patient safety, quality of care, or performance improvement.
(b) Disclosure of deidentified information or data under Subsection (9)(a):
(i) does not constitute a waiver of a privilege or protection of any communication, material, or information created for or during a medical candor process as provided in this section or any other provision of law; and
(ii) is not a violation of the confidentiality requirements of this section.

Amended by Chapter 139, 2023 General Session

Part 5
Limitation of Therapist's Duty to Warn

78B-3-501 Definitions.

As used in this part, "therapist" means:
(1) a psychiatrist licensed to practice medicine under Section 58-67-301, Utah Medical Practice Act or under Section 58-68-301, Utah Osteopathic Medical Practice Act;

(2) a psychologist licensed to practice psychology under Section 58-61-301;
(3) a marriage and family therapist licensed to practice marriage and family therapy under Section 58-60-304;
(4) a social worker licensed to practice social work under Section 58-60-204;
(5) a psychiatric and mental health nurse specialist licensed to practice advanced psychiatric nursing under Title 58, Chapter 31b, Nurse Practice Act; and
(6) a clinical mental health counselor licensed to practice professional counseling under Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act.

Amended by Chapter 179, 2012 General Session

78B-3-502 Limitation of therapist's duty to warn.
(1) A therapist has no duty to warn or take precautions to provide protection from any violent behavior of his client or patient, except when that client or patient communicated to the therapist an actual threat of physical violence against a clearly identified or reasonably identifiable victim. That duty shall be discharged if the therapist makes reasonable efforts to communicate the threat to the victim, and notifies a law enforcement officer or agency of the threat.
(2) An action may not be brought against a therapist for breach of trust or privilege, or for disclosure of confidential information, based on a therapist's communication of information to a third party in an effort to discharge his duty in accordance with Subsection (1).
(3) This section does not limit or affect a therapist's duty to report child abuse or neglect in accordance with Section 80-2-602.

Amended by Chapter 335, 2022 General Session

Part 6
Compensation for Harm Caused by Nuclear Incidents

78B-3-601 Purpose.
(1) The purpose of this part is to facilitate the compensation of injured parties from financial protection funds established pursuant to the Price Anderson Act, 42 U.S.C. Sec. 2210.
(2) Nothing in this part may be construed to impose liability for harm from nuclear incidents for which financial protection is not afforded under the Price Anderson Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-602 Definitions.
As used in this part:
(1) "Harm" means:
(a) personal injury, death, or illness, except an injury, death, or illness that is a basis for a claim under either a state or federal workmen's compensation act by an employee of a person liable pursuant to Section 78B-3-603;
(b) damage to, destruction of, or loss of the use of property other than property at the situs of and used in connection with the activity giving rise to a nuclear incident;
(c) economic loss due to:

(i) damage to or loss of the use of property; or
(ii) environmental degradation; or
(d) expenses reasonably incurred by the state, its political subdivisions, or the agencies of either in protecting the public health and safety and the environment from a nuclear incident or the imminent danger of a nuclear incident, including, but not limited to, precautionary evacuations, emergency response measures, and, after reasonable opportunity for performance of cleanup measures by persons liable pursuant to Section 78B-3-603, decontamination or other clean-up measures. These expenses must be documented by the state, its political subdivisions, or agencies of either.
(2) "Nuclear incident" means an incident which does not arise from an act of war and involves the release of nuclear material which results in personal injury, loss of use of property, or damage due to the radioactive, toxic, explosive, or other hazardous properties of the nuclear material.
(3) "Nuclear material" means radioactive material used or handled in connection with:
(a) a utilization facility or production facility licensed by the United States Nuclear Regulatory Commission in accordance with 42 U.S.C. Secs. 2133 or 2134;
(b) a utilization or production facility constructed or operated under a contract for the benefit of the United States where there is a risk of a substantial nuclear incident as determined by the United States Department of Energy or the Nuclear Regulatory Commission; or
(c) disposal, storage, and other activities undertaken pursuant to the Nuclear Waste Policy Act, 42 U.S.C. Secs. 10101 through 10225.
(4) "Radioactive material" means:
(a) source material as defined in 42 U.S.C. Sec. 2014 (z);
(b) special nuclear material as defined in 42 U.S.C. Sec. 2014 (aa); or
(c) by-product material as defined in 42 U.S.C. Sec. 2014 (e).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-603 Liability imposed and limitations -- Defenses -- Limitations on damages.
(1) Except as provided in this section, any person who owns, holds under license, transports, ships, stores, or disposes of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, transportation, shipping, storage, or disposal.
(2) Except as provided in this section, any person who owns, designs, constructs, operates, or maintains facilities, structures, vehicles, or equipment used for handling, transportation, shipment, storage, or disposal of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, design, construction, operation, and maintenance.
(3) Liability established by this part shall only be imposed if a court of competent jurisdiction finds that:
(a) the nuclear incident which is the basis for the suit is covered by existing financial protection undertaken pursuant to 42 U.S.C. Sec. 2210; and
(b) a person who is liable under this part is a person indemnified as defined in 42 U.S.C. Sec. 2014.
(4) Immunity of the state, its political subdivisions, or the agencies of either from suit are only waived with respect to a suit arising from a nuclear incident:
(a) in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah; or
(b) when brought by a person suffering harm.

(5) The conduct of the person suffering harm is not a defense to liability, except that this section does not preclude any defense based on:
(a) the claimant's knowing failure to mitigate damages related to any injury or damage to the claimant or the claimant's property; or
(b) an incident involving nuclear material that is knowingly and wrongfully caused by the claimant.
(6) A person may not collect punitive or exemplary damages under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-604 Determination of causation -- Compensation allowed.
(1) Causation of radiological injury from a nuclear incident shall be determined by the trier of fact, taking into account epidemiological studies, statistical probabilities, and other pertinent medical and scientific evidence.
(2) A claimant under this part shall be entitled to full compensation of the claimant's radiological injuries if the trier of fact determines that it is more likely than not that the claimant's injuries resulted from the nuclear incident.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 7
Damages Regarding Injury to or Theft of Assistance Animal

78B-3-701 Definitions.
As used in this part:
(1) "Disability" has the same meaning as defined in Section 26B-6-801.
(2) "Search and rescue dog" means a dog:
(a) with documented training to locate persons who are:
(i) lost, missing, or injured; or
(ii) trapped under debris as the result of a natural or man-made event; and
(b) affiliated with an established search and rescue dog organization.
(3) "Service animal" means:
(a) a service animal, as defined in Section 26B-6-801; or
(b) a search and rescue dog.

Amended by Chapter 330, 2023 General Session

78B-3-702 Damages recoverable for harm to or theft of service animal.
(1) A person with a disability who uses a service animal, or the owner of a service animal has a cause of action for economic and noneconomic damages against:
(a) any person who steals or, without provocation, attacks the service animal; and
(b) the owner or keeper of any animal that without provocation attacks a service animal due to the owner's or keeper's negligent failure to exercise sufficient control over the animal to prevent the attack.
(2) The action authorized by this section maybe brought by a person with a disability who uses the service animal, or the owner of the service animal.

(3) The measure of economic damages in an action brought under Subsection (1) regarding a service animal that is not returned or is killed or injured due to an unprovoked attack so that the service animal is unable to function again as a service animal includes:
  (a) the replacement value of an equally trained service animal, without any differentiation for the age or experience of the animal; and
  (b) costs and expenses incurred by the person with a disability or the owner, including:
    (i) costs of temporary replacement assistance services, whether provided by another service animal or by a person;
    (ii) reasonable costs incurred in efforts to recover a stolen service animal; and
    (iii) court and attorney costs incurred in bringing an action under this section.
(4) If the unprovoked attack on a service animal results in injuries from which the animal recovers so it is able to again function as a service animal for the person with a disability, or if the theft of the service animal results in the recovery of the service animal and the animal is again able to function as a service animal for the person with a disability, the measure of economic damages is the costs and expenses incurred by the person with a disability or the owner as a result of the theft of or injury to the service animal, and includes:
  (a) veterinary medical expenses;
  (b) costs of temporary replacement assistance services, whether provided by another service animal or a person;
  (c) costs incurred in recovering the service animal, such as a reward; and
  (d) court and attorney costs incurred in bringing an action under this section.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-703 Limitation on cause of action.

A cause of action does not exist under this section if the person with a disability who uses the service animal or the person having custody or supervision of the service animal was committing a civil or criminal trespass at the time of the:
(1) theft of, or the chasing or harassment of the service animal by a person who owns or exercises control over the property upon which the trespass is committed; or
(2) attack upon, or the chasing or harassment of a service animal by an animal that is currently kept or maintained on the property where the trespass is committed.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 8
Death from Illegal Drug Use

78B-3-801 Cause of action for death or addiction caused by use or ingestion of illegal controlled substances -- Damages.

(1) As used in this section, "substance" means any illegal controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.
(2) A person is subject to a civil action by a person or an estate under Subsection (3) who:
  (a) unlawfully provided to or administered to the deceased person or the addicted person any substance that caused or contributed to the person's addiction or to the death of the deceased person; or

(b) unlawfully provided any substance to any person in the chain of transfer of the substance that connects directly to the person who subsequently provided or administered the illegal controlled substance to the addicted person or to the deceased person under Subsection (2)(a).

(3)

(a) A civil action for treble damages and punitive damages may be brought against any person under Subsection (2) by the estate of a person whose death was caused in whole or in part by ingestion or other exposure to any illegal controlled substance.

(b) A civil action for treble damages, punitive damages, and costs of addiction treatment or rehabilitation may be brought against any person under Subsection (2) by a person who has become or is addicted to any illegal controlled substance and the addiction was caused in whole or in part by ingestion of any illegal controlled substance.

(4) The burden is on the estate or the addicted person to prove the causal connection between the death or addiction, any substances provided or administered to the deceased or addicted person, and the defendant.

(5) This section does not establish liability of or create a cause of action regarding:

(a) a parent or guardian of a person younger than 18 years of age who acts in violation of this section, unless the parent or guardian acts in violation of this section; or

(b) a person who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, and who acts in accordance with the act.

Amended by Chapter 345, 2010 General Session

Part 10
Liability for Publishers and Distributors of Material Harmful to Minors

78B-3-1001 Definitions.

As used in this chapter:

(1) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.

(2) "Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.

(3) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(4) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

(5) "Material harmful to minors" is defined as all of the following:

(a) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(b) material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

(i) pubic hair, anus, vulva, genitals, or nipple of the female breast;
(ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or
(iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(c) the material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(6) "Minor" means any person under 18 years old.

(7) "News-gathering organization" means any of the following:

(a) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of such employment with the newspaper, news publication, or news source; or

(b) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee as provided in this subsection, who can provide documentation of such employment.

(8) "Publish" means to communicate or make information available to another person or entity on a publicly available Internet website.

(9) "Reasonable age verification methods" means verifying that the person seeking to access the material is 18 years old or older by using any of the following methods:

(a) use of a digitized information card as defined in this section;

(b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or

(c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.

(10) "Substantial portion" means more than 33-1/3% of total material on a website, which meets the definition of "material harmful to minors" as defined in this section.

(11)

(a) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.

(b) "Transactional data" includes records from mortgage, education, and employment entities.

Enacted by Chapter 262, 2023 General Session

78B-3-1002 Liability for publishers and distributors -- Age verification -- Retention of data -- Exceptions.

(1) A commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material shall be held liable if the entity fails to perform reasonable age verification methods to verify the age of an individual attempting to access the material.

(2) A commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the material.

(3) A commercial entity that is found to have violated this section shall be liable to an individual for damages resulting from a minor's accessing the material, including court costs and reasonable attorney fees as ordered by the court.

(4) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual shall be liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.
(5) This section shall not apply to any bona fide news or public interest broadcast, website video, report, or event and shall not be construed to affect the rights of a news-gathering organization.
(6) No Internet service provider, affiliate or subsidiary of an Internet service provider, search engine, or cloud service provider shall be held to have violated the provisions of this section solely for providing access or connection to or from a website or other information or content on the Internet, or a facility, system, or network not under that provider's control, including transmission, downloading, storing, or providing access, to the extent that such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors.

Enacted by Chapter 262, 2023 General Session

78B-3-1003 Liability of a parent or guardian for repeated offenses by a minor on school grounds.

(1) Except as provided in Subsection (6), if a person suffers damages from a minor committing the same offense repeatedly on school grounds for an offense in Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, the person may bring a cause of action against a parent or guardian with legal custody of the minor to recover costs and damages caused by the repeated offense.
(2) The parent or guardian is not liable for costs or damages under Subsection (1) if the parent or guardian made a reasonable effort to supervise and direct the minor.
(3) If a parent or guardian is found liable under this section, the court may waive part or all of the parent's or guardian's liability for costs or damages if the court finds:
  (a) good cause; or
  (b) that the parent or guardian reported the minor's wrongful conduct to law enforcement after the parent or guardian knew of the minor's wrongful conduct.
(4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the minor was arrested or apprehended by law enforcement.
(5) An adjudication or a conviction of a minor for a repeated offense under Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, is not required for a civil action to be brought under this section.
(6) A person may not bring a cause of action against the state, an agency of the state, or a contracted provider of an agency of the state, under this section.

Enacted by Chapter 75, 2024 General Session

Part 11
Harm to Minors by Algorithmically Curated Social Media Service

78B-3-1101 Definitions.

As used in this part:
(1) "Account holder" means the same as that term is defined in Section 13-71-101.

(2)
(a) "Adverse mental health outcome" means a condition affecting a minor's mental health that is:
(i) diagnosable by a licensed mental health care provider; and
(ii) acknowledged by professional mental health experts as having a negative impact on a minor's well-being.
(b) "Adverse mental health outcome" includes depression, anxiety, suicidal thoughts or behaviors, and self-harm thoughts or behaviors.
(3) "Algorithmically curated social media service" means a social media service that drives user engagement primarily through the use of:
(a) a curation algorithm; and
(b) engagement driven design elements.
(4) "Content" means the same as that term is defined in Section 13-71-101.
(5)
(a) "Curation algorithm" means a computational process or set of rules used by a social media platform that determines, influences, or personalizes, designed to encourage prolonged or frequent engagement:
(i) the content a user views;
(ii) the order in which content is displayed;
(iii) how prominently content is displayed; or
(iv) the manner in which content is displayed.
(b) "Curation algorithm" does not include the curation of:
(i) responses to specific user queries or user prompts requesting content related to defined topics or interests selected by the user; or
(ii) content to ensure only age appropriate material is provided to a user based on the user's age;
(iii) content that prevents a minor from viewing violent, bullying, threatening, or harassing content; or
(iv) content to comply with any state or federal law restricting the display of material harmful to minors.
(6) "Engagement driven design elements" means:
(a) autoplay features that continuously play content without requiring user interaction;
(b) scroll or pagination that loads additional content as long as the user continues scrolling; or
(c) push notifications.
(7) "Excessive use" means the use of a social media service by a minor to an extent that the use substantially interferes with the minor's normal functioning in:
(a) academic performance;
(b) sleep;
(c) in-person relationships;
(d) mental health; or
(e) physical health.
(8) "Minor" means the same as that term is defined in Section 13-71-101.
(9) "Parent" includes a legal guardian.
(10) "Push notification" means an automatic electronic message displayed on an account holder's device, when the user interface for the social media service is not actively open or visible on the device, that prompts the account holder to repeatedly check and engage with the social media service.
(11) "Resident" means the same as that term is defined in Section 53-3-102.
(12) "Social media company" means the same as that term is defined in Section 13-71-101.

(13) "Social media service" means the same as that term is defined in Section 13-71-101.
(14) "User" means the same as that term is defined in Section 13-71-101.
(15) "Utah account holder" means the same as that term is defined in Section 13-71-101.
(16) "Utah minor account holder" means the same as that term is defined in Section 13-71-101.

Enacted by Chapter 224, 2024 General Session

78B-3-1102 Legislative findings.

The Legislature finds that:
(1) social media services utilize curation algorithms and engagement driven design elements to maximize user engagement;
(2) minors are particularly vulnerable to manipulation by the use of curation algorithms and engagement driven design elements;
(3) a minor's excessive use of an algorithmically curated social media service is likely to cause adverse mental health outcomes in minors, regardless of the content being viewed;
(4) the risk of an adverse mental health outcome resulting from the excessive use of an algorithmically curated social media service increases when a minor uses the service for more than three hours per day, or during regular sleeping hours;
(5) algorithmically curated social media services are designed without sufficient tools to allow adequate parental oversight, exposing minors to risks that could be mitigated with additional parental control;
(6) protecting minors from the risks associated with the use of algorithmically curated social media services requires intervention at a societal level, informed by expertise in technology, psychology, and youth mental health;
(7) the state has a long-established role and responsibility in implementing protections and regulations to safeguard the health and welfare of minors;
(8) the state has enacted safeguards around products and activities that pose risks to minors, including regulations on motor vehicles, medications, and products and services targeted to children;
(9) any adverse mental health outcomes for minors that are linked to the excessive use of algorithmically curated social media services are a serious public health concern for the state; and
(10) the state has a compelling interest to protect minors in the state against adverse mental health outcomes.

Enacted by Chapter 224, 2024 General Session

78B-3-1103 Private right of action.

(1) A Utah minor account holder or a Utah minor account holder's parent may bring a cause of action against a social media company in court for an adverse mental health outcome arising, in whole or in part, from the minor's excessive use of the social media company's algorithmically curated social media service.
(2) To recover damages in a cause of action brought under this section, a person bringing the cause of action must demonstrate:
  (a) that the Utah minor account holder has been diagnosed by a licensed mental health care provider with an adverse mental health outcome; and
  (b) that the adverse mental health outcome was caused by the Utah minor account holder's excessive use of an algorithmically curated social media service.

(3) Except as provided in Subsection (4), a person who brings an action described in Subsection (1), is entitled to a rebuttable presumption that:
  (a) the Utah minor account holder's adverse mental health outcome was caused, in whole or in part, by the Utah minor account holder's excessive use of the algorithmically curated social media service; and
  (b) the Utah minor account holder's excessive use of the algorithmically curated social media service was caused, in whole or in part, by the algorithmically curated social media service's curation algorithm and engagement driven design elements.
(4) A social media company that complies with the provisions of Section 78B-11-1104 is entitled to a rebuttable presumption that:
  (a) the Utah minor account holder's adverse mental health outcome was not caused, in whole or in part, by the Utah minor account holder's excessive use of the algorithmically curated social media service; and
  (b) the Utah minor account holder's excessive use of the algorithmically curated social media service was not caused, in whole or in part, by the algorithmically curated social media service's curation algorithm and engagement driven design elements.
(5) If a court or fact finder finds that a Utah minor account holder suffered any adverse mental health outcome as a result of the Utah minor account holder's use of a social media company's algorithmically curated social media service, the person seeking relief is entitled to:
  (a) an award of reasonable attorney fees and court costs; and
  (b) an amount equal to the greater of:
    (i) $10,000 for each adverse mental health outcome incidence; or
    (ii) the amount of actual damages.
(6) A social media company may not be held liable under this part:
  (a) based on the content of material posted by users of the algorithmically curated social media service; or
  (b) for declining to restrict access to or modify user posts based solely on the content of those posts.
(7) Nothing in this part shall displace any other available remedies or rights authorized under the laws of this state or the United States.

Enacted by Chapter 224, 2024 General Session

78B-3-1104 Affirmative defense.

(1) A person is not entitled to the rebuttable presumption described in Subsection 78B-11-1103(3), and a social media company is entitled to the rebuttable presumption described in Subsection 78B-11-1103(4), if the social media company demonstrates to the court that the social media company:
  (a) limits a Utah minor account holder's use of the algorithmically curated social media service to no more than three hours in a 24 hour period across all devices;
  (b) restricts a Utah minor account holder from accessing the algorithmically curated social media service between the hours of 10:30 p.m. and 6:30 a.m.;
  (c) requires the parent or legal guardian of the minor to consent to a Utah minor account holder's use of the algorithmically curated social media service; and
  (d) disables engagement driven design elements for a Utah minor account holder's account.
(2) A social media company may utilize settings that are enabled at the device level to impose the requirements described in Subsection (1).

(3) Notwithstanding Subsection (2), a social media company remains liable to ensure that the Utah minor account holder's account is subject to the restrictions of Subsection (1).

Enacted by Chapter 224, 2024 General Session

78B-3-1105 Waiver prohibited.

A waiver or limitation, or a purported waiver or limitation, of any of the following is void as unlawful, is against public policy, and a court or arbitrator may not enforce or give effect to the waiver, notwithstanding any contract or choice-of-law provision in a contract:

(1) a protection or requirement provided under this chapter;
(2) the right to cooperate with or file a complaint with a government agency;
(3) the right to a private right of action as provided under this chapter; or
(4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees as allowed by this chapter.

Enacted by Chapter 224, 2024 General Session

78B-3-1106 Severability.

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.
(2) The provisions of this chapter are severable.

Enacted by Chapter 224, 2024 General Session

Part 12
ETHYLENE OXIDE EXPOSURE

78B-3-1201 Definitions.

As used in this part:

(1)
  (a) "Healthcare industry" means the economic sector composed of entities, organizations, services, individuals, and professionals involved in providing medical care and support to individuals, including maintaining and improving public health, diagnosing and treating diseases, and promoting the well-being of individuals.
  (b) "Healthcare industry" includes the manufacturing, sales and distribution, sterilization, storage, and transportation of medical devices.
(2) "State law" includes:
  (a) statutes;
  (b) regulations;
  (c) rules; and
  (d) standards that are enacted, promulgated, or established under common law.

Enacted by Chapter 356, 2025 General Session

78B-3-1202 Requirements for liability for exposure to ethylene oxide -- Limitation on liability.

Notwithstanding any other provision of law, and except as otherwise provided in this part, no person engaged in business in the healthcare industry shall be liable in any ethylene oxide exposure action unless the plaintiff can prove by a preponderance of the evidence that:

(1) in engaging in the business, the person was not in substantial compliance and was not making reasonable efforts in light of all the circumstances to be in substantial compliance with the applicable United States government laws, regulations, or standards related to ethylene oxide in effect at the time of the actual, alleged, feared, or potential exposure to ethylene oxide;

(2) the person engaged in gross negligence or willful misconduct that caused an actual exposure to ethylene oxide; and

(3) the actual exposure to ethylene oxide was the direct and proximate cause of the personal injury of the plaintiff.

Enacted by Chapter 356, 2025 General Session

78B-3-1203 Claim procedures -- Pleading requirements.

In any ethylene oxide-related action:

(1) the complaint shall:

(a) plead each element of the plaintiff's claim with particularity; and

(b) plead each alleged act or omission constituting gross negligence or willful misconduct that resulted in personal injury, harm, damage, breach, or tort with particularity;

(2) if monetary damages are requested, a plaintiff shall file with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation; and

(3) if a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, a plaintiff shall file with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

Enacted by Chapter 356, 2025 General Session

78B-3-1204 Application and preemption -- Exclusive cause of action -- Transition clause -- Preemption of other law -- Workers' compensation applicability not affected.

(1) This part creates an exclusive cause of action for ethylene oxide exposure actions.

(2) A plaintiff may prevail in an ethylene oxide exposure action only in accordance with the requirements of this part.

(3) The provisions of this part apply to:

(a) any cause of action that is an ethylene oxide exposure action filed before May 7, 2025, and that is pending as of that date; and

(b) any ethylene oxide exposure action filed on or after May 7, 2025.

(4) This part preempts and supersedes any state law that is related to recovery for personal injuries caused by actual, alleged, feared, or potential exposure to ethylene oxide.

(5) Nothing in this part shall be construed to affect the applicability of any state law providing for a workers' compensation scheme or program, or to preempt or supersede an exclusive remedy or defense under such scheme or program.

Enacted by Chapter 356, 2025 General Session

Chapter 3a
Venue for Civil Actions

Part 1
General Provisions

78B-3a-101 Definitions.

As used in this chapter:

(1)

(a) "Action" means a lawsuit or case that is commenced in a court.

(b) "Action" does not include a criminal action as defined in Section 77-1-3.

(2) "Business organization" means:

(a) an association;

(b) a corporation;

(c) an institution, as that term is defined in Section 7-1-103;

(d) a joint stock company;

(e) a joint venture;

(f) a limited liability company;

(g) a mutual fund trust;

(h) a partnership; or

(i) any other similar form of organization described in Subsections (2)(a) through (h).

(3) "Cause of action" means the act or omission giving rise to the action.

(4) "Principal place of business" means the place where the business organization's officers direct, control, and coordinate the business organization's activities regardless of whether the place is located in this state.

(5) "Registered office" means the place within this state that the business organization designated as the business organization's registered office in the most recent document on file with the Division of Corporations and Commercial Code.

Enacted by Chapter 401, 2023 General Session

78B-3a-102 Applicability of this chapter -- Venue for the Business and Chancery Court.

(1) Except as otherwise provided by another provision of the Utah Code, a plaintiff shall bring an action in accordance with the requirements of this chapter.

(2) The requirements of this chapter do not apply to an action brought in the Business and Chancery Court.

Enacted by Chapter 401, 2023 General Session

78B-3a-103 Transfer of venue.

(1) A court may transfer venue in accordance with Rule 42 of the Utah Rules of Civil Procedure.

(2) A court to which an action is transferred has the same jurisdiction as if the action had been originally brought in that court.

Enacted by Chapter 401, 2023 General Session

78B-3a-104 Residence of a business organization.

For purposes of this chapter, the residence of a business organization is:

(1) the county where the business organization's principal place of business is located;

(2) the county where the business organization's registered office is located if the business organization does not have a principal place of business in the state; or

(3) Salt Lake County if the business organization does not have a principal place of business or a registered office in the state.

Enacted by Chapter 401, 2023 General Session

Part 2
Venue Requirements

78B-3a-201 All actions -- Exceptions.

(1) Except as otherwise provided by this chapter or another provision of the Utah Code, a plaintiff shall bring an action in the county in which:

(a) the cause of action arises; or

(b) any defendant resides at the commencement of the action.

(2) If none of the defendants reside in this state, the plaintiff may bring the action in any county designated by the plaintiff in the complaint.

(3) If the defendant is about to depart from the state, the plaintiff may bring the action in any county where any of the parties resides or service is had.

Renumbered and Amended by Chapter 401, 2023 General Session

78B-3a-202 Actions involving real property.

(1) A plaintiff shall bring the following actions involving real property in the county in which the real property, or some part of the real property, is situated:

(a) for the recovery of real property or of an estate or interest in the property;

(b) for the determination, in any form, of the right or interest in the real property;

(c) for injuries to real property;

(d) for the partition of real property; and

(e) for the foreclosure of all liens and mortgages on real property.

(2) If the real property is situated in more than one county, the plaintiff may bring the action in any county in which the real property is situated.

Renumbered and Amended by Chapter 401, 2023 General Session

78B-3a-203 Actions to recover fines or penalties -- Actions against public officers.

(1) A plaintiff shall bring an action to recover a fine or penalty in the county where:

(a) the cause of action arises; or

(b) some part of the cause of action arises.

(2) If a fine, penalty, or forfeiture imposed by statute is imposed for an offense committed on a lake, river, or other stream of water situated in two or more counties, the plaintiff may bring the

action in any county bordering on the lake, river, or stream opposite to the place where the offense was committed.
(3) Except as otherwise provided by law, a plaintiff shall bring an action against a public officer, or the public officer's designee, in the county where the cause of action arises.

Renumbered and Amended by Chapter 401, 2023 General Session

78B-3a-204 Actions against a county.
(1) Except as otherwise provided in Subsection (2), a plaintiff shall bring an action against a county in the county.
(2) If the action is brought by another county, the county may bring the action in any county not a party to the action.

Renumbered and Amended by Chapter 401, 2023 General Session

78B-3a-205 Actions on written contracts.
A plaintiff shall bring an action on a contract signed in this state to perform an obligation in:
(1) if the action is to enforce an interest in real property securing a consumer's obligation, the county where the real property is located or where the defendant resides; or
(2) if the action is to enforce an interest other than under Subsection (1), the county where the obligation is to be performed, the contract was signed, or in which the defendant resides.

Renumbered and Amended by Chapter 401, 2023 General Session

78B-3a-206 Transitory actions.
(1) Except for a transitory action under Subsection (2), a plaintiff shall bring a transitory action arising outside the state in the county where the defendant resides if the action is brought in this state.
(2) A plaintiff shall bring a transitory action arising outside the state in favor of residents of this state in the county where:
(a) the plaintiff resides; or
(b) the principal defendant resides.

Enacted by Chapter 401, 2023 General Session

Chapter 4
Limitations on Liability

Part 1
Liability Protection for Volunteers

78B-4-101 Definitions.
As used in this part:
(1) "Damage or injury" includes physical, nonphysical, economic, and noneconomic damage.

(2) "Financially secure source of recovery" means that, at the time of the incident, a nonprofit organization:
  (a) has an insurance policy in effect that covers the activities of the volunteer and has an insurance limit of not less than the limits established under the Governmental Immunity Act of Utah in Section 63G-7-604; or
  (b) has established a qualified trust with a value not less than the combined limits for property damage and single occurrence liability established under the Governmental Immunity Act of Utah in Section 63G-7-604.
(3) "Nonprofit organization" means any organization, other than a public entity, described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under Section 501 (a) of that code.
(4) "Public entity" has the same meaning as defined in Section 63G-8-102.
(5) "Qualified trust" means a trust held for the purpose of compensating claims for damages or injury in a trust company licensed to do business in this state under the provisions of Title 7, Chapter 5, Trust Business.
(6) "Reimbursements" means, with respect to each nonprofit organization:
  (a) compensation or honoraria totaling less than $300 per calendar year; and
  (b) payment of expenses actually incurred.
(7)
  (a) "Volunteer" means an individual performing services for a nonprofit organization who does not receive anything of value from that nonprofit organization for those services except reimbursements.
  (b) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.
  (c) "Volunteer" does not include an individual performing services for a public entity to the extent the services are within the scope of Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act, or Title 67, Chapter 20, Volunteer Government Workers Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-102 Liability protection for volunteers -- Exceptions.
(1) Except as provided in Subsection (2), no volunteer providing services for a nonprofit organization incurs any legal liability for any act or omission of the volunteer while providing services for the nonprofit organization and no volunteer incurs any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:
  (a) the individual was acting in good faith and reasonably believed he was acting within the scope of his official functions and duties with the nonprofit organization; and
  (b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal, willful, or wanton misconduct.
(2) The protection against volunteer liability provided by this section does not apply:
  (a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel, aircraft or other vehicle for which a pilot or operator's license is required;
  (b) when a suit is brought by an authorized officer of a state or local government to enforce a federal, state, or local law; or
  (c) where the nonprofit organization for which the volunteer is working fails to provide a financially secure source of recovery for individuals who suffer injuries as a result of actions taken by the volunteer on behalf of the nonprofit organization.

(3) Nothing in this section shall bar an action by a volunteer against an organization, its officers, or other persons who intentionally or knowingly misrepresent that a financially secure source of recovery does or will exist during a period when such a source does not or will not in fact exist.
(4) Nothing in this section shall be construed to place a duty upon a nonprofit organization to provide a financially secure source of recovery.
(5) The granting of immunity from liability to a volunteer under this section does not affect the liability of the nonprofit organization providing the financially secure source of recovery.

Amended by Chapter 218, 2010 General Session

78B-4-103 Liability protection for organizations.

A nonprofit organization is not liable for the acts or omissions of its volunteers in any circumstance where:
(1) the acts of its volunteers are not as described in Subsection 78B-4-102(1) unless the nonprofit organization had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the nonprofit organization under circumstances that make the nonprofit organization's use of the volunteer reckless or wanton in light of that notice; or
(2) a business employer would not be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2
Limitations on Liability for Equine and Livestock Activities

78B-4-201 Definitions.

As used in this part:
(1) "Equine" means any member of the equidae family.
(2) "Equine activity" means:
  (a) equine shows, fairs, competitions, performances, racing, sales, or parades that involve any breeds of equines and any equine disciplines, including dressage, hunter and jumper horse shows, grand prix jumping, multiple-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, hunting, endurance trail riding, and western games;
  (b) boarding or training equines;
  (c) teaching persons equestrian skills;
  (d) riding, inspecting, or evaluating an equine owned by another person regardless of whether the owner receives monetary or other valuable consideration;
  (e) riding, inspecting, or evaluating an equine by a prospective purchaser; or
  (f) other equine activities of any type including rides, trips, hunts, or informal or spontaneous activities sponsored by an equine activity sponsor.
(3) "Equine activity sponsor" means an individual, group, governmental entity, club, partnership, or corporation, whether operating for profit or as a nonprofit entity, which sponsors, organizes, or provides facilities for an equine activity, including:
  (a) pony clubs, hunt clubs, riding clubs, 4-H programs, therapeutic riding programs, and public and private schools and postsecondary educational institutions that sponsor equine activities; and

(b) operators, instructors, and promoters of equine facilities, stables, clubhouses, ponyride strings, fairs, and arenas.

(4) "Equine professional" means a person compensated for an equine activity by:

(a) instructing a participant;

(b) renting to a participant an equine to ride, drive, or be a passenger upon the equine; or

(c) renting equine equipment or tack to a participant.

(5) "Inherent risk" with regard to equine or livestock activities means those dangers or conditions which are an integral part of equine or livestock activities, which may include:

(a) the propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them;

(b) the unpredictability of the animal's reaction to outside stimulation such as sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(c) collisions with other animals or objects; or

(d) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.

(6) "Livestock" means all domesticated animals used in the production of food, fiber, or livestock activities.

(7) "Livestock activity" means:

(a) livestock shows, fairs, competitions, performances, packing events, or parades or rodeos that involve any or all breeds of livestock;

(b) using livestock to pull carts or to carry packs or other items;

(c) using livestock to pull travois-type carriers during rescue or emergency situations;

(d) livestock training or teaching activities or both;

(e) taking livestock on public relations trips or visits to schools or nursing homes;

(f) boarding livestock;

(g) riding, inspecting, or evaluating any livestock belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the livestock or is permitting a prospective purchaser of the livestock to ride, inspect, or evaluate the livestock;

(h) using livestock in wool production;

(i) rides, trips, or other livestock activities of any type however informal or impromptu that are sponsored by a livestock activity sponsor; and

(j) trimming the feet of any livestock.

(8) "Livestock activity sponsor" means an individual, group, governmental entity, club, partnership, or corporation, whether operating for profit or as a nonprofit entity, which sponsors, organizes, or provides facilities for a livestock activity, including:

(a) livestock clubs, 4-H programs, therapeutic riding programs, and public and private schools and postsecondary educational institutions that sponsor livestock activities; and

(b) operators, instructors, and promoters of livestock facilities, stables, clubhouses, fairs, and arenas.

(9) "Livestock professional" means a person compensated for a livestock activity by:

(a) instructing a participant;

(b) renting to a participant any livestock for the purpose of riding, driving, or being a passenger upon the livestock; or

(c) renting livestock equipment or tack to a participant.

(10) "Participant" means any person, whether amateur or professional, who directly engages in an equine activity or livestock activity, regardless of whether a fee has been paid to participate.

(11)
(a) "Person engaged in an equine or livestock activity" means a person who rides, trains, leads, drives, or works with an equine or livestock, respectively.
(b) Subsection (11)(a) does not include a spectator at an equine or livestock activity or a participant at an equine or livestock activity who does not ride, train, lead, or drive an equine or any livestock.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-202 Equine and livestock activity liability limitations.
(1) It shall be presumed that participants in equine or livestock activities are aware of and understand that there are inherent risks associated with these activities.
(2) An equine activity sponsor, equine professional, livestock activity sponsor, or livestock professional is not liable for an injury to or the death of a participant due to the inherent risks associated with these activities, unless the sponsor or professional:
(a)
(i) provided the equipment or tack;
(ii) the equipment or tack caused the injury; and
(iii) the equipment failure was due to the sponsor's or professional's negligence;
(b) failed to make reasonable efforts to determine whether the equine or livestock could behave in a manner consistent with the activity with the participant;
(c) owns, leases, rents, or is in legal possession and control of land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to or should have been known to the sponsor or professional and for which warning signs have not been conspicuously posted;
(d)
(i) commits an act or omission that constitutes negligence, gross negligence, or willful or wanton disregard for the safety of the participant; and
(ii) that act or omission causes the injury; or
(e) intentionally injures or causes the injury to the participant.
(3) This chapter does not prevent or limit the liability of an equine activity sponsor, an equine professional, a livestock activity sponsor, or a livestock professional who is:
(a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an action to recover for damages incurred in the course of providing professional treatment of an equine;
(b) liable under Title 4, Chapter 25, Estrays; or
(c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

Amended by Chapter 345, 2017 General Session

78B-4-203 Signs to be posted listing inherent risks and liability limitations.
(1) An equine or livestock activity sponsor shall provide notice to participants of the equine or livestock activity that there are inherent risks of participating and that the sponsor is not liable for certain of those risks.
(2) Notice shall be provided by:
(a) posting a sign in a prominent location within the area being used for the activity; or
(b) providing a document or release for the participant, or the participant's legal guardian if the participant is a minor, to sign.

(3) The notice provided by the sign or document shall be sufficient if it includes the definition of inherent risk in Section 78B-4-201 and states that the sponsor is not liable for those inherent risks.
(4) Notwithstanding Subsection (1), signs are not required to be posted for parades and activities that fall within Subsections 78B-4-201(2)(f) and (7)(c), (e), (g), (h), and (j).

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3
Commonsense Consumption Act

78B-4-301 Title.
This part is known as the "Commonsense Consumption Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-302 Definitions.
As used in this part:
(1) "Claim" means any assertion by or on behalf of a natural person, as well as any derivative claim arising from it, and asserted by or on behalf of any other person.
(2) "Food":
(a) means any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption;
(b) does not include:
(i) tobacco products;
(ii) alcohol products;
(iii) vitamins or dietary supplements;
(iv) illegal drugs; or
(v) prescription or over-the-counter drugs.
(3) "Knowing and willful violation" means that the conduct constituting the violation was:
(a) committed with the intent to deceive or injure consumers or with actual knowledge that the conduct was injurious to consumers; and
(b) not required by regulation, order, rule, ordinance, or any statute administered by a federal, state, or local government agency.
(4) "Condition resulting from long term consumption of food" means the cumulative effect of consumption of food, which includes weight gain, obesity, or other generally known health conditions allegedly caused by or likely to result from the consumption of food.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-303 Prevention of unfounded lawsuits -- Exemption.
(1) Except as provided in Subsection (2), a manufacturer, packer, distributor, carrier, holder, seller, marketer, advertiser of a food, or an association of one or more such entities, may not be subject to civil liability arising under any state statute, rule, public policy, court or administrative decision, municipal ordinance, or other action having the effect of law, for any claim of obesity or weight gain resulting from the consumption of food.

(2) Subsection (1) may not apply where the claim of obesity or weight gain is based on:
(a) a material violation of an adulteration or misbranding requirement prescribed by state or federal statute, rule, regulation, or ordinance and the claimed injury was proximately caused by the violation; or
(b) any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, provided that the violation is knowing and willful, and the claimed injury was proximately caused by the violation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-304 Pleading requirements.
(1) In any action commenced under the provisions of Subsection 78B-4-303(2), the complaint or petition shall state with particularity the following:
(a) the statute, rule, regulation, ordinance, or other law that was allegedly violated;
(b) the facts that are alleged to constitute a material violation of the statute, rule, regulation, ordinance, or other law; and
(c) the facts alleged to demonstrate that the violation proximately caused actual injury to the plaintiff.
(2) The complaint or petition shall also state with particularity facts sufficient to support a reasonable inference that the violation was with intent to deceive or injure consumers or with the actual knowledge that the violation was injurious to consumers.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-305 Stay pending motion to dismiss.
(1) In any action commenced under the provisions of Subsection 78B-4-303(2), all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to a party.
(2) During the pendency of any stay of discovery pursuant to this section, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations, and tangible objects that are in the custody or control of the party and are relevant to the allegations, as if they were the subject of a continuing request for production from an opposing party under Rule 34, URCP.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-306 Applicability.
The provisions of this chapter apply to all covered claims pending on May 3, 2004, and all claims filed after that date, regardless of when the claim arose.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Inherent Risks of Skiing

78B-4-401 Public policy.

(1) The Legislature finds that:
  (a) the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;
  (b) few insurance carriers are willing to provide liability insurance protection to ski area operators; and
  (c) the premiums charged by insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing.
(2) It is the purpose of this act:
  (a) to clarify the law in relation to skiing injuries and the risks inherent in the sport of skiing;
  (b) to establish as a matter of law that certain risks are inherent in the sport of skiing; and
  (c) to provide that, as a matter of public policy, an individual engaged in the sport of skiing may not recover from a ski operator for injuries resulting from the risks that are inherent in the sport of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-402 Definitions.

As used in this part:
(1) "Inherent risks of skiing" means the dangers or conditions that are an integral part of the sport of recreational, competitive, or professional skiing, including:
  (a) changing weather conditions;
  (b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;
  (c) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;
  (d) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:
    (i) terrain parks;
    (ii) terrain features, including jumps, rails, or fun boxes; or
    (iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;
  (e) impact with lift towers, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;
  (f) collisions with other skiers;
  (g) participation in, or practicing or training for, competitions or special events; and
  (h) the failure of a skier to ski within the skier's own ability.
(2) "Injury" means any personal injury or property damage or loss.
(3) "Minor" means an individual who is under 18 years old.
(4) "Skier" means an individual present in a ski area for the purpose of engaging in the sport of skiing, nordic, freestyle, or other types of ski jumping, or using skis, a sled, a tube, a snowboard, or any other device.
(5) "Ski area" means any area designated by a ski area operator to be used for skiing, nordic, freestyle or other type of ski jumping, or snowboarding.
(6)
  (a) "Ski area operator" means a person that operates a ski area.

(b) "Ski area operator" includes an agent, an officer, an employee, or a representative of the person that operates a ski area.

Amended by Chapter 295, 2020 General Session

78B-4-403 Bar against claim or recovery from operator for injury from risks inherent in sport.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a skier may not make any claim against, or recover from, a ski area operator for injury resulting from inherent risks of skiing.

Amended by Chapter 295, 2020 General Session

78B-4-404 Trail boards listing inherent risks and limitations on liability.

A ski area operator shall:

(1) post trail boards at one or more prominent locations within each ski area; and

(2) include a list of the inherent risks of skiing and the limitations on liability of ski area operators on the trail board.

Amended by Chapter 295, 2020 General Session

78B-4-405 Liability agreements.

(1) A skier may enter into an agreement with a ski area operator before an injury to:

(a) waive a claim that the skier is permitted to bring against a ski area operator; or

(b) release the ski area operator from a claim that the skier is permitted to bring under this part.

(2) If the skier is a minor, the skier, or the skier's parent or guardian on behalf of the minor, may not enter into an agreement described in Subsection (1)(a).

Enacted by Chapter 295, 2020 General Session

78B-4-406 Limitation on damages.

(1) In an action arising on or after May 12, 2020, against a ski area operator for a claim not prohibited under this part, in which the skier, or a person authorized to bring a claim on behalf of the skier, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed $1,000,000.

(2) The limit on an award for noneconomic losses described in Subsection (1) does not apply to an award:

(a) of punitive damages; or

(b) for a wrongful death action.

Enacted by Chapter 295, 2020 General Session

Part 5
Particular Limitations on Liability

78B-4-501 Good Samaritan Law.

(1) As used in this section:

(a) "Child" means an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.
(b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal or disposal of hazardous materials, and other accidents or events of a similar nature.
(c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.
(d) "First responder" means a state or local:
(i) law enforcement officer, as defined in Section 53-13-103;
(ii) firefighter, as defined in Section 34A-3-113; or
(iii) emergency medical service provider, as defined in Section 53-2d-101.
(e) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
(2) A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.
(3)
(a) A person who gratuitously, and in good faith, assists a governmental agency or political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable for any civil damages or penalties as a result of any act or omission, unless the person rendering assistance is grossly negligent in:
(i) implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;
(ii) investigating and controlling suspected bioterrorism and disease as set out in Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and
(iii) responding to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health-related activities.
(b) The immunity in this Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.
(4)
(a) A person who uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child is not liable for damages in a civil action if all of the following apply:
(i) the person has a good faith belief that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle;
(ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle;
(iii) before entering the motor vehicle, the person notifies a first responder of the confined child;
(iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and
(v) the person remains with the child until a first responder arrives at the motor vehicle.
(b) A person is not immune from civil liability under this Subsection (4) if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.

Amended by Chapter 310, 2023 General Session
Amended by Chapter 330, 2023 General Session

78B-4-502 Donation of food -- Liability limits.

(1) A person or entity who donates apparently wholesome food to a nonprofit organization for distribution to the needy is not subject to civil or criminal liability regarding the condition of the food unless an injury or death results from an act or omission of the donor that constitutes gross negligence, recklessness, or intentional misconduct.
(2) A nonprofit organization that distributes either directly or indirectly apparently wholesome food to persons in need at no charge and substantially complies with applicable local, county, state, and federal laws and regulations regarding the storage and handling of food for public distribution is not subject to civil or criminal liability regarding the condition of the food unless an injury or death results from an act or omission of the organization that constitutes gross negligence, recklessness, or intentional misconduct.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-503 Immunity for transient shelters.

(1) As used in this section, "transient shelter" means any person which provides shelter, food, clothing, or other products or services without consideration to indigent persons.
(2) Except as provided in Subsection (3), all transient shelters, owners, operators, and employees of transient shelters, and persons who contribute products or services to transient shelters, are immune from suit for damages or injuries arising out of or related to the damaged or injured person's use of the products or services provided by the transient shelter.
(3) This section does not prohibit an action against a person for damages or injury intentionally caused by that person or resulting from his gross negligence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-504 Donation of nonschedule drugs or devices -- Liability limitation.

(1) As used in this section:
  (a) "Administer" is as defined in Section 58-17b-102.
  (b) "Dispense" is as defined in Section 58-17b-102.
  (c) "Distribute" is as defined in Section 58-17b-102.
  (d) "Drug outlet" means:
    (i) a pharmacy or pharmaceutical facility as defined in Section 58-17b-102; or
    (ii) a person with the authority to engage in the dispensing, delivering, manufacturing, or wholesaling of prescription drugs or devices outside of the state under the law of the jurisdiction in which the person operates.
  (e) "Health care provider" means:
    (i) a person who is a health care provider, as defined in Section 78B-3-403, with the authority under Title 58, Occupations and Professions, to prescribe, dispense, or administer prescription drugs or devices; or
    (ii) a person outside of the state with the authority to prescribe, dispense, or administer prescription drugs or devices under the law of the jurisdiction in which the person practices.
  (f) "Nonschedule drug or device" means:

(i) a prescription drug or device, as defined in Section 58-17b-102, except that it does not include controlled substances, as defined in Section 58-37-2; or
(ii) a nonprescription drug, as defined in Section 58-17b-102.
(g) "Prescription drug or device" is as defined in Section 58-17b-102.
(2) A drug outlet is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the drug outlet distributes at no charge, in good faith, and for a charitable purpose to a drug outlet or health care provider for ultimate use by a needy person, provided that:
(a) the drug outlet complies with applicable state and federal laws regarding the storage, handling, and distribution of the nonschedule drug or device; and
(b) the injury or death is not the result of any act or omission of the drug outlet that constitutes gross negligence, recklessness, or intentional misconduct.
(3) A health care provider is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the health care provider distributes to a drug outlet or health care provider for ultimate use by a needy person or directly administers, dispenses, or distributes to a needy person, provided that:
(a) the health care provider complies with applicable state and federal laws regarding the storage, handling, distribution, dispensing, and administration of the nonschedule drug or device;
(b) the injury or death is not the result of any act or omission of the health care provider that constitutes gross negligence, recklessness, or intentional misconduct; and
(c) in the event that the health care provider directly administers, distributes, or dispenses the nonschedule drug or device to the needy person, the health care provider has retained a consent form signed by the needy person that explains the provisions of this section which extend liability protection for charitable donations of nonschedule drugs and devices.
(4) Nothing in this section may be construed as:
(a) permitting a person who is not authorized under Title 58, Occupations and Professions, to operate as a drug outlet or practice as a health care provider within the state; or
(b) extending liability protection to any person who acts outside of the scope of authority granted to that person under the laws of this state or the jurisdiction in which the person operates or practices.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-505 Liability of reprocessor of single-use medical devices.
(1) For purposes of this section:
(a) "Critical single-use medical device" means a medical device that:
(i) is marked as a single-use device by the original manufacturer; and
(ii) is intended to directly contact normally sterile tissue or body spaces during use, or is physically connected to a device intended to contact normally sterile tissue or body spaces during use.
(b) "Original manufacturer" means any person or entity who designs, manufactures, fabricates, assembles, or processes a critical single-use medical device which is new and has not been used in a previous medical procedure.
(c) "Reprocessor" includes a person or entity who performs the functions of contract sterilization, installation, relabeling, remanufacturing, repacking, or specification development of a reprocessed critical single-use medical device.

(d) "Reconditioned or reprocessed critical single-use medical device" means a critical single use medical device that:
(i) has previously been used on a patient and has been subject to additional processing and manufacturing for the purpose of additional use on a different patient;
(ii) includes a device that meets the definition under Subsection (1)(a), but has been labeled by the reprocessor as "recycled," "refurbished," or "reused"; and
(iii) does not include a disposable or critical single-use medical device that has been opened but not used on an individual.
(2) A reprocessor who reconditions or reprocesses a critical single-use medical device assumes the liability:
(a) of the original manufacturer of the critical single-use medical device; and
(b) for the safety and effectiveness of the reconditioned or reprocessed critical single-use medical device.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-506 Limited immunity for architects and engineers inspecting earthquake damage.
(1) A professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who provides structural inspection services at the scene of a declared national, state, or local emergency caused by a major earthquake is not liable for any personal injury, wrongful death, or property damage caused by the good faith inspection for structural integrity or nonstructural elements affecting health and safety of a structure used for human habitation or owned by a public entity if the inspection is performed:
(a) voluntarily, without compensation or the expectation of compensation;
(b) at the request of a public official or city or county building inspector acting in an official capacity; and
(c) within 30 days of the earthquake.
(2) The immunity provided for in Subsection (1) does not apply to gross negligence or willful misconduct.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-507 Amusement park rides -- Park responsibilities -- Rider responsibilities.
(1) As used in this section:
(a)
(i) "Amusement park" means any permanent indoor or outdoor facility or park where amusement rides are available for use by the general public.
(ii) "Amusement park" does not include a ski resort, a traveling show, carnival, or fair.
(b) "Amusement ride" means a device or attraction at an amusement park which carries or conveys passengers along, around, or over a fixed or restricted route or course or allows the passenger to steer or guide it within an established area for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" includes:
(i) any water-based recreational attraction, including all water slides, wave pools, and water parks; and
(ii) typical rides, including roller coasters, whips, ferris wheels, and merry-go-rounds.
(c) "Intoxicated" means a person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may

endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.

(d) "Operator" means any person, firm, or corporation that owns, leases, manages, or operates an amusement park or amusement ride and all employees and agents of the amusement park.

(e) "Rider" means any person who is:

(i) waiting in the immediate vicinity of an amusement ride in order to get on the ride;

(ii) in the process of leaving the ride but remains in its immediate vicinity; or

(iii) a passenger or participant on an amusement ride.

(2) An amusement park shall inform riders in writing, where appropriate, of the nature of the ride, including factors which would assist riders in determining whether they should participate in the ride activity and the rules concerning conduct on each ride. Information concerning the rules of conduct may be given verbally at the beginning of each ride segment or posted in writing conspicuously at the entrance to each ride.

(3) Riders are responsible for obeying the posted rules and verbal instructions of the amusement ride operator.

(4) A rider may not:

(a) board or dismount from an amusement ride except at a designated area;

(b) board an amusement ride if he has a physical condition that may be aggravated by participation on the ride;

(c) disconnect, disable, or attempt to disconnect or disable, any safety device, seat belt, harness, or other restraining device before, during, or after movement of the amusement ride has started except at the express instruction of the operator;

(d) throw or expel any object from an amusement ride;

(e) act in any manner contrary to posted or oral rules while boarding, riding, or dismounting from an amusement ride; or

(f) engage in any reckless act or activity which may injure himself or others.

(5) A rider may not board or attempt to board any amusement ride if he is intoxicated.

(a) An operator of an amusement park ride may prevent a rider who is perceptibly or apparently intoxicated from boarding an amusement ride.

(b) An operator who prevents a rider from boarding an amusement ride under this section is not criminally or civilly liable if the operator reasonably believes that the rider is intoxicated.

(6) An amusement park shall post signs and notices in conspicuous locations throughout the park informing riders of the importance of reporting all injuries sustained on amusement park premises. The signs shall contain the location where any injuries may be reported.

(7) A rider, or the parent or guardian of a minor rider on the minor's behalf, may report in writing to the amusement facility or its designated agent any injuries sustained on an amusement ride before leaving the amusement facility premises, unless the rider, or parent or guardian of a minor rider, is unable to file a report because of the severity of the injuries to the rider. The report shall be filed as soon as reasonably possible and include:

(a) the name, address, and phone number of the injured person;

(b) if the injured person is a minor, the name, address, and phone number of the parent or guardian filing the report;

(c) a brief description of the incident causing the injury, including the location, date, and time of the injury;

(d) a description of the injury, including the cause, if known; and

(e) the name, address, and phone number of any known witnesses to the incident.

(8) The actions of any rider of sufficient age and knowledge to assume the inherent risks of an amusement ride who violates the provisions of Subsection (3), (4), or (5) may be considered by the court in a civil action brought by a rider against the amusement park operator for injuries sustained while at the amusement park for the purpose of allocating fault between the parties.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-508 Limitation on liability of hockey facilities.

(1) As used in this section, "hockey facility" means a facility where hockey is customarily played or practiced and the general public is charged an admission fee to attend.
(2) The owner or operator of a hockey facility is not liable for any injury to the person or property of any person as a result of that person being hit by a hockey puck or stick unless:
  (a) the person is situated completely behind a board, glass, or similar barrier and the board, glass, or barrier is defective; or
  (b) the injury is caused by negligent or willful and wanton conduct in connection with the game of hockey by the owner or operator or any hockey player, coach, or manager employed by the owner or operator.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-509 Inherent risks of certain recreational activities -- Claim barred against county or municipality -- No effect on duty or liability of person participating in recreational activity or other person.

(1) As used in this section:
  (a) "Inherent risks" means any danger, condition, and potential for personal injury or property damage that is an integral and natural part of participating in a recreational activity.
  (b) "Municipality" means the same as that term is defined in Section 10-1-104.
  (c) "Person" means:
    (i) an individual, regardless of age, maturity, ability, capability, or experience; and
    (ii) a corporation, partnership, limited liability company, or any other form of business enterprise.
  (d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding, skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking, running, jogging, bike riding, scooter riding, or in-line skating on property:
    (i) owned, leased, or rented by, or otherwise made available to:
      (A) with respect to a claim against a county, the county; and
      (B) with respect to a claim against a municipality, the municipality; and
    (ii) intended for the specific use in question.
(2) Notwithstanding Sections 78B-5-817 through 78B-5-823, no person may make a claim against or recover from any of the following entities for personal injury or property damage resulting from any of the inherent risks of participating in a recreational activity:
  (a) a county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act; or
  (b) the owner of property that is leased, rented, or otherwise made available to a county, municipality, special district, or special service district for the purpose of providing or operating a recreational activity.
(3)

(a) Nothing in this section may be construed to relieve a person participating in a recreational activity from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.
(b) Nothing in this section may be construed to relieve any other person from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Amended by Chapter 16, 2023 General Session

78B-4-510 Affirmative defense for liquified petroleum gas industry.

(1) In any action for damages for personal injury, death, or property damage in which a seller, supplier, installer, handler, or transporter of liquified petroleum gas is named as a defendant, it shall be an affirmative defense to liability that:
(a) the equipment or appliance which caused the damage was altered or modified without the consent or knowledge of the seller, supplier, installer, handler, or transporter; or
(b) the equipment or appliance was used in a manner or for a purpose other than that for which it was intended.
(2) There is a rebuttable presumption that a seller, supplier, installer, handler, or transporter of liquified petroleum gas and the necessary equipment and appliances, licensed in accordance with Title 53, Chapter 7, Part 3, Liquefied Petroleum Gas Act, has followed all applicable standards and procedures established by the Liquified Petroleum Gas Board.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-4-511 Regulation of firearms reserved to state -- Lawsuits prohibited.

(1) As prescribed by Section 53-5a-102, all authority to regulate firearms is reserved to the state through the Legislature.
(2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 208, 2025 General Session

78B-4-512 Definitions -- Participation in an agritourism activity -- Limitations on civil liability -- Signage requirement.

(1) As used in this section:
(a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation.
(b) "Agritourism" means the combination of agricultural production with tourism to attract participants from the general public to an agricultural enterprise for the entertainment, recreation, or education of the participants.
(c) "Agritourism activity" means an activity at an agricultural enterprise that a participant engages in or observes for recreation, education, or entertainment.
(d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition that is part of an agritourism activity, including:

(i) surface and subsurface conditions of land, vegetation, or water on the property;
(ii) unpredictable behavior of domesticated or farm animals on the property;
(iii) reasonable dangers of structures or equipment ordinarily used where agricultural or horticultural crops are grown or farm animals or farmed fish are raised;
(iv) behavior of insects or wildlife not owned or kept by the operator of the property;
(v) exposure to pathogens from animals, animal feed, animal waste, or other sources; or
(vi) negligent behavior by an individual other than the operator.

(e) "Operator" means:
(i) a person who owns or manages an agricultural enterprise where a participant engages in or observes an agritourism activity;
(ii) a person who provides an agritourism activity at an agricultural enterprise; or
(iii) an employee of a person described in Subsection (1)(e)(i) or (ii).

(f)
(i) "Participant" means an individual, other than an operator, who engages in or observes an agritourism activity, regardless of whether the individual pays to engage in or observe the agritourism activity.
(ii) "Participant" does not mean an individual who is paid to participate in an agritourism activity.

(g) "Property" means the real property where an agritourism activity takes place.

(2)
(a) Except as provided in Subsection (3), an operator may not be liable for an injury, illness, death, or damage to personal property of a participant that results from an inherent risk of an agritourism activity if the operator posts the signage described in Subsection (5).
(b) An operator is not required to eliminate an inherent risk of an agritourism activity at the operator's agritourism activity.

(3) Nothing in Subsection (2):
(a) limits the liability of an operator if the operator:
(i) acts or omits an act in gross negligence or willful or wanton disregard for the safety of a participant that proximately causes injury, illness, death, or damage to personal property of a participant;
(ii) has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the agritourism activity that proximately causes injury, illness, death, or damage to personal property of a participant;
(iii) has actual knowledge or reasonably should have known of the dangerous propensity of an animal used in an agritourism activity and does not make the danger known to the participant, and the danger proximately causes injury, illness, death, or damage to personal property of a participant; or
(iv) intentionally injures the participant;
(b) prevents or limits the liability of an operator under a product liability law; or
(c) negates assumption of risk as an affirmative defense.

(4) A limitation on legal liability afforded to an operator under Subsection (2) is in addition to any limitation of legal liability otherwise provided by law.

(5) An operator shall post and maintain, in a clearly visible location at each entrance to the property where an agritourism activity takes place or at the location of each agritourism activity, a sign that:
(a) is printed in black letters, that are a minimum of one inch in height, on a white background; and
(b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the property where the activity takes place is not liable for the injury, illness, death, or damage to personal

property of a participant that primarily results from the inherent risks of the activity or a participant's failure to follow instructions or exercise reasonable caution. You are assuming the risk of participating in or observing an agritourism activity."

Amended by Chapter 30, 2024 General Session

78B-4-513 Cause of action for defective construction.

(1) As used in this section:
  (a) "Condominium" means a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the condominium building.
  (b) "Condominium developer" means a person that:
    (i) acquires the land for building a condominium;
    (ii) obtains financing for the construction of a condominium;
    (iii) oversees the construction of the condominium; and
    (iv) sells the condominium to a consumer.
(2) Except as provided in Subsection (3), an action for defective design or construction is limited to breach of the contract, whether written or otherwise, including both express and implied warranties.
(3) An action for defective design or construction may include damage to other property or physical personal injury if the damage or injury is caused by the defective design or construction.
(4) For purposes of Subsection (3), property damage does not include:
  (a) the failure of construction to function as designed; or
  (b) diminution of the value of the constructed property because of the defective design or construction.
(5) Except as provided in Subsections (3) and(7), only a person in privity of contract with the original contractor, architect, engineer, or the real estate developer may bring an action for defective design or construction.
(6) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.
(7) Nothing in this section precludes:
  (a) a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association; or
  (b) a government agency from bringing an enforcement action in accordance with any other statute for matters involving defective construction.
(8)
  (a) Before bringing an action against a condominium developer for defective design or construction, a condominium owner shall provide written notice:
    (i) describing the defective design or construction; and
    (ii) requesting that the condominium developer make all necessary repairs to fix the defective design or construction.
  (b) A condominium developer, upon receiving a notice described in Subsection (8)(a), shall make all reasonable repairs requested in the notice.
  (c) If the condominium developer does not complete the repairs described in the notice in Subsection (8)(b) within nine months after the day on which the condominium owner provides the notice described in Subsection (8)(a), the condominium owner may bring an action against the condominium developer for defective design or construction.

(9) A condominium owner may not bring an action against the condominium's developer for defective design or construction before the condominium owner provides the notice described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

Amended by Chapter 442, 2025 General Session
Amended by Chapter 453, 2025 General Session

78B-4-514 Definitions -- Immunity for architects and engineers during emergencies.

(1) As used in this section:
(a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a, Architects Licensing Act.
(b) "Declared state of emergency" means a state of emergency declared by the governor of this state or by the chief executive officer of a political subdivision, in accordance with Title 53, Chapter 2a, Emergency Management Act.
(c) "Professional engineer" means a person licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.
(d) "Public official" means an appointed or elected federal, state, or local official, including building inspectors and police and fire chiefs, acting within the scope and jurisdiction of the official's authority during a declared emergency.
(2) An architect or professional engineer, acting in good faith and within the scope of his or her respective license, is not liable for:
(a) any acts, errors, or omissions; or
(b) personal injury, wrongful death, property damage, or any other loss arising from architectural or engineering services provided by the architect or engineer:
(i) as a non-paid volunteer at the request of a public official; and
(ii) during, or for 90 days following, a declared state of emergency.
(3) Nothing in Subsection (2) shall be construed to provide immunity to an architect or engineer for architectural or engineering services that are not within the scope of licensure.

Amended by Chapter 258, 2015 General Session

78B-4-515 Limitation on liability for greenhouse gases.

(1) "Greenhouse gas" means water vapor, carbon dioxide, methane, nitrous oxide, ozone, and chlorofluorocarbons.
(2) A person residing or doing business in this state may not be held liable for damage or injury to another arising out of any actual or potential effect on climate caused by contributions to emissions of greenhouse gases unless it can be proved by clear and convincing evidence that the person has:
(a) violated an enforceable statutory limitation or restriction against emissions of a specific greenhouse gas originating within this state; or
(b) violated the express terms of a valid, enforceable operating, air, or other permit issued by a state or federal regulatory agency that has jurisdiction over the greenhouse gas emissions of the person or business.
(3) The person bringing the action shall:
(a) specify each greenhouse gas emitted by the defendant which is asserted to give rise to the cause of action; and

(b) show by clear and convincing evidence that unavoidable and identifiable damage or injury has resulted or will result as a direct cause of the defendant's violation of statutory and permitting limits.

Amended by Chapter 340, 2011 General Session

78B-4-516 Immunity for providing assistance in a suicide emergency.

(1) As used in this section:
(a) "Emergency care" means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.
(b) "Suicide emergency" means an occurrence that reasonably indicates an individual is at risk of dying or attempting to die by suicide.
(2) A person who provides emergency care at or near the scene of, or during, a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care, unless the person is grossly negligent or caused the suicide emergency.

Enacted by Chapter 447, 2019 General Session

78B-4-517 Immunity related to COVID-19.

(1) As used in this section:
(a) "COVID-19" means:
(i) severe acute respiratory syndrome coronavirus 2; or
(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.
(b) "Person" means the same as that term is defined in Section 68-3-12.5.
(c) "Premises" means real property and any appurtenant building or structure.
(2) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity as described in this Subsection (2) does not apply to:
(a) willful misconduct;
(b) reckless infliction of harm; or
(c) intentional infliction of harm.
(3) This section does not modify the application of:
(a) Title 34A, Chapter 2, Workers' Compensation Act;
(b) Title 34A, Chapter 3, Utah Occupational Disease Act; or
(c) Title 34A, Chapter 6, Utah Occupational Safety and Health Act.
(4) The immunity in Subsection (2) is in addition to any other immunity protections that may apply in state or federal law.

Amended by Chapter 10, 2020 Special Session 5

Part 6
Successor Corporation Asbestos-Related Liability Act

78B-4-601 Title.

This part is known as the "Successor Corporation Asbestos-Related Liability Act."

Enacted by Chapter 237, 2012 General Session

78B-4-602 Definitions.

As used in this part:

(1) "Asbestos claim" means a claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos, including:

(a) the health effects of exposure to asbestos, including a claim for:

(i) personal injury or death;

(ii) mental or emotional injury;

(iii) risk of disease or other injury; or

(iv) the costs of medical monitoring or surveillance;

(b) a claim made by or on behalf of a person exposed to asbestos, or a representative, spouse, parent, child, or other relative of the person; and

(c) a claim for damage or loss caused by the installation, presence, or removal of asbestos.

(2) "Corporation" means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than this state.

(3) "Successor" means a corporation that:

(a)

(i) assumes or incurs or has assumed or incurred successor asbestos-related liability;

(ii) is the successor corporation after a merger or consolidation; and

(iii) became a successor before January 1, 1972; or

(b) is a successor corporation of a corporation described in Subsection (3)(a).

(4)

(a) "Successor asbestos-related liability" means liability:

(i) whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due;

(ii) that is related in any way to an asbestos claim; and

(iii)

(A) is assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation; or

(B) that is related in any way to an asbestos claim based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation.

(b) "Successor asbestos-related liability" includes liability that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under Section 78B-4-605, was or is paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with a settlement, judgment, or other discharge in this state or another jurisdiction.

(5) "Transferor" means a corporation from which successor asbestos-related liability is or was assumed or incurred.

Enacted by Chapter 237, 2012 General Session

78B-4-603 Applicability.

(1) The limitations in Section 78B-4-604 apply to a successor.
(2) The limitations in Section 78B-4-604 do not apply to:
(a) workers' compensation benefits paid by or on behalf of an employer to an employee under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or a comparable workers' compensation law of another jurisdiction;
(b) a claim against a corporation that does not constitute a successor asbestos-related liability;
(c) an obligation under the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., as amended, or under a collective bargaining agreement; or
(d) a successor that, after a merger or consolidation, continued in the business of:
(i) mining asbestos;
(ii) selling or distributing asbestos fibers; or
(iii) manufacturing, distributing, removing, or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

Enacted by Chapter 237, 2012 General Session

78B-4-604 Measure of liabilities.
(1) Except as further limited in Subsection (2), the cumulative successor asbestos-related liability of a successor is limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. A successor does not have responsibility for successor asbestos-related liability in excess of this limitation.
(2) If the transferor had assumed or incurred successor asbestos-related liability in connection with a prior merger or consolidation with a prior transferor, the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in Subsection (1) for purposes of determining the limitation of liability of a successor.

Enacted by Chapter 237, 2012 General Session

78B-4-605 Establishing fair market value of total gross assets.
(1) A successor may establish the fair market value of total gross assets for the purpose of the limitations under Section 78B-4-604 through any method reasonable under the circumstances, including:
(a) by reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction; or
(b) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.
(2) Total gross assets include intangible assets.
(3)
(a) To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms, conditions, and limits of the insurance may not be affected by this section, nor shall this section otherwise affect the rights and obligations of an insurer, transferor, or successor under any insurance contract or related agreement including:
(i) preenactment settlements resolving coverage-related disputes; and

(ii) the rights of an insurer to seek payment of applicable deductibles, restrospective premiums, or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods when insurance is uncollectible or otherwise unavailable.

(b) Without limiting Subsection (3)(a), to the extent total gross assets include liability insurance, a settlement, or a dispute concerning the liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before May 8, 2012, shall be determinative of the total coverage of the liability insurance to be included in the calculation of the transferor's total gross assets.

Enacted by Chapter 237, 2012 General Session

78B-4-606 Adjustment.

(1) Subject to Subsections (2) through (4), the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of:

(a) the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the calendar year may be used; and

(b) 1%.

(2) The rate found in Subsection (1) may not be compounded.

(3) The adjustment of the fair market value of total gross assets shall continue as provided in Subsection (1) until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liability paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(4) An adjustment of the fair market value of total gross assets may not be applied to any liability insurance that may be included in the definition of total gross assets by Subsection 78B-4-605(3).

Enacted by Chapter 237, 2012 General Session

78B-4-607 Scope.

(1) Courts of this state shall construe this part liberally with regard to successors.

(2) This part shall apply to an asbestos claim filed against a successor on or after May 8, 2012. This part shall apply to a pending asbestos claim against a successor in which trial has not commenced as of May 8, 2012, except that any provision of this part that would be unconstitutional if applied retroactively shall be applied prospectively.

Enacted by Chapter 237, 2012 General Session

Part 7
Cybersecurity Affirmative Defense Act

78B-4-701 Definitions.

As used in this part:

(1) "Breach of system security" means the same as that term is defined in Section 13-44-102.

(2) "NIST" means the National Institute for Standards and Technology in the United States Department of Commerce.
(3) "PCI data security standard" means the Payment Card Industry Data Security Standard.
(4)
(a) "Person" means:
(i) an individual;
(ii) an association;
(iii) a corporation;
(iv) a joint stock company;
(v) a partnership;
(vi) a business trust; or
(vii) any unincorporated organization.
(b) "Person" includes a financial institution organized, chartered, or holding a license authorizing operation under the laws of this state, another state, or another country.
(5) "Personal information" means the same as that term is defined in Section 13-44-102.

Enacted by Chapter 40, 2021 General Session

78B-4-702 Affirmative defense for a breach of system security.
(1) A person that creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4), and is in place at the time of a breach of system security of the person, has an affirmative defense to a claim that:
(a) is brought under the laws of this state or in the courts of this state; and
(b) alleges that the person failed to implement reasonable information security controls that resulted in the breach of system security.
(2) A person has an affirmative defense to a claim that the person failed to appropriately respond to a breach of system security if:
(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and
(b) the written cybersecurity program had protocols at the time of the breach of system security for responding to a breach of system security that reasonably complied with the written cybersecurity program under Subsection (2)(a) and the person followed the protocols.
(3) A person has an affirmative defense to a claim that the person failed to appropriately notify an individual whose personal information was compromised in a breach of system security if:
(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and
(b) the written cybersecurity program had protocols at the time of the breach of system security for notifying an individual about a breach of system security that reasonably complied with the requirements for a written cybersecurity program under Subsection (3)(a) and the person followed the protocols.
(4) A written cybersecurity program described in Subsections (1), (2), and (3) shall provide administrative, technical, and physical safeguards to protect personal information, including:
(a) being designed to:
(i) protect the security, confidentiality, and integrity of personal information;
(ii) protect against any anticipated threat or hazard to the security, confidentiality, or integrity of personal information; and

(iii) protect against a breach of system security;
(b) reasonably conforming to a recognized cybersecurity framework as described in Subsection 78B-4-703(1); and
(c) being of an appropriate scale and scope in light of the following factors:
(i) the size and complexity of the person;
(ii) the nature and scope of the activities of the person;
(iii) the sensitivity of the information to be protected;
(iv) the cost and availability of tools to improve information security and reduce vulnerability; and
(v) the resources available to the person.
(5)
(a) Subject to Subsection (5)(b), a person may not claim an affirmative defense under Subsection (1), (2), or (3) if:
(i) the person had actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information;
(ii) the person did not act in a reasonable amount of time to take known remedial efforts to protect the personal information against the threat or hazard; and
(iii) the threat or hazard resulted in the breach of system security.
(b) A risk assessment to improve the security, confidentiality, or integrity of personal information is not an actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information.

Enacted by Chapter 40, 2021 General Session

78B-4-703 Components of a cybersecurity program eligible for an affirmative defense.
(1) Subject to Subsection (3), a person's written cybersecurity program reasonably conforms to a recognized cybersecurity framework if the written cybersecurity program:
(a) is designed to protect the type of personal information obtained in the breach of system security; and
(b)
(i) is a reasonable security program described in Subsection (2);
(ii) reasonably conforms to the current version of any of the following frameworks or publications, or any combination of the following frameworks or publications:
(A) NIST special publication 800-171;
(B) NIST special publications 800-53 and 800-53a;
(C) the Federal Risk and Authorization Management Program Security Assessment Framework;
(D) the Center for Internet Security Critical Security Controls for Effective Cyber Defense; or
(E) the International Organization for Standardization/International Electrotechnical Commission 27000 Family - Information security management systems;
(iii) for personal information obtained in the breach of the system security that is regulated by the federal government or state government, reasonably complies with the requirements of the regulation, including:
(A) the security requirements of the Health Insurance Portability and Accountability Act of 1996, as described in 45 C.F.R. Part 164, Subpart C;
(B) Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended;
(C) the Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283;

(D) the Health Information Technology for Economic and Clinical Health Act, as provided in 45 C.F.R. Part 164;
(E) Title 13, Chapter 44, Protection of Personal Information Act; or
(F) any other applicable federal or state regulation; or
(iv) for personal information obtained in the breach of system security that is the type of information intended to be protected by the PCI data security standard, reasonably complies with the current version of the PCI data security standard.

(2) A written cybersecurity program is a reasonable security program under Subsection (1)(b)(i) if:
(a) the person coordinates, or designates an employee of the person to coordinate, a program that provides the administrative, technical, and physical safeguards described in Subsections 78B-4-702(4)(a) and (c);
(b) the program under Subsection (2)(a) has practices and procedures to detect, prevent, and respond to a breach of system security;
(c) the person, or an employee of the person, trains, and manages employees in the practices and procedures under Subsection (2)(b);
(d) the person, or an employee of the person, conducts risk assessments to test and monitor the practice and procedures under Subsection (2)(b), including risk assessments on:
(i) the network and software design for the person;
(ii) information processing, transmission, and storage of personal information; and
(iii) the storage and disposal of personal information; and
(e) the person adjusts the practices and procedures under Subsection (2)(b) in light of changes or new circumstances needed to protect the security, confidentiality, and integrity of personal information.

(3)
(a) If a recognized cybersecurity framework described in Subsection (1)(b)(ii) or (iv) is revised, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the revised version of the framework no later than one year after the day in which the revised version of the framework is published.
(b) If a recognized cybersecurity framework described in Subsection (1)(b)(iii) is amended, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the amended regulation of the framework in a reasonable amount of time, taking into consideration the urgency of the amendment in terms of:
(i) risks to the security of personal information;
(ii) the cost and effort of complying with the amended regulation; and
(iii) any other relevant factor.

Enacted by Chapter 40, 2021 General Session

78B-4-704 No cause of action.

This part may not be construed to create a private cause of action, including a class action, if a person fails to comply with a provision of this part.

Enacted by Chapter 40, 2021 General Session

78B-4-705 Choice of law.

A choice of law provision in an agreement that designates this state as the governing law shall apply this part, if applicable, to the fullest extent possible in a civil action brought against a person regardless of whether the civil action is brought in this state or another state.

Enacted by Chapter 40, 2021 General Session

78B-4-706 Severability clause.

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Enacted by Chapter 40, 2021 General Session

Part 8
Limitations on Liability for Winter Sports Activities

78B-4-801 Public policy.

The Legislature finds that:

(1) winter sports are practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;
(2) Utah has hosted the 2002 Olympic and Paralympic Winter Games, is scheduled to host the 2034 Olympic and Paralympic Winter Games, and aspires to host future games;
(3) Utah has hosted annual national and international winter sports competitions including ski, snowboard, bobsled, skeleton, luge, speedskating and other ice sport national championships, world cups, world championships, and aspires to continue to host such competitions and to encourage residents of Utah to train for and participate in these events; and
(4) assuring the financial viability of a facility in which the state has invested to permit the teaching of, training in, recreational enjoyment of, and competition in winter sports benefits the residents of Utah and encourages residents of Utah to participate in and excel at winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-802 Definitions.

As used in this part:

(1) "Inherent risks of winter sports" means the dangers or conditions that are an integral part of recreational, competitive, or professional participation in winter sports, including:
  (a) changing weather conditions;
  (b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;
  (c) the inherent danger in engaging in high-risk activities such as winter sports by means of natural or man-made terrain, jumps, ice or snow tracks, or other structures;
  (d) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;
  (e) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:

(i) terrain parks;
(ii) terrain features, including jumps, rails, or fun boxes; or
(iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;
(f) impact with lift towers, tracks, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;
(g) collisions with other participants, structures, equipment, natural features, or other objects;
(h) equipment failure or malfunction, unless the failure or malfunction is due to gross negligence or a failure to reasonably maintain the equipment;
(i) participation in, or practicing or training for, competitions or special events; and
(j) the failure of an individual to participate within that individual's own abilities.
(2) "Injury" means any personal injury or property damage or loss.
(3) "Winter sports" means:
(a) skiing and snowboarding, including alpine, nordic cross country, nordic jumping, freestyle, freeride, and biathlon;
(b) ice sports, including ice skating, speedskating, figure skating, hockey, and curling; or
(c) sliding sports, including bobsled, luge, skeleton, and tubing.
(4) "Winter sports area" means an area or facility that:
(a) is primarily dedicated to performing winter sports;
(b) was constructed by the state or a state agency, and was financed primarily with state funds; and
(c) was constructed for the purpose of serving as a facility for use in everyday winter sports training and regular events including an Olympic and Paralympic Winter Games.
(5)
(a) "Winter sports area operator" means a person that operates a winter sports area.
(b) "Winter sports area operator" includes an agent, an officer, an employee, or a representative of the person that operates a winter sports area.
(6) "Winter sports participant" means an individual present in a winter sports area for the purpose of engaging in winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-803 Bar against claim or recovery from operator for injury resulting from inherent risks of winter sports.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a winter sports participant may not make any claim against, or recover from, a winter sports area operator for injury resulting from inherent risks of winter sports.

Enacted by Chapter 511, 2025 General Session

78B-4-804 Notice of inherent risks and limitations on liability.

(1) A winter sports area operator shall provide notice to winter sports participants that there are inherent risks of participating in winter sports and that the winter sports area operator is not liable for those risks.
(2) Notice shall be provided by:
(a) posting a sign in at least one prominent location within the winter sports area; or
(b) providing a document or release for the winter sports participant to sign.

(3) The notice provided by the sign or document shall be sufficient if it includes the definition of inherent risks of winter sports in Section 78B-4-802 and states that the winter sports area operator is not liable for those inherent risks.

Enacted by Chapter 511, 2025 General Session

78B-4-805 Liability agreements.

A winter sports participant may enter into an agreement with a winter sports area operator before an injury to:

(1) waive a claim that the winter sports participant is permitted to bring against a winter sports area operator; or

(2) release the winter sports area operator from a claim that the winter sports participant is permitted to bring under this part.

Enacted by Chapter 511, 2025 General Session

78B-4-806 Limitation on damages.

(1) Subject to adjustment under Subsection 63G-7-604(4), an action arising against a winter sports area operator for a claim not prohibited under this part, in which the winter sports participant, or a person authorized to bring a claim on behalf of the winter sports participant, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed:

(a) $827,000 for one person in any one occurrence; and

(b) $3,329,100 for the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The limits on an award for noneconomic losses described in Subsection (1) do not apply to an award:

(a) of punitive damages; or

(b) for a wrongful death action.

Enacted by Chapter 511, 2025 General Session

Chapter 5
Trial, Judgment, and Appeal

Part 1
Issues and Trial

78B-5-101 Right to jury trial.

In actions for the recovery of specific real or personal property, with or without damages, or for money claimed due upon contract or as damages for breach of contract, or for injuries, an issue of fact may be tried by a jury, unless a jury trial is waived or a reference is ordered.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-102 Jury to decide questions of fact.

All questions of fact, where the trial is by jury, other than those mentioned in Section 78B-5-103, are to be decided by the jury, and all evidence is to be addressed to them, except when otherwise provided.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-103 Court to decide questions of law.

All questions of law, including the admissibility of evidence, the facts preliminary to admission, the construction of statutes and other writings, the application of the rules of evidence, and all discussions of law are to be addressed to and decided by the court. Whenever the knowledge of the court is by law made evidence of a fact, the court shall explain the knowledge to the jury, who are to accept it.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2
Judgments

78B-5-201 Definitions -- Judgment recorded in Registry of Judgments.

(1) As used in this part:
  (a) "Judgment" includes a civil judgment of restitution or a civil account receivable, as those terms are defined in Section 77-32b-102.
  (b) "Registry of Judgments" means the index where a judgment is filed and searchable by the name of the judgment debtor through electronic means or by tangible document.
(2) On or after July 1, 1997, a judgment entered by a court of this state does not create a lien upon or affect the title to real property unless the judgment is filed in the Registry of Judgments of the office of the clerk of the district court of the county in which the property is located.
(3)
  (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment entered by a court of this state does not create a lien upon or affect the title to real property unless the judgment or an abstract of judgment is recorded in the office of the county recorder in which the real property of the judgment debtor is located.
  (b) State agencies are exempt from the recording requirement of Subsection (3)(a).
(4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:
  (a) the information identifying the judgment debtor as required under Subsection (4)(b) on the judgment or abstract of judgment; or
  (b) a copy of the separate information statement of the judgment creditor that contains:
    (i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process;
    (ii) the name and address of the judgment creditor;
    (iii) the amount of the judgment as filed in the Registry of Judgments;
    (iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and

(v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

(5) For the information required in Subsection (4), the judgment creditor shall:

(a) provide the information on the separate information statement if known or available to the judgment creditor from its records, its attorney's records, or the court records in the action in which the judgment was entered; or

(b) state on the separate information statement that the information is unknown or unavailable.

(6)

(a) Any judgment that requires payment of money and is entered by a court of this state on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office of a county recorder after July 1, 2002, that does not include the debtor identifying information as required in Subsection (4) is not a lien until a separate information statement of the judgment creditor is recorded in the office of a county recorder in compliance with Subsections (4) and (5).

(b) The separate information statement of the judgment creditor referred to in Subsection (6)(a) shall include:

(i) the name of any judgment creditor, debtor, assignor, or assignee;

(ii) the date on which the judgment was recorded in the office of the county recorder as described in Subsection (4); and

(iii) the county recorder's entry number and book and page of the recorded judgment.

(7) A judgment that requires payment of money recorded on or after September 1, 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with actual or constructive knowledge of the judgment.

(8) A judgment or notice of judgment wrongfully filed against real property is subject to Title 38, Chapter 9, Wrongful Lien Act.

(9)

(a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Amended by Chapter 59, 2025 General Session

78B-5-202 Duration of judgment -- Judgment as a lien upon real property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support orders.

(1)

(a) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied, renewed, or unless enforcement of the judgment is stayed in accordance with law.

(b) Entry of an order renewing a judgment:

(i) maintains the date of the original judgment;

(ii) maintains the priority of collection of the judgment; and
(iii) except as explicitly provided otherwise by law or contract, begins anew the time limitation for an action upon the judgment.
(2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.
(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.
(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in a small claims action may not qualify as a lien upon real property unless abstracted to the district court and recorded in accordance with Subsection (3).
(5)
(a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).
(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.
(6)
(a) A child support order, including an order or judgment for guardian ad litem attorney fees and costs, or a sum certain judgment for past due support may be enforced:
(i) within four years after the date the youngest child reaches majority; or
(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.
(b) The longer period of duration shall apply in every order.
(c) A sum certain judgment may be renewed to extend the duration.
(7)
(a) After July 1, 2002, a judgment entered by a district court, a justice court, or the Business and Chancery Court, becomes a lien upon real property if:
(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or
(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.
(b) The judgment shall run from the date of entry by the court.
(c) The real property subject to the lien includes all the real property of the judgment debtor:
(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and
(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.
(d) If the judgment that gives rise to a lien described in Subsection (7)(a) is a judgment in favor of a state agency, the real property subject to the lien includes all real property of the judgment debtor in the state.
(e) State agencies are exempt from the recording requirement of Subsection (7)(a).
(8)

(a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section 17-21-6.
(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.
(9)
(a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.
(b) The document described in Subsection (9)(a) shall include:
(i) the date of the release, assignment, renewal, or extension;
(ii) the name of any judgment creditor, debtor, assignor, or assignee; and
(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):
(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and
(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Amended by Chapter 59, 2025 General Session
Amended by Chapter 493, 2025 General Session

78B-5-203 Judgment against party dying after verdict or decision.

If a party dies after a verdict or decision upon any issue of fact, and before judgment, the judgment is not a lien on the real property of the deceased party, but is payable in the course of the administration of the party's estate.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-204 Judgment against sheriff -- When conclusive against sureties on indemnity bond.

If an action is brought against a sheriff for an act done by virtue of his office and he gives written notice to the sureties on any bond of indemnity received by him, the judgment recovered is conclusive evidence of his right to recover against such sureties. The court may, on motion, and upon five days notice, order judgment to be entered against them for the amount recovered, including costs.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-205 Judgment by confession authorized.

A judgment by confession may be entered without action, either for money due or to become due or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by law. The judgment may be entered in any court having jurisdiction for like amounts.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-206 Mileage allowance for judgment debtor required to appear.

(1) A judgment debtor legally required to appear before a district court or the Business and Chancery Court to answer concerning the debtor's property is entitled, on a sufficient showing of need, to mileage of 15 cents per mile for each mile actually and necessarily traveled in going only, to be paid by the judgment creditor at whose instance the judgment debtor was required to appear.
(2) The judgment creditor is not required to make any payment for such mileage until the judgment debtor has actually appeared before the court.

Amended by Chapter 401, 2023 General Session

Part 3
Utah Foreign Judgment Act

78B-5-301 Title.
This part is known as the "Utah Foreign Judgment Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-302 Definition -- Filing of foreign judgments -- Postjudgment interest rate -- Status of foreign judgments.
(1) As used in this part, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court whose acts are entitled to full faith and credit in this state.
(2) A copy of a foreign judgment authenticated in accordance with an appropriate act of Congress or an appropriate act of Utah may be filed with the clerk of any district court in Utah. The clerk of the district court shall treat the foreign judgment in all respects as a judgment of a district court of Utah.
(3) Except as otherwise provided by law or by contract, a foreign judgment filed under this part on or after May 7, 2025, shall bear interest at the postjudgment interest rate established under Section 15-1-4 as of the date of domestication of the foreign judgment.
(4) A foreign judgment filed under this part has the same effect and is subject to the same procedures, defenses, enforcement, satisfaction, and proceedings for reopening, vacating, setting aside, or staying as a judgment of a district court of this state.

Amended by Chapter 191, 2025 General Session

78B-5-303 Notice of filing.
(1) The judgment creditor or attorney for the creditor, at the time of filing a foreign judgment, shall file an affidavit with the clerk of the district court stating the last known post-office address of the judgment debtor and the judgment creditor.
(2) Upon the filing of a foreign judgment and affidavit, the clerk of the district court shall notify the judgment debtor that the judgment has been filed. Notice shall be sent to the address stated in the affidavit. The clerk shall record the date the notice is mailed in the register of actions. The notice shall include the name and post-office address of the judgment creditor and the name and address of the judgment creditor's attorney, if any.
(3) No execution or other process for the enforcement of a foreign judgment filed under this part may issue until 30 days after the judgment is filed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-304 Stay.

(1) If an appeal from a foreign judgment is pending, the time for appeal has not expired, or a stay of execution has been granted, the court, upon proof that the judgment debtor has furnished security for satisfaction of the judgment in the state in which the judgment was rendered shall stay enforcement of the judgment until the appeal is concluded, the time for appeal expires, or until the stay of execution expires or is vacated.

(2) If the foreign judgment debtor, upon motion, shows the district court any ground upon which enforcement of a judgment of a district court of this state would be stayed, the court shall stay enforcement of the foreign judgment upon the posting of security in the kind and amount required to stay enforcement of a domestic judgment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-305 Lien.

(1) A foreign judgment entered in a district court under this part becomes a lien as provided in Section 78B-5-202 if:
  (a) a stay of execution has not been granted;
  (b) the requirements of this chapter are satisfied; and
  (c) the judgment is recorded in the office of the county recorder where the property of the judgment debtor is located, as provided in Section 78B-5-202.

(2) The lien becomes effective at the time and date of recording and expires eight years after date of entry by the court in the foreign jurisdiction unless renewed in Utah as required by Utah law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-306 Optional procedure.

This part may not be construed to impair a judgment creditor's right to bring an action in this state to enforce the creditor's judgment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-307 Uniformity of interpretation.

This part shall be construed to effectuate the general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3a
Nonrecognition of Foreign Libel Judgments

78B-5-320 Grounds for nonrecognition of libel judgments.

A judgment obtained in a foreign jurisdiction may be considered nonrecognizable and unenforceable by the courts of this state if:

(1) the judgment was obtained in a jurisdiction outside the United States;
(2) the judgment resulted in a libel judgment for damages; and
(3) the court sitting in this state before which the matter is brought determines that the libel law applied in the foreign court's adjudication process did not provide at least as much protection for freedom of speech and press as would be provided by the United States Constitution and the Utah Constitution.

Enacted by Chapter 117, 2010 General Session

78B-5-321 Foreign libel judgment.

For the purposes of applying Title 78B, Chapter 5, Part 3, Utah Foreign Judgment Act, to this part, the courts of this state may not make the determination in Section 78B-5-320 unless the person attempting to enforce the judgment submits to personal jurisdiction and the person against whom the judgment is being enforced:
(1) is a resident of this state;
(2) is a person or entity amenable to the jurisdiction of this state;
(3) has assets in this state; or
(4) may be required to take action in this state to comply with the judgment.

Enacted by Chapter 117, 2010 General Session

78B-5-322 Application.

This part applies to all foreign libel judgments filed for enforcement or recognition in this state.

Enacted by Chapter 117, 2010 General Session

Part 4
Uniform Foreign-Money Claims Act

78B-5-401 Title.

This part is known as the "Uniform Foreign-Money Claims Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-402 Definitions.

As used in this part:
(1) "Action" means a judicial proceeding or arbitration in which a money payment may be awarded or enforced in respect of a foreign-money claim.
(2) "Conversion date" means the banking day next before the date on which money is, in accordance with this part:
  (a) paid to a judgment creditor;
  (b) paid to the designated official enforcing a judgment on behalf of the judgment creditor; or
  (c) used to effect a recoupment or set-off of claims in different money in an action.
(3) "Distribution proceeding" means a judicial or nonjudicial proceeding for an accounting, an assignment for the benefit of creditors, a foreclosure, for the liquidation or rehabilitation of a

corporation or other entity, for the distribution of an estate, trust, or other fund in or against which a foreign-money claim is asserted.
(4) "Foreign money" means money other than money of the United States of America.
(5) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.
(6) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.
(7) "Money of the claim" means the money determined as proper by Section 78B-5-405.
(8) "Party" means an individual, a corporation, government or governmental subdivision or agency, business trust, partnership or association of two or more persons having a joint or common interest or any other legal or commercial entity asserting or defending against a foreign-money claim.
(9) "Rate of exchange" means the rate at which the money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by the party obliged to pay or to state a rate of conversion. If separate exchange rates apply to different kinds of transactions or events, the term means the rate applicable to the particular transaction or event giving rise to the foreign-money claim.
(10)
(a) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for settlement by immediate payment, by charge to an account, or by an agreed delayed settlement not exceeding two days.
(b) "Bank-offered spot rate" means the rate of exchange at which a bank will issue its draft in the foreign money or will cause credit to become available in the foreign money on a next-day basis.
(11) "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the United States Virgin Islands.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-403 Scope.
(1) This part applies only to a foreign-money claim in an action or distribution proceeding.
(2) This part applies to foreign-money issues notwithstanding the law applicable under the conflict of laws rules of this state to other issues in the action or distribution proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-404 Variation by agreement.
(1) The effect of provisions of this part may be varied by agreement of the parties made at any time before or after commencement of an action, distribution proceeding, or the entry of judgment.
(2) The parties may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may use different money for different aspects of the transaction. Stating the price in a foreign money or for a particular transaction does not require, of itself, the use of that money for other aspects of the transaction.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-405 Determining the money of the claim.

(1) Except as provided by Subsection (2), the proper money of the claim is, as in each case may be appropriate, the money:
  (a) regularly used between the parties as a matter of usage or course of dealing;
  (b) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or
  (c) in which the loss was ultimately felt or will be incurred by a party.
(2) The money in which the parties have contracted that a payment be made is the proper money of the claim for that payment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-406 Determining the amount of the money of certain contract claims.
(1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.
(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the exchange rate prevailing on a date prior to default, that exchange rate applies only for payments made a reasonable time after default, not to exceed 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.
(3)
  (a) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money shall, when received by the creditor, equal a specified amount of the foreign money of the country of the creditor.
  (b) If because of unexcused delay in payment of a judgment or award the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator, as the case may be, has jurisdiction to and may amend the judgment or award accordingly.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-407 Asserting and defending a foreign-money claim.
(1) A claimant may assert a claim in a specified foreign money. If a foreign money is not asserted, the claimant makes a claim for a judgment in United States dollars.
(2) An opposing party may allege and prove the claim is in whole or in part for a different money than that asserted by the claimant.
(3) Any party may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.
(4) The determination of the proper money of the claim is a question of law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-408 Judgments and awards on foreign-money claims -- Time of money conversion -- Form of judgment.
(1) Except as provided in Subsection (3), a judgment or arbitration award on a foreign-money claim must be stated in an amount of the money of the claim.
(2) The judgment or award is payable in that foreign money or at the option of the debtor in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.
(4) Each payment in United States dollars must be accepted and credited on the judgment or award in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.
(5) Judgments or awards made in an action on both:
(a) a defense, set-off, recoupment, or counterclaim; and
(b) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and must specify the rates of exchange used.
(6) A judgment substantially in the following form complies with Subsection (1):

IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment debtor, the number of United States dollars as will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by Subsection 78B-5-406(1) or (2), the judgment or award shall be entered for the amount of the money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars as will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.
(8) A judgment shall be filed in the judgment docket and indexed in foreign money in the same manner, and shall have the same effect as a lien as other judgments. It may be discharged by payment.
(9) A person shall record a judgment lien, or assignment, release, renewal, or extension of a judgment lien, in the county recorder's office in accordance with the following provisions, as applicable:
(a) Sections 17-21-10, 78B-5-201, and 78B-5-202; and
(b) Title 38, Chapter 9, Wrongful Lien Act.

Amended by Chapter 114, 2014 General Session

78B-5-409 Conversions of foreign money in a distribution proceeding.

The rate of exchange prevailing at or near the closing of business on the day the proceeding is initiated shall govern all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding must assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-410 Prejudgment and judgment interest.

(1) With respect to a foreign-money claim, recovery of prejudgment interest and the rate of interest to be applied in the action or distribution proceeding are matters of the substantive law governing the right to recovery under the conflict of laws rules of this state.

(2) Notwithstanding Subsection (1), an increase or decrease in the amount of prejudgment interest otherwise payable may be made in a foreign-money judgment to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.
(3) A judgment on a foreign-money claim bears interest at the same rate applicable to other judgments of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-411 Enforcement of foreign judgments.
(1) Subject to Subsections (2) and (3), if an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment shall be entered as provided in Section 78B-5-408 whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars. A satisfaction or partial payment made upon the foreign judgment, on proof thereof, shall be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.
(2) Notwithstanding Subsection (1), a foreign judgment may be filed in the judgment docket in accordance with any statute of this state providing a procedure for its recognition and enforcement.
(3) A judgment entered on a foreign-money claim only in United States dollars in another state shall be enforced in this state in United States dollars only.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-412 Temporarily determining the United States dollar value of foreign-money claims for limited purposes.
(1) For the limited purpose of facilitating the enforcement of provisional remedies in an action:
  (a) the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process;
  (b) the amount of United States dollars at issue for assessing costs; or
  (c) the amount of United States dollars involved for a surety bond or other court-required undertaking shall be ascertained as provided in Subsections (2) and (3).
(2) The party seeking the process, costs, bond, or other undertaking shall compute the dollar amount of the foreign money claimed from a bank-offered spot rate of exchange prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.
(3) The party seeking the process, costs, bond, or other undertaking shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used, how obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment was in the amount of United States dollars stated in the affidavit or certificate.
(4) Computations under this section are for the limited purposes of this section and do not affect computation of the United States dollar equivalent of the money of the judgment for payment purposes.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-413 Effect of currency revalorizations.

(1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under Subsection (1) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall have jurisdiction to, and shall, amend the judgment or award by a like conversion of the former money.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-414 Supplementary general principles of law.

Unless displaced by particular provisions of this part, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-415 Uniformity of application and construction.

This part shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this part among states enacting it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-416 Application.

This part applies to actions and distribution proceedings commenced after April 23, 1990.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4a
Uniform Foreign-country Money Judgments Recognition Act

78B-5-450 Title.

This part is known as the "Uniform Foreign-Country Money Judgments Recognition Act."

Enacted by Chapter 370, 2020 General Session

78B-5-451 Definitions.

As used in this part:

(1) "Foreign country" means a government other than:

(a) the United States;

(b) a state, district, commonwealth, territory, or insular possession of the United States; or

(c) any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.
(2) "Foreign-country judgment" means a judgment of a court of a foreign country.

Enacted by Chapter 370, 2020 General Session

78B-5-452 Applicability.
(1) Except as otherwise provided in Subsection (2), this part applies to a foreign-country judgment to the extent that the judgment:
(a) grants or denies the recovery of a sum of money; and
(b) under the law of the foreign country where rendered, is final, conclusive, and enforceable.
(2) This part does not apply to a foreign-country judgment, even if the judgment grants or denies the recovery of a sum of money, to the extent that the judgment is:
(a) a judgment for taxes;
(b) a fine or other penalty; or
(c) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.
(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this part applies to the foreign-country judgment.

Enacted by Chapter 370, 2020 General Session

78B-5-453 Standards for recognition of foreign-country judgment.
(1) Except as otherwise provided in Subsections (2) and (3), a court of this state shall recognize a foreign-country judgment to which this part applies.
(2) A court of this state may not recognize a foreign-country judgment if:
(a) the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
(b) the foreign court did not have personal jurisdiction over the defendant; or
(c) the foreign court did not have jurisdiction over the subject matter.
(3) A court of this state may decline to recognize a foreign-country judgment if:
(a) the defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;
(b) the judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present the party's case;
(c) the judgment or the cause of action on which the judgment is based is repugnant to the public policy of this state or the United States;
(d) the judgment conflicts with another final and conclusive judgment;
(e) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;
(f) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;
(g) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or
(h) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in Subsection (2) or (3) exists.

Enacted by Chapter 370, 2020 General Session

78B-5-454 Personal jurisdiction.

(1) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:
  (a) the defendant was served with process personally in the foreign country;
  (b) the defendant voluntarily appeared in the proceeding, except for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;
  (c) the defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
  (d) the defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had the corporation's or organization's principal place of business in, or was organized under the laws of, the foreign country;
  (e) the defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country; or
  (f) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.
(2) The list describing the grounds for personal jurisdiction in Subsection (1) is not exclusive.
(3) A court of this state may recognize grounds for personal jurisdiction other than those described in Subsection (1) as sufficient to support a foreign-country judgment.

Enacted by Chapter 370, 2020 General Session

78B-5-455 Procedure for recognition of foreign-country judgment.

(1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.
(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

Enacted by Chapter 370, 2020 General Session

78B-5-456 Effect of recognition of foreign-country judgment.

If the court in a proceeding under Section 78B-5-455 finds that the foreign-country judgment is entitled to recognition under this part, the foreign-country judgment, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, is:
(1) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and
(2) enforceable in the same manner and to the same extent as a judgment rendered in this state.

Enacted by Chapter 370, 2020 General Session

78B-5-457 Stay of proceedings pending appeal of foreign-country judgment.

If a party establishes that an appeal from a foreign-country judgment is pending or an appeal will be taken, the court may stay any proceedings with regard to the foreign-country judgment until:
(1) the appeal is concluded;
(2) the time for appeal expires; or
(3) the appellant has had sufficient time to prosecute the appeal and has failed to do so.

Enacted by Chapter 370, 2020 General Session

78B-5-458 Statute of limitations.
An action to recognize a foreign-country judgment shall be commenced within the earlier of:
(1) the time during which the foreign-country judgment is effective in the foreign country; or
(2) 15 years from the day on which the foreign-country judgment became effective in the foreign country.

Enacted by Chapter 370, 2020 General Session

78B-5-459 Uniformity of interpretation.
In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of the uniform act among states that enact the uniform act.

Enacted by Chapter 370, 2020 General Session

78B-5-460 Saving clause.
This part does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this part.

Enacted by Chapter 370, 2020 General Session

78B-5-461 Application to future actions.
This part applies to all actions commenced on or after May 12, 2020, in which the issue of recognition of a foreign-country judgment is raised.

Enacted by Chapter 370, 2020 General Session

Part 5
Utah Exemptions Act

78B-5-501 Title.
This part is known as the "Utah Exemptions Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-502 Definitions.
As used in this part:
(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
(3) "Curio or relic firearm" means a firearm that:
(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:
(i) sporting use;
(ii) use as an offensive weapon; or
(iii) use as a defensive weapon;
(b)
(i) was manufactured at least 50 years before the current date; and
(ii) is not a replica of a firearm described in Subsection (3)(b)(i);
(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;
(d) derives a substantial part of the firearm's monetary value:
(i) from the fact that the firearm is:
(A) novel;
(B) rare; or
(C) bizarre; or
(ii) because of the firearm's association with a historical:
(A) figure;
(B) period; or
(C) event; and
(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
(4) "Debt" means a legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise.
(5) "Dependent" means the spouse of an individual, and the grandchild or the natural or adoptive child of an individual who derives support primarily from that individual.
(6) "Exempt" means protected, and "exemption" means protection from subjection to a judicial process to collect an unsecured debt.
(7) "Firearm" means the same as that term is defined in Section 76-11-101.
(8) "Judicial lien" means a lien on property obtained by judgment or other legal process instituted for the purpose of collecting an unsecured debt.
(9) "Levy" means the seizure of property pursuant to any legal process issued for the purpose of collecting an unsecured debt.
(10) "Lien" means a judicial, or statutory lien, in property securing payment of a debt or performance of an obligation.
(11) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.
(12) "Security interest" means an interest in property created by contract to secure payment or performance of an obligation.
(13) "Statutory lien" means a lien arising by force of a statute, but does not include a security interest or a judicial lien.
(14) "Value" means fair market value of an individual's interest in property, exclusive of valid liens.

Amended by Chapter 208, 2025 General Session

78B-5-503 Homestead exemption -- Definitions -- Excepted obligations -- Water rights and interests -- Conveyance -- Sale and disposition -- Property right for federal tax purposes.

(1) For purposes of this section:
(a) "Household" means a group of persons related by blood or marriage living together in the same dwelling as an economic unit, sharing furnishings, facilities, accommodations, and expenses.
(b) "Mobile home" means the same as that term is defined in Section 57-16-3.
(c) "Primary personal residence" means a dwelling or mobile home, and the land surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or mobile home, in which the individual and the individual's household reside.
(d) "Property" means:
(i) a primary personal residence;
(ii) real property; or
(iii) an equitable interest in real property awarded to a person in a divorce decree by a court.
(2)
(a) An individual is entitled to a homestead exemption consisting of property in this state in an amount not exceeding:
(i) $5,000 in value if the property consists in whole or in part of property that is not the primary personal residence of the individual; or
(ii) $42,000 in value if the property claimed is the primary personal residence of the individual.
(b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a homestead exemption, except that:
(i) for property exempt under Subsection (2)(a)(i), the maximum exemption may not exceed $10,000 per household; or
(ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not exceed $84,000 per household.
(c) A person may claim a homestead exemption in either or both of the following:
(i) one or more parcels of real property together with appurtenances and improvements; or
(ii) a mobile home in which the claimant resides.
(d) A person may not claim a homestead exemption for property that the person acquired as a result of criminal activity.
(e)
(i) As used in this Subsection (2)(e):
(A) "Average index number" means the average of the 12 most recent Consumer Price Index numbers that are available in December in the year previous to the calendar year that is calculated in Subsection (2)(e)(iii).
(B) "Consumer Price Index number" means a monthly number for the unadjusted Consumer Price Index for All Urban Consumers for all items as published each month by the Bureau of Labor Statistics of the United States Department of Labor.
(ii) The dollar amounts in Subsections (2)(a) and (b) are for May 14, 2019, through December 31, 2019.
(iii) For the calendar year 2020 and a calendar year after the calendar year 2020, the state auditor shall:
(A) calculate new dollar amounts for each dollar amount in Subsection (2)(a) and (b) by multiplying the dollar amount in Subsections (2)(a) and (b) by the average index number, dividing the result by 251, and rounding to the nearest 100 dollars; and
(B) publish on the Office of the State Auditor website the new dollar amounts calculated under Subsection (2)(e)(iii) no later than January 1 of the applicable calendar year.
(3) A homestead is exempt from judicial lien and from levy, execution, or forced sale except for:
(a) statutory liens for property taxes and assessments on the property;

(b) security interests in the property and judicial liens for debts created for the purchase price of the property;
(c) judicial liens obtained on debts created by failure to provide support or maintenance for dependent children; and
(d) consensual liens obtained on debts created by mutual contract.

(4)
(a) Except as provided in Subsection (4)(b), water rights and interests, either in the form of corporate stock or otherwise, owned by the homestead claimant are exempt from execution to the extent that those rights and interests are necessarily employed in supplying water to the homestead for domestic and irrigating purposes.
(b) Those water rights and interests are not exempt from calls or assessments and sale by the corporations issuing the stock.

(5)
(a) When a homestead is conveyed by the owner of the property, the conveyance may not subject the property to any lien to which the property would not be subject in the hands of the owner.
(b) The proceeds of any sale, to the amount of the exemption existing at the time of sale, is exempt from levy, execution, or other process for one year after the receipt of the proceeds by the person entitled to the exemption.

(6) The sale and disposition of one homestead does not prevent the selection or purchase of another.

(7) For purposes of any claim or action for taxes brought by the United States Internal Revenue Service, a homestead exemption claimed on real property in this state is considered to be a property right.

Amended by Chapter 298, 2019 General Session

78B-5-504 Declaration of homestead -- Filing -- Contents -- Failure to file -- Conveyance by married person -- No execution sale if bid less than exemption -- Redemption rights of judgment creditor.

An individual may select and claim a homestead by complying with the following requirements:

(1) Filing a signed and acknowledged declaration of homestead with the recorder of the county or counties in which the homestead claimant's property is located or serving a signed and acknowledged declaration of homestead upon the sheriff or other officer conducting an execution prior to the time stated in the notice of execution.

(2) The declaration of homestead shall contain:
(a) a statement that the claimant is entitled to an exemption and if the claimant is married a statement that the claimant's spouse has not filed a declaration of homestead;
(b) a description of the property subject to the homestead;
(c) an estimate of the cash value of the property; and
(d) a statement specifying the amount of the homestead claimed and stating the name, age, and address of any spouse and dependents claimed to determine the value of the homestead.

(3) If a declaration of homestead is not filed or served as provided in this section, title shall pass to the purchaser upon execution free and clear of all homestead rights.

(4) If an individual is married, no conveyance of or security interest in, or contract to convey or create a security interest in property recorded as a homestead prior to the time of the conveyance, security interest, or contract is valid, unless both the husband and wife join in the execution of the conveyance, security interest, or contract.

(5) Property that includes a homestead may not be sold at execution if there is no bid which exceeds the amount of the declared homestead exemption.
(6) If property that includes a homestead is sold under execution, the sale is subject to redemption by the judgment debtor as provided in Rule 69C of the Utah Rules of Civil Procedure. If there is a deficiency, the property may not be subject to another execution to cover the deficiency.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-505 Property exempt from execution.

(1)
(a) An individual is entitled to exemption of the following property:
(i) a burial plot for the individual and the individual's family;
(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;
(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:
(A) disability;
(B) illness; or
(C) unemployment;
(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;
(v) veterans benefits;
(vi) money or property received, and rights to receive money or property for child support;
(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;
(viii)
(A) one:
(I) clothes washer and dryer;
(II) refrigerator;
(III) freezer;
(IV) stove;
(V) microwave oven; and
(VI) sewing machine;
(B) all carpets in use;
(C) provisions sufficient for 12 months actually provided for individual or family use;
(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and
(E) all beds and bedding for every individual or dependent;
(ix) except for works of art held by the debtor as part of a trade or business, works of art:
(A) depicting the debtor or the debtor and the debtor's resident family; or
(B) produced by the debtor or the debtor and the debtor's resident family;
(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;
(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or

children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75B-2-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b)

(i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c)

(i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or
(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.
(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2)
(a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.
(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4)
(a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.
(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 208, 2025 General Session
Amended by Chapter 310, 2025 General Session

78B-5-506 Value of exempt property -- Exemption of implements, professional books, tools, and motor vehicles.

(1) An individual is entitled to exemption of the following property up to an aggregate value of items in each subsection of $1,000:
(a) sofas, chairs, and related furnishings reasonably necessary for one household;
(b) dining and kitchen tables and chairs reasonably necessary for one household;
(c) animals, books, and musical instruments, if reasonably held for the personal use of the individual or the individual's dependents; and
(d) heirlooms or other items of particular sentimental value to the individual.

(2) An individual is entitled to an exemption, not exceeding $5,000 in aggregate value, of implements, professional books, or tools of the individual's trade, including motor vehicles to which no other exemption has been applied, and that are actually used by the individual in the individual's principal business, trade, or profession.

(3)
(a) As used in this Subsection (3), "motor vehicle" does not include any motor vehicle designed for or used primarily for recreational purposes, such as:
(i) an off-highway vehicle as defined in Section 41-22-2, except a motorcycle the individual regularly uses for daily transportation; or

(ii) a recreational vehicle as defined in Section 13-14-102, except a van the individual regularly uses for daily transportation.

(b) An individual is entitled to an exemption, not exceeding $3,000 in value, of one motor vehicle.

(4) This section does not affect property exempt under Section 78B-5-505.

Amended by Chapter 212, 2015 General Session

78B-5-507 Exemption of proceeds from property sold, taken by condemnation, lost, damaged, or destroyed -- Tracing exempt property and proceeds.

(1)

(a) An individual who owned property described in this Subsection (1) is entitled to an exemption of proceeds that are traceable for one year after the compensation for the property is received if:

(i)

(A) the property, or a part of the property, could have been claimed exempt under Subsection 78B-5-505(1)(a)(i) or (ii); or

(B) the property is personal property subject to a value limitation under Subsection 78B-5-506(1)(a), (b), or (c); and

(ii) the property has been:

(A) sold or taken by condemnation; or

(B) lost, damaged, or destroyed; and

(C) the owner has been compensated for the property.

(b) The exemption of proceeds under this Subsection (1) does not entitle the individual to claim an aggregate exemption in excess of the value limitation otherwise allowable under Section 78B-5-503 or 78B-5-506.

(2) Money or other property exempt under Subsection 78B-5-505(1)(a)(iii), (iv), (v), (vi), (vii), (xiii), (xiv), or (xviii) remains exempt after its receipt by, and while it is in the possession of, the individual or in any other form into which it is traceable.

(3) Money or other property and proceeds exempt under this chapter are traceable under this section by application of:

(a) the principle of:

(i) first-in first-out; or

(ii) last-in last-out; or

(b) any other reasonable basis for tracing selected by the individual.

Amended by Chapter 425, 2020 General Session

78B-5-508 Allowable claims against exempt property.

(1) Notwithstanding other provisions of this part, but subject to the provisions of the Utah Uniform Consumer Credit Code:

(a) A creditor may levy against exempt property of any kind, except unemployment benefits, to enforce a claim for:

(i) alimony, support, or maintenance;

(ii) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or

(iii) state or local taxes.

(b) The only deductions that can be withheld from unemployment benefits are those listed in Section 35A-4-103.

(c) A creditor may levy against exempt property to enforce a claim for:
(i) the purchase price of the property or a loan made for the purpose of enabling an individual to purchase the specific property used for that purpose;
(ii) labor or materials furnished to make, repair, improve, preserve, store, or transport the specific property; and
(iii) a special assessment imposed to defray costs of a public improvement benefiting the property.
(2) This section does not affect the right to enforce any statutory lien or security interest in exempt property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-509 Waiver of exemptions in favor of unsecured creditor unenforceable.

A waiver of exemptions executed in favor of an unsecured creditor before levy on an individual's property is unenforceable.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-510 Assertion of individual's rights by spouse, dependent, or other authorized person.

If an individual fails to select property entitled to be claimed as exempt or to object to a levy on the property or to assert any other right under this part, the spouse or a dependent of the individual or any other authorized person may make the claim or objection or assert the rights provided by this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-511 Injunctive relief, damages, or both allowed against creditor to prevent violation of chapter -- Costs and attorney fees.

An individual or the spouse or a dependent of the individual is entitled to injunctive relief, damages, or both, against a creditor or other person to prevent or redress a violation of this part. A court may award costs and reasonable attorney fees to a party entitled to injunctive relief or damages.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-512 Property held by joint tenants or tenants in common.

If an individual and another own property in this state as joint tenants or tenants in common, a creditor of the individual, subject to the individual's right to claim an exemption under this part, may obtain a levy on and sale of the interest of the individual in the property. A creditor who has obtained a levy, or a purchaser who has purchased the individual's interest at the sale, may have the property partitioned or the individual's interest severed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-513 Exemption provisions applicable in bankruptcy proceedings.

An individual may not exempt from the property of the estate in any bankruptcy proceeding the property specified in Subsection (d) of Section 522 of the Bankruptcy Reform Act (Public

Law 95-598), unless the individual is a nonresident of this state and has been for the 180 days immediately preceding filing for bankruptcy.

Amended by Chapter 192, 2013 General Session

Part 6
Evidence

78B-5-601 Statutes as evidence.

(1) The recitals in a public statute are conclusive evidence of the fact recited for the purpose of carrying it into effect.
(2) The recitals in a private statute are conclusive evidence between parties who claim under its provisions.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-602 Entries in official records as evidence.

Entries in public or other official books or records, made by a public officer in the performance of the officer's official duties or by any other person in the performance of a duty specially enjoined by the law, are prima facie evidence of the facts stated in the entry.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-603 Entries in course of official duty as evidence.

An entry made by an officer or board of officers, or under the direction and in the presence of either, in the course of official duty is prima facie evidence of the facts stated in the entry.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-604 Certificate of location or purchase of public lands of United States as evidence.

A certificate of purchase or of location of any lands in this state, issued or made in pursuance of any law of the United States, is prima facie evidence that the holder or assignee of the certificate is the owner of the land described in the certificate. This evidence may be overcome by proof that the land was in the adverse possession of the adverse party, or those under whom the party claims, or that the adverse party was holding the land for mining purposes at the time the certificate is filed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-605 Histories, scientific books, maps, and charts as evidence.

Historical works, books of science or art, and published maps or charts, when made or published by persons having no interest in a proceeding, are prima facie evidence of facts of general notoriety and interest.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-606 Certificate of acknowledgment as evidence of execution.

Private writings, except last wills and testaments, may be acknowledged or proved, and certified in the manner provided for the acknowledgment or proof of conveyances of real property. The certificate of acknowledgment or proof is prima facie evidence of the execution of the writing in the same manner as a conveyance of real property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-607 When entries and writings of a decedent are prima facie evidence.

The entries and other writings of a decedent made at or near the time of the transaction, and when the decedent was in a position to know the facts stated in the entry, may be read as prima facie evidence of the facts written about, in the following cases:
(1) the entry was made against the interest of the person making it;
(2) it was made in a professional capacity and in the ordinary course of professional conduct; or
(3) it was made in the performance of a duty specially enjoined by law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-608 Writings -- How proved.

A writing may be proved either:
(1) by any one who saw the writing executed;
(2) by evidence of the genuineness of the handwriting of the maker; or
(3) by a subscribing witness.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-609 Proof of execution when subscribing witness denies or forgets.

If the subscribing witness denies or does not recollect the execution of the writing, its execution may still be proved by other evidence.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-610 When unnecessary.

If the evidence shows that the party against whom the writing is offered has at any time admitted its execution, no other evidence of the execution need be given if the instrument is one produced from the custody of the adverse party and has been acted upon by the party as genuine.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-611 Proof of wills.

A last will and testament, except a nuncupative will, is invalid, unless it is in writing and executed in accordance with Title 75, Chapter 2, Part 5, Wills. When a will is to be shown, the instrument itself shall be produced, or secondary evidence of its contents given.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-612 Proof of instruments affecting real estate.

An instrument conveying or affecting real property, acknowledged, or proved and certified as provided by law, may, together with the certificate of acknowledgment or proof, be read in evidence in an action or proceeding, without further proof. The record, or a certified copy of the record, of the conveyance or instrument acknowledged or proved may be read in evidence, with the same effect as the original. The party offering the certified copy shall prove by affidavit or otherwise, that the original is not in the possession or under the control of the party.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-613 Proof of publication of document, notice, or order.

(1)
(a) If a court or judge orders a document or notice published in a newspaper, evidence of the publication shall be made by affidavit of the publisher, the publisher's foreman, or principal clerk with a copy of the publication attached.
(b) The affidavit shall state the date and newspaper of publication.

(2)
(a) If a court or judge orders a document or notice published electronically in accordance with Section 45-1-101, evidence of the publication shall be made by affidavit of the website publisher or the website publisher's designee with a printed copy of the publication attached.
(b) The affidavit shall state the date of publication.

Amended by Chapter 388, 2009 General Session

78B-5-614 Filing of affidavit -- Original or certified copy as evidence.

If an affidavit is made in an action or special proceeding pending in a court, it may be filed with the court or clerk of the court. If not made in an action or special proceeding pending in a court, it may be filed with the recorder of the county where the newspaper is published. The original affidavit, or a copy certified by the judge of the court or officer having it in custody, is prima facie evidence of the facts stated in the affidavit.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-615 Parol evidence of contents of writings -- When admissible.

(1) The contents of a writing shall be proved by the original writing unless:
(a) the original has been lost or destroyed, in which case proof of the loss or destruction shall be made first;
(b) the original is in the possession of the party against whom the evidence is offered and the party fails to produce it after reasonable notice;
(c) the original is a record or other document in the custody of a public officer;
(d) the original has been recorded, and the record or a certified copy of the record is made in accordance with the law governing the writing offered; or
(e) the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time, and the evidence sought from them is only the general result of the whole.

(2) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same

to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. The reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not, an enlargement or facsimile of the reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

(3) In the cases mentioned in Subsections (1)(c) and (d), a copy of the original, or of the record, shall be produced. In those mentioned in Subsections (1)(a) and (b), either a copy or oral evidence of the contents shall be given.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-616 Business record -- Admissibility -- Weight.

(1) As used in this section, "business" includes business, profession, occupation, and calling of every kind.

(2) A writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of that act, transaction, occurrence, or event, if made in the regular course of any business, and if it was the regular course of the business to make the memorandum or record at the time of the act, transaction, occurrence, or event or within a reasonable time after.

(3) All circumstances, other than those set forth in Subsection (2), of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but those circumstances do not affect its admissibility.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-617 Writings bearing obvious alterations -- Explanation required.

(1) The party producing as genuine a writing which has been altered, or appears to have been altered after its execution in a part material to the question in dispute must account for the appearance of alteration.

(2) The party may show that the alteration:

(a) was made by another without the party's concurrence;

(b) was made with the consent of the parties affected by it;

(c) was otherwise properly or innocently made; or

(d) does not change the meaning or language of the instrument.

(3) An altered writing that a party cannot adequately explain under Subsection (2) is not admissible.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-618 Patient access to medical records -- Third-party access to medical records -- Medical records services -- Fees -- Standard form.

(1) As used in this section:

(a) "Force majeure event" means an event or circumstance beyond the control of the health care provider or the health care provider's third-party service, including fires, floods, earthquakes, acts of God, lockouts, ransomware, or strikes.
(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.
(c) "History of poor payment" means three or more invoices where payment is more than 30 days late within a 12-month period.
(d) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26B-3-113.
(e) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.
(f) "Payment and balance information" means:
(i) all payments the health care provider has received for providing health care to the patient; and
(ii) the total balance owed to the health care provider for providing the health care to the patient.
(g) "Qualified claim or appeal" means a claim or appeal under any:
(i) provision of the Social Security Act as defined in Section 67-11-2; or
(ii) federal or state financial needs-based benefit program.
(h) "Third-party service" means a service that has entered into a contract with a health care provider to provide patient records on behalf of a health care provider.
(2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.
(3) When a health care provider is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.
(4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:
(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and
(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:
(i) copying, including the cost of supplies for and labor of copying; and
(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.
(5)
(a) Except for records provided under Section 26B-8-411, a health care provider or a health care provider's third-party service that provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:
(i) shall provide the copy within 30 days after receipt of notice;
(ii) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:
(A) $30 per request for locating a patient's records;
(B) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;
(C) the cost of postage when the requester has requested the copy be mailed;

(D) if requested, the person fulfilling the request will certify the record as a duplicate of the original for a fee of $20; and
(E) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act; and
(iii) may charge an expedition fee of $20 if:
(A) the requester's notice explicitly requests an expedited response; and
(B) the person fulfilling the request postmarks or otherwise makes the record available electronically within 15 days from the day the person fulfilling the request receives notice of the request.
(b) Notwithstanding the provisions of Subsection (5)(a)(ii) and subject to Subsection (5)(c), in the event the requested records are not postmarked or otherwise made available electronically by the person fulfilling the request:
(i) within 30 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall waive 50% of the fee; or
(ii) within 60 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.
(c) Performance under Subsection (5)(b) shall be extended in accordance with Subsection (5)(d) if the person fulfilling the request notifies the requester of:
(i) the occurrence of a force majeure event within 10 days from the day:
(A) the force majeure event occurs; or
(B) the person fulfilling the request receives notice of the request; and
(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.
(d) In accordance with Subsection (5)(c), for a force majeure event:
(i) that lasts less than eight days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:
(A) 30 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and
(B) 60 days of the day the force majeure event ends, waive the entire fee for providing the records;
(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:
(A) 60 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and
(B) 90 days of the day the force majeure event ends, waive the entire fee for providing the records; and
(iii) that lasts more than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:
(A) 90 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and
(B) 120 days of the day the force majeure event ends, waive the entire fee for providing the records.
(e)
(i) A third-party service may require prepayment before sending records for a request under this Subsection (5) if the third-party service:
(A) determines the requester has a history of poor payment; and
(B) notifies the requester, within the time periods described in Subsections (5)(b)(i) and (ii), that the records will be sent as soon as the request has been prepaid.

(ii) The fee reductions described in Subsection (5)(d) do not apply if a third-party service complies with Subsection (5)(e)(i).

(f) If a third-party service does not possess or have access to the data necessary to fulfill a request, the third-party service shall notify:

(i) the requester that the request cannot be fulfilled; and

(ii) state the reasons for the third-party service's inability to fulfill the request within 30 days from the day on which the request is received by the third-party service.

(g) A patient's attorney, legal representative, or other third party authorized to receive records may request patient records directly from a third-party service.

(6)

(a) A separate notice of request for payment and balance information shall:

(i) clearly indicate that the request is only for payment and balance information; and

(ii) indicate the name, telephone number, email address, and address of the requester.

(b) A health care provider or third-party service fulfilling a request for payment and balance information from a patient's attorney, legal representative, or other third-party representative, shall fulfill the request within 30 days after the day on which notice is received by the health care provider or by the third-party service, whichever is fulfilling the request, by:

(i) mailing a postmarked copy of the information to the requester; or

(ii) providing the information electronically or telephonically.

(c) A health care provider or third-party service that is responsible for fulfilling a request for payment and balance information but fails to:

(i) fulfill the request within 30 days, in accordance with Subsection (6)(b), shall pay, as a penalty, $50; and

(ii) fulfill the request within 60 days shall pay, as a penalty, an additional $150.

(d) A health care provider or third-party service obligated to pay a penalty under Subsection (6)(c) shall pay the amount owed:

(i) to reduce any amount the patient owes to the health care provider for the provision of health care, after any third-party obligations to pay, if the amount owed is more than the penalty;

(ii) directly to the patient, if the requested payment and balance information reflects that the patient owes no amount to the health care provider for the provision of health care services; or

(iii) allocated between:

(A) a payment to satisfy the amount the patient owes to the health care provider for the provision of health care, as indicated on the payment and balance information; and

(B) a payment in the amount of any remaining penalty obligation to the patient.

(e) A third-party service may satisfy any obligation to pay a penalty under Subsection (6)(c) by remitting the penalty amount to the health care provider to be allocated in accordance with Subsection (6)(d).

(7) A health care provider or third-party service shall, if the health care provider or the third-party service responding to a request for payment and balance information is unable to comply with Subsection (6)(b), provide a written response that includes:

(a) contact information, if known, for the individual who the requester may contact to fulfill the request; and

(b) the reason for not complying with Subsection (6)(b).

(8)

(a) Subject to Subsection (8)(b), a health care provider that contracts with a third-party service to fulfill the health care provider's medical record requests shall file a statement with the Division of Professional Licensing containing:

(i) the name of the third-party service;
(ii) the phone number of the third-party service;
(iii) the fax number, email address, website portal address, if applicable, and mailing address for the third-party service where medical record requests can be sent for fulfillment; and
(iv) beginning January 1, 2025, whether the third-party service is authorized to fulfill requests for patient medical records for patient payment and balance information.

(b) If an individual health care provider is an employee or contractor of an organization that is a health care provider and that contracts with a third-party service to fulfill the medical record requests for the individual health care provider, the organization may file the statement under Subsection (8)(a) on behalf of the organization's employees and contractors.

(c) A health care provider described in Subsection (8)(a) shall update the filing described in Subsection (8)(a) as necessary to ensure that the information is accurate.

(d) The Division of Professional Licensing shall develop a form for a health care provider to complete that provides the information required by Subsection (8)(a).

(e) The Division of Professional Licensing shall:
(i) maintain an index of statements described in Subsection (8)(a) arranged alphabetically by entity; and
(ii) make the index available to the public electronically on the Division of Professional Licensing's website.

(9) A health care provider or the health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the person fulfilling the request or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

(10)

(a) Except as provided in Subsections (10)(b) through (d), the per page fee in Subsections (4) and (5) applies to medical records reproduced electronically or on paper.

(b) The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c)
(i) A health care provider or a health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's third-party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.
(ii) A person fulfilling the request under Subsection (10)(c)(i):
(A) shall provide the requested information within 30 days; and
(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(d) Subject to Subsection (10)(e), in the event the requested records under Subsection (10)(c)
(i) are not postmarked or otherwise made available electronically by the person fulfilling the request:
(i) within 30 days after the day notice is received by the person fulfilling the request, the person fulfilling the request may not charge a fee for the electronic copy that exceeds $75

regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; or

(ii) within 60 days after the day notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(e) Performance under Subsection (10)(d) shall be extended in accordance with Subsection (10)(f) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(f) In accordance with Subsection (10)(e), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 60 days of the day the force majeure event ends, shall waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 90 days of the day the force majeure event ends, shall waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 120 days of the day the force majeure event ends, shall waive the entire fee for providing the records.

(11)

(a) On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under Subsections (5)(a)(ii)(A) and (B); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection (10)(c)(ii)(B).

(b) On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection (11)(b)(i) for posting on the court's website.

(12) Notwithstanding Subsections (4) through (8), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's third-party service:

(a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:
(i) exceed 60 cents per page for paper photocopies;
(ii) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;
(iii) include an administrative fee or additional service fee related to the production of the medical record; or
(iv) exceed the fee provisions for an electronic copy under Subsection (10)(c); and
(c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.
(13)
(a) Except as otherwise provided in Subsections (4) through (8), a health care provider or the health care provider's third-party service shall waive all fees under this section for an indigent individual.
(b) A health care provider or the health care provider's third-party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.
(c)
(i) An indigent individual that receives copies of a medical record at no charge under this Subsection (13) is limited to one copy for each date of service for each health care provider, or the health care provider's third-party service, in each calendar year.
(ii) Any request for additional copies in addition to the one copy allowed under Subsection (13)(c) is subject to the fee provisions described in Subsection (12).
(14) By January 1, 2023, a health care provider and all of the health care provider's contracted third party health related services shall accept a properly executed form described in Section 26B-8-514.

Amended by Chapter 277, 2025 General Session

78B-5-619 Access to medical records of deceased patient.

For purposes of Section 78B-5-618, and 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information, a health care provider with medical records of a deceased person may recognize the deceased person's surviving spouse or an adult child as a personal representative.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-620 Calibration certificates for breathalizers.

(1) As used in this section:
(a) "Breathalizer" means any device used by a law enforcement agency which utilizes a person's breath to estimate blood alcohol content.
(b) "Calibration" means the manual setting of specific levels on a breathalizer by a person trained to reset the machine to insure as accurate results as possible.
(c) "Certificate of calibration" means the document issued by the person who calibrates a breathalizer, attesting to the accuracy of the machine.
(d) "Department" means the Department of Public Safety created in Section 53-1-103.
(e) "Digitize" means to convert content from a tangible, analog form into a digital electronic representation of that content.

(2) The department may digitize and post the digital format of certificates of calibration on its website in a secure location not available to the public.
(3) The secure location shall be available to courts and local prosecutors' offices for use in actions in which it is alleged a party was intoxicated and a law enforcement officer required the party to submit to a breathalizer test.
(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(a) to provide a method for insuring the accuracy of the certificates on the website; and
(b) providing for an attestation to the authenticity of the certificate upon download by a prosecutor or court.

Enacted by Chapter 209, 2008 General Session

Part 7
Affidavits

78B-5-701 Taking of affidavits in this state.
An affidavit to be used before any court, judge, or officer of this state may be taken before any judge, the clerk of any court, any justice court judge, or any notary public in this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-702 Taking of affidavits in another state.
An affidavit taken in another state or territory of the United States, to be used in this state, may be taken before a commissioner appointed by the governor of this state to take affidavits and depositions in another state or territory, or before any notary public in another state or territory, or before any judge or clerk of a court of record having a seal.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-703 Taking of affidavits in foreign country.
An affidavit taken in a foreign country, to be used in this state, may be taken before an ambassador, minister, consul, vice consul or consular agent of the United States, or before any judge of a court of record having a seal, in the foreign country.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-704 Certification of affidavits taken before foreign court or judge.
When an affidavit is taken before a judge or court in another state or territory, or in a foreign country, the genuineness of the signature of the judge, the existence of the court, and the fact that the judge is a member of the court, shall be certified by the clerk of the court under the court's seal.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 8

Miscellaneous

78B-5-801 Public and private statutes defined.

Statutes are public and private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-802 Tender -- Offer in writing sufficient -- Objection -- Must be specific or waived.

(1) An offer in writing to pay a particular sum of money or to deliver a written instrument or specific personal property is, if not accepted, equivalent to the actual production and tender of the money, instrument, or property.
(2) The person to whom a tender is made shall, at the time, specify any objection to the money, instrument, or property, or it is considered waived.
(3) If the objection is to the amount of money, the terms of the instrument or the amount or kind of property, the person shall specify the amounts, terms, or kind which is required, or be precluded from objection afterwards.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-803 Receipt may be demanded as condition to payment or deposit.

A person who pays money, or delivers an instrument or property, is entitled to a receipt from the person to whom the payment or delivery is made, and may demand a proper signature to the receipt as a condition of the payment or delivery.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-804 Money deposited in court.

(1)
  (a) Any person depositing money in court, to be held in trust, shall pay it to the court clerk.
  (b) The clerk shall deposit the money in a court trust fund or with the county treasurer or city recorder to be held subject to the order of the court.
(2) The Judicial Council shall adopt rules governing the maintenance of court trust funds and the disposition of interest earnings on those trust funds.
(3)
  (a) Any interest earned on trust funds in the courts of record that is not required to accrue to the litigants by Judicial Council rule or court order shall be deposited in a restricted account. Any interest earned on trust funds in the courts not of record that is not required to accrue to the litigants by Judicial Council rule or court order shall be deposited in the general fund of the county or municipality.
  (b) The Legislature shall appropriate funds from the restricted account of the courts of record to the Judicial Council to:
    (i) offset costs to the courts for collection and maintenance of court trust funds; and
    (ii) provide accounting and auditing of all court revenue and trust accounts.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-805 State, state officers, and political subdivisions not required to give bond.

(1) In any civil action or proceeding in which the state is a party plaintiff, or any state officer in an official capacity or on behalf of the state, or any county or city or other public corporation is a party plaintiff or defendant, no bond, written undertaking, or security may be required of the state, or any state officer, or of any county, city, or other public corporation.

(2) Upon compliance with the other provisions of the law, the state or any state officer acting in an official capacity, or any county, city, or other public corporation, has the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by law.

Repealed and Re-enacted by Chapter 153, 2015 General Session

78B-5-806 Payment of costs by state.

When a state is a party and costs are awarded against it, the costs shall be paid out of the state treasury. The auditor shall draw a warrant on the General Fund for payment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-807 Payment of costs by county.

When a county is a party and costs are awarded against it, the costs shall be paid out of the county treasury.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-808 Salaries of public officers subject to garnishment.

The state and any subdivision, agency, or institution of the state which has in its possession or under its control any credits or other personal property of, or owing any debt to, the defendant in any action, whether as salary or wages, as a public official or employee may be subject to attachment, garnishment, and execution in accordance with any rights, remedies, and procedures applicable to attachment, garnishment, and execution, respectively, except as provided in Section 78B-5-809.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-809 Service of process.

Process for a garnishment under Section 78B-5-808 shall be served only upon the auditor of the legal subdivision garnished. If there is no auditor, then process shall be served on the clerk of the subdivision, agency, or institution. The answer of the auditor or clerk shall be final and conclusive.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-810 Sureties on stay bonds entitled to subrogation.

If a surety on an appeal executed to stay proceedings upon a money judgment pays the judgment, either with or without action, after its affirmance by the appellate court, the surety is subrogated to the rights of the judgment creditor, and entitled to control, enforce, and satisfy the judgment in all respects as if the surety had recovered the same.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-811 Provisions as to depositions made applicable to nonjudicial proceedings.

The provisions of law relating to the taking of depositions in actions pending before the courts of this state are applicable to commissions, boards and officers authorized to subpoena witnesses and take testimony.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-812 Release or settlement of personal injury claim -- When voidable.

(1) Any release of liability or settlement agreement entered into within a period of 15 days from the date of an occurrence causing physical injury to any person, or entered into prior to the initial discharge of the person from any hospital or sanitarium in which the injured person is confined as a result of the injuries sustained in the occurrence, is voidable by the injured person, as provided in Sections 78B-5-812 through 78B-5-816.

(2) Notice of cancellation of the release or settlement agreement, together with any payment or other consideration received in connection with the release or agreement shall be mailed or delivered to the party to whom the release or settlement agreement was given, by the later of the following dates:

(a) within 15 days from the date of the occurrence causing the injuries which are subject of the settlement agreement or liability release; or

(b) within 15 days after the date of the injured person's discharge from the hospital or sanitarium in which the person has been confined continuously since the date of the occurrence causing the injury.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-813 Statement of injured person -- When inadmissible as evidence.

Except as otherwise provided in Sections 78B-5-812 through 78B-5-816, any statement, either written or oral, obtained from an injured person within 15 days of an occurrence or while the person is confined in a hospital or sanitarium as a result of injuries sustained in the occurrence, and which statement is obtained by a person whose interest is adverse or may become adverse to the injured person, except a peace officer, is not admissible as evidence in any civil proceeding brought by or against the injured person for damages sustained as a result of the occurrence, unless:

(1) a written verbatim copy of the statement has been left with the injured party at the time the statement was taken; and

(2) the statement has not been disavowed in writing within 15 days of the date of the statement or within 15 days after the date of the injured person's initial discharge from the hospital or sanitarium in which the person has been confined, whichever date is later.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-814 Release, settlement, or statement by injured person -- When rescission or disavowal provisions inapplicable.

Sections 78B-5-812 through 78B-5-816 do not apply if at least five days prior to signing the settlement agreement, liability release, or statement, the injured person signed a statement in writing indicating willingness and agreement to the settlement agreement, liability release, or statement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-815 Release, settlement, or statement by injured person -- Notice of rescission or disavowal.

Notice of cancellation or notice disavowing a statement, if given by mail, is given when it is deposited in a mailbox, properly addressed with postage prepaid. Notice of cancellation given by the injured person need not take a particular form. It is sufficient if it indicates by any form of written expression the intention of the injured person not to be bound by the settlement agreement, liability release, or disavowed statement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-816 Right of rescission or disavowal of release, settlement, or statement by injured person in addition to other provisions.

The rights provided by Sections 78B-5-812 through 78B-5-816 are intended to be in addition to, and not in lieu of, any rights of rescission, rules of evidence, or provisions otherwise existing in the law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-817 Definitions.

As used in Sections 78B-5-817 through 78B-5-823:

(1) "Defendant" means a person, other than a person immune from suit as defined in Subsection (3), who is claimed to be liable because of fault to any person seeking recovery.

(2) "Fault" means any actionable breach of legal duty, act, or omission proximately causing or contributing to injury or damages sustained by a person seeking recovery, including negligence in all its degrees, comparative negligence, assumption of risk, strict liability, breach of express or implied warranty of a product, products liability, and misuse, modification, or abuse of a product.

(3) "Person immune from suit" means:

(a) an employer immune from suit under Title 34A, Chapter 2, Workers' Compensation Act, or Chapter 3, Utah Occupational Disease Act; and

(b) a governmental entity or governmental employee immune from suit pursuant to Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(4) "Person seeking recovery" means any person seeking damages or reimbursement on its own behalf, or on behalf of another for whom it is authorized to act as legal representative.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-818 Comparative negligence.

(1) The fault of a person seeking recovery may not alone bar recovery by that person.

(2) A person seeking recovery may recover from any defendant or group of defendants whose fault, combined with the fault of persons immune from suit and nonparties to whom fault is allocated, exceeds the fault of the person seeking recovery prior to any reallocation of fault made under Subsection 78B-5-819(2).

(3) No defendant is liable to any person seeking recovery for any amount in excess of the proportion of fault attributed to that defendant under Section 78B-5-819.

(4)
(a) The fact finder may, and when requested by a party shall, allocate the percentage or proportion of fault attributable to each person seeking recovery, to each defendant, to any person immune from suit, and to any other person identified under Subsection 78B-5-821(4) for whom there is a factual and legal basis to allocate fault. In the case of a motor vehicle accident involving an unidentified motor vehicle, the existence of the vehicle shall be proven by clear and convincing evidence which may consist solely of one person's testimony.
(b) Any fault allocated to a person immune from suit is considered only to accurately determine the fault of the person seeking recovery and a defendant and may not subject the person immune from suit to any liability, based on the allocation of fault, in this or any other action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-819 Separate special verdicts on total damages and proportion of fault.
(1) The trial court may, and when requested by any party shall, direct the jury, if any, to find separate special verdicts determining the total amount of damages sustained and the percentage or proportion of fault attributable to each person seeking recovery, to each defendant, to any person immune from suit, and to any other person identified under Subsection 78B-5-821(4) for whom there is a factual and legal basis to allocate fault.
(2)
(a) If the combined percentage or proportion of fault attributed to all persons immune from suit is less than 40%, the trial court shall reduce that percentage or proportion of fault to zero and reallocate that percentage or proportion of fault to the other parties and those identified under Subsection 78B-5-821(4) for whom there is a factual and legal basis to allocate fault in proportion to the percentage or proportion of fault initially attributed to each by the fact finder. After this reallocation, cumulative fault shall equal 100% with the persons immune from suit being allocated no fault.
(b) If the combined percentage or proportion of fault attributed to all persons immune from suit is 40% or more, that percentage or proportion of fault attributed to persons immune from suit may not be reduced under Subsection (2)(a).
(c)
(i) The jury may not be advised of the effect of any reallocation under Subsection (2).
(ii) The jury may be advised that fault attributed to persons immune from suit may reduce the award of the person seeking recovery.
(3) A person immune from suit may not be held liable, based on the allocation of fault, in this or any other action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-820 Amount of liability limited to proportion of fault -- No contribution.
(1) Subject to Section 78B-5-818, the maximum amount for which a defendant may be liable to any person seeking recovery is that percentage or proportion of the damages equivalent to the percentage or proportion of fault attributed to that defendant.
(2) A defendant is not entitled to contribution from any other person.
(3) A defendant or person seeking recovery may not bring a civil action against any person immune from suit to recover damages resulting from the allocation of fault under Section 78B-5-818.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-821 Joinder of defendants.

(1) A person seeking recovery, or any defendant who is a party to the litigation, may join as a defendant, in accordance with the Utah Rules of Civil Procedure, any person other than a person immune from suit alleged to have caused or contributed to the injury or damage for which recovery is sought, for the purpose of having determined their respective proportions of fault.

(2) A person immune from suit may not be named as a defendant, but fault may be allocated to a person immune from suit solely for the purpose of accurately determining the fault of the person seeking recovery and all defendants. A person immune from suit is not subject to any liability, based on the allocation of fault, in this or any other action.

(3)

(a) A person immune from suit may intervene as a party under Rule 24, Utah Rules of Civil Procedure, regardless of whether or not money damages are sought.

(b) A person immune from suit who intervenes in an action may not be held liable for any fault allocated to that person under Section 78B-5-818.

(4) Fault may not be allocated to a non-party unless a party timely files a description of the factual and legal basis on which fault can be allocated and information identifying the non-party, to the extent known or reasonably available to the party, including name, address, telephone number and employer. The party shall file the description and identifying information in accordance with Rule 9, Utah Rules of Civil Procedure or as ordered by the court but in no event later than 90 days before trial as provided in Rule 9, Utah Rules of Civil Procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-822 Release to one defendant does not discharge other defendants.

A release given by a person seeking recovery to one or more defendants does not discharge any other defendant unless the release so provides.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-823 Effect on immunity, exclusive remedy, indemnity, and contribution.

Nothing in Sections 78B-5-817 through 78B-5-822 affects or impairs any common law or statutory immunity from liability, including, but not limited to, governmental immunity as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah, and the exclusive remedy provisions of Title 34A, Chapter 2, Workers' Compensation Act. Nothing in Sections 78B-5-817 through 78B-5-822 affects or impairs any right to indemnity or contribution arising from statute, contract, or agreement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-824 Personal injury judgments -- Interest authorized.

(1) In all actions brought to recover damages for personal injuries sustained by any person, caused by the negligence or willful intent of another person, corporation, association, or partnership, and whether the injury was fatal or otherwise, the plaintiff, including a counterclaim plaintiff or a crossclaim plaintiff, in the complaint may claim interest on special damages actually incurred.

(2) A plaintiff, including a counterclaim plaintiff or a crossclaim plaintiff, seeking to recover damages for personal injury or wrongful death may claim prejudgment interest if for cases classified as tier 1, pursuant to the Utah Rules of Civil Procedure, the plaintiff tenders:
  (a) a written settlement demand, including settlement demands under Utah Rule of Civil Procedure 68; and
  (b) the amount of the demand does not exceed 1-1/3 of the amount of the judgment eventually awarded at trial.
(3) For purposes of this statute, the determining offer and counteroffer shall be the last written offer or counteroffer timely tendered by a party, provided that the offer or counteroffer is tendered at least 60 days before trial.
(4) Cases classified as tier 2 or tier 3 by the Utah Rules of Civil Procedure or submitted to binding arbitration in accordance with Sections 18-1-4 and 31A-22-321 are not subject to the requirements outlined in Subsection (2).
(5)
  (a) Any prejudgment interest shall be computed as simple interest. For first special damages incurred during the year of the occurrence of the act giving rise to the cause of action, any prejudgment interest shall be computed as simple interest accruing from the date on which the first date special damages were actually incurred.
  (b) For special damages incurred in successive years, prejudgment interest shall be calculated from January 1 of each year special damages were incurred. The court shall calculate prejudgment interest using a per annum rate, which is two percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day in January of the calendar year in which the judgment is entered. The prejudgment interest rate applied to all cases may not be lower than 5% or higher than 10%.
(6) As used in this section, "special damages actually incurred" does not include damages for future medical expenses, loss of future wages, or loss of future earning capacity.
(7) This section applies to any cause of action arising on or after July 1, 2014.

Amended by Chapter 257, 2014 General Session

78B-5-825 Attorney fees -- Award where action or defense in bad faith -- Exceptions.
(1) In civil actions, the court shall award reasonable attorney fees to a prevailing party if the court determines that the action or defense to the action was without merit and not brought or asserted in good faith, except under Subsection (2).
(2) The court, in the court's discretion, may award no fees or limited fees against a party under Subsection (1), but only if the court:
  (a) finds the party has filed an affidavit of indigency under Section 78A-2-302 in the action before the court; or
  (b) the court enters in the record the reason for not awarding fees under the provisions of Subsection (1).

Amended by Chapter 272, 2022 General Session

78B-5-825.5 Attorney fees -- Private attorney general doctrine disavowed.
A court may not award attorney fees under the private attorney general doctrine in any action filed after May 12, 2009.

Enacted by Chapter 373, 2009 General Session

78B-5-826 Attorney fees -- Reciprocal rights to recover attorney fees.

A court may award costs and attorney fees to either party that prevails in a civil action based upon any promissory note, written contract, or other writing executed after April 28, 1986, when the provisions of the promissory note, written contract, or other writing allow at least one party to recover attorney fees.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-827 Attorney fees awarded to state funded agency in action against state or subdivision -- Forfeit of appropriated money.

An agency or organization receiving state funds which, as a result of its suing the state, or political subdivision of the state, receives attorney fees and costs as all or part of a settlement or award, shall forfeit to the General Fund, from its appropriated money, an amount equal to the attorney fees received.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-5-828 Bond required in an environmental action.

(1) As used in this section:

(a) "Administrative stay" means a stay or other temporary remedy issued by an agency under Section 63G-4-405.

(b)

(i) "Environmental action" means a cause of action that:

(A) is filed on or after May 10, 2011; and

(B) seeks judicial review of a final agency action to issue a permit by the Department of Natural Resources, the Department of Transportation, or the School and Institutional Trust Lands Administration.

(ii) "Environmental action" does not include a cause of action that seeks judicial review of a final agency action to issue a permit by the Division of Oil, Gas, and Mining under Title 40, Chapter 10, Coal Mining and Reclamation.

(c) "Ultimately prevail on the merits" means, in the final judgment, the court rules in the plaintiff's favor on at least one cause of action.

(2) A plaintiff who obtains a preliminary injunction or administrative stay in an environmental action, but does not ultimately prevail on the merits of the environmental action, is liable for damages sustained by a defendant who:

(a) opposed the preliminary injunction or administrative stay; and

(b) was harmed by the preliminary injunction.

(3) A court may not issue a preliminary injunction and an agency may not grant an administrative stay in an environmental action until the plaintiff posts with the court or the agency a surety bond or cash equivalent:

(a) in an amount the court or agency considers sufficient to compensate each defendant opposing the preliminary injunction or administrative stay for damages that each defendant may sustain as a result of the preliminary injunction or administrative stay;

(b) written by a surety licensed to do business in the state; and

(c) payable to each defendant opposing the preliminary injunction or administrative stay in the event the plaintiff does not prevail on the merits of the environmental action.

(4) If there is more than one plaintiff, the court or agency shall establish the amount of the bond required by Subsection (3) for each plaintiff in a fair and equitable manner.
(5)
(a) If the plaintiff does not ultimately prevail on the merits of the environmental action, the court shall execute the bond and award damages to each defendant who:
(i) opposed the preliminary injunction or administrative stay; and
(ii) was harmed as a result of its issuance.
(b) If the amount of money secured by the surety bond or cash equivalent:
(i) exceeds the damages awarded, the court or agency shall return the excess to the plaintiff; and
(ii) is less than the damages awarded, the court or agency shall order the plaintiff to pay the remaining damages.
(6) Notwithstanding any other provision of law, a court's or agency's refusal to require the posting of a surety bond or cash equivalent as required by this section is subject to immediate appeal.

Amended by Chapter 149, 2025 General Session

Part 9
Public Safety Peer Counseling and Behavioral Emergency Services Technicians

78B-5-902 Definitions.
As used in this part:
(1) "Behavioral emergency services technician" means an individual who is licensed under Section 53-2d-402 as:
(a) a behavioral emergency services technician; or
(b) an advanced behavioral emergency services technician.
(2) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.
(3) "Emergency medical service provider or rescue unit peer support team member" means an individual who is:
(a) an emergency medical service provider as defined in Section 53-2d-101, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another individual who has been trained in peer support skills; and
(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.
(4) "Law enforcement or firefighter peer support team member" means an individual who is:
(a) a peace officer, dispatcher as defined in Section 53-6-102, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another individual who has been trained in peer support skills; and
(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, a dispatch executive director, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.
(5) "Public Safety answering point peer support team member" means an individual who is:

(a) employed by a public safety answering point as defined in Section 63H-7a-103; and
(b) designated by the chief executive of a public safety answering point as a member of a public safety answering point's peer support team.
(6) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.

Amended by Chapter 19, 2023 General Session
Amended by Chapter 310, 2023 General Session
Amended by Chapter 330, 2023 General Session

78B-5-903 Creation -- Training -- Communications -- Exclusions.
(1) A law enforcement agency, fire department, emergency medical service agency, rescue unit, or public safety answering point:
(a) may create a peer support team; and
(b) if a peer support team is created, shall develop guidelines for the peer support team and its members.
(2) A peer support team member shall complete a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Department of Health and Human Services, as applicable.
(3) In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by an individual participating in peer support services, including group therapy sessions.
(4) Subsection (3) applies only to communications made during individual interactions conducted by a peer support team member who is:
(a) acting in the member's capacity as:
(i) a law enforcement or firefighter peer support team member;
(ii) an emergency medical service provider or rescue unit peer support team member; or
(iii) a public safety answering point peer support team member; and
(b) functioning within the written peer support guidelines that are in effect for the member's respective law enforcement agency, fire department, emergency medical service agency, rescue unit, or public safety answering point.
(5) This part does not apply if:
(a) a peer support team member was a witness or a party to the incident that prompted the delivery of peer support services;
(b) information received by a peer support team member is indicative of actual or suspected child abuse, or actual or suspected child neglect;
(c) the individual receiving peer support is a clear and immediate danger to the individual's self or others;
(d) communication to a peer support team member establishes reasonable cause for the peer support team member to believe that the individual receiving peer support services is mentally or emotionally unfit for duty; or
(e) communication to the peer support team member provides evidence that the individual who is receiving the peer support services has committed a crime, plans to commit a crime, or intends to conceal a crime.

Amended by Chapter 19, 2023 General Session

78B-5-904 Exclusions for certain communications.

In accordance with the Utah Rules of Evidence, a behavioral emergency services technician may refuse to disclose communications made by an individual during the delivery of behavioral emergency services as defined in Section 53-2d-101.

Amended by Chapter 310, 2023 General Session
Amended by Chapter 330, 2023 General Session

Part 10
Appeals

78B-5-1001 Definitions for part.

Reserved.

Enacted by Chapter 456, 2025 General Session

78B-5-1002 Right to an appeal of an injunctive order.

(1) As used in this section:
(a) "Defendant" means a defendant in the civil action or a party affected by the injunctive order.
(b) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.
(c) "Injunctive order" means a temporary restraining order, a preliminary injunction, a permanent injunction, or any order or judgment that restrains or enjoins the execution or enforcement of a state law or any part of a state law.
(d) "Plaintiff" means the party seeking the injunctive order.
(e) "State law" means a state statute, a provision of the Utah Constitution, or any action of the Legislature.
(2) A defendant has a right in a civil action to appeal a decision by a trial court of this state to grant, continue, modify, or refuse to modify an injunctive order if the underlying claim for the injunctive order is that the state law, or any part of the state law, is unconstitutional on its face.
(3) Upon an appeal described in Subsection (2), the Supreme Court shall determine whether:
(a) the decision of the trial court is correct; and
(b) there is a substantial likelihood that the plaintiff will prevail on the merits of the claim that the state law, or any part of the state law, is unconstitutional on its face.
(4) If a governmental entity brings an appeal under Subsection (2), the governmental entity is not required to post a bond for the appeal.
(5) This section applies to an action pending in a court of this state on and after May 7, 2025.

Enacted by Chapter 456, 2025 General Session

Renumbered 9/1/2025

Chapter 6
Particular Proceedings

Renumbered 9/1/2025

Part 1
Utah Adoption Act

Repealed 9/1/2025

78B-6-101 Title.

This part is known as the "Utah Adoption Act."

Repealed by Chapter 426, 2025 General Session
Enacted by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-102 Legislative findings -- Best interest of child -- Interests of each party.

(1) In every adoption, the best interest of the child should govern and be of foremost concern in a court's determination.

(2) The court shall make a specific finding regarding the best interest of the child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the child and the moral climate of the potential adoptive placement.

(3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.

(4) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the court's placement of a child with a single adult who is not cohabiting or a person who is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(5) The Legislature also finds that:

(a) the state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children;

(b) an unmarried mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the child, and is entitled to assurance regarding the permanence of an adoptive placement;

(c) adoptive children have a right to permanence and stability in adoptive placements;

(d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of an adopted child;

(e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when he demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child's birth; and

(f) the state has a compelling interest in requiring unmarried biological fathers to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal paternity, in accordance with the requirements of this chapter.

(6)

(a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.
(b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with his child that are available to him, his biological parental interest may be lost entirely, or greatly diminished in constitutional significance by his failure to timely exercise it, or by his failure to strictly comply with the available legal steps to substantiate it.
(c) A certain degree of finality is necessary in order to facilitate the state's compelling interest. The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter.
(d) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter. In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by him.
(e) An unmarried biological father has the primary responsibility to protect his rights.
(f) An unmarried biological father is presumed to know that the child may be adopted without his consent unless he strictly complies with the provisions of this chapter, manifests a prompt and full commitment to his parental responsibilities, and establishes paternity.

(7) The Legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father.

Amended by Chapter 261, 2025 General Session

Renumbered 9/1/2025

78B-6-103 Definitions.

As used in this part:

(1) "Adoptee" means a person who:
(a) is the subject of an adoption proceeding; or
(b) has been legally adopted.

(2) "Adoption" means the judicial act that:
(a) creates the relationship of parent and child where it did not previously exist; and
(b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption proceeding" means any proceeding under this part.

(5) "Adoption service provider" means:
(a) a child-placing agency;
(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;
(ii) prospective adoptive parents; or
(iii) birth parents; or
(c) the Office of Licensing within the Department of Health and Human Services.
(6) "Adoptive parent" means an individual who has legally adopted an adoptee.
(7) "Adult" means an individual who is 18 years old or older.
(8) "Adult adoptee" means an adoptee who is 18 years old or older and was adopted as a minor.
(9) "Adult sibling" means an adoptee's brother or sister, who is 18 years old or older and whose birth mother or father is the same as that of the adoptee.
(10) "Birth mother" means the biological mother of a child.
(11) "Birth parent" means:
(a) a birth mother;
(b) a man whose paternity of a child is established;
(c) a man who:
(i) has been identified as the father of a child by the child's birth mother; and
(ii) has not denied paternity; or
(d) an unmarried biological father.
(12) "Child-placing agency" means an agency licensed to place children for adoption under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.
(13) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.
(14) "Division" means the Division of Child and Family Services, within the Department of Health and Human Services, created in Section 80-2-201.
(15) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.
(16) "Genetic and social history" means a comprehensive report, when obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles, and grandparents:
(a) medical history;
(b) health status;
(c) cause of and age at death;
(d) height, weight, and eye and hair color;
(e) ethnic origins;
(f) where appropriate, levels of education and professional achievement; and
(g) religion, if any.
(17) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.
(18) "Identifying information" means information that is in the possession of the office and that contains the name and address of a pre-existing parent or an adult adoptee, or other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or an adult adoptee, including information on a birth certificate or in an adoption document.
(19) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:
(a) certified social worker;
(b) clinical social worker;
(c) psychologist;
(d) marriage and family therapist;

(e) clinical mental health counselor; or
(f) an equivalent licensed professional of another state, district, or territory of the United States.
(20) "Man" means a male individual, regardless of age.
(21) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.
(22) "Office" means the Office of Vital Records and Statistics within the Department of Health and Human Services operating under Title 26B, Chapter 8, Part 1, Vital Statistics.
(23) "Parent," for purposes of Subsection 78B-6-112(6) and Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.
(24) "Potential birth father" means a man who:
(a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and
(b) was not married to the biological mother of the child described in Subsection (24)(a) at the time of the child's conception or birth.
(25) "Pre-existing parent" means:
(a) a birth parent; or
(b) an individual who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.
(26) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.
(27) "Relative" means:
(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or first cousin of a child's parent; and
(b) in the case of a child defined as an "Indian child" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.
(28) "Unmarried biological father" means a man who:
(a) is the biological father of a child; and
(b) was not married to the biological mother of the child described in Subsection (28)(a) at the time of the child's conception or birth.

Amended by Chapter 261, 2024 General Session

Renumbered 9/1/2025

78B-6-104 Limitations.

(1) Sections 78B-6-143 through 78B-6-145 do not apply to adoptions by a stepparent whose spouse is the adoptee's parent.
(2) Sections 78B-6-143 through 78B-6-145 apply only to adoptions of adoptees born in this state.

Amended by Chapter 237, 2010 General Session

Renumbered 9/1/2025

78B-6-105 District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:
(a) in the county where the prospective adoptive parent resides;
(b) if the prospective adoptive parent is not a resident of this state, in the county where:
(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or
(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or
(c) if the adoption proceeding is brought in the juvenile court as described in Subsection 78A-6-103(2)(a)(xiv), in accordance with Section 78A-6-350.
(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).
(3) A petition for adoption:
(a) may be filed before the birth of a child;
(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and
(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:
(i) the time for filing has been extended by the court; or
(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.
(4)
(a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.
(b) The notice may not include the name of:
(i) a prospective adoptive parent; or
(ii) an unmarried mother without her consent.
(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.
(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.
(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Amended by Chapter 158, 2024 General Session

Renumbered 9/1/2025

78B-6-106 Responsibility for own actions -- Fraud or misrepresentation.

(1) Each parent of a child conceived or born outside of marriage is responsible for his or her own actions and is not excused from strict compliance with the provisions of this chapter based upon any action, statement, or omission of the other parent or third parties.
(2) Any person injured by fraudulent representations or actions in connection with an adoption is entitled to pursue civil or criminal penalties in accordance with existing law. A fraudulent representation is not a defense to strict compliance with the requirements of this chapter and is not a basis for dismissal of a petition for adoption, vacation of an adoption decree, or an automatic grant of custody to the offended party. Custody determinations shall be based on the best interests of the child, in accordance with the provisions of Section 78B-6-133.
(3) A child-placing agency and the employees of a child-placing agency may not:
(a) employ any device, scheme, or artifice to defraud;
(b) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) materially and intentionally misrepresent facts or information; or
(d) request or require a prospective adoptive parent to grant, as a condition of or in connection with entering into an agreement with a child-placing agency, a release of either the prospective adoptive parent's claims or the adoptive child's claims against the child-placing agency regarding any of the following:
(i) criminal misconduct;
(ii) ethical violations, as established by the Office of Licensing's administrative rules;
(iii) bad faith;
(iv) intentional torts;
(v) fraud;
(vi) gross negligence associated with care of the child, as described in Subsection 78B-6-134(3);
(vii) future misconduct that may arise before the adoption is finalized;
(viii) breach of contract; or
(ix) gross negligence.
(4) Subsection (3) does not prohibit a release of claims against a child-placing agency or a child-placing agency's employees for liability arising from the acts or the failure to act of a third party.

Amended by Chapter 148, 2017 General Session

Repealed 9/1/2025

78B-6-107 Compliance with the Interstate Compact on Placement of Children -- Compliance with the Indian Child Welfare Act.

(1)
(a) Subject to Subsection (1)(b), in any adoption proceeding the petition for adoption shall state whether the child was born in another state and, if so, both the petition and the court's final decree of adoption shall state that the requirements of Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children, have been complied with.
(b) Subsection (1)(a) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 78B-6-128.
(2) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and the petitioners shall comply with the Indian Child Welfare Act, Title 25, Chapter 21, of the United States Code.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 335, 2022 General Session

Repealed 9/1/2025

78B-6-108 Alien child -- Evidence of lawful admission to United States required.

(1) As used in this section, "alien child" means a child under 16 years of age who is not considered a citizen or national of the United States by the United States Immigration and Naturalization Service.
(2) Any person adopting an alien child shall file with the petition for adoption written evidence from the United States Immigration and Naturalization Service that the child was inspected and:
(a) admitted into the United States for permanent residence;
(b) admitted into the United States temporarily in one of the lawful nonimmigrant categories specified in 8 U.S.C. Section 1101(a)(15); or
(c) paroled into the United States pursuant to 8 U.S.C. Section 1182(d)(5).

(3) The 1992 amendments to this section are retroactive to September 1, 1984. Any adoption decree entered after September 1, 1984, is considered valid if the requirements of Subsection (2), as amended, were met.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-6-109 Determination of rights prior to adoption petition.
(1)
(a) Any interested person may petition a court having jurisdiction over adoption proceedings for a determination of the rights and interests of any person who may claim an interest in a child under this part.
(b) The petition described in Subsection (1) may be filed at any time before the finalization of the adoption, including before:
(i) the child's birth;
(ii) a petition for adoption is filed; or
(iii) a petition to terminate parental rights is filed.
(2) If a petition for adoption or a petition to terminate parental rights has been filed in district court, the petitioner or any interested person may, without filing a separate petition, move the court for a determination of the rights and interests of any person who may claim an interest in a child under this part.

Amended by Chapter 237, 2010 General Session

Renumbered 9/1/2025
78B-6-110 Notice of adoption proceedings.
(1)
(a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:
(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and
(ii) has a duty to protect his own rights and interests.
(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.
(2) Notice of an adoption proceeding shall be served on each of the following persons:
(a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:
(i) waiver;
(ii) relinquishment;
(iii) actual or implied consent; or
(iv) judicial action;
(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health and Human Services, in accordance with Subsection (3);
(c) any legally appointed custodian or guardian of the adoptee;
(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;
(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;
(g) a person who is:
(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and
(ii) holding himself out to be the child's father; and
(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption, unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.
(3)
(a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):
(i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and
(ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health and Human Services.
(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3a-201.
(c) The Department of Health and Human Services shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.
(d) When the state registrar of vital statistics receives a completed form, the registrar shall:
(i) record the date and time the form was received; and
(ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).
(e) The action and notice described in Subsection (3)(a):
(i) may be filed before or after the child's birth; and
(ii) shall be filed prior to the mother's:
(A) execution of consent to adoption of the child; or
(B) relinquishment of the child for adoption.
(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.
(5) The notice required by this section:
(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;
(b) shall be served at least 30 days prior to the final dispositional hearing;
(c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;
(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;
(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption;
(f) shall state where the person may obtain a copy of the petition for adoption; and

(g) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(6)

(a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a)

(i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b)

(i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health and Human Services in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child.

Amended by Chapter 401, 2023 General Session

Renumbered 9/1/2025

78B-6-110.1 Prebirth notice to presumed father of intent to place a child for adoption.

(1) As used in this section, "birth father" means:
  (a) a potential biological father; or
  (b) an unmarried biological father.
(2) Before the birth of a child, the following individuals may notify a birth father of the child that the mother of the child is considering an adoptive placement for the child:
  (a) the child's mother;
  (b) a licensed child-placing agency;
  (c) an attorney representing a prospective adoptive parent of the child; or
  (d) an attorney representing the mother of the child.
(3) Providing a birth father with notice under Subsection (2) does not obligate the mother of the child to proceed with an adoptive placement of the child.
(4) The notice described in Subsection (2) shall include the name, address, and telephone number of the person providing the notice, and shall include the following information:
  (a) the mother's intent to place the child for adoption;
  (b) that the mother has named the person receiving this notice as a potential birth father of her child;
  (c) the requirements to contest the adoption, including taking the following steps within 30 days after the day on which the notice is served:
    (i) initiating proceedings to establish or assert paternity in a district court of Utah within 30 days after the day on which notice is served, including filing an affidavit stating:
      (A) that the birth father is fully able and willing to have full custody of the child;
      (B) the birth father's plans to care for the child; and
      (C) that the birth father agrees to pay for child support and expenses incurred in connection with the pregnancy and birth; and
    (ii) filing a notice of commencement of paternity proceedings with the state registrar of vital statistics within the Utah Department of Health;
  (d) the consequences for failure to comply with Subsection (4)(c), including that:
    (i) the birth father's ability to assert the right, if any, to consent or refuse to consent to the adoption is irrevocably lost;
    (ii) the birth father will lose the ability to assert the right to contest any future adoption of the child; and
    (iii) the birth father will lose the right, if any, to notice of any adoption proceedings related to the child;
  (e) that the birth father may consent to the adoption, if any, within 30 days after the day on which the notice is received, and that his consent is irrevocable; and
  (f) that no communication between the mother of the child and the birth father changes the rights and responsibilities of the birth father described in the notice.
(5) If the recipient of the notice described in Subsection (2) does not fully and strictly comply with the requirements of Subsection (4)(c) within 30 days after the day on which he receives the notice, he will lose:
  (a) the ability to assert the right to consent or refuse to consent to an adoption of the child described in the notice;

(b) the ability to assert the right to contest any future adoption of the child described in the notice; and
(c) the right to notice of any adoption proceedings relating to the child described in the notice.
(6) If an individual described in Subsection (2) chooses to notify a birth father under this section, the notice shall be served on a birth father in a manner consistent with the Utah Rules of Civil Procedure or by certified mail.

Amended by Chapter 148, 2017 General Session

Renumbered 9/1/2025

78B-6-110.5 Out-of-state birth mothers and adoptive parents -- Declaration regarding potential birth fathers.

The procedural and substantive requirements of this section shall be required only to the extent that they do not exceed the requirements of the state of conception or the birth mother's state of residence.

(1)
(a) For a child who is six months of age or less at the time the child is placed with prospective adoptive parents, the birth mother shall sign, and the adoptive parents shall file with the court, a declaration regarding each potential birth father, in accordance with this section, before or at the time a petition for adoption is filed with the court, if, at any point during the time period beginning at the conception of the child and ending at the time the mother executes consent to adoption or relinquishment of the child for adoption, neither the birth mother nor at least one of the adoptive parents has resided in the state for 90 total days or more, as described in Subsection (1)(c).
(b) The child-placing agency or prospective adoptive parents shall search the putative father registry of each state where the birth mother believes the child may have been conceived and each state where the birth mother lived during her pregnancy, if the state has a putative father registry, to determine whether a potential birth father registered with the state's putative father registry.
(c) In determining whether the 90-day requirement is satisfied, the following apply:
(i) the 90 days are not required to be consecutive;
(ii) no absence from the state may be for more than seven consecutive days;
(iii) any day on which the individual is absent from the state does not count toward the total 90-day period; and
(iv) the 90-day period begins and ends during a period that is no more than 120 consecutive days.
(2) The declaration filed under Subsection (1) regarding a potential birth father shall include, for each potential birth father, the following information:
(a) if known, the potential birth father's name, date of birth, social security number, and address;
(b) with regard to a state's putative father registry in each state described in Subsection (1)(b):
(i) whether the state has a putative father registry; and
(ii) for each state that has a putative father registry, with the declaration, a certificate or written statement from the state's putative father registry that a search of the state's putative father registry was made and disclosing the results of the search;
(c) whether the potential birth father was notified of:
(i) the birth mother's pregnancy;
(ii) the fact that he is a potential birth father; or

(iii) the fact that the birth mother intends to consent to adoption or relinquishment of the child for adoption, in Utah;
(d) each state where the birth mother lived during the pregnancy;
(e) if known, the state in which the child was conceived;
(f) whether the birth mother informed the potential birth father that she was traveling to or planning to reside in Utah;
(g) whether the birth mother has contacted the potential birth father while she was located in Utah;
(h) whether, and for how long, the potential birth father has ever lived with the child;
(i) whether the potential birth father has given the birth mother money or offered to pay for any of her expenses during pregnancy or the child's birth;
(j) whether the potential birth father has offered to pay child support;
(k) if known, whether the potential birth father has taken any legal action to establish paternity of the child, either in Utah or in any other state, and, if known, what action he has taken; and
(l) whether the birth mother has ever been involved in a domestic violence matter with the potential birth father.
(3) Except as provided in Subsection (5), based on the declaration regarding the potential birth father, the court shall order the birth mother to serve a potential birth father notice that she intends to consent or has consented to adoption or relinquishment of the child for adoption, if the court finds that the potential birth father:
(a) has taken sufficient action to demonstrate an interest in the child;
(b) has taken sufficient action to attempt to preserve his legal rights as a birth father, including by filing a legal action to establish paternity or filing with a state's putative father registry; or
(c) does not know, and does not have a reason to know, that:
(i) the mother or child are present in Utah;
(ii) the mother intended to give birth to the child in Utah;
(iii) the child was born in Utah; or
(iv) the mother intends to consent to adoption or relinquishment of the child for adoption in Utah.
(4) Notice under this section shall be made in accordance with Subsections 78B-6-110(7) through (11).
(5) A court may only order the notice requirements in Subsection (3) to the extent that they do not exceed the notice requirements of:
(a) the state of conception; or
(b) the birth mother's state of residence.

Amended by Chapter 491, 2019 General Session

Repealed 9/1/2025

78B-6-111 Criminal sexual offenses.

(1) As used in this section:
(a) "Sexual offense" means:
(i) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or
(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.
(b) "Sexual offense" does not include:
(i) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(2) An unmarried biological father is not entitled to notice of an adoption proceeding, nor is the consent of an unmarried biological father required in connection with an adoption proceeding, in cases where it is shown that the child who is the subject of the proceeding was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

Amended by Chapter 173, 2025 General Session

Renumbered 9/1/2025

78B-6-112 District court jurisdiction over termination of parental rights proceedings.

(1) A party may bring a petition seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4)

(a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) A court may not terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent a parent who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county

may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.
(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Amended by Chapter 158, 2024 General Session

Repealed 9/1/2025
78B-6-113 Prospective adoptive parent not a resident -- Preplacement requirements.
(1) When an adoption petition is to be finalized in this state with regard to any prospective adoptive parent who is not a resident of this state at the time a child is placed in that person's home, the prospective adoptive parent shall comply with the provisions of Sections 78B-6-128 and 78B-6-130.
(2) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Health and Human Services shall comply with Section 78B-6-131.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 330, 2023 General Session

Repealed 9/1/2025
78B-6-114 Adoption by married persons -- Consent.
(1) A married man who is not lawfully separated from his wife may not adopt a child without the consent of his wife, if his wife is capable of giving consent.
(2) A married woman who is not lawfully separated from her husband may not adopt a child without his consent, if he is capable of giving his consent.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-6-115 Who may adopt -- Adoption of adult.
(1) As used in this section, "vulnerable adult" means:
  (a) an individual who is 65 years old or older; or
  (b) an adult who is 18 years old or older, and who has a mental or physical impairment that substantially affects that adult's ability to:
    (i) provide personal protection;
    (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
    (iii) obtain services necessary for health, safety, or welfare;
    (iv) carry out the activities of daily living;
    (v) manage the adult's own resources; or
    (vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.
(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.
(3) The following provisions of this part apply to the adoption of an adult just as though the individual being adopted were a minor:
  (a)
    (i) Section 78B-6-108;

(ii) Section 78B-6-114;
(iii) Section 78B-6-116;
(iv) Section 78B-6-118;
(v) Section 78B-6-124;
(vi) Section 78B-6-136;
(vii) Section 78B-6-137;
(viii) Section 78B-6-138;
(ix) Section 78B-6-139;
(x) Section 78B-6-141; and
(xi) Section 78B-6-142;

(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case where the juvenile court has continuing jurisdiction over the mature adoptee; and

(c) if the mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the mature adoptee resides, or will reside, with the adopters, unless the court, based on a finding of good cause, waives the requirements of those sections.

(4) Before a court enters a final decree of adoption of a mature adoptee, the mature adoptee and the prospective adoptive parent or parents shall appear before the court presiding over the adoption proceeding and execute consent to the adoption.

(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, apply to the adoption of an adult.

Amended by Chapter 65, 2021 General Session

Renumbered 9/1/2025

78B-6-116 Notice and consent for adoption of an adult.

(1)

(a) Consent to the adoption of an adult is required from:
(i) the mature adoptee;
(ii) any person who is adopting the adult;
(iii) the spouse of a person adopting the adult; and
(iv) any legally appointed guardian or custodian of the adult adoptee.

(b) No person, other than a person described in Subsection (1)(a), may consent, or withhold consent, to the adoption of an adult.

(2)

(a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the mature adoptee.

(b) The notice described in Subsection (2)(a) may be waived, in writing, by the person entitled to receive notice.

(3) The notice described in Subsection (2):

(a) shall be served at least 30 days before the day on which the adoption is finalized;

(b) shall specifically state that the person served must respond to the petition within 30 days of service if the person intends to intervene in the adoption proceeding;

(c) shall state the name of the person to be adopted;

(d) may not state the name of a person adopting the mature adoptee, unless the person consents, in writing, to disclosure of the person's name;

(e) with regard to a person described in Subsection (1)(a):
(i) except as provided in Subsection (2)(b), shall be in accordance with the provisions of the Utah Rules of Civil Procedure; and
(ii) may not be made by publication; and
(f) with regard to the spouse of the mature adoptee, may be made:
(i) in accordance with the provisions of the Utah Rules of Civil Procedure;
(ii) by certified mail, return receipt requested; or
(iii) by publication, posting, or other means if:
(A) the service described in Subsection (3)(f)(ii) cannot be completed after two attempts; and
(B) the court issues an order providing for service by publication, posting, or other means.
(4) Proof of service of the notice on each person to whom notice is required by this section shall be filed with the court before the adoption is finalized.
(5)
(a) Any person who is served with notice of a proceeding for the adoption of an adult and who wishes to intervene in the adoption shall file a motion in the adoption proceeding:
(i) within 30 days after the day on which the person is served with notice of the adoption proceeding;
(ii) that sets forth the specific relief sought; and
(iii) that is accompanied by a memorandum specifying the factual and legal grounds upon which the motion is made.
(b) A person who fails to file the motion described in Subsection (5)(a) within the time described in Subsection (5)(a)(i):
(i) waives any right to further notice of the adoption proceeding; and
(ii) is barred from intervening in, or bringing or maintaining any action challenging, the adoption proceeding.
(6) Except as provided in Subsection (7), after a court enters a final decree of adoption of an adult, the mature adoptee shall:
(a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil Procedure, on each person who was a legal parent of the adult adoptee before the final decree of adoption described in this Subsection (6) was entered; and
(b) file with the court proof of service of the notice described in Subsection (6)(a).
(7) A court may, based on a finding of good cause, waive the notification requirement described in Subsection (6).

Amended by Chapter 137, 2015 General Session

Renumbered 9/1/2025

78B-6-117 Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.
(2) A child may be adopted by:
(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or
(b) subject to Subsections (3) and (4), a single adult.
(3) A child may not be adopted by an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:
(a) there are no qualified married couples who:
(i) have applied to adopt a child;
(ii) are willing to adopt the child; and
(iii) are an appropriate placement for the child;
(b) the child is placed with a relative of the child;
(c) the child is placed with an individual who has already developed a substantial relationship with the child;
(d) the child is placed with an individual who:
(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and
(ii) the parent or former parent described in Subsection (4)(d)(i):
(A) knew the individual with whom the child is placed before the parent consented to the adoption; or
(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or
(e) it is in the best interests of the child to place the child with a single adult.
(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:
(a) child abuse, as described in Section 76-5-109;
(b) aggravated child abuse, as described in Section 76-5-109.2;
(c) child abandonment, as described in Section 76-5-109.3;
(d) child torture, as described in Section 76-5-109.4;
(e) commission of domestic violence in the presence of a child, as described in Section 76-5-114;
(f) child abuse homicide, as described in Section 76-5-208;
(g) child kidnapping, as described in Section 76-5-301.1;
(h) human trafficking of a child, as described in Section 76-5-308.5;
(i) sexual abuse of a minor, as described in Section 76-5-401.1;
(j) rape of a child, as described in Section 76-5-402.1;
(k) object rape of a child, as described in Section 76-5-402.3;
(l) sodomy on a child, as described in Section 76-5-403.1;
(m) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;
(n) sexual exploitation of a minor, as described in Section 76-5b-201;
(o) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or
(p) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).
(6)
(a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering an individual for adoption of a child except as provided in this Subsection (6).
(b) An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:
(i) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the individual files a petition with the court seeking adoption, the individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;
(iii) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;
(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:
(A) the child's age;
(B) the child's gender;
(C) the child's development;
(D) the nature and seriousness of the disqualifying offense;
(E) the preferences of a child 12 years old or older;
(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and
(G) any other relevant information;
(v) the individual can provide evidence of all of the following:
(A) the relationship with the child is of long duration;
(B) that an emotional bond exists with the child; and
(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the child are met; and
(vi) the adoption is by:
(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or
(B) subject to Subsection (6)(d), a relative of the child as defined in Section 80-3-102 and there is not another relative without a disqualifying offense filing an adoption petition.
(c) The individual with the disqualifying offense bears the burden of proof regarding why adoption with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.
(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:
(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and
(ii) before the court may grant adoption to the individual who has the disqualifying offense over another responsible, willing, and able relative:
(A) an impartial custody evaluation shall be completed; and
(B) a guardian ad litem shall be assigned.
(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Amended by Chapter 284, 2025 General Session

Repealed 9/1/2025

78B-6-118 Relative ages.

A person adopting a child must be at least 10 years older than the child adopted, unless the petitioners for adoption are a married couple, one of which is at least 10 years older than the child.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-119 Counseling for parents.

(1) Subject to Subsection (2)(a), before relinquishing a child to a child-placing agency, or consenting to the adoption of a child, a parent of the child has the right to participate in, or elect to participate in, counseling:
  (a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;
  (b) for up to three sessions of at least 50 minutes per session completed prior to relinquishing a child or within three months following the relinquishment of a child; and
  (c) subject to Subsection (2)(b), at the expense of the:
    (i) child-placing agency; or
    (ii) prospective adoptive parents.

(2)
  (a) Notwithstanding Subsection (1), a parent who has the right to participate in the counseling described in this section may waive that right.
  (b) Notwithstanding Subsection (1)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the counseling described in Subsection (1) may not exceed $400, unless an agreement for a greater amount is signed by:
    (i) the parent who receives the counseling; and
    (ii) the child-placing agency or prospective adoptive parents.

(3) Before a parent relinquishes a child to a child-placing agency, or consents to the adoption of a child, the parent shall be informed of the right described in Subsection (1) by the:
  (a) child-placing agency;
  (b) prospective adoptive parents; or
  (c) representative of a person described in Subsection (3)(a) or (b).

(4) If the parent who is entitled to the counseling as described in Subsection (1) elects to attend one or more counseling sessions following the relinquishment of a child:
  (a) the parent of the child shall inform the child-placing agency or prospective adoptive parents of this election prior to relinquishing the child to a child-placing agency or consenting to the adoption of the child; and
  (b) the parent of the child and the child-placing agency or attorney representing a prospective adoptive parent of the child shall enter into an agreement to pay for the counseling in accordance with this section.

(5)
  (a) Subject to Subsections (3)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:
    (i) is signed by each parent who:
      (A) relinquishes the parent's parental rights; or
      (B) consents to the adoption; and
    (ii) states that, before the parent took the action described in Subsection (5)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling described in this section at the expense of the:
      (A) child-placing agency; or
      (B) prospective adoptive parents.
  (b) The statement described in Subsection (5)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or
(ii) consents to the adoption.
(c) Failure by a person to give the notice described in Subsection (3), or pay for the counseling described in this section:
(i) shall not constitute grounds for invalidating a:
(A) relinquishment of parental rights; or
(B) consent to adoption; and
(ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by the parent or guardian who took the action described in Subsection (5)(c)(i)(A) or (B) against the person required to:
(A) give the notice described in Subsection (3); or
(B) pay for the counseling described in this section.

Amended by Chapter 261, 2024 General Session

Renumbered 9/1/2025

78B-6-120 Necessary consent to adoption or relinquishment for adoption.

(1) Except as provided in Subsection (2), consent to adoption of a child, or relinquishment of a child for adoption, is required from:
(a) the adoptee, if the adoptee is more than 12 years old, unless the adoptee does not have the mental capacity to consent;
(b) a man or woman who:
(i) by operation of law under Section 78B-15-204, is recognized as the father or mother of the proposed adoptee, unless:
(A) the presumption is rebutted under Section 78B-15-607;
(B) at the time of the marriage, the man or woman knew or reasonably should have known that the marriage to the mother of the proposed adoptee was or could be declared invalid; or
(C) the man or woman was not married to the mother of the proposed adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed adoptee; or
(ii) is the father of the adoptee by a previous legal adoption;
(c) the mother of the adoptee;
(d) a biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;
(e) consistent with Subsection (3), a biological parent who has executed and filed a voluntary declaration of paternity with the state registrar of vital statistics within the Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;
(f) an unmarried biological father, of an adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), only if he fully and strictly complies with the requirements of Sections 78B-6-121 and 78B-6-122; and
(g) the person or agency to whom an adoptee has been relinquished and that is placing the child for adoption.
(2)
(a) The consent of a person described in Subsections (1)(b) through (g) is not required if the adoptee is 18 years old or older.

(b) The consent of a person described in Subsections (1)(b) through (f) is not required if the person's parental rights relating to the adoptee have been terminated.
(3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when it is entered into a database that:
(a) can be accessed by the Department of Health and Human Services; and
(b) is designated by the state registrar of vital statistics as the official database for voluntary declarations of paternity.

Amended by Chapter 261, 2024 General Session

Repealed 9/1/2025
78B-6-120.1 Implied consent.
(1) As used in this section:
(a) "Abandonment" means failure of a father, with reasonable knowledge of the pregnancy, to offer and provide financial and emotional support to the birth mother for a period of six months before the day on which the adoptee is born.
(b) "Emotional support" means a pattern of statements or actions that indicate to a reasonable person that a father intends to provide for the physical and emotional well-being of an unborn child.
(2)
(a) A court may not determine that a father abandoned the birth mother if the father failed to provide financial or emotional support because the birth mother refused to accept support.
(b) A court may not find that a father failed to provide emotional support if the father's failure was due to impossibility of performance.
(3) Consent or relinquishment, as required by Subsection 78B-6-120(1), may be implied by any of the following acts:
(a) abandonment;
(b) leaving the adoptee with a third party, without providing the third party with the parent's identification, for 30 consecutive days;
(c) knowingly leaving the adoptee with another person, without providing for support, communicating, or otherwise maintaining a substantial relationship with the adoptee, for six consecutive months; or
(d) receiving notification of a pending adoption proceeding under Subsection 78B-6-110(6) or of a termination proceeding under Section 78B-6-112 and failing to respond as required.
(4) Implied consent under Subsection (3) may not be withdrawn.
(5) Nothing in this section negates the requirements of Section 78B-6-121 or 78B-6-122 for an unmarried biological father.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 65, 2021 General Session

Renumbered 9/1/2025
78B-6-121 Consent of unmarried biological father.
(1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to Subsections (5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth, consent of an unmarried biological father is not required unless the unmarried biological father:
(a)

(i) developed a substantial relationship with the child by:
(A) visiting the child monthly, unless the unmarried biological father was physically or financially unable to visit the child on a monthly basis; or
(B) engaging in regular communication with the child or with the person or authorized agency that has lawful custody of the child;
(ii) took some measure of responsibility for the child and the child's future; and
(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child of a fair and reasonable sum in accordance with the father's ability; or
(b)
(i) openly lived with the child:
(A)
(I) if the child is one year old or older, for a period of at least six months during the one-year period immediately preceding the day on which the child is placed with prospective adoptive parents; or
(II) if the child is less than one year old, for a period of at least six months during the period of time beginning on the day on which the child is born and ending on the day on which the child is placed with prospective adoptive parents; and
(B) immediately preceding placement of the child with prospective adoptive parents; and
(ii) openly held himself out to be the father of the child during the six-month period described in Subsection (1)(b)(i)(A).
(2)
(a) If an unmarried biological father was prevented from complying with a requirement of Subsection (1) by the person or authorized agency having lawful custody of the child, the unmarried biological father is not required to comply with that requirement.
(b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been met, shall not preclude a determination that the father failed to meet the requirements of Subsection (1).
(3) Except as provided in Subsections (6) and 78B-6-122(1), and subject to Subsection (5), with regard to a child who is six months old or less at the time the child is placed with prospective adoptive parents, consent of an unmarried biological father is not required unless, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, the unmarried biological father:
(a) initiates proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act;
(b) files with the court that is presiding over the paternity proceeding a sworn affidavit:
(i) stating that he is fully able and willing to have full custody of the child;
(ii) setting forth his plans for care of the child; and
(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;
(c) consistent with Subsection (4), files notice of the commencement of paternity proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the Department of Health and Human Services, in a confidential registry established by the department for that purpose; and
(d) offered to pay and paid, during the pregnancy and after the child's birth, a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his financial ability, unless:
(i) he did not have actual knowledge of the pregnancy;

(ii) he was prevented from paying the expenses by the person or authorized agency having lawful custody of the child; or
(iii) the mother refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection (3)(d).
(4)
(a) The notice described in Subsection (3)(c) is considered filed when received by the state registrar of vital statistics.
(b) If the unmarried biological father fully complies with the requirements of Subsection (3), and an adoption of the child is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with his financial ability.
(5) Unless his ability to assert the right to consent has been lost for failure to comply with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the child's birth to fully and strictly comply with the requirements of Subsection (3).
(6) Consent of an unmarried biological father is not required under this section if:
(a) the court determines, in accordance with the requirements and procedures of Title 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;
(b)
(i) a declaration of paternity declaring the unmarried biological father to be the father of the child is rescinded under Section 78B-15-306; and
(ii) the unmarried biological father fails to comply with Subsection (3) within 10 business days after the day that notice of the rescission described in Subsection (6)(b)(i) is mailed by the Office of Vital Records within the Department of Health and Human Services as provided in Section 78B-15-306; or
(c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to preserve his rights in accordance with the requirements of that section.
(7) Unless the adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a certificate from the state registrar of vital statistics within the Department of Health and Human Services, stating:
(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (3)(d); and
(b)
(i) that no filing has been found pertaining to the father of the child in question; or
(ii) if a filing is found, the name of the putative father and the time and date of filing.

Amended by Chapter 261, 2024 General Session

Renumbered 9/1/2025

78B-6-121.5 Compact for Interstate Sharing of Putative Father Registry Information -- Severability clause.

COMPACT FOR INTERSTATE SHARING
OF PUTATIVE FATHER REGISTRY INFORMATION
ARTICLE I
PURPOSE

This compact enables the sharing of putative father registry information collected by a state that is a party to the compact with all other states that are parties to the compact.

ARTICLE II

DEFINITIONS

(1) "Putative father" means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married.

(2) "Putative father registry" mean a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father's rights.

(3) "State" includes a state, district, or territory of the United States.

ARTICLE III

ENTRY, WITHDRAWAL, AND AMENDMENTS

(1) A state is a party to this compact upon enactment of this compact by the state into state law.

(2) Upon providing at least 60 days' notice of withdrawal from this compact to each party to the compact and repealing the compact from state law, a state is no longer party to this compact.

(3) This compact is amended upon enactment of the amendment into state law by each party to the compact.

ARTICLE IV

INTERSTATE SHARING OF PUTATIVE FATHER REGISTRY INFORMATION

(1) A party to this compact shall communicate information in its putative father registry about a specific putative father to any other party to this compact in a timely manner upon request by the other party.

(2) A party to this compact is not required to have a putative father registry in order to request putative father registry information from another party to the compact.

(3) Putative father registry information requested by a party to this compact from another party to this compact is subject to the laws of the requesting party governing the privacy, retention, and authorized uses of putative father information or, if the requesting party does not have a putative father registry, the laws of the party supplying the information governing the privacy, retention, and authorized uses of putative father information.

(4) Notwithstanding Article IV, Subsection (3) of this compact, the request for or receipt of putative father registry information by a party to this compact from another party to this compact does not affect the application of the requesting party's laws, including laws regarding adoption or the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(5) Failure by a party to this compact to provide accurate putative father registry information in a timely manner to another party to this compact upon request does not affect application of the requesting party's laws, including laws governing adoption and the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(6) Each party to this compact shall work with every other party to this compact to facilitate the timely communication of putative father registry information between compact parties upon request.

ARTICLE V

SEVERABILITY

The provisions of this compact are severable. If any provision of this compact or the application of any provision of this compact to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction for a state that is a member of this compact, the remainder of this compact shall be given effect within that state without the invalid provision or application. If a provision of this compact is severed in one or more states as a result of one or

more court decisions, the provision shall remain in force in all other states that are parties to this compact.

Enacted by Chapter 183, 2015 General Session

Repealed 9/1/2025

78B-6-122 Qualifying circumstance.

(1)

(a) For purposes of this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:

(i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

(ii) the mother intended to give birth to the child in the state;

(iii) the child was born in the state; or

(iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption:

(A) in the state; or

(B) under the laws of the state.

(b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an unmarried biological father has demonstrated a full commitment to his parental responsibilities, a court shall consider the totality of the circumstances, including, if applicable:

(i) efforts he has taken to discover the location of the child or the child's mother;

(ii) whether he has expressed and demonstrated an interest in taking responsibility for the child;

(iii) whether, and to what extent, he has developed, or attempted to develop, a relationship with the child;

(iv) whether he offered to provide and, unless the offer was rejected, did provide, financial support for the child or the child's mother;

(v) whether, and to what extent, he has communicated, or attempted to communicate, with the child or the child's mother;

(vi) whether he has timely filed legal proceedings to establish his paternity of, and take responsibility for, the child;

(vii) whether he has timely filed a notice with a public official or agency relating to:

(A) his paternity of the child; or

(B) legal proceedings to establish his paternity of the child; or

(viii) other evidence that shows whether he has demonstrated a full commitment to his parental responsibilities.

(c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried biological father is required with respect to an adoptee who is under the age of 18 if:

(i)

(A) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

(B) before the mother executed a consent to adoption or relinquishment of the child for adoption, the unmarried biological father fully complied with the requirements to establish parental rights and duties in the child, and to preserve the right to notice of a proceeding in connection with the adoption of the child, imposed by:

(I) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the mother resided in before the mother executed the consent to adoption or relinquishment of the child for adoption; or
(II) the state where the child was conceived; and
(C) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to his parental responsibilities, as described in Subsection (1)(b); or
(ii)
(A) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; and
(B) the unmarried biological father complied with the requirements of Section 78B-6-121 before the later of:
(I) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or
(II) the time that the mother executed a consent to adoption or relinquishment of the child for adoption.
(2) An unmarried biological father who does not fully and strictly comply with the requirements of Section 78B-6-121 and this section is considered to have waived and surrendered any right in relation to the child, including the right to:
(a) notice of any judicial proceeding in connection with the adoption of the child; and
(b) consent, or refuse to consent, to the adoption of the child.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 261, 2024 General Session

Repealed 9/1/2025

78B-6-122.5 Effect of out-of-state paternity adjudication, declaration, or acknowledgment.

Unless a person who is an unmarried biological father has fully and strictly complied with the requirements of Sections 78B-6-120 through 78B-6-122, an out-of-state order that adjudicates paternity, or an out-of-state declaration or acknowledgment of paternity:
(1) only has the effect of establishing that the person is an unmarried biological father of the child to whom the order, declaration, or acknowledgment relates; and
(2) does not entitle the person to:
(a) notice of any judicial proceeding related to the adoption of the child;
(b) the right to consent, or refuse to consent, to the adoption of the child; or
(c) the right to custody of, control over, or visitation with the child.

Repealed by Chapter 426, 2025 General Session
Enacted by Chapter 237, 2010 General Session

Repealed 9/1/2025

78B-6-123 Power of a minor to consent or relinquish.

(1) A minor parent has the power to:
(a) consent to the adoption of the minor's child; and
(b) relinquish the minor's control or custody of the child for adoption.
(2) The consent or relinquishment described in Subsection (1) is valid and has the same force and effect as a consent or relinquishment executed by an adult parent.

(3) A minor parent, having executed a consent or relinquishment, cannot revoke that consent upon reaching the age of majority or otherwise becoming emancipated.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-124 Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:
  (a) a judge of any court that has jurisdiction over adoption proceedings;
  (b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or
  (c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency.
(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it shall be signed before:
  (a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency;
  (b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;
  (c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or
  (d) a person authorized, under the laws of the state where the consent or relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.
(3) The consent or relinquishment of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).
(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.
(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.
(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:
  (a) notarized; or
  (b) witnessed by two individuals who are not members of the birth mother's or the adoptee's immediate family.
(7) Except as provided in Subsection 26B-2-127(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a Notary Public.

Amended by Chapter 330, 2023 General Session

Repealed 9/1/2025

78B-6-125 Time period prior to birth mother's consent.

(1) A birth mother may not consent to the adoption of her child or relinquish control or custody of her child until at least 24 hours after the birth of her child.

(2) The consent or relinquishment of any other person as required by Sections 78B-6-120 and 78B-6-121 may be executed at any time, including prior to the birth of the child.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025

78B-6-126 When consent or relinquishment effective.

A consent or relinquishment is effective when it is signed and may not be revoked.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025

78B-6-127 Parents whose rights have been terminated.

Neither notice nor consent to adoption or relinquishment for adoption is required from a parent whose rights with regard to an adoptee have been terminated by a court.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-128 Preplacement adoptive evaluations -- Exceptions.

(1)

(a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c)

(i) Unless the court otherwise requests the preplacement adoption evaluation, Subsection (1)(a) does not apply if:

(A) a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to the child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin;

(B) a pre-existing parent has or had legal custody of the child to be adopted, the prospective adoptive parent was previously married to the pre-existing parent, and the prospective adoptive parent has lived with the child for at least 180 days before the day on which the petition for adoption was filed; or

(C) the child to be adopted has lived in the adoptive home with the prospective adoptive parent for at least one year before the day on which the petition for adoption was filed and the court finds that the adoption is in the best interests of the child.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d)

(i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 26B-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, to the Office of Background Processing within the Department of Health and Human Services for a background check in accordance with Section 26B-2-120, or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Health and Human Services from the records of the Department of Health and Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Health and Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Health and Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Health and Human Services shall comply with Section 78B-6-131.

(6)

(a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of Health and Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and
(c) community resources that are available to the prospective adoptive parent.
(9) A copy of the preplacement adoptive evaluation shall be filed with the court.
(10) A home study completed for the purposes of foster care licensing in accordance with Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a proceeding under this part.

Amended by Chapter 134, 2025 General Session

Renumbered 9/1/2025
78B-6-129 Postplacement adoptive evaluations.
(1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be conducted and submitted to the court prior to the final hearing in an adoption proceeding. The postplacement evaluation shall include:
(a) verification of the allegations of fact contained in the petition for adoption;
(b) an evaluation of the progress of the child's placement in the adoptive home; and
(c) a recommendation regarding whether the adoption is in the best interest of the child.
(2) The exemptions from and requirements for evaluations, described in Subsections 78B-6-128(1)(c), (2)(c), (6), and (8), also apply to postplacement adoptive evaluations.
(3) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless it determines that it is in the best interest of the child to require the postplacement evaluation.

Amended by Chapter 340, 2012 General Session

Renumbered 9/1/2025
78B-6-130 Preplacement and postplacement adoptive evaluations -- Review by court.
(1)
(a) If the person conducting the preplacement adoptive evaluation or postplacement adoptive evaluation disapproves the adoptive placement, the court may dismiss the petition for adoption.
(b) Upon request by a prospective adoptive parent, the court shall order that an additional preplacement adoptive evaluation or postplacement adoptive evaluation be conducted, and shall hold a hearing on the suitability of the adoption, including testimony of interested parties.
(2) Before finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement adoptive evaluation and postplacement adoptive evaluation described in Sections 78B-6-128 and 78B-6-129.
(3) With respect to the home study required as part of the preplacement adoptive evaluation described in Subsection 78B-6-128(2)(c), a court may review and consider information other than the information contained in the home study described in Subsection 78B-6-128(6)(c).

Amended by Chapter 280, 2017 General Session

Renumbered 9/1/2025
78B-6-131 Child in custody of state -- Placement.
(1) Notwithstanding Sections 78B-6-128 through 78B-6-130, and except as provided in Subsection (2), a child who is in the legal custody of the state may not be placed with a prospective foster

parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

(b) the Department of Health and Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;

(c) the Department of Health and Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 26B-2-120.

(2) The requirements under Subsection (1) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing a child with:

(i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (1).

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025

78B-6-133 Contested adoptions -- Rights of parties -- Determination of custody.

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(2)

(a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the child; and

(iii) award custody of the child in accordance with the child's best interest.

(c) Termination of a person's parental rights does not terminate the right of a relative of the parent to seek adoption of the child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:
(a) the person is unfit or incompetent to be a parent;
(b) the person has neglected or abandoned the child;
(c) the person is not interested in having custody of the child; or
(d) the person has forfeited the person's parental presumption.
(5) Any custody order entered pursuant to this section may also:
(a) include provisions for:
(i) parent-time; or
(ii) visitation by an interested third party; and
(b) provide for the financial support of the child.
(6)
(a) If a person or entity whose consent is required for an adoption under Subsection 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).
(b) The court may also finalize the adoption if doing so is in the best interest of the child.
(7)
(a) A person may not contest an adoption after the final decree of adoption is entered, if that person:
(i) was a party to the adoption proceeding;
(ii) was served with notice of the adoption proceeding; or
(iii) executed a consent to the adoption or relinquishment for adoption.
(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.
(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:
(i) regardless of whether the adoption is contested directly or collaterally; and
(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.
(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:
(i) a final decree of adoption; or
(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).
(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:
(a) to a petitioner:
(i) with whom the child is placed;
(ii) who has custody or guardianship of the child;
(iii) who has filed a written statement with the court within eight months after the day on which the shelter hearing is held:
(A) requesting immediate placement of the child with the petitioner; and
(B) expressing the petitioner's intention of adopting the child;
(iv) who is a relative with whom the child has a significant and substantial relationship and who was unaware, within the first eight months after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(v) who is a relative with whom the child has a significant and substantial relationship and, in a case where the child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the child:
(A) was actively involved in the child's child welfare case with the division or the juvenile court while the child's parent engaged in reunification services; and
(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or
(b) if the child:
(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or
(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.
(9)
(a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a child to be placed for adoption with a petitioner:
(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and
(ii)
(A) with whom the child has continuously resided for six months;
(B) who has filed a written statement with the court within eight months after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or
(C) who is a relative described in Subsection (8)(a)(iv).
(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.
(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).
(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.
(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Amended by Chapter 260, 2024 General Session

Renumbered 9/1/2025

78B-6-134 Custody pending final decree.

(1)
(a) A licensed child-placing agency, or a petitioner if the petition for adoption is filed before a child's birth, may seek an order establishing that the agency or petitioner shall have temporary custody of the child from the time of birth.
(b) The court shall grant an order for temporary custody under Subsection (1)(a) upon determining that:
(i) the birth mother or both birth parents consent to the order;
(ii) the agency or petitioner is willing and able to take custody of the child; and
(iii) an order will be in the best interest of the child.
(c) The court shall vacate an order if, prior to the child's birth, the birth mother or birth parents withdraw their consent.

(2) Except as otherwise provided by the court, once a petitioner has received the adoptee into his home and a petition for adoption has been filed, the petitioner is entitled to the custody and control of the adoptee and is responsible for the care, maintenance, and support of the adoptee, including any necessary medical or surgical treatment, pending further order of the court.
(3) Once a child has been placed with, relinquished to, or ordered into the custody of a child-placing agency for purposes of adoption, the agency shall have custody and control of the child and is responsible for his care, maintenance, and support. The agency may delegate the responsibility for care, maintenance, and support, including any necessary medical or surgical treatment, to the petitioner once the petitioner has received the child into his home. However, until the final decree of adoption is entered by the court, the agency has the right to the custody and control of the child.

Amended by Chapter 148, 2017 General Session

Renumbered 9/1/2025

78B-6-136 Final decree of adoption -- Agreement by adoptive parent or parents.

(1) Except as provided in Subsection (2), before the court enters a final decree of adoption:
  (a) the prospective adoptive parent or parents and the child being adopted shall appear before the appropriate court; and
  (b) the prospective adoptive parent or parents shall execute an agreement stating that the child shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.
(2) Except as provided in Subsection 78B-6-115(4), a court may waive the requirement described in Subsection (1)(a) if:
  (a) the adoption is not contested;
  (b) the prospective adoptive parent or parents:
    (i) execute an agreement stating that the child shall be adopted and treated in all respects as the parent's or parents' own lawful child;
    (ii) have the agreement described in Subsection (2)(b)(i) notarized; and
    (iii) file the agreement described in Subsection (2)(b)(i) with the court; and
  (c) all requirements of this chapter to obtain a final decree of adoption are otherwise complied with.

Amended by Chapter 340, 2012 General Session

Renumbered 9/1/2025

78B-6-136.5 Timing of entry of final decree of adoption -- Posthumous adoption.

(1) Except as provided in Subsection (2), a final decree of adoption may not be entered until the earlier of:
  (a) when the child has lived in the home of the prospective adoptive parent for three months; or
  (b) when the child has been placed for adoption with the prospective adoptive parent for three months.
(2)
  (a) If the prospective adoptive parent is the spouse of the preexisting parent, a final decree of adoption may not be entered until the child has lived in the home of that prospective adoptive parent for six months, unless, based on a finding of good cause, the court orders that the final decree of adoption may be entered at an earlier time.

(b) The court may, based on a finding of good cause, order that the final decree of adoption be entered at a later time than described in Subsection (1).

(3) The court has authority to enter a final decree of adoption after a child's death upon the request of the prospective adoptive parent or parents of the child if:

(a) the child dies during the time that the child is placed in the home of a prospective adoptive parent or parents for the purpose of adoption; or

(b) the prospective adoptive parent is the spouse of a preexisting parent of the child and the child lived with the prospective adoptive parent before the child's death.

(4) The court may enter a final decree of adoption declaring that a child is adopted by:

(a) both a deceased and a surviving adoptive parent if after the child is placed in the home of the child's prospective adoptive parents:

(i) one of the prospective adoptive parents dies;

(ii) the surviving prospective adoptive parent requests that the court enter the decree; and

(iii) the decree is entered after the child has lived in the home of the surviving prospective adoptive parent for at least three months; or

(b) a spouse of a preexisting parent if after the child has lived with the spouse of the preexisting parent:

(i) the preexisting parent, or the spouse of the preexisting parent, dies;

(ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and

(iii) the child has lived in the same home as the spouse of the preexisting parent for at least six months.

(5) Upon request of a surviving preexisting parent, or a surviving parent for whom adoption of a child has been finalized, the court may enter a final decree of adoption declaring that a child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.

(6) The court may enter a final decree of adoption declaring that a child is adopted by both deceased prospective adoptive parents if:

(a) both of the prospective adoptive parents die after the child is placed in the prospective adoptive parents' home; and

(b) it is in the best interests of the child to enter the decree.

(7) Nothing in this section shall be construed to grant any rights to the preexisting parents of a child to assert any interest in the child during the three-month or six-month periods described in this section.

Amended by Chapter 261, 2024 General Session

Repealed 9/1/2025

78B-6-137 Decree of adoption -- Best interest of child -- Legislative findings.

The court shall examine each person appearing before it in accordance with this chapter, separately, and, if satisfied that the interests of the child will be promoted by the adoption, it shall enter a final decree of adoption declaring that the child is adopted by the adoptive parent or parents and shall be regarded and treated in all respects as the child of the adoptive parent or parents.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-138 Pre-existing parent's rights and duties dissolved.

(1) A pre-existing parent of an adopted child is released from all parental rights and duties toward and all responsibilities for the adopted child, including residual parental rights and duties, as defined in Section 80-1-102, and has no further parental rights or duties with regard to that adopted child at the earlier of:
  (a) the time the pre-existing parent's parental rights are terminated; or
  (b) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.
(2) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is lawfully married to the person adopting the child are not released under Subsection (1)(b).
(3) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is not lawfully married to the person adopting the child are released under Subsection (1)(b).
(4)
  (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:
    (i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the child's life;
    (ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the child, or is unable to consent because the pre-existing parent is deceased or incapacitated;
    (iii) notice of the adoption proceeding is provided in accordance with Section 78B-6-110;
    (iv) consent to the adoption is provided in accordance with Section 78B-6-120; and
    (v) the court finds that it is in the best interest of the child to grant the adoption without releasing the pre-existing parent from parental rights and duties.
  (b) This Subsection (4) does not permit a child to have more than two natural parents, as that term is defined in Section 80-1-102.
(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Amended by Chapter 262, 2021 General Session

Repealed 9/1/2025

78B-6-139 Name and status of adopted child.

When a final decree of adoption is entered under Section 78B-6-137, a child may take the family name of the adoptive parent or parents. After that decree of adoption is entered, the adoptive parent or parents and the child shall sustain the legal relationship of parent and child, and have all the rights and be subject to all the duties of that relationship.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-6-140 Itemization of fees and expenses -- Reporting.

(1)
  (a) Except as provided in Subsection (5), before the date that a final decree of adoption is entered, a prospective adoptive parent or, if the child was placed by a child-placing agency,

the person or agency placing the child shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child was placed by a child-placing agency, the person or agency placing the child.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2)

(a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall require itemization of the following items in connection with the adoption:

(i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

(vii) all public funds used for any medical or hospital costs in connection with the:

(A) pregnancy;

(B) delivery of the child; or

(C) care of the child; and

(viii) if a child-placing agency placed the child:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption;

(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit that is submitted in a form accepted by the Office of Licensing within the Department of Health

and Human Services if the affidavit contains the same information and is in a reasonably equivalent format as the uniform affidavit form prescribed by the Judicial Council.

(3)

(a) If a child-placing agency, that is licensed by this state, placed the child, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each even-numbered year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year;

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 26B-2-127(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

(5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

Amended by Chapter 250, 2024 General Session
Amended by Chapter 261, 2024 General Session

Renumbered 9/1/2025

78B-6-141 Court hearings may be closed -- Petition and documents sealed -- Exceptions.

(1)

(a) Notwithstanding Section 80-4-106, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval.

(b) In a closed hearing, only the following individuals may be admitted:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) An adoption document and any other documents filed in connection with a petition for adoption are sealed.
(3) The documents described in Subsection (2) may only be open to inspection and copying:
(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:
(i) while the proceeding is pending; or
(ii) within six months after the day on which the adoption decree is entered;
(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;
(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;
(d) as provided under Section 78B-6-144;
(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;
(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;
(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or
(h) to an adult adoptee, to the extent permitted under Subsection (4).
(4)
(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:
(i) to the extent that a birth parent consents under Subsection (4)(b); or
(ii) if the birth parents listed on the original birth certificate are deceased.
(b) A birth parent may:
(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:
(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;
(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;
(C) prohibit the office from providing any contact information to the adult adoptee;
(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and
(ii) at any time, file, electronically or on a written document with the office, to:
(A) change the election described in Subsection (4)(b); or
(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.
(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).
(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.
(5)
(a) An individual who files a motion to intervene in an adoption proceeding:
(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and
(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:
(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and
(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.

Amended by Chapter 262, 2021 General Session

Renumbered 9/1/2025

78B-6-142 Adoption order from foreign country.

(1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.
(2) A person who adopts a child in a foreign country may register the order in this state. A petition for registration of a foreign adoption order may be combined with a petition for a name change. If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the state registrar to:
(a) file the order pursuant to Section 78B-6-137; and
(b) file a certificate of birth for the child pursuant to Section 26B-8-131.
(3) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth pursuant to Subsection 26B-8-119(1).

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025

78B-6-143 Nonidentifying health history of adoptee filed with office -- Limited availability.

(1)
(a) Upon finalization of an adoption in this state, the person who proceeded on behalf of the petitioner for adoption, or a child-placing agency if an agency is involved in the adoption, shall file a report with the office, in the form established by the office.
(b) The report described in Subsection (1)(a) shall include a detailed health history, and a genetic and social history of the adoptee.
(2) The report described in Subsection (1)(a) may not contain identifying information or any information that identifies the adoptee's birth parents or members of their families.
(3) When the report described in Subsection (1)(a) is filed, a duplicate report shall be provided to the adoptive parents.
(4) The report described in Subsection (1)(a) shall only be available upon request, and upon presentation of positive identification, to the following persons:
(a) the adoptive parents;
(b) in the event of the death of the adoptive parents, the adoptee's legal guardian;
(c) the adoptee;
(d) in the event of the death of the adoptee, the adoptee's spouse, if the spouse is the parent or guardian of the adoptee's child;
(e) the adoptee's child or descendant;

(f) the adoptee's birth parent; and
(g) the adoptee's adult sibling.
(5) No identifying information or information that identifies a birth parent or the birth parent's family may be disclosed under this section.
(6) The actual cost of providing information under this section shall be paid by the person requesting the information.
(7) A child-placing agency may provide a copy of the report described in Subsection (1)(a) and information in the child-placing agency's files, except identifying information, to an adult adoptee, a birth parent, or an adoptive parent.
(8) Notwithstanding Subsection (7), identifying information may be released to the extent that the individual who is the subject of the information provides written authorization of the information's release.

Amended by Chapter 417, 2017 General Session

Renumbered 9/1/2025

78B-6-144 Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

(1) The office shall establish a mutual-consent, voluntary adoption registry.
(a) An adult adoptee or a birth parent of an adult adoptee, upon presentation of positive identification, may request identifying information from the office, in the form established by the office. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth parent, in the form provided by the office, and transfer that request to the office. The adult adoptee or birth parent is responsible for notifying the office of any change in information contained in the request.
(b) Except as otherwise provided in this part, the office may only release identifying information to an adult adoptee or birth parent when it receives requests from both the adoptee and the adoptee's birth parent.
(c) After matching the request of an adult adoptee with that of at least one of the adoptee's birth parents, the office shall notify both the adult adoptee and the birth parent that the requests have been matched, and disclose the identifying information to those parties. However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18 years, and who was raised in the same family setting as the adult adoptee, the office may not disclose the requested identifying information to that adult adoptee or the adoptee's birth parent.
(2)
(a) Adult adoptees and adult siblings of adult adoptees, upon presentation of positive identification, may request identifying information from the office, in the form established by the office. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or adult sibling, in the form provided by the office, and transfer that request to the office. The adult adoptee or adult sibling is responsible for notifying the office of any change in information contained in the request.
(b) The office may only release identifying information to an adult adoptee or adult sibling when it receives requests from both the adult adoptee and the adult adoptee's adult sibling.
(c) After matching the request of an adult adoptee with that of the adoptee's adult sibling, if the office determines that the office has sufficient information to make that match, the office shall notify both the adult adoptee and the adult sibling that the requests have been matched, and disclose the identifying information to those parties.
(d) After receiving a request for information from an adult adoptee and a birth parent under this section, the office shall:

(i) search the office's vital records for the adult adoptee's birth parent; and
(ii) if the search described in Subsection (2)(d)(i) reveals that the birth parent who had requested information under this section is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of the birth parent.
(e) The office shall attempt to notify an individual who requests information under this section:
(i) of the results of the initial search for a match; and
(ii) if the initial search does not produce a match, that the office will keep the request on file and will attempt to notify the individual in the event of a match.
(3) Information registered with the office under this section is available only to a registered adult adoptee and the adoptee's registered birth parent or registered adult sibling, under the terms of this section.
(4) Except as provided in Section 78B-6-141, the office may not disclose information regarding a birth parent who has not registered a request with the office.
(5) Nothing in this section limits the disclosure of information in accordance with Section 78B-6-141.

Amended by Chapter 137, 2015 General Session

Renumbered 9/1/2025

78B-6-144.5 Adoption records fees.

(1)
(a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section 78B-6-141 or Section 78B-6-144, and to cover the costs related to providing the information, services, and improvements described in Subsection (2).
(b) The office may accept donations or grants from public or private entities to cover the costs related to providing the information, services, and improvements described in Subsection (2).
(2) The office shall deposit fees and donations collected under Subsection (1) into the General Fund as dedicated credits and may be used only to:
(a) fund, automate, and improve the provision of services described in Sections 78B-6-141 and 78B-6-144; or
(b) implement means of maximizing potential matches for the services described in Sections 78B-6-141 and 78B-6-144, including the use of broad search terms and methods.

Enacted by Chapter 137, 2015 General Session

Repealed 9/1/2025

78B-6-145 Restrictions on disclosure of information -- Violations -- Penalty.

(1) Information maintained or filed with the office under this chapter may not be disclosed except as provided by this chapter, or pursuant to a court order.
(2) Any person who discloses information obtained from the office's voluntary adoption registry in violation of this part, or knowingly allows that information to be disclosed in violation of this chapter is guilty of a class A misdemeanor.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 340, 2012 General Session

Renumbered 9/1/2025

78B-6-146 Postadoption contact agreements.

(1) As used in this section:

(a) "Postadoption contact agreement" means a document, agreed upon prior to the finalization of an adoption of a child in the custody of the division, that outlines the relationship between an adoptive parent, birth parent, or other birth relative, and an adopted child after the finalization of adoption.

(b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the prospective adoptive child.

(2)

(a) Notwithstanding any other provision in this chapter, if a child in the custody of the division is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.

(b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child.

(3) In order to be legally enforceable, a postadoption contact agreement shall be:

(a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child;

(b) signed by each party claiming a right or obligation in the agreement; and

(c) if the adopted child is 12 years old or older, approved by the child.

(4) A postadoption contact agreement shall:

(a) describe:

(i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and adopted child;

(ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and adopted child;

(iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the adopted child and how often that information shall be provided;

(iv) the grounds, if any, on which the adoptive parent may:

(A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and adopted child; or

(B) cease providing the information described in Subsection (4)(a)(iii) to the birth parent or other birth relative; and

(b) state that following the adoption, the court shall presume that the adoptive parent's judgment about the best interest of the child is correct in any action seeking to enforce, modify, or terminate the agreement.

(5) A postadoption contact agreement may not limit the adoptive parent's ability to move out of state.

(6) A postadoption contact agreement may only be modified with the consent of the adoptive parent.

(7) In an action seeking enforcement of a postadoption contact agreement:

(a) an adoptive parent's judgment about the best interest of the child is entitled to a presumption of correctness;

(b) if the party seeking to enforce the postadoption contact agreement successfully rebuts the presumption described in Subsection (7)(a), the court shall consider whether:

(i) the parties performed the duties outlined in the open adoption agreement in good faith;

(ii) there is a reasonable alternative that fulfills the spirit of the open adoption agreement without ordering mandatory compliance with the open adoption agreement; and

(iii) enforcement of the open adoption agreement is in the best interest of the adopted child; and

(c) the court shall order the parties to attend mediation, if the presumption in Subsection (7)(a) is successfully rebutted and mediation is in the child's best interest.

(8) An open adoption agreement that has been found not to be in the best interest of the adopted child shall not be enforced.

(9) Violation of an open adoption agreement is not grounds:

(a) to set aside an adoption; or

(b) for an award of money damages.

(10) Nothing in this section shall be construed to mean that an open adoption agreement is required before an adoption may be finalized.

(11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any adoption proceeding.

(12) The court that approves a postadoption contact agreement retains jurisdiction over modification, termination, and enforcement of an approved postadoption contact agreement.

Enacted by Chapter 438, 2013 General Session

Part 2
Alternative Dispute Resolution Act

78B-6-201 Title.

This part is known as the "Alternative Dispute Resolution Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-202 Definitions.

As used in this part:

(1) "ADR" means alternative dispute resolution and includes arbitration, mediation, and other means of dispute resolution, other than court trial, authorized by the Judicial Council under this part.

(2) "ADR organization" means an organization which provides training for ADR providers or offers other ADR services.

(3) "ADR provider" means a neutral person who conducts an ADR procedure. An arbitrator, mediator, and early neutral evaluator are ADR providers. An ADR provider may be an employee of the court or an independent contractor.

(4) "Arbitration" means a private hearing before a neutral or panel of neutrals who hear the evidence, consider the contentions of the parties, and enter a written award to resolve the issues presented pursuant to Section 78B-6-206.

(5) "Award" as used in connection with arbitration includes monetary or equitable relief and may include damages, interest, costs, and attorney fees.

(6) "Civil action" means an action in which a party seeks monetary or equitable relief at common law or pursuant to statute.

(7) "Early neutral evaluation" means a confidential meeting with a neutral expert to identify the issues in a dispute, explore settlement, and assess the merits of the claims.

(8) "Mediation" means a private forum in which one or more impartial persons facilitate communication between parties to a civil action to promote a mutually acceptable resolution or settlement.
(9) "Summary jury trial" means a summary presentation of a case to a jury which results in a nonbinding verdict.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-203 Purpose and findings.
(1) The purpose of this part is to offer an alternative or supplement to the formal processes associated with a court trial and to promote the efficient and effective operation of the courts of this state by authorizing and encouraging the use of alternative methods of dispute resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the courts of this state.
(2) The Legislature finds that:
  (a) the use of alternative methods of dispute resolution authorized by this part will secure the purposes of Article I, Section 11, Utah Constitution, by providing supplemental or complementary means for the just, speedy, and inexpensive resolution of disputes;
  (b) preservation of the confidentiality of ADR procedures will significantly aid the successful resolution of civil actions in a just, speedy, and inexpensive manner;
  (c) ADR procedures will reduce the need for judicial resources and the time and expense of the parties;
  (d) mediation has, in pilot programs, resulted in the just and equitable settlement of petitions for the protection of children under Section 80-3-201 and petitions for the terminations of parental rights under Section 80-4-201; and
  (e) the purpose of this part will be promoted by authorizing the Judicial Council to establish rules to promote the use of ADR procedures by the courts of this state as an alternative or supplement to court trial.

Amended by Chapter 262, 2021 General Session

78B-6-204 Dispute Resolution Programs -- Director -- Duties -- Report.
(1) Within the Administrative Office of the Courts, there shall be a director of Dispute Resolution Programs, appointed by the state court administrator.
(2) The director shall be an employee of the Administrative Office of the Courts and shall be responsible for the administration of all court-annexed Dispute Resolution Programs. The director shall have duties, powers, and responsibilities as the Judicial Council may determine. The qualifications for employment of the director shall be based on training and experience in the management, principles, and purposes of alternative dispute resolution procedures.
(3) In order to implement the purposes of this part, the Administrative Office of the Courts may employ or contract with ADR providers or ADR organizations on a case-by-case basis, on a service basis, or on a program basis.
(4) The Administrative Office of the Courts shall:
  (a) establish programs for training ADR providers and orienting attorneys and their clients to ADR programs and procedures; and
  (b) ensure that any training described in Subsection (4)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements.
(5) ADR providers and organizations are subject to the rules and fees set by the Judicial Council.

(6) An ADR provider is immune from all liability when conducting proceedings under the rules of the Judicial Council and the provisions of this part, except for wrongful disclosure of confidential information, to the same extent as a judge of the courts in this state.
(7)
(a) The director shall report annually to the Supreme Court, the Judicial Council, the governor, and the Utah State Bar on the operation of the Dispute Resolution Programs.
(b) The director shall provide the report to the Judiciary Interim Committee, if requested by the committee.
(c) Copies of the report shall be available to the public at the Administrative Office of the Courts.
(d) The report shall include:
(i) identification of participating judicial districts and the methods of alternative dispute resolution that are available in those districts;
(ii) the number and types of disputes received;
(iii) the methods of alternative dispute resolution to which the disputes were referred;
(iv) the course of the referral;
(v) the status of cases referred to alternative dispute resolution or the disposition of these disputes; and
(vi) any problems encountered in the administration of the program and the recommendations of the director as to the continuation or modification of any program.
(e) Nothing may be included in a report which would impair the privacy or confidentiality of any specific ADR proceeding.

Amended by Chapter 200, 2018 General Session

78B-6-205 Judicial Council rules for ADR procedures.

(1) To promote the use of ADR procedures, the Judicial Council may by rule establish experimental and permanent ADR programs administered by the Administrative Office of the Courts under the supervision of the director of Dispute Resolution Programs.
(2) The rules of the Judicial Council shall be based upon the purposes and provisions of this part. Any procedural and evidentiary rules adopted by the Supreme Court may not impinge on the constitutional rights of any parties.
(3) The rules of the Judicial Council shall include provisions:
(a) to orient parties and their counsel to the ADR program, ADR procedures, and the rules of the Judicial Council;
(b) to identify types of civil actions that qualify for ADR procedures;
(c) to refer to ADR procedures all or particular issues within a civil action;
(d) to protect persons not parties to the civil action whose rights may be affected in the resolution of the dispute;
(e) to ensure that no party or its attorney is prejudiced for electing, in good faith, not to participate in an optional ADR procedure;
(f) to exempt any case from the ADR program in which the objectives of ADR would not be realized;
(g) to create timetables to ensure that the ADR procedure is instituted and completed without undue delay or expense;
(h) to establish the qualifications of ADR providers for each form of ADR procedure including that formal education in any particular field may not, by itself, be either a prerequisite or sufficient qualification to serve as an ADR provider under the program authorized by this part;

(i) to govern the conduct of each type of ADR procedure, including the site at which the procedure is conducted;
(j) to establish the means for the selection of an ADR provider for each form of ADR procedure;
(k) to determine the powers, duties, and responsibilities of the ADR provider for each form of ADR procedure;
(l) to establish a code of ethics applicable to ADR providers with means for its enforcement;
(m) to protect and preserve the privacy and confidentiality of ADR procedures;
(n) to protect and preserve the privacy rights of the persons attending the ADR procedures;
(o) to permit waiver of all or part of fees assessed for referral of a case to the ADR program on a showing of indigency or other compelling reason;
(p) to authorize imposition of sanctions for failure of counsel or parties to participate in good faith in the ADR procedure assigned;
(q) to assess the fees to cover the cost of compensation for the services of the ADR provider and reimbursement for the provider's allowable, out-of-pocket expenses and disbursements; and
(r) to allow vacation of an award by a court as provided in Section 78B-11-124.
(4) The Judicial Council may, from time to time, limit the application of its ADR rules to particular judicial districts.

Amended by Chapter 272, 2022 General Session

78B-6-206 Minimum procedures for arbitration.
(1) An award in an arbitration proceeding shall be in writing and, at the discretion of the arbitrator or panel of arbitrators, may state the reasons or otherwise explain the nature or amount of the award.
(2) The award shall be final and enforceable as any other judgment in a civil action, unless:
(a) within 30 days after the filing of the award with the clerk of the court any party files with the clerk of court a demand for a trial de novo upon which the case shall be returned to the trial calendar; or
(b) any party files with the arbitrator or panel of arbitrators and serves a copy on all other parties a written request to modify the award on the grounds:
(i) there is an evident miscalculation of figures or description of persons or property referred to in the award;
(ii) the award does not dispose of all the issues presented to the arbitrator or panel of arbitrators for resolution; or
(iii) the award purports to resolve issues not submitted for resolution in the arbitration process.
(c) The period for filing a demand for trial de novo is tolled until the arbitrator or panel of arbitrators have acted on the request to modify the award, which must be completed within 30 days of the filing.
(3) The parties to an arbitration procedure may stipulate that:
(a) an award need not be filed with the court, except in those cases where the rights of third parties may be affected by the provisions of the award; and
(b) the case is dismissed in which the award was made.
(4)
(a) At any time the parties may enter into a written agreement for referral of the case or of issues in the case to arbitration pursuant to Title 78B, Chapter 11, Utah Uniform Arbitration Act, or the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq., as the parties shall specify.
(b) The court may dismiss the case, or if less than all the issues are referred to arbitration, stay the case for a reasonable period for the parties to complete a private arbitration proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-207 Minimum procedures for mediation.

(1) A judge or court commissioner may refer to mediation any case for which the Judicial Council and Supreme Court have established a program or procedures. A party may file with the court an objection to the referral which may be granted for good cause.

(2)

(a) Unless all parties and the neutral or neutrals agree only parties, their representatives, and the neutral may attend the mediation sessions.

(b) If the mediation session is in accordance with a referral under Section 80-3-206 or 80-4-206, the ADR provider or ADR organization shall notify all parties to the proceeding and any person designated by a party. The ADR provider may notify any person whose rights may be affected by the mediated agreement or who may be able to contribute to the agreement. A party may request notice be provided to a person who is not a party.

(3)

(a) Except as provided in Subsection (3)(b), any settlement agreement between the parties as a result of mediation may be executed in writing, filed with the clerk of the court, and enforceable as a judgment of the court. If the parties stipulate to dismiss the action, any agreement to dismiss shall not be filed with the court.

(b) With regard to mediation affecting any petition filed under Section 80-3-201 or 80-4-201:

(i) all settlement agreements and stipulations of the parties shall be filed with the court;

(ii) all timelines, requirements, and procedures described in Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, shall be complied with; and

(iii) the parties to the mediation may not agree to a result that could not have been ordered by the court in accordance with the procedures and requirements of Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights.

Amended by Chapter 335, 2022 General Session

78B-6-208 Confidentiality.

(1) ADR proceedings shall be conducted in a manner that encourages informal and confidential exchange among the persons present to facilitate resolution of the dispute or a part of the dispute. ADR proceedings shall be closed unless the parties agree that the proceedings be open. ADR proceedings may not be recorded.

(2) No evidence concerning the fact, conduct, or result of an ADR proceeding may be subject to discovery or admissible at any subsequent trial of the same case or same issues between the same parties.

(3) No party to the case may introduce as evidence information obtained during an ADR proceeding unless the information was discovered from a source independent of the ADR proceeding.

(4) Unless all parties and the neutral agree, no person attending an ADR proceeding, including the ADR provider or ADR organization, may disclose or be required to disclose any information

obtained in the course of an ADR proceeding, including any memoranda, notes, records, or work product.

(5) Except as provided, an ADR provider or ADR organization may not disclose or discuss any information about any ADR proceeding to anyone outside the proceeding, including the judge or judges to whom the case may be assigned. An ADR provider or an ADR organization may communicate information about an ADR proceeding with the director for the purposes of training, program management, or program evaluation and when consulting with a peer. In making those communications, the ADR provider or ADR organization shall render anonymous all identifying information.

(6) Nothing in this section limits or affects the responsibility to report child abuse or neglect in accordance with Section 80-2-602.

(7) Records of ADR proceedings under this chapter or under Title 78B, Chapter 11, Utah Uniform Arbitration Act, may not be subject to Title 63G, Chapter 2, Government Records Access and Management Act, except settlement agreements filed with the court after conclusion of an ADR proceeding or awards filed with the court after the period for filing a demand for trial de novo has expired.

Amended by Chapter 335, 2022 General Session

78B-6-209 Dispute Resolution Account -- Appropriation.

There is created a restricted account within the General Fund known as the "Dispute Resolution Account." Five dollars of the fees established in Subsections 78A-2-301(1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited into the Dispute Resolution Account. The Legislature shall annually appropriate money from the Dispute Resolution Account to the Administrative Office of the Courts to implement the purposes of Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Amended by Chapter 74, 2015 General Session

Part 3
Contempt

78B-6-301 Acts and omissions constituting contempt.

The following acts or omissions in respect to a court or its proceedings are contempts of the authority of the court:

(1) disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the course of a trial or other judicial proceeding;

(2) breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due course of a trial or other judicial proceeding;

(3) misbehavior in office, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, or other person appointed or elected to perform a judicial or ministerial service;

(4) deceit, or abuse of the process or proceedings of the court, by a party to an action or special proceeding;

(5) disobedience of any lawful judgment, order or process of the court;

(6) acting as an officer, attorney or counselor, of a court without authority;

(7) rescuing any person or property that is in the custody of an officer by virtue of an order or process of the court;
(8) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from, the court where the action is on the calendar for trial;
(9) any other unlawful interference with the process or proceedings of a court;
(10) disobedience of a subpoena duly served, or refusing to be sworn or to answer as a witness;
(11) when summoned as a juror in a court, neglecting to attend or serve, or improperly conversing with a party to an action to be tried at the court, or with any other person, concerning the merits of an action, or receiving a communication from a party or other person in respect to it, without immediately disclosing the communication to the court; and
(12) disobedience by an inferior tribunal, magistrate or officer of the lawful judgment, order or process of a superior court, or proceeding in an action or special proceeding contrary to law, after the action or special proceeding is removed from the jurisdiction of the inferior tribunal, magistrate or officer. Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of the officer.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-302 Contempt in immediate presence of court -- Summary action -- Outside presence of court -- procedure.

(1) When a contempt is committed in the immediate view and presence of the court, or judge at chambers, it may be punished summarily. An order shall be made, reciting the facts occurring in the immediate view and presence of the court. The order shall state that the person proceeded against is guilty of a contempt and shall be punished as prescribed in Section 78B-6-310.
(2) When the contempt is not committed in the immediate view and presence of the court or judge, an affidavit or statement of the facts by a judicial officer shall be presented to the court or judge of the facts constituting the contempt.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-303 Warrant of attachment or commitment order to show cause.

If the contempt is not committed in the immediate view and presence of the court or judge, a warrant of attachment may be issued to bring the person charged to answer. If there is no previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted. A warrant of commitment may not be issued without a previous attachment to answer, or a notice or order to show cause.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-304 Bail.

Whenever a warrant of attachment is issued pursuant to this chapter, the court or judge must direct, by an indorsement on the warrant, that the person charged may be allowed to post bail for the person's appearance, in an amount to be prescribed in the indorsement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-305 Duty of sheriff -- Excuse for nonappearance -- Unnecessary restraint forbidden.

(1) Upon executing the warrant of attachment, the sheriff shall keep the person in custody and bring the person before the court or judge until an order is made in the premises, unless the person arrested posts bail as provided in Section 78B-6-306.
(2) Whenever by the provisions of this chapter an officer is required to keep in custody a person arrested on a warrant of attachment and to bring the person before a court or judge, the inability from illness or otherwise of the person to attend is a sufficient excuse for not bringing the person up; and the officer must not confine a person arrested upon the warrant in a prison or otherwise restrain the person of personal liberty, except so far as may be necessary to secure the person's personal attendance.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-306 Bail bond -- Form.

When a direction to allow the person arrested to post bail is contained in the warrant of attachment, the person shall be released if bond is posted and the person executes a written promise to appear on the return of the warrant, and abide by the order of the court or judge.

Amended by Chapter 121, 2020 General Session

78B-6-307 Officer's return.

The officer shall return the warrant of arrest, and the undertaking, if any, received from the person arrested, by the return day specified therein.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-308 Procedure when party charged fails to appear.

When the warrant of arrest has been served, if the person arrested does not appear on the specified day, the court or judge may issue another warrant of arrest, or may order the undertaking to be prosecuted or both. If the undertaking is prosecuted, the measure of damages in the action is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued, and the costs of the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-309 Hearing.

When the person arrested has been brought up or has appeared, the court shall proceed to investigate the charge, and hear any answer which the person arrested may make. The court may examine witnesses for or against the person arrested, for which an adjournment may be had from time to time, if necessary.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-310 Contempt -- Action by court.

(1) The court shall determine whether the person proceeded against is guilty of the contempt charged. If the court finds the person is guilty of the contempt, the court may impose a fine not exceeding $1,000, order the person incarcerated in the county jail not exceeding 30 days, or both. However, a justice court judge or court commissioner may punish for contempt by a fine not to exceed $500 or by incarceration for five days or both.

(2) A fine imposed under this section is subject to the limitations of Subsection 76-3-301(2).

Amended by Chapter 234, 2018 General Session

78B-6-311 Damages to party aggrieved.

(1) If an actual loss or injury to a party in an action or special proceeding is caused by the contempt, the court:
  (a) in lieu of or in addition to the fine or imprisonment imposed for the contempt, may order the person proceeded against to pay the party aggrieved a sum of money sufficient to indemnify and satisfy the aggrieved party's costs and expenses; and
  (b) may order that any bail posted by the person proceeded against be used to satisfy all or part of the money ordered to be paid to the aggrieved party.
(2) The order described in Subsection (1)(b), and the acceptance of money under the order, is a bar to an action by the aggrieved party for the loss and injury.

Amended by Chapter 121, 2020 General Session

78B-6-312 Imprisonment to compel performance.

When the contempt consists of the omission to perform an act enjoined by law, which is yet in the power of the person to perform, the person may be imprisoned until the act is performed, or until released by the court. The act shall be specified in the warrant of commitment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-313 Contempt of process of nonjudicial officer -- Procedure.

(1) If a person, officer, referee, arbitrator, board, or committee with the authority to compel the attendance of witnesses or the production of documents issues a subpoena and the person to whom the subpoena is issued refuses to appear or produce the documents ordered, the person shall be considered in contempt.
(2)
  (a) The person, officer, referee, arbitrator, board, or committee may report the person to whom the subpoena is issued to the court.
  (b) The court may then issue a warrant of attachment or order to show cause to compel the person's appearance.
(3) When a person charged has been brought up or has appeared, the person's contempt may be purged in the same manner as other contempts mentioned in this part.

Amended by Chapter 401, 2023 General Session

78B-6-314 Re-entry after eviction from real property.

(1) A person who is ordered to vacate real property by a court of competent jurisdiction, who, not having a right so to do, refuses to vacate, re-enters, or takes possession of, the real property, is guilty of a contempt of the court issuing the judgment.
(2) Upon a conviction for the contempt, the court shall immediately issue an alias process, directed to the proper officer, requiring the person to restore possession of the property to the party entitled to possession under the original judgment or process.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-315 Noncompliance with child support order.

(1) When a court of competent jurisdiction, or the Office of Recovery Services pursuant to an action under Title 63G, Chapter 4, Administrative Procedures Act, makes an order requiring a parent to furnish support or necessary food, clothing, shelter, medical care, or other remedial care for his child, and the parent fails to do so, proof of noncompliance shall be prima facie evidence of contempt of court.

(2) Proof of noncompliance may be demonstrated by showing that:

(a) the order was made, and filed with the district court; and

(b) the parent knew of the order because:

(i) the order was mailed to the parent at his last-known address as shown on the court records;

(ii) the parent was present in court at the time the order was pronounced;

(iii) the parent entered into a written stipulation and the parent or counsel for the parent was sent a copy of the order;

(iv) counsel was present in court and entered into a stipulation which was accepted and the order based upon the stipulation was then sent to counsel for the parent; or

(v) the parent was properly served and failed to answer.

(3) Upon establishment of a prima facie case of contempt under Subsection (2), the obligor under the child support order has the burden of proving inability to comply with the child support order.

(4) A court may, in addition to other available sanctions, withhold, suspend, or restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses and impose conditions for reinstatement upon a finding that:

(a) an obligor has:

(i) made no payment for 60 days on a current obligation of support as set forth in an administrative or court order and, thereafter, has failed to make a good faith effort under the circumstances to make payment on the support obligation in accordance with the order; or

(ii) made no payment for 60 days on an arrearage obligation of support as set forth in a payment schedule, written agreement with the Office of Recovery Services, or an administrative or judicial order and, thereafter, has failed to make a good faith effort under the circumstances to make payment on the arrearage obligation in accordance with the payment schedule, agreement, or order; and

(iii) not obtained a judicial order staying enforcement of the support or arrearage obligation for which the obligor would be otherwise delinquent;

(b) a custodial parent has:

(i) violated a parent-time order by denying contact for 60 days between a noncustodial parent and a child and, thereafter, has failed to make a good faith effort under the circumstances to comply with a parent-time order; and

(ii) not obtained a judicial order staying enforcement of the parent-time order; or

(c) an obligor or obligee, after receiving appropriate notice, has failed to comply with a subpoena or order relating to a paternity or child support proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-316 Compensatory service for violation of parent-time order or failure to pay child support.

(1) As used in this section, "obligor" means the same as that term is defined in Section 81-6-101.

(2) If a court finds by a preponderance of the evidence that a parent has refused to comply with the minimum amount of parent-time ordered in a decree of divorce, the court shall order the parent to:
  (a) perform a minimum of 10 hours of compensatory service; and
  (b) participate in workshops, classes, or individual counseling to educate the parent about the importance of complying with the court order and providing a child a continuing relationship with both parents.
(3) If a custodial parent is ordered to perform compensatory service or undergo court-ordered education, there is a rebuttable presumption that the noncustodial parent be granted parent-time by the court to provide child care during the time the custodial parent is complying with compensatory service or education in order to recompense him for parent-time wrongfully denied by the custodial parent under the divorce decree.
(4) If a noncustodial parent is ordered to perform compensatory service or undergo court-ordered education, the court shall attempt to schedule the compensatory service or education at times that will not interfere with the noncustodial parent's parent-time with the child.
(5) The person ordered to participate in court-ordered education is responsible for expenses of workshops, classes, and individual counseling.
(6) If a court finds by a preponderance of the evidence that an obligor has refused to pay child support as ordered by a court in accordance with Title 81, Chapter 6, Child Support, the court shall order the obligor to:
  (a) perform a minimum of 10 hours of compensatory service; and
  (b) participate in workshops, classes, or individual counseling to educate the obligor about the importance of complying with the court order and providing the children with a regular and stable source of support.
(7) The obligor is responsible for the expenses of workshops, classes, and individual counseling ordered by the court.
(8) If a court orders an obligor to perform compensatory service or undergo court-ordered education, the court shall attempt to schedule the compensatory service or education at times that will not interfere with the obligor's parent-time with the child.
(9) The sanctions that the court shall impose under this section do not prevent the court from imposing other sanctions or prevent any person from bringing a cause of action allowed under state or federal law.
(10) The Legislature shall allocate the money from the Children's Legal Defense Account to the judiciary to defray the cost of enforcing and administering this section.

Amended by Chapter 366, 2024 General Session

78B-6-317 Willful failure to pay a civil accounts receivable or a civil judgment of restitution.
(1) As used in this section:
  (a) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
  (b) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
  (c) "Default" means the same as that term is defined in Section 77-32b-102.
  (d) "Delinquent" means the same as that term is defined in Section 77-32b-102.
(2) If a civil accounts receivable or a civil judgment of restitution is delinquent or in default, the court, by motion of the prosecuting attorney, a judgment creditor, or on the court's own motion, may order the defendant to appear and show cause why the delinquency or default should not be treated as contempt of court under this section.
(3)

(a) The moving party or a clerk of the court shall provide a declaration outlining:
(i) the nature of the debt;
(ii) the way in which the civil accounts receivable or civil judgment of restitution is delinquent or in default;
(iii) if the moving party is the Office of State Debt Collection, the attempts that have been made to collect the civil accounts receivable or the civil judgment of restitution before moving for an order to show cause; and
(iv) if the moving party is not the Office of State Debt Collection, that the defendant has failed to comply with any payment agreement that the defendant has with the Office of State Debt Collection.
(b) Upon receipt of a declaration under Subsection (3)(a), the court shall:
(i) set the matter for a hearing; and
(ii) provide notice of the hearing to the defendant by mailing notice of the hearing to the defendant's last known address and by any other means the court finds likely to provide defendant notice of the hearing.
(c) If it appears to the court that the defendant is not likely to appear at the hearing, the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the defendant's appearance.
(d) If the defendant is a corporation or an unincorporated association, the court shall cite the person authorized to make disbursement from the assets of the corporation or association to appear to answer for the alleged contempt.
(4) At the hearing, the defendant is entitled to be:
(a) represented by counsel; and
(b) if the court is considering a period of incarceration as a potential sanction, appointed counsel if the court determines that the defendant is indigent in accordance with Title 78B, Chapter 22, Indigent Defense Act.
(5) To find the defendant in contempt, the court shall find beyond a reasonable doubt that the defendant:
(a) was aware of the obligation to pay the civil accounts receivable or the civil judgment of restitution;
(b) had the capacity to make a payment towards the civil accounts receivable or the civil judgment of restitution; and
(c) failed to make a payment towards the civil accounts receivable or the civil judgment of restitution.
(6) Subject to the limitations in Subsections (7) through (9), if the court finds the defendant in contempt for nonpayment, the court may impose the sanctions for contempt under Section 78B-6-310.
(7) If the court imposes a jail sanction for the contempt, the number of jail days may not exceed one day for each $100 of the amount the court finds was contemptuously unpaid with a maximum of:
(a) five days for contempt arising from a class B misdemeanor or lesser offense; and
(b) 30 days for a class A misdemeanor or felony offense.
(8)
(a) Any jail sanction imposed for contempt under this section shall serve to satisfy the civil accounts receivable at $100 for each day served.
(b) Subsection (8)(a) does not apply to a civil judgment of restitution.
(9) A financial penalty ordered by the court under Section 78B-6-310 may only become due after the satisfaction of the civil accounts receivable or the civil judgment of restitution.

(10) The order of the court finding the defendant in contempt and ordering sanctions is a final appealable order.

Amended by Chapter 260, 2021 General Session

Part 4
Declaratory Judgments

78B-6-401 Power to issue declaratory judgment -- Form -- Effect.

(1)

(a) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.

(b) An action or proceeding may not be open to objection on the ground that a declaratory judgment or decree is prayed for.

(2) The declaration may be either affirmative or negative in form and effect and shall have the force and effect of a final judgment or decree.

Amended by Chapter 158, 2024 General Session

78B-6-402 Court's general powers.

The provisions of Sections 78B-6-408, 78B-6-409, and 78B-6-410 do not limit or restrict the exercise of the general powers conferred in Section 78B-6-401 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-403 Parties.

(1) When declaratory relief is sought all persons shall be made parties who have or claim any interest which would be affected by the declaration, and a declaration may not prejudice the rights of persons not parties to the proceeding.

(2) In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party, and shall be entitled to be heard.

(3) If a statute or state franchise or permit is alleged to be invalid, the attorney general shall be served with a copy of the proceeding and be entitled to be heard.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-404 Discretion to deny declaratory relief.

The court may refuse to render or enter a declaratory judgment or decree where a judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-405 Appeals and reviews.

All orders, judgments, and decrees under this part may be reviewed in the same manner as other orders, judgments, and decrees.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-406 Supplemental relief.

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application for further relief shall be by petition to a court having jurisdiction to grant the relief. If the application is considered sufficient, the court shall, on reasonable notice, require any adverse party, whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be immediately granted.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-407 Trial of issues of fact.

When a proceeding under this chapter involves the determination of an issue of fact, the issue may be tried in the court in which the proceeding is pending and determined in the same manner as issues of fact are tried and determined in other civil actions in the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-408 Rights, status, legal relations under instruments, or statutes may be determined.

A person with an interest in a deed, will, or written contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may request the court to determine any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations.

Amended by Chapter 158, 2024 General Session

78B-6-409 Contracts.

A contract may be construed before or after there has been a breach.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-410 Suit by fiduciary or representative.

Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may petition the court for a declaratory judgment:

(1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;
(2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
(3) to determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-411 Costs.

In any proceeding under this part the court may make an award of costs it considers equitable and just.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-412 Chapter to be liberally construed.

This chapter is to be remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 5
Eminent Domain

78B-6-501 Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

(1) As used in this section:

(a) "Century farm" means real property that is:

(i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) owned or held by the same family for a continuous period of 100 years or more.

(b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.

(c)

(i) "Mining use" means:

(A) the full range of permitted or active activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(B) the use of the surface, subsurface, groundwater, and surface water of an area in connection with the activities described in Subsection (1)(c)(i)(A) that have been, are being, or will be conducted.

(ii) "Mining use" includes, whether conducted on-site or off-site:

(A) sampling, staking, surveying, exploration, or development activity;

(B) drilling, blasting, excavating, or tunneling;

(C) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(D) the recovery of sand and gravel;

(E) removal, transportation, extraction, beneficiation, or processing of ore;

(F) use of solar evaporation ponds and other facilities for the recovery of minerals in solution;

(G) smelting, refining, autoclaving, or other primary or secondary processing operation;

(H) the recovery of any mineral left in residue from a previous extraction or processing operation;

(I) a mining activity that is identified in a work plan or permitting document;

(J) the use, operation, maintenance, repair, replacement, construction, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(K) an accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;
(L) the construction of a storage, factory, processing, or maintenance facility; and
(M) an activity described in Subsection 40-8-4(19)(a).

(2) Except as provided in Subsections (3), (4), and (5) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:
(a) all public uses authorized by the federal government;
(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;
(c)
(i) public buildings and grounds for the use of any county, city, town, or board of education;
(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;
(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;
(iv) bicycle paths and sidewalks adjacent to paved roads;
(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and
(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;
(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;
(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals or elements in solution;
(f)
(i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals or elements in solution;
(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals or elements in solution;
(iii) mill dams;
(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;
(v) subject to Subsection (6), solar evaporation ponds and other facilities for the recovery of minerals in solution; and
(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;
(g) byroads leading from a highway to:

(i) a residence; or
(ii) a farm;
(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;
(i) sewage service for:
(i) a city, a town, or any settlement of not fewer than 10 families;
(ii) a public building belonging to the state; or
(iii) a college or university;
(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;
(k) cemeteries and public parks; and
(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.
(3) The right of eminent domain may not be exercised on behalf of the following uses:
(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;
(b)
(i) a public park whose primary purpose is:
(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or
(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or
(ii) a public park established on real property that is:
(A) a century farm; and
(B) located in a county of the first class.
(4)
(a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:
(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;
(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or
(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or
(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.
(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:
(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and
(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.
(5) If the intended public purpose is for a mining use, a private person may not exercise the power of eminent domain over property, or an interest in property, that is already used for a mining use within the boundary of:
(a) a permit area, as defined in Section 40-8-4;
(b) an area for which a permit has been issued by the Division of Water Quality, as part of the underground injection control program, under rules made by the Water Quality Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(c) private property; or
(d) an area under a state or federal lease.
(6)
(a) For the purpose of solar evaporation ponds and other facilities for the recovery of minerals or elements in solution on or from the Great Salt Lake, a public use includes removal or extinguishment, by a state entity, in whole or in part, on Great Salt Lake Sovereign lands of:
(i) a solar evaporation pond;
(ii) improvements, property, easements, or rights-of-way appurtenant to a solar evaporation pond, including a lease hold; or
(iii) other facilities for the recovery of minerals or elements in solution.
(b) The public use under this Subsection (6) is in the furtherance of the benefits to public trust assets attributable to the Great Salt Lake under Section 65A-1-1.

Amended by Chapter 277, 2025 General Session

78B-6-502 Estates and rights that may be taken.

Except as provided in Subsection 78B-6-501(3), (4), or (5), the following estates and rights in lands are subject to being taken for public use:
(1) a fee simple, when taken for:
(a) public buildings or grounds;
(b) permanent buildings;
(c) reservoirs and dams, and permanent flooding occasioned by them;
(d) any permanent flood control structure affixed to the land;
(e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill, smelter, or other place for the reduction of ores; and
(f) subject to Subsection 78B-6-501(6),solar evaporation ponds and other facilities for the recovery of minerals in solution, except when the surface ground is underlaid with minerals, coal, or other deposits sufficiently valuable to justify extraction, only a perpetual easement may be taken over the surface ground over the deposits;

(2) an easement, when taken for any other use; and
(3) the right of entry upon and occupation of lands, with the right to take from those lands earth, gravel, stones, trees, and timber as necessary for a public use.

Amended by Chapter 25, 2024 General Session
Amended by Chapter 350, 2024 General Session

78B-6-503 Private property which may be taken.

Except as provided in Subsection 78B-6-501(3), (4), or (5), private property that may be taken under this part includes:
(1) all real property belonging to any person;
(2) lands belonging to the state, or to any county, city or incorporated town, not appropriated to some public use;
(3) property appropriated to public use, except that the property may not be taken unless for a more necessary public use than that to which the property has already been appropriated;
(4) franchises for toll roads, toll bridges, ferries, and all other franchises, except that the franchises may not be taken unless for free highways, railroads, or other more necessary public use;
(5) all rights of way for any and all purposes mentioned in Section 78B-6-501, and any and all structures and improvements on the property, and the lands held or used in connection with the property, except that:
  (a) the property is subject to be connected with, crossed, or intersected by any other right of way or improvement or structure;
  (b) the property is subject to a limited use in common with the owners, when necessary; and
  (c) uses of crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury; and
(6) all classes of private property not enumerated if the taking is authorized by law.

Amended by Chapter 350, 2024 General Session

78B-6-503.5 Other property which may be taken -- State as plaintiff.

(1) Subject to Subsections (2) and (3), property which may be taken under this part includes property possessed by the federal government unless the property was acquired by the federal government with the consent of the Legislature and in accordance with the United States Constitution Article I, Section 8, Clause 17.
(2) The state shall be the plaintiff described in Section 78B-6-507 in an action to condemn property described in Subsection (1).
(3) The following do not apply to an action authorized under Subsection (1):
  (a) Section 78B-6-505;
  (b) Section 78B-6-520;
  (c) Section 78B-6-521; and
  (d) Title 57, Chapter 12, Utah Relocation Assistance Act.

Enacted by Chapter 250, 2010 General Session

78B-6-504 Conditions precedent to taking.

(1) As used in this section:
  (a) "Feasible" means reasonably practicable after consideration of factors including:
    (i) cost;

(ii) delay;
(iii) terrain;
(iv) safety; and
(v) the size and complexity of the infrastructure route.
(b) "Governing body" means:
(i) for a county, city, or town, the legislative body of the county, city, or town; and
(ii) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.
(c) "High voltage power line" means the same as that term is defined in Section 54-18-102.
(d) "Infrastructure siting analysis" means a comprehensive evaluation that:
(i) identifies and assesses all reasonable route alternatives for the proposed infrastructure;
(ii) prioritizes the use of existing utility corridors in accordance with federal standards;
(iii) considers first the use of federal public lands when feasible; and
(iv) documents why alternatives using federal public lands are not feasible, if applicable.
(e) "Standard Form 299" means the federal form titled "Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property" used to request authorization for use of federal lands.
(2) Before property can be taken it must appear that:
(a) the use to which it is to be applied is a use authorized by law;
(b) the taking is necessary for the use;
(c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and
(d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.
(3) Property may not be taken by a political subdivision of the state unless the governing body of the political subdivision approves the taking.
(4)
(a) Before taking a final vote to approve the filing of an eminent domain action, the governing body of each political subdivision intending to take property shall provide written notice to each owner of property to be taken of each public meeting of the political subdivision's governing body at which a vote on the proposed taking is expected to occur and allow the property owner the opportunity to be heard on the proposed taking.
(b) The requirement under Subsection (4)(a) to provide notice to a property owner is satisfied by the governing body mailing the written notice to the property owner:
(i) at the owner's address as shown on the records of the county assessor's office; and
(ii) at least 10 business days before the public meeting.
(5) In addition to the requirements of Subsection (2), a person filing an eminent domain action for a high voltage power line shall:
(a) complete an infrastructure siting analysis;
(b) demonstrate that use of federal public lands is not authorized, feasible, or would result in greater public harm than the proposed condemnation; and
(c) submit the analysis to the court as part of the condemnation proceedings.

Amended by Chapter 297, 2025 General Session

78B-6-505 Negotiation and disclosure required before filing an eminent domain action.
(1) As used in this section:

(a)

(i) "Claimant" means a person who is a record interest holder of real property sought to be condemned.

(ii) "Claimant" does not include:

(A) a fee simple owner; or

(B) a utility subject to Section 72-6-116.

(b) "Fee simple owner" means the same as that term is defined in Section 57-12-13.

(2) A political subdivision of the state that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before the governing body, as defined in Subsection 78B-6-504(2)(a), of the political subdivision takes a final vote to approve the filing of an eminent domain action, make a reasonable effort to negotiate with the fee simple owner for the purchase of the property; and

(b) except as provided in Subsection (5), as early in the negotiation process described in Subsection (2)(a) as practicable, but no later than 14 days before the day on which a final vote is taken to approve the filing of an eminent domain action:

(i) provide the fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation;

(ii) provide the fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of political subdivision] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of political subdivision] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of political subdivision] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

(3) Except as provided in Subsection (5), the entity involved in the acquisition of property may not bring a legal action to acquire the property under this chapter until 30 days after the day on which the disclosure and materials required in Subsections (2)(b)(ii) and (iii) are provided to the fee simple owner and each claimant.

(4) A person, other than a political subdivision of the state, that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before filing an eminent domain action, make a reasonable effort to negotiate with the fee simple owner for the purchase of the property interest being condemned; and

(b) except as provided in Subsection (5), as early in the negotiation process described in Subsection (4)(a) as practicable, but no later than 30 days before the day on which the person files an eminent domain action:

(i) provide the fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation;

(ii) provide the fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of entity] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of entity] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

(5) The court may, upon a showing of exigent circumstances and for good cause, shorten the 14-day period described in Subsection (2)(b) or the 30-day period described in Subsection (3) or (4)(b).

Amended by Chapter 297, 2025 General Session

78B-6-505.5 Coordination with federal land management agencies.

(1) Before filing an eminent domain action to condemn private land for a high voltage power line, a person shall:

(a) if federal public land exists within one quarter mile of the proposed high voltage power line, submit a Standard Form 299, or equivalent form, to each relevant federal land management agency to identify potentially suitable federal public land for the proposed use;

(b) document all efforts to coordinate with federal agencies; and

(c) include the documentation described in Subsection (1)(b) in any subsequent eminent domain filing.

(2) A person may file an eminent domain action to condemn private land if each relevant federal land management agency fails to respond within 60 days after the person files a Standard Form 299, or equivalent form, with the agency.

Enacted by Chapter 297, 2025 General Session

78B-6-506 Right of entry for survey and location.

(1) If land is required for public use, the person or the person's agent in charge of the use may survey and locate the property. It must be located in the manner which will be most compatible with the greatest public good and the least private injury, and subject to the provisions of this chapter.
(2)
(a) The person or the person's agent in charge of the public use may, at reasonable times and upon reasonable notice, enter upon the land and make examinations, surveys, and maps of the land.
(b) Entry upon land as authorized under Subsection (2)(a) does not constitute a cause of action in favor of the owners of the lands, except for actual damage to the land and improvements on the land caused by the entry and which is not repaired on or before the date the examinations and surveys are completed.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-507 Complaint -- Contents.
(1) The complaint shall contain:
(a) the name of the corporation, association, commission or person in charge of the public use for which the property is sought, who must be styled plaintiff;
(b) the names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;
(c) a statement of the right of the plaintiff;
(d) if a right of way is sought, its location, general route, beginning and ending, and be accompanied by a map of the proposed right of way, as it is involved in the action or proceeding;
(e) if any interest in land is sought for a right of way or associated facilities for a subject activity as defined in Section 19-3-318:
(i) the permission of the governor with the concurrence of the Legislature authorizing:
(A) use of the site for the subject activity; and
(B) use of the proposed route for the subject activity; and
(ii) the proposed route as required by Subsection (1)(d);
(f) a description of each piece of land sought to be taken, and whether it includes the whole or only part of an entire parcel or tract; and
(g) for actions filed for a high voltage power line, the infrastructure siting analysis and federal agency coordination documentation required by Sections 78B-6-504 and 78B-6-505.5.
(2) All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

Amended by Chapter 297, 2025 General Session

78B-6-508 Who may appear and defend.
All persons in occupation of, or having or claiming an interest in, any of the property described in the complaint, or in the damages for the taking, though not named, including shareholders in a mutual stock water company in a proceeding involving the taking of the company or property belonging to the company, may appear, plead and defend, each in respect to his own property or interest, or that claimed by him, in the same manner as if named in the complaint.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-509 Powers of court or judge -- Settlement offer -- Litigation expenses.

(1) As used in this section, "litigation expenses" means costs necessary to prepare for and conduct a trial, including:
  (a) court costs;
  (b) expert witness fees;
  (c) appraisal fees, except plaintiff's fees related to the additional appraisal described in Subsection (3)(b); and
  (d) reasonable attorney fees.
(2) The court shall have the power to:
  (a) hear and determine all adverse or conflicting claims to the property sought to be condemned, and the damages; and
  (b) determine the respective rights of different parties seeking condemnation of the same property.
(3)
  (a) A plaintiff described in Subsection 78B-6-507(1)(a) may make a settlement offer for purposes of this Subsection (3) at any time:
    (i) following the close of discovery as ordered by the court, but no later than 60 days before the first day of trial; or
    (ii) if no order setting the close of discovery exists:
      (A) more than nine months from the day that the complaint is filed; and
      (B) no later than 60 days before the first day of trial.
  (b) If more than 90 days has passed after an appraisal of the property sought to be condemned as described in Subsection 78B-6-510(3) and no additional appraisal has been obtained related to a mediation or arbitration under Section 78B-6-522, or if an appraisal has been obtained related to a mediation or arbitration under Section 78B-6-522 and more than 90 days has passed since that appraisal, before making a settlement offer described in Subsection (3)(a), the plaintiff shall unless waived in writing by the defendant:
    (i) obtain an additional appraisal of the property sought to be condemned:
      (A) at the plaintiff's expense; and
      (B) that uses a valuation date no more than 120 days before the trial date; and
    (ii) use the appraisal with the higher value as part of determining just compensation for the settlement offer.
  (c) Subject to Subsection (3)(d), an offer under Subsection (3)(a) shall:
    (i) be in writing;
    (ii) be served in accordance with Rule 5, Utah Rules of Civil Procedure, on each defendant to whom the offer is addressed;
    (iii) be an offer made:
      (A) to the defendant; or
      (B) if more than one defendant, jointly to all defendants who have appeared in the case and have not been dismissed;
    (iv) state that the offer is being made under Subsection (3)(a); and
    (v) specify the amount, less interest and litigation expenses, that the plaintiff is willing to agree is the total just compensation to which the defendant is or defendants jointly are entitled to receive for the property identified in the pending action.
  (d) An offer described in Subsection (3)(a) may not be filed with the court unless accepted or in connection with a motion for the award of litigation expenses following trial.

(e)
(i) Unless an offer provides a time for the offer to expire, an offer under Subsection (3)(a) shall expire and be deemed rejected 45 days after service.
(ii) An offer that expires or is rejected under Subsection (3)(e)(i):
(A) is not admissible in evidence; and
(B) may not be referred to at trial.
(f) Each appraisal described in Subsection (3)(b), including the contents of each appraisal:
(i) are not admissible in evidence; and
(ii) may not be referred to at trial.
(4)
(a) A defendant who receives an offer under Subsection (3)(a) may accept the offer by serving an acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.
(b) If there is more than one defendant, defendants may accept the offer by serving a joint acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.
(c) Any party may file with the court an offer made under Subsection (3)(a) together with its acceptance made under Subsection (4)(b).
(d) A plaintiff is entitled to a final judgment of condemnation as prayed for in the complaint upon paying to the defendant or defendants, or depositing with the court clerk for the benefit of the defendants:
(i) the amount of total just compensation agreed to in the offer accepted as described in Subsection (4)(a); and
(ii) any interest due as provided by law.
(e) If there are multiple defendants, the court shall, upon application filed by a defendant, determine each defendant's respective share of the settlement amount.
(5)
(a) A defendant described in Subsection 78B-6-507(1)(b), or if there is more than one defendant that has appeared in the case and has not been dismissed, then all defendants jointly, may make an offer under this Subsection (5):
(i) within 30 days after they receive an offer from the plaintiff under Subsection (3)(a); or
(ii) if the plaintiff does not make an offer under Subsection (3)(a), any time following close of discovery as ordered by the court, but not later than 45 days before the first day of trial.
(b) An offer described in Subsection (5)(a) shall:
(i) be in writing;
(ii) be served in accordance with Rule 5, Utah Rules of Civil Procedure;
(iii)
(A) be made on behalf of the defendant; or
(B) if there are multiple defendants, the offer shall be made by and on behalf of all defendants jointly who have appeared in the action and have not been dismissed;
(iv) state that the offer is being made under Subsection (5)(a); and
(v) specify the amount, less interest and litigation expenses, that the defendant or defendants jointly are willing to agree is the total just compensation to which the defendant is or defendants jointly are entitled to receive for the property identified in the pending action.
(c) An offer described in Subsection (5)(a) may not be filed with the court unless accepted or in connection with a motion for the award of litigation expenses following trial.
(d) An offer of settlement made by less than all defendants that have appeared in the case and have not been dismissed:

(i) is not an offer under Subsection (5)(a); and
(ii) may not be a basis for awarding litigation expenses under Subsection (7).
(e)
(i) Unless an offer provides a time for the offer to expire, an offer under Subsection (5)(a) shall expire and be deemed rejected 21 days after service.
(ii) An offer that expires or is rejected under Subsection (5)(e)(i) is not admissible in evidence and may not be referred to at trial.
(6)
(a) A plaintiff who receives an offer under Subsection (5)(a) may accept the offer by serving an acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.
(b) Any party may file with the court an offer made under Subsection (5)(a) together with its acceptance made under Subsection (6)(a).
(c) A plaintiff is entitled to a final judgment of condemnation as prayed for in the complaint upon paying to the defendant or defendants, or depositing with the court clerk for the benefit of the defendants:
(i) the amount of total just compensation agreed to in the offer accepted as described in Subsection (6)(a); and
(ii) any interest due as provided by law.
(d) If there are multiple defendants, the court shall, upon application filed by a defendant, determine each defendant's respective share of the settlement amount.
(7)
(a) Subject to Subsection (7)(b), if the total just compensation awarded to a defendant or defendants, less interest and litigation expenses, is greater than the amount of total just compensation specified in the last settlement offer made by a defendant or defendants under Subsection (5)(a), the court shall award the defendant or defendants litigation expenses not to exceed 1/3 of the amount by which the award of just compensation exceeds the amount offered in the last settlement offer under Subsection (5)(a).
(b) An award under Subsection (7)(a) may not exceed:
(i) if there is one defendant in the case, $50,000; or
(ii) if there are multiple defendants in the case, $100,000 total.
(c) The court shall include any amounts awarded under Subsection (7)(a) in the judgment awarding compensation.
(8)
(a) Subject to Subsection (8)(b), if the total just compensation awarded to a defendant or defendants, less interest and litigation expenses, is less than the amount of total just compensation specified in the last settlement offer made by a plaintiff under Subsection (3)(a), the court shall award the plaintiff litigation expenses not to exceed 1/3 of the amount by which the last offer of settlement made under Subsection (3)(a) exceeds the total just compensation awarded.
(b) An award under Subsection (8)(a) may not exceed $50,000.
(c) The court shall reduce the judgment awarding just compensation by the amount of litigation expenses awarded to the plaintiff under Subsection (8)(a).
(9) If the total just compensation awarded to a defendant, less interest or litigation expenses, is between an offer made by a plaintiff under Subsection (3)(a) and an offer made by the defendant under Subsection (5)(a), the court may not award litigation expenses to either plaintiff or a defendant.
(10)

(a) If a plaintiff does not make an offer under Subsection (3)(a), the court may not award:
(i) the plaintiff litigation expenses; or
(ii) the defendant litigation expenses more than the defendant's last offer under Subsection (5)(a), if the defendant made an offer under Subsection (5)(a).
(b) If a defendant does not make an offer under Subsection (5)(a), the court may not award:
(i) the defendant litigation expenses; or
(ii) the plaintiff litigation expenses more than the plaintiff's last offer under Subsection (3)(a), if the plaintiff made an offer under Subsection (3)(a).
(11) A claim for attorney fees under this section must be supported by an hourly billing statement.
(12) Subsections (3) through (10) do not apply to an action filed before July 1, 2010.

Amended by Chapter 371, 2022 General Session

78B-6-510 Occupancy of premises pending action -- Deposit paid into court -- Procedure for payment of compensation.

(1)
(a) At any time after the commencement of suit, and after giving notice to the defendant as provided in the Utah Rules of Civil Procedure, the plaintiff may file a motion with the court requesting an order permitting the plaintiff to:
(i) occupy the premises sought to be condemned pending the action, including appeal; and
(ii) to do whatever work on the premises that is required.
(b) Except as ordered by the court for good cause shown, a defendant may not be required to reply to a motion for immediate occupancy before expiration of the time to answer the complaint.
(2) The court shall:
(a) take proof by affidavit or otherwise of:
(i) the value of the premises sought to be condemned, measured by an undivided interest in the premises sought to be condemned;
(ii) any severance damages that will accrue from the condemnation to the undivided interest in any remaining property not sought to be condemned; and
(iii) the reasons for requiring a speedy occupation; and
(b) grant or refuse the motion according to the equity of the case and the relative damages that may accrue to the parties.
(3)
(a) If the motion is granted, the court shall enter its order requiring that the plaintiff, as a condition precedent to occupancy, file with the clerk of the court a sum equal to the condemning authority's appraised valuation of the property sought to be condemned as described in Subsection (2)(a)(i).
(b) That amount shall be for the purposes of the motion only and is not admissible in evidence on final hearing.
(4)
(a) Upon the filing of the petition for immediate occupancy, the court shall fix the time within which, and the terms upon which, the parties in possession are required to surrender possession to the plaintiff.
(b) The court may issue orders governing encumbrances, liens, rents, assessments, insurance, and other charges, if any, as required.
(5)

(a) The rights of just compensation for the land taken as authorized by this section or damaged as a result of that taking vests in the parties entitled to it.
(b) That compensation shall be ascertained and awarded as provided in Section 78B-6-511.
(c)
(i) Except as provided in Subsection (5)(c)(ii), judgment shall include, as part of the just compensation awarded, interest at the rate of 8% per annum on the amount finally awarded as the value of the property and damages, from the date of taking actual possession of the property by the plaintiff or from the date of the order of occupancy, whichever is earlier, to the date of judgment.
(ii) The court may not award interest on the amount of the judgment that was paid into court.
(6)
(a) Upon the application of the parties in interest, the court shall order that the money deposited in the court be paid before judgment as an advance on the just compensation to be awarded in the proceeding.
(b) This advance payment to a defendant shall be considered to be an abandonment by the defendant of all defenses except a claim for greater compensation.
(c) If the compensation finally awarded exceeds the advance, the court shall enter judgment against the plaintiff for the amount of the deficiency.
(d) If the advance received by the defendant is greater than the amount finally awarded, the court shall enter judgment against the defendant for the amount of the excess.
(7) Arbitration of a dispute under Section 13-43-204 or 78B-6-522 is not a bar or cause to stay the action for occupancy of premises authorized by this section.

Amended by Chapter 290, 2020 General Session

78B-6-511 Compensation and damages -- How assessed.
(1) The court, jury, or referee shall hear any legal evidence offered by any of the parties to the proceedings, and determine and assess:
(a)
(i) the value of the property sought to be condemned as a whole, including all improvements pertaining to the property; and
(ii) the value of each separate interest in the property;
(b) if the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned and the construction of the improvement in the manner proposed by the plaintiff;
(c) if the property, though no part of it is taken, will be damaged by the construction of the proposed improvement, and the amount of the damages;
(d) separately, how much the portion not sought to be condemned, and each estate or interest in it, will be benefitted, if at all, by the construction of the improvement proposed by the plaintiff , provided that if the benefit is equal to the damages assessed under Subsection (1)(b), the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit is less than the damages assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value of the portion taken;
(e) if the property sought to be condemned consists of water rights or part of a water delivery system or both, and the taking will cause present or future damage to or impairment of the

water delivery system not being taken, including impairment of the system's carrying capacity, an amount to compensate for the damage or impairment; and

(f) if land on which crops are growing at the time of service of summons is sought to be condemned, the value that those crops would have had after being harvested, taking into account the expenses that would have been incurred cultivating and harvesting the crops.

(2) In determining the market value of the property before the taking and the market value of the property after the taking to assess damages in partial takings cases as described in Subsection (1)(b), the court, jury, or referee:

(a) may consider everything a willing buyer and a willing seller would consider in determining the market value of the property after the taking; and

(b) may not consider the assessed value on the property tax assessment for the property unless the court determines that the assessed value on the property tax assessment constitutes an admission by a party opponent.

Amended by Chapter 290, 2020 General Session

78B-6-512 Damages -- When right has accrued -- Mitigation or reduction -- Improvements.

(1) For the purpose of assessing compensation and damages, the right to compensation and damages shall be considered to have accrued at the date of the service of summons, and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken, but injuriously affected, in all cases where damages are allowed, as provided in Section 78B-6-511.

(2) The court or the jury shall consider mitigation or reduction of damages in its assessment of compensation and damages if, after the date of the service of summons, the plaintiff:

(a) mitigates the damages to the property; or

(b) reduces the amount of property actually taken.

(3) Improvements put upon the property by the property owner subsequent to the date of service of summons may not be included in the assessment of compensation or damages.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-513 When title sought found defective -- Another action allowed.

If the title attempted to be acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the property as prescribed in this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-514 Payment of award -- Bond from railroad to secure fencing.

The plaintiff shall, within 30 days after final judgment, pay the sum of money assessed; and, if the plaintiff is a railroad company, it shall also execute to the defendant a bond, with sureties, to be determined and approved by the court or judge, conditioned that the plaintiff will build proper fences within six months from the time the railroad is built on or over the land taken. In an action on the bond all damages sustained and the cost of the construction of fences may be recovered.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-515 Distribution of award -- Execution -- Annulment of proceedings on failure to pay.

Payment may be made to the defendants entitled to payment, or the money may be deposited in court for the defendants and distributed to those entitled to payment. If the money is not paid or deposited, the defendants may have execution as in civil cases; and if the money cannot be made on execution, the court upon a showing to that effect shall set aside and annul the entire proceedings, and restore possession of the property to the defendants, if possession has been taken by the plaintiff.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-516 Judgment of condemnation -- Recordation -- Effect.

When payments have been made and the bond given, if the plaintiff elects to give one, as required by Sections 78B-6-514 and 78B-6-515, the court shall make a final judgment of condemnation, which shall describe the property condemned and the purpose of the condemnation. A copy of the judgment shall be filed in the office of the county recorder and the property described in it shall vest in the plaintiff for the purpose specified.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-517 Substitution of bond for deposit paid into court -- Abandonment of action by condemner -- Conditions of dismissal.

In the event that no order is entered by the court permitting payment of the deposit on account of the just compensation to be awarded in the proceeding within 30 days following its deposit, the court may, on application of the condemning authority, permit the substitution of a bond in an amount and with sureties as determined and approved by the court. Condemner, whether a public or private body, may, at any time prior to final payment of compensation and damages awarded the defendant by the court or jury, abandon the proceedings and cause the action to be dismissed without prejudice, provided, however, that as a condition of dismissal condemner first compensate condemnee for all damages he has sustained and also reimburse him in full for all reasonable and necessary expenses actually incurred by condemnee because of the filing of the action by condemner, including attorney fees.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-518 Rights of cities and towns not affected.

Nothing in this part may be construed to abrogate or repeal any statute providing for the taking of property in any city or town for street purposes.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-519 When right of way acquired -- Duty of party acquiring.

A party obtaining a right of way shall without delay construct crossings as required by the court or judge, and keep them and the way itself in good repair.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-520 Action to set aside condemnation for failure to commence or complete construction within reasonable time.

(1) In an action to condemn property, if the court makes a finding of what is a reasonable time for commencement of construction and use of all the property sought to be condemned and the construction and use is not accomplished within the time specified, the condemnee may file an action against the condemnor to set aside the condemnation of the entire parcel or any portion upon which construction and use was to have taken place.
(2) In the action, if the court finds that the condemnor, without reasonable justification, did not commence or complete construction and use within the time specified, it shall enter judgment fixing the amount the condemnor has paid the condemnee, as a result of condemnation and all amounts due the condemnee as damages sustained by reason of condemnation, including damages resulting from partial completion of the contemplated use, plus all reasonable and necessary expenses actually incurred by the condemnee including attorney fees.
(3) If amounts due the condemnee under Subsection (2) exceed amounts paid by the condemnor, or these amounts are equal, judgment shall be entered in favor of the condemnee, which judgment shall describe the property condemned and award judgment for any amounts due condemnee. A copy of the judgment shall be filed in the office of the county recorder of the county, and the property described in the judgment shall vest in the condemnee.
(4) If amounts paid by the condemnor under Subsection (2) exceed amounts due the condemnee, judgment shall be entered describing the property condemned and giving the condemnee 60 days from the date of the judgment to pay the difference between the amounts to the condemnor. If payment is made, the court shall amend the judgment to reflect the payment and order the amended judgment filed with the office of the county recorder of the county, and the property described in the judgment shall vest in the condemnee. If payment is not made, the court shall amend the judgment to reflect nonpayment and order the amended judgment filed with the county recorder.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-520.3 Property sold under threat of eminent domain -- Right to repurchase property if property not used for purpose for which acquired.

(1) As used in this section:
(a) "Acquired property" means property that a condemnor purchases after May 11, 2009 from a condemnee under threat of condemnation.
(b) "Acquisition price" means the price which a condemnor pays a condemnee for property that the condemnor acquires under threat of condemnation.
(c) "Condemnee" means an owner of property who sells the property to a condemnor under threat of condemnation.
(d) "Condemnor" means a person who acquires property by purchase from a condemnee under threat of condemnation.
(e) "Under threat of condemnation" means the circumstances under which a condemnor, with the right to acquire the property by eminent domain, acquires property from a condemnee in a transaction that occurs:
(i) without a judgment having been entered in an eminent domain action; and
(ii) after the condemnor has sent the condemnee a written notice indicating an intent to pursue an eminent domain action to a judgment compelling the transaction.
(2) At the time of or within a reasonable time after an acquisition of property under threat of condemnation, a condemnor shall provide the condemnee a written statement identifying the public use for which the property is being acquired.

(3) Subject to Subsection (6), before the acquired property may be put to a use other than the public use for which the property was acquired, the condemnor shall send a written offer by certified mail to the condemnee at the condemnee's last known address, offering to sell the acquired property to the condemnee at the acquisition price.
(4)
(a) A condemnee may accept an offer under Subsection (3) if the offer is accepted within 90 days after the offer is sent to the condemnee.
(b) A condemnee's purchase of acquired property under this section shall be concluded within a reasonable time after the condemnee accepts the condemnor's offer to sell the acquired property.
(5) If the condemnee does not accept an offer under Subsection (3) within the time specified in Subsection (4), the condemnor has no further obligation under this section to the condemnee with respect to the acquired property.
(6) If a condemnor puts acquired property to the public use for which the property was acquired, the condemnor's obligation under Subsection (3) to offer to sell the acquired property to the condemnee terminates, even if the acquired property is subsequently put to a use other than the public use for which the property was acquired.
(7) A sale or transfer of acquired property none of which has been put to the public use for which the property was acquired is:
(a) considered to be a use other than the public use for which the property was acquired; and
(b) governed by this section and not Section 78B-6-521.
(8) Nothing in this section may be construed to affect any right or obligation under Section 78B-6-521.
(9) A condemnee may waive the condemnee's right to purchase acquired property as provided in this section by executing a written waiver.

Enacted by Chapter 322, 2009 General Session

78B-6-521 Sale of property acquired by eminent domain.
(1) As used in this section:
(a) "Condemnation" or "threat of condemnation" means:
(i) acquisition through an eminent domain proceeding; or
(ii) an official body of the state or a subdivision of the state, having the power of eminent domain, has specifically authorized the use of eminent domain to acquire the real property.
(b)
(i) "Highest offer" means all material terms of the best bona fide offer received by the state or one of the state's subdivisions, including:
(A) purchase price;
(B) conditions; and
(C) terms of performance.
(ii) "Highest offer" does not mean the terms and conditions of an agreement to exchange real property or an interest in real property for other real property or an interest in real property.
(2) If the state or one of the state's subdivisions, at the state's or the state subdivision's sole discretion, declares real property or an easement the state or state subdivision acquires through condemnation or threat of condemnation to be surplus real property, the state or state subdivision may not sell the real property or easement at a private or public sale unless:
(a)

(i) for real property, the state or state subdivision gives the right of first refusal to the original grantor for the highest offer if, since the date of the original transfer to the state or state subdivision, the original grantor has owned real property adjacent to the transferred real property; or

(ii) for an easement, the state or state subdivision gives the right of first refusal to:

(A) if the original grantor owns the servient estate subject to the easement, the original grantor for the highest offer; or

(B) if a subsequent bona fide purchaser owns the servient estate subject to the easement, the subsequent bona fide purchaser for the highest offer;

(b) the original grantor or subsequent bona fide purchaser described in Subsection (2)(a):

(i) expressly waives in writing the right of first refusal on the offer; or

(ii) fails to accept the offer within 90 days after the day on which the original grantor or subsequent bona fide purchaser receives notification by registered mail to the original grantor's or subsequent bona fide purchaser's last-known address; and

(c) neither the state nor the state subdivision selling the property is involved in the rezoning of the property or the acquisition of additional property to enhance the value of the real property to be sold.

(3)

(a) If the original grantor or subsequent bona fide purchaser has not waived the right of first refusal as described in Subsection (2)(b), an original grantor or subsequent bona fide purchaser may assign the right of first refusal.

(b) The assignment of a right of first refusal in accordance with Subsection (3)(a) does not extend the time for acceptance of an offer as described in Subsection (2)(b).

(4)

(a) Real property acquired through condemnation or the threat of condemnation is not considered surplus if the real property is approved for use in an exchange for other real property.

(b) An exchange of real property for other real property is not a private or public sale.

(c) The right of first refusal described in Subsection (2)(a) shall terminate upon an exchange of the acquired real property.

(5) This section shall only apply to property acquired after July 1, 1983.

Amended by Chapter 101, 2022 General Session

78B-6-522 Dispute resolution.

(1) In any dispute between a condemner and a private property owner arising out of this chapter, or a dispute over the taking of private property for a public use without the prior use of eminent domain, the private property owner may submit the dispute for mediation or arbitration to the Office of the Property Rights Ombudsman under Section 13-43-204.

(2) An action submitted to the Office of the Property Rights Ombudsman under authority of this section does not bar or stay any action for occupancy of premises authorized by Section 78B-6-510.

(3)

(a)

(i) A mediator or arbitrator, acting at the request of the property owner under Section 13-43-204, has standing in an action brought in district court under this chapter to file with the court a motion to stay the action during the pendency of the mediation or arbitration.

(ii) A mediator or arbitrator may not file a motion to stay under Subsection (3)(a)(i) unless the mediator or arbitrator certifies at the time of filing the motion that a stay is reasonably necessary to reach a resolution of the case through mediation or arbitration.

(b) If a stay is granted pursuant to a motion under Subsection (3)(a) and the order granting the stay does not specify when the stay terminates, the mediator or arbitrator shall file with the district court a motion to terminate the stay within 30 days after:

(i) the resolution of the dispute through mediation;

(ii) the issuance of a final arbitration award; or

(iii) a determination by the mediator or arbitrator that mediation or arbitration is not appropriate.

(4)

(a) The private property owner or displaced person may request that the mediator or arbitrator authorize an additional appraisal.

(b) If the mediator or arbitrator determines that an additional appraisal is reasonably necessary to reach a resolution of the case, the mediator or arbitrator may:

(i) have an additional appraisal of the property prepared by an independent appraiser; and

(ii) require the condemnor to pay the costs of the first additional appraisal.

Amended by Chapter 59, 2014 General Session

78B-6-523 Reporting on consideration of federal public lands.

(1) As used in this section, "public utility" means the same as that term is defined in Section 54-2-1.

(2) A public utility that files any eminent domain action for a high voltage power line in a calendar year shall submit, on or before July 1 of each year, a report to the Public Utilities, Energy, and Technology Interim Committee detailing:

(a) the number of condemnation actions filed in the previous calendar year;

(b) infrastructure siting analyses completed to identify and evaluate alternatives using federal public lands prior to initiating a condemnation action;

(c) reasons for not utilizing federal public lands, if applicable; and

(d) any coordination efforts with federal land management agencies.

Enacted by Chapter 297, 2025 General Session

Part 6
Extraordinary Writs

78B-6-601 Penalty for wrongful refusal to allow writ of habeas corpus.

Any judge, whether acting individually or as a member of a court, who wrongfully and willfully refuses to allow a writ of habeas corpus whenever proper application has been made shall forfeit and pay a sum not exceeding $5,000 to the aggrieved party.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-602 Recommitment.

(1) In all cases where it is claimed that a person is illegally or wrongfully restrained or deprived of his liberty, where restraint or imprisonment is for a criminal offense and there is not sufficient cause for release, even though the commitment may have been informally made or without due

authority, or the process may have been executed by a person not duly authorized, the court or judge may make a new commitment, or allow the party to post bail, if the case is bailable.
(2) All material witnesses shall be required to appear at the same time and place and not depart without leave. All documents shall be filed in the clerk's office.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-603 Recommitment after discharge forbidden -- Exceptions.

A person who has been discharged by order of the court or judge upon habeas corpus may not be imprisoned again, restrained, or kept in custody for the same cause, except in the following cases:
(1) if the person has been discharged from custody on a criminal charge and is afterward committed for the same offense by legal order or process; or
(2) if, after discharge for defect of proof or for any defect of the process, warrant or commitment in a criminal case, the prisoner is again arrested on sufficient proof and committed by legal process for the same offense.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-604 Refusing to exhibit authority for detention -- Penalty.

A person who refuses to deliver a copy of the legal process by which the person detains the plaintiff in custody to anyone who demands a copy for the purpose of filing a writ of habeas corpus is liable to the plaintiff in an amount not to exceed $200.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-605 Penalties for wrongful acts of defendant.

(1) A defendant, officer, or other person is guilty of a class B misdemeanor and liable to the injured party in an amount not to exceed $5,000 if:
  (a) the defendant attempts to evade the service of the writ of habeas corpus; or
  (b) an officer or other person willfully fails to comply with the legal duties imposed upon him or disobeys an order to release a person in custody.
(2) Any person knowingly aiding in or abetting invalidation of this section is subject to the same punishment and forfeiture.

Enacted by Chapter 3, 2008 General Session

78B-6-606 Judgment of removal -- Costs -- Penalty by fine where state is party.

If a defendant is found guilty of usurping, intruding into or unlawfully holding or exercising an office, franchise, or privilege, the court shall order the defendant removed from the office, and that the relator recover the costs of pursuing the action. The court may also, in its discretion, in actions to which the state is a party impose upon the defendant a fine not exceeding $5,000, to be paid to the state treasury.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-607 Judgment against director of corporation -- Of induction in favor of person entitled.

When the action is against a director of a corporation, and the court finds that, at the election, either illegal votes were received or legal votes were rejected, or both, sufficient to change the result, the court may order the defendant removed, and judgment of induction entered in favor of the person who was entitled to be declared elected at the election.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-608 Action for damages because of usurpation -- Limitation of action.

A person may, at any time within one year after the date of an order for removal, bring an action against the party removed under the provisions of Section 78B-6-606 or 78B-6-607 and recover the damages sustained by the usurpation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-609 Mandamus and prohibition -- Judgment.

In any proceeding to obtain a writ of mandate or prohibition, if judgment is given for the applicant, he may recover the damages which were sustained, as found by the jury, or determined by the court, or referees upon a reference, ordered together with costs. For damages and costs an execution may issue, and a peremptory mandate shall be awarded without delay.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-610 Disobedience of writ -- Punishment.

When a peremptory writ of mandate or writ of prohibition has been issued and directed to an inferior tribunal, corporation, board, or person, and the court determines that any member of the tribunal, corporation, board, or person upon whom the writ was personally served has, without just excuse, refused or neglected to obey the writ, the court may, upon motion, impose a fine not exceeding $500. In cases of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for enforcement of the writ.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 7
Utah Product Liability Act

78B-6-701 Title.

This part is known and may be cited as the "Utah Product Liability Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-702 Definition -- Unreasonably dangerous.

As used in this part, "unreasonably dangerous" means that the product was dangerous to an extent beyond which would be contemplated by the ordinary and prudent buyer, consumer, or user of that product in that community considering the product's characteristics, propensities, risks,

dangers, and uses together with any actual knowledge, training, or experience possessed by that particular buyer, user, or consumer.

Enacted by Chapter 3, 2008 General Session

78B-6-703 Defect or defective condition making product unreasonably dangerous -- Rebuttable presumption.

(1) In any action for damages for personal injury, death, or property damage allegedly caused by a defect in a product, a product may not be considered to have a defect or to be in a defective condition, unless at the time the product was sold by the manufacturer or other initial seller, there was a defect or defective condition in the product which made the product unreasonably dangerous to the user or consumer.

(2) There is a rebuttable presumption that a product is free from any defect or defective condition where the alleged defect in the plans or designs for the product or the methods and techniques of manufacturing, inspecting and testing the product were in conformity with government standards established for that industry which were in existence at the time the plans or designs for the product or the methods and techniques of manufacturing, inspecting and testing the product were adopted.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-704 Prayer for damages.

No dollar amount shall be specified in the prayer of a complaint filed in a product liability action against a product manufacturer, wholesaler or retailer. The complaint shall merely pray for such damages as are reasonable in the premises.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-705 Alteration or modification of product after sale as substantial contributing cause -- Manufacturer or seller not liable.

For purposes of Section 78B-5-818, fault shall include an alteration or modification of the product, which occurred subsequent to the sale by the manufacturer or seller to the initial user or consumer, and which changed the purpose, use, function, design, or intended use or manner of use of the product from that for which the product was originally designed, tested, or intended.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-706 Statute of limitations.

A civil action under this part shall be brought within two years from the time the individual who would be the claimant in the action discovered, or in the exercise of due diligence should have discovered, both the harm and its cause.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-707 Indemnification provisions void and unenforceable.

Any clause in a sales contract or collateral document that requires a purchaser or end user of a product to indemnify, hold harmless, or defend a manufacturer of a product is contrary to public

policy and void and unenforceable if a defect in the design or manufacturing of the product causes an injury or death.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 8
Forcible Entry and Detainer

78B-6-801 Definitions.

(1) "Commercial tenant" means any tenant who may be a body politic and corporate, partnership, association, or company.

(2) "Forcible detainer" means:

(a) holding and keeping by force, or by menaces and threats of violence, the possession of any real property, whether acquired peaceably or otherwise; or

(b) unlawfully entering real property during the absence of the occupants or at night, and, after demand is made for the surrender of the property, refusing for a period of three days to surrender the property to the former occupant.

(3) "Forcible entry" means:

(a) entering any real property by:

(i) breaking open doors, windows, or other parts of a house;

(ii) fraud, intimidation, or stealth; or

(iii) any kind of violence or circumstances of terror; or

(b) after entering peaceably upon real property, turning out by force, threats, or menacing conduct the party in actual possession.

(4) "Occupant of real property" means one who within five days preceding an unlawful entry was in the peaceable and undisturbed possession of the property.

(5) "Owner":

(a) means the actual owner of the premises;

(b) has the same meaning as landlord under common law and the statutes of this state; and

(c) includes the owner's designated agent or successor to the estate.

(6)

(a) "Peaceable possession" means having a legal right to possession.

(b) "Peaceable possession" does not include:

(i) the occupation of premises by a trespasser; or

(ii) continuing to occupy real property after being served with an order of restitution issued by a court of competent jurisdiction .

(7)

(a) "Tenant" means any natural person and any individual, including a commercial tenant.

(b) "Tenant" does not include a person or entity that has no legal right to the premises.

(8) "Trespasser" means a person or entity that occupies real property but never had possessory rights in the premises.

(9) "Unlawful detainer" means unlawfully remaining in possession of property after receiving a notice to quit, served as required by this chapter, and failing to comply with that notice.

(10) "Willful exclusion" means preventing the tenant from entering into the premises with intent to deprive the tenant of entry.

Amended by Chapter 264, 2016 General Session

78B-6-802 Unlawful detainer by tenant for a term less than life.

(1) A tenant holding real property for a term less than life is guilty of an unlawful detainer if the tenant:

(a) continues in possession, in person or by subtenant, of the property or any part of the property, after the expiration of the specified term or period for which it is let to the tenant, which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated without notice at the expiration of the specified term or period;

(b) having leased real property for an indefinite time with monthly or other periodic rent reserved:

(i) continues in possession of the property in person or by subtenant after the end of any month or period, in cases where the owner, the owner's designated agent, or any successor in estate of the owner, 15 calendar days or more before the end of that month or period, has served notice requiring the tenant to quit the premises at the expiration of that month or period; or

(ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of not less than five calendar days;

(c) continues in possession, in person or by subtenant, after default in the payment of any rent or other amounts due and after a notice in writing requiring in the alternative the payment of the rent and other amounts due or the surrender of the detained premises, has remained uncomplied with for a period of three business days after service, which notice may be served at any time after the rent becomes due;

(d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits waste on the premises after service of a three calendar days' notice to quit;

(e) sets up or carries on any unlawful business on or in the premises after service of a three calendar days' notice to quit;

(f) suffers, permits, or maintains on or about the premises any nuisance, including nuisance as defined in Section 78B-6-1107 after service of a three calendar days' notice to quit;

(g) commits a criminal act on the premises and remains in possession after service of a three calendar days' notice to quit;

(h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, other than those previously mentioned, and after notice in writing requiring in the alternative the performance of the conditions or covenant or the surrender of the property, served upon the tenant and upon any subtenant in actual occupation of the premises remains uncomplied with for three calendar days after service; or

(i)

(i) is a tenant under a bona fide tenancy as described in Section 702 of the Protecting Tenants at Foreclosure Act; and

(ii) continues in possession after the effective date of a notice to vacate given in accordance with Section 702 of the Protecting Tenants at Foreclosure Act.

(2) After service of the notice and the time period required for the notice, the tenant, any subtenant in actual occupation of the premises, any mortgagee of the term, or other person interested in the lease's continuance may perform the condition or covenant and save the lease from forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be performed, or the violation cannot be brought into compliance, a notice provided for in Subsections (1)(d) through (g) may be given.

(3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16, Mobile Home Park Residency Act.
(4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114.
(5) The notice to vacate requirement under 15 U.S.C. 9058(c), which is part of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136:
  (a) applies only to a notice provided to a tenant of a covered dwelling in a covered property as that term is defined in 15 U.S.C. 9058(a);
  (b) applies only to the amount of time before a tenant may be required to vacate a covered property through an order of restitution as provided by Section 78B-6-812;
  (c) for a notice provided under Subsection (1)(c), applies only when delinquent rent or other amounts have accrued during the 120-day moratorium described in 15 U.S.C. 9058(b);
  (d) does not require that a tenant be given more than three business days after service to pay rent and other amounts due under a notice provided under Subsection (1)(c);
  (e) does not apply to a notice provided under Subsections (1)(d) through (h);
  (f) does not prohibit or nullify the service of any notice described in this section; and
  (g) does not limit the accrual of damages under Section 78B-6-811.
(6) Service of a notice as provided by 15 U.S.C. 9058(c) or under Subsection (5) does not nullify the service or validity of any other notice provided in accordance with this section.

Amended by Chapter 19, 2020 Special Session 6

78B-6-802.5 Unlawful detainer after foreclosure or forced sale.

A previous owner, trustor, or mortgagor of a property is guilty of unlawful detainer if the person:
(1) defaulted on his or her obligations resulting in disposition of the property by a trustee's sale or sheriff's sale; and
(2) continues to occupy the property after the trustee's sale or sheriff's sale after being served with a notice to quit by the purchaser.

Enacted by Chapter 184, 2009 General Session

78B-6-803 Right of tenant of agricultural lands to hold over.

In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the owner, the tenant shall be considered to be in possession by permission of the owner. The tenant shall be entitled to hold under the terms of the lease for another full year and may not be guilty of an unlawful detainer during that year. The holding over for the 60-day period shall be taken and construed as a consent on the part of the tenant to hold for another year.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-804 Remedies available to tenant against undertenant.

A tenant may take proceedings similar to those prescribed in this part to obtain possession of premises let to an undertenant in case of the undertenant's unlawful detention of the premises.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-805 Notice -- How served.

(1) A notice required by this part may be served:
  (a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant, by delivering a copy to the commercial tenant's usual place of business by leaving a copy of the notice with a person of suitable age and discretion;
  (b) by sending a copy through registered mail, certified mail, or an equivalent means, addressed to the tenant at the tenant's residence, leased property, or usual place of business;
  (c) if the tenant is absent from the residence, leased property, or usual place of business, by leaving a copy with a person of suitable age and discretion at the tenant's residence, leased property, or usual place of business;
  (d) if a person of suitable age or discretion cannot be found at the place of residence, leased property, or usual place of business, then by affixing a copy in a conspicuous place on the leased property; or
  (e) if an order of abatement by eviction of the nuisance is issued by the court as provided in Section 78B-6-1109, when issued, the parties present shall be on notice that the abatement by eviction order is issued and immediately effective or as to any absent party, notice shall be given as provided in Subsections (1)(a) through (e).
(2) Service upon a subtenant may be made in the same manner as provided in Subsection (1).

Amended by Chapter 291, 2018 General Session

78B-6-806 Necessary parties defendant.

(1) No person other than the tenant of the premises, a lease signer, and subtenant if there is one in the actual occupation of the premises when the action is commenced, may be made a party defendant in the proceeding, except as provided in Section 78B-6-1111. A proceeding may not abate, nor the plaintiff be nonsuited, for the nonjoinder of any person who might have been made a party defendant. If it appears that any of the parties served with process or appearing in the proceedings are guilty, judgment shall be rendered against those parties.
(2) If a person has become a subtenant of the premises in controversy after the service of any notice as provided in this part, the fact that the notice was not served on the subtenant is not a defense to the action. All persons who enter under the tenant after the commencement of the action shall be bound by the judgment the same as if they had been made parties to the action.
(3) A landlord, owner, or designated agent is a necessary party defendant only in an abatement by eviction action for an unlawful drug house as provided in Section 78B-6-1111.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-807 Allegations permitted in complaint -- Time for appearance -- Service.

(1) The plaintiff, in the plaintiff's complaint:
  (a) shall set forth the facts on which the plaintiff seeks to recover;
  (b) may set forth any circumstances of fraud, force, or violence that may have accompanied the alleged forcible entry, or forcible or unlawful detainer; and
  (c) may claim damages or compensation for the occupation of the premises, or both.
(2) If the unlawful detainer charged is after default in the payment of rent or other amounts due, the complaint shall state the amount of rent due or other amounts due.
(3)
  (a) The summons shall include the number of days within which the defendant is required to appear and defend the action, which shall be three business days from the date of service,

unless the defendant objects to the number of days, and the court determines that the facts of the case should allow more time.

(b) A claim for unlawful detainer brought by counterclaim shall be served to any opposing party in accordance with Utah Rules of Civil Procedure, and any response required shall be due within the timelines stated under Subsection (3)(a).

(4) The court may authorize alternative service pursuant to the Utah Rules of Civil Procedure.

Amended by Chapter 30, 2018 General Session
Amended by Chapter 291, 2018 General Session

78B-6-808 Possession bond of plaintiff -- Alternative remedies.

(1) At any time between the filing of the complaint and the entry of final judgment, the plaintiff may execute and file a possession bond. The bond may be in the form of a corporate bond, a cash bond, certified funds, or a property bond executed by two persons who own real property in the state and who are not parties to the action.

(2) The court shall approve the bond in an amount which is the probable amount of costs of suit and damages which may result to the defendant if the suit has been improperly instituted. The bond shall be payable to the clerk of the court for the benefit of the defendant for all costs and damages actually adjudged against the plaintiff.

(3) The plaintiff shall notify the defendant of the possession bond. This notice shall be served in the same manner as service of summons and shall inform the defendant of all of the alternative remedies and procedures under Subsection (4).

(4) The following are alternative remedies and procedures applicable to an action if the plaintiff files a possession bond under Subsections (1) through (3):

(a) With respect to an unlawful detainer action based solely upon nonpayment of rent or other amounts due, the existing contract shall remain in force and the complaint shall be dismissed if the defendant, within three calendar days of the service of the notice of the possession bond, pays accrued rent, all other amounts due, and other costs, including attorney fees, as provided in the rental agreement.

(b)

(i) The defendant may remain in possession if he executes and files a counter bond in the form of a corporate bond, a cash bond, certified funds, or a property bond executed by two persons who own real property in the state and who are not parties to the action.

(ii) The form of the bond is at the defendant's option.

(iii) The bond shall be payable to the clerk of the court.

(iv) The defendant shall file the bond prior to the later of the expiration of three business days from the date he is served with notice of the filing of plaintiff's possession bond or within 24 hours after the court sets the bond amount.

(v) Notwithstanding Subsection (4)(b)(iv), the court may allow a period of up to 72 hours for the posting of the counter bond.

(vi) The court shall approve the bond in an amount which is the probable amount of costs of suit, including attorney fees and actual damages which may result to the plaintiff if the defendant has improperly withheld possession.

(vii) The court shall consider prepaid rent to the owner as a portion of the defendant's total bond.

(c) If the defendant demands, within three days of being served with notice of the filing of plaintiff's possession bond, the defendant shall be granted a hearing within three days of the defendant's demand.

(5) If the defendant does not elect and comply with a remedy under Subsection (4) within the required time, the plaintiff, upon ex parte motion, shall be granted an order of restitution. A constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff promptly.
(6) If the defendant demands a hearing under Subsection (4)(c), and if the court rules after the hearing that the plaintiff is entitled to possession of the property, the constable or sheriff shall promptly return possession of the property to the plaintiff. If at the hearing the court allows the defendant to remain in possession and further issues remain to be adjudicated between the parties, the court shall require the defendant to post a bond as required in Subsection (4)(b) and shall expedite all further proceedings, including beginning the trial no later than 30 days from the posting of the plaintiff's bond, unless the parties otherwise agree.
(7) If at the hearing the court rules that all issues between the parties can be adjudicated without further court proceedings, the court shall, upon adjudicating those issues, enter judgment on the merits.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-809 Proof required of plaintiff -- Defense.
(1) On the trial of any proceeding for any forcible entry or forcible detainer the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that the plaintiff was in actual peaceable possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer.
(2) In defense, the defendant may show that the defendant or the defendant's ancestors, or those whose interest in the premises is claimed, had been in the quiet possession of the property for the space of one entire year continuously before the commencement of the proceedings, and that his interest is not ended or determined, and that this showing is a bar to the proceedings.
(3) An action for unlawful detainer may also be brought in the form of a counterclaim .

Amended by Chapter 264, 2016 General Session

78B-6-810 Court procedures.
(1) In an action under this chapter in which the tenant remains in possession of the property:
  (a) the court shall expedite the proceedings, including the resolution of motions and trial;
  (b) the court shall begin the trial within 60 days after the day on which the complaint is served, unless the parties agree otherwise;
  (c) if this chapter requires a hearing to be held within a specified time and a judge is not available, the time may be extended to the first date after expiration of the specified time on which a judge is available to hear the case;
  (d) if this chapter requires a hearing to be held within a specified time, this section does not require a hearing to be held before the assigned judge, and the court may, out of convenience, schedule a hearing before another judge within the jurisdiction; and
  (e) if a court denies an order of restitution submitted by a party, and upon a party's request, the court shall give notice to the parties of the reason for denial and set a hearing within 10 business days after the day on which a party submitted the order to the court.
(2)
  (a) In an action for unlawful detainer, the court shall hold an evidentiary hearing, upon request of either party, within 10 business days after the day on which the defendant files an answer or response.

(b) At the evidentiary hearing held in accordance with Subsection (2)(a):
(i) the court shall determine who has the right of occupancy during the litigation's pendency; and
(ii) if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate all issues and enter judgment on the merits.

(3)
(a)
(i) As used in this Subsection (3)(a), "an act that would be considered criminal under the laws of this state" means:
(A) an act that would constitute a felony under the laws of this state;
(B) an act that would be considered criminal affecting the health or safety of a tenant, the landlord, the landlord's agent, or other individual on the landlord's property;
(C) an act that would be considered criminal that causes damage or loss to any tenant's property or the landlord's property;
(D) a drug- or gang-related act that would be considered criminal;
(E) an act or threat of violence against any tenant or other individual on the premises, or against the landlord or the landlord's agent; and
(F) any other act that would be considered criminal that the court determines directly impacts the safety or peaceful enjoyment of the premises by any tenant.
(ii) In an action for unlawful detainer in which the claim is for nuisance and alleges an act that would be considered criminal under the laws of this state, the court shall hold an evidentiary hearing upon request within 10 days after the day on which the complaint is filed to determine whether the alleged act occurred.
(b) The hearing required by Subsection (3)(a)(ii) shall be set at the time the complaint is filed and notice of the hearing shall be served upon the defendant with the summons at least three calendar days before the scheduled time of the hearing.
(c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a), determines that it is more likely than not that the alleged act occurred, the court shall issue an order of restitution.
(d) If a court issues an order of restitution in accordance with Subsection (3)(c), a constable or the sheriff of the county where the property is located shall return possession of the property to the plaintiff immediately.
(e) The court may allow a period of up to 72 hours before a constable or the sheriff of the county where the property is located makes restitution if the court determines the time is appropriate under the circumstances.
(f) At the evidentiary hearing held in accordance with Subsection (3)(a)(ii), if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate those issues and enter judgment on the merits.

(4)
(a) At any hearing held in accordance with this chapter in which the defendant after receiving notice fails to appear, the court shall issue an order of restitution and enter a judgment of default against the defendant, unless the court makes a finding for why the order of restitution or judgment of default should not be issued.
(b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

Amended by Chapter 275, 2025 General Session

78B-6-811 Judgment for restitution, damages, and rent -- Immediate enforcement -- Remedies.

(1)
(a) A court may:
(i) enter a judgment upon the merits or upon default; and
(ii) issue an order of restitution regardless of whether a judgment is entered.
(b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.
(c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.
(d)
(i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease's term.
(ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.
(2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's default, shall also assess the damages resulting to the plaintiff from any of the following:
(a) forcible entry;
(b) forcible or unlawful detainer;
(c) waste of the premises during the defendant's tenancy, if waste is alleged in the complaint and proved at trial;
(d) the amounts due under the contract; and
(e) the abatement of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114.
(3) The court shall enter the judgment against the defendant for the rent and for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e).
(4)
(a) If the proceeding is for unlawful detainer, the court shall issue execution upon the judgment immediately after the entry of the judgment.
(b) In all cases, the judgment may be issued and enforced immediately.
(5) In an action under this chapter, the court:
(a) shall award costs and reasonable attorney fees to the prevailing party;
(b) may modify a judgment for additional amounts owed if a motion is submitted within 180 days on the earlier of the day on which:
(i) the order of restitution is enforced; or
(ii) the defendant vacates the premises; and
(c) may grant a party additional time for a motion under Subsection (5)(b).
(6)
(a) If the court issues an order of restitution, the defendant shall provide a current address to the court and the plaintiff within 30 days of the day on which the court issues the order of restitution.
(b) Failure of a defendant to provide an address under Subsection (6)(a) does not require the plaintiff or the court to bear the burden of seeking out the defendant to provide notice for any subsequent proceeding.

Amended by Chapter 275, 2025 General Session

78B-6-812 Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) As used in this section:

(a) "Personal animal" means a domestic dog, cat, rabbit, bird, or other animal that is kept solely as a pet and is not a production animal.

(b)

(i) "Production animal" means a live, nonhuman vertebrate member of the biological kingdom Animalia used for the purpose of producing, or being sold to another for the purpose of producing, food, fiber, or another commercial product.

(ii) "Production animal" includes:

(A) cattle;

(B) sheep;

(C) goats;

(D) swine;

(E) poultry;

(F) ratites;

(G) equines;

(H) domestic cervidae;

(I) cameliadae;

(J) a guard dog;

(K) a stock dog;

(L) a livestock guardian dog; and

(M) a fur bearing animal kept for the purpose of commercial fur production.

(2) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant that the defendant has three calendar days after service of the order to vacate the premises, unless:

(i) a constable or sheriff of the county where the premises are located immediately returns possession of the property to the plaintiff as described in Subsection 78B-6-810(3)(d);

(ii) the plaintiff and defendant agree otherwise; or

(iii) the court issues an order in accordance with Subsection 78B-6-810(4); and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of the order of restitution's enforcement.

(3)

(a) A person authorized to serve process under Subsection 78B-8-302(2) shall serve, in accordance with Section 78B-6-805, a copy of the order of restitution and a form for the defendant to request a hearing as listed on the form.

(b) A defendant's request for hearing or other pleading may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The person serving the order and the form shall legibly write the date of service and the person's name, title, signature, and telephone number on the copy of the order and the form served on the defendant.

(d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

(4)

(a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.

(b)

(i) The sheriff or constable may remove personal property remaining in the leased property from the premises and transport the personal property to a suitable location for safe storage.

(ii)

(A) The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff.

(B) If the sheriff or constable delegates responsibility as described in this Subsection (4)(b)(ii), the plaintiff shall store the personal property in a suitable place and in a reasonable manner.

(c) A tenant may not access the property until the tenant pays the removal and storage costs in full, except that the landlord, sheriff, or constable shall provide the tenant reasonable access to the property within five business days after the day on which the sheriff or constable removes the tenant to retrieve:

(i) clothing;

(ii) identification;

(iii) financial documents, including all those related to the tenant's immigration status or employment status;

(iv) documents pertaining to receipt of public services; and

(v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.

(d) The personal property removed and stored is considered abandoned property and subject to Section 78B-6-816.

(e) If a personal animal is on the premises, the sheriff or constable executing the order of restitution shall give the personal animal to the tenant, if the tenant is present.

(f) If the tenant is not present when the order of restitution is enforced:

(i) the sheriff, constable, or landlord shall notify the local animal control authority to take custody of the personal animal;

(ii) the animal control authority shall respond to take custody of the personal animal within one business day after the day on which the sheriff, constable, or landlord provides the notice described in Subsection (4)(f)(i);

(iii) the animal control authority or organization where the personal animal is taken shall apply the same standards described in Section 11-46-103;

(iv) the landlord shall provide the animal control authority with the name and last known contact information of the tenant; and

(v) the animal control authority shall post a notice at the premises in a visible place with the name and contact information of the animal control authority or organization where the personal animal is taken.

(5)

(a) In the event of a dispute concerning the manner of enforcement of the restitution order, either party may file a request for a hearing.

(b) The court shall:

(i) set the matter for hearing:

(A) within 10 calendar days after the day on which the defendant files the request for a hearing; or
(B) as soon as practicable, if the court is unable to set the matter within the time described in Subsection (5)(b)(i)(A); and
(ii) provide notice of the hearing to the parties.
(6) The Judicial Council shall draft the forms necessary to implement this section.

Amended by Chapter 275, 2025 General Session

78B-6-813 Time for appeal.
(1) Except as provided in Subsection (2), either party may, within 10 days, appeal from the judgment rendered.
(2) In a nuisance action under Sections 78B-6-1107 through 78B-6-1114, any party may appeal from the judgment rendered within three days.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-814 Exclusion of tenant without judicial process prohibited -- Abandoned premises excepted.
It is unlawful for an owner to willfully exclude a tenant from the tenant's premises in any manner except by judicial process, provided, an owner or his agent shall not be prevented from removing the contents of the leased premises under Subsection 78B-6-816(2) and retaking the premises and attempting to rent them at a fair rental value when the tenant has abandoned the premises.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-815 Abandonment.
(1) Abandonment is presumed in either of the following situations:
(a) The tenant has not notified the owner that the tenant will be absent from the premises, and the tenant fails to pay rent within 15 days after the due date, and there is no reasonable evidence other than the presence of the tenant's personal property that the tenant is occupying the premises.
(b) The tenant has not notified the owner that the tenant will be absent from the premises, and the tenant fails to pay rent when due and the tenant's personal property has been removed from the dwelling unit and there is no reasonable evidence that the tenant is occupying the premises.
(2) Abandonment is established as a matter of law if the owner has reason to believe that the presumption of abandonment under Subsection (1) has been met, the owner serves the tenant with a declaration of abandonment, and the tenant fails to dispute or rebut the declaration of abandonment in accordance with this Subsection (2).
(a) The tenant may be served with a declaration of abandonment that includes at least a contact address for the owner, contains a brief factual basis supporting the owner's reasonable belief that the presumption of abandonment under Subsection (1) has been met, and states the date and time of service and includes the following language, or language that is substantially similar: "It is believed that these premises are abandoned and the owner is seeking to regain possession of the premises. If a tenant in legal possession of the premises has not abandoned the premises, the tenant must dispute abandonment in writing within 24 hours of service of this declaration of abandonment by providing a copy to the owner at the contact

address included with this declaration of abandonment. If written notice is not served on the owner within 24 hours, the owner may retake possession of the premises." The 24-hour period stated in this Subsection (2)(a) does not include a Saturday, a Sunday, or a holiday during which the Utah state courts are closed.

(b) Service of the declaration of abandonment by the owner and any dispute or rebuttal by the tenant shall be made pursuant to Section 78B-6-805.

(c) If the tenant fails to dispute the declaration of abandonment in writing by serving notice to the owner within 24 hours of being served a declaration of abandonment, excluding a Saturday, a Sunday, or a holiday during which the Utah state courts are closed, the declaration of abandonment serves as prima facia evidence that the tenant has vacated and abandoned the premises.

(d) The tenant bears the burden to rebut an abandonment that is established by a declaration of abandonment by clear and convincing evidence.

Amended by Chapter 291, 2018 General Session

78B-6-816 Abandoned premises -- Retaking and rerenting by owner -- Liability of tenant -- Personal property of tenant left on premises.

(1) In the event of abandonment, the owner may retake the premises and attempt to rent them at a fair rental value and the tenant who abandoned the premises shall be liable:

(a) for the entire rent due for the remainder of the term; or

(b) for rent accrued during the period necessary to rerent the premises at a fair rental value, plus the difference between the fair rental value and the rent agreed to in the prior rental agreement, plus a reasonable commission for the renting of the premises and the costs, if any, necessary to restore the rental unit to its condition when rented by the tenant less normal wear and tear. This Subsection (1) applies, if less than Subsection (1)(a), notwithstanding that the owner did not rerent the premises.

(2)

(a) If the tenant has abandoned the premises and has left personal property on the premises, the owner is entitled to remove the property from the dwelling, store it for the tenant, and recover actual moving and storage costs from the tenant.

(b)

(i) The owner shall post a copy of the notice in a conspicuous place and send by first class mail to the last known address for the tenant a notice that the property is considered abandoned.

(ii) The tenant may retrieve the property within 15 calendar days from the date of the notice if the tenant tenders payment of all costs of inventory, moving, and storage to the owner.

(iii) Except as provided in Subsection (5), if the property has been in storage for at least 15 calendar days and the tenant has made no reasonable effort to recover the property after notice was sent, pay reasonable costs associated with the inventory, removal, and storage, and no court hearing on the property is pending, the owner may:

(A) sell the property at a public sale and apply the proceeds toward any amount the tenant owes; or

(B) donate the property to charity if the donation is a commercially reasonable alternative.

(c) Any money left over from the public sale of the property shall be handled as specified in Title 67, Chapter 4a, Part 2, Presumption of Abandonment.

(d) Nothing contained in this act shall be in derogation of or alter the owner's rights under Title 38, Chapter 3, Lessors' Liens, or any other contractual liens or rights.

(3) If abandoned property is determined to belong to a person who is the tenant or an occupant, the tenant or occupant may claim the property, upon payment of any costs, inventory, moving, and storage, by delivery of a written demand with evidence of ownership of the personal property within 15 calendar days after the notice described in Subsection (2)(b) is sent. The owner may not be liable for the loss of the abandoned personal property if the written demand is not received.
(4) As used in this section, "personal property" does not include a motor vehicle, as defined in Section 41-1a-102.
(5) A tenant has no recourse for damage or loss if the tenant fails to recover any abandoned property as required in this section.
(6) An owner is not required to store the following abandoned personal property:
(a) chemicals, pests, potentially dangerous or other hazardous materials;
(b) animals, including dogs, cats, fish, reptiles, rodents, birds, or other pets;
(c) gas, fireworks, combustibles, or any item considered to be hazardous or explosive;
(d) garbage;
(e) perishable items; or
(f) items that when placed in storage might create a hazardous condition or a pest control issue.
(7) An owner shall give an extension for up to 15 calendar days, beyond the 15 calendar day limit described in Subsection (2)(b)(ii), to recover the abandoned property, if a tenant provides:
(a) a copy of a police report or protection order for situations of domestic violence, as defined in Section 77-36-1;
(b) verification of an extended hospitalization from a verified medical provider; or
(c) a death certificate or obituary for a tenant's death, provided by an immediate family member.
(8) Items listed in Subsection (6) may be properly disposed of by the owner immediately upon determination of abandonment. A tenant may not recover for disposal of abandoned items listed in Subsection (6).
(9) Notice of any public sale shall be mailed to the last known address of the tenant at least five calendar days prior to the public sale.
(10) If the tenant is present at the public sale:
(a) the tenant may specify the order in which the personal property is sold;
(b) the owner may sell only as much personal property necessary to satisfy the amount due under the rental agreement and statutorily allowed damages, costs, and fees associated with the abandoned items; and
(c) any unsold personal property shall be released to the tenant.
(11) If the tenant is not present at the public sale:
(a) all items may be sold; and
(b) any surplus amount over the amount due to the owner shall be paid to the tenant, if the tenant's current location is known. If the tenant's location is not known, any surplus shall be disposed of in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

Amended by Chapter 371, 2017 General Session

78B-6-817 Limited alternative remedy to remove a trespasser from real property.
(1) An owner of real property, or the property owner's authorized agent, may request that law enforcement of the appropriate jurisdiction in which the real property is located, immediately remove a trespasser occupying the real property if the property owner, or an authorized agent of the property owner, attests that:

(a) the trespasser has unlawfully entered and remains on the real property;
(b) the real property was not open to members of the public at the time the trespasser entered;
(c) the property owner has directed the trespasser to leave the real property;
(d) the trespasser is not a current or former tenant of the real property under a written rental agreement authorized by the property owner;
(e) the trespasser is not an immediate family member of the property owner; and
(f) there is no pending litigation related to the real property between the property owner and the trespasser.

(2)
(a) To request the immediate removal of a trespasser on the real property, the property owner or property owner's authorized agent shall submit a complaint by presenting a completed and verified Complaint to Remove Trespassers Unlawfully Occupying Real Property to law enforcement of the appropriate jurisdiction in which the real property is located.
(b) The submitted complaint shall be in substantially the following form:
"COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING REAL PROPERTY
I, the owner or authorized agent of the owner of the real property located at [physical address of the real property], declare under the penalty of perjury that (initial each box):
1. ..... I am the owner of the real property or the authorized agent of the owner of the real property.
2. ..... I have attached evidence that I am the record owner of the real property, or the authorized agent of the owner.
3. ..... A trespasser has unlawfully entered and is remaining or residing unlawfully on the real property.
4. ..... The real property was not open to members of the public at the time the trespasser entered.
5. ..... I have directed the trespasser to leave the real property, but the trespasser has not done so.
6. ..... The trespasser is not a current or former tenant according to any valid lease authorized by the property owner for the real property, and any lease that may be produced by an occupant is fraudulent.
7. ..... The trespasser sought to be removed is not an owner or a co-owner of the property and has not been listed on the title to the property unless the trespasser has engaged in title fraud.
8. ..... The trespasser is not an immediate family member of the property owner.
9. ..... There is no litigation related to the real property pending between the property owner and any trespasser sought to be removed.
10. ..... I understand that an individual removed from the real property with this procedure may bring a cause of action against me for any false statements made in this complaint, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney fees.
11. ..... I am requesting law enforcement to immediately remove the trespasser from the real property.
12. ..... A copy of my valid government-issued identification is attached, or I am an agent of the property owner and documents evidencing my authority to act on the property owner's behalf are attached.
I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS

PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN UTAH CODE, SECTION 76-8-502.

.....

(Signature of Property Owner or Authorized Agent of Owner)"

(3)

(a) Upon receipt of the complaint and evidence of ownership, and the owner or authorized agent appears entitled to the relief described in this section, law enforcement shall, without delay, instruct the trespasser or serve a notice to immediately vacate on any trespasser and shall put the owner or authorized agent in possession of the real property.

(b) If verified, law enforcement shall, without delay, serve a notice to immediately vacate on any trespasser and shall put the owner in possession of the real property.

(c) Law enforcement may serve the trespasser by hand delivery of the notice or by posting the notice on the real property.

(d) Law enforcement shall attempt to verify the identity of any trespasser occupying the real property and note the identities on the return of service.

(e) If appropriate, law enforcement may arrest any trespasser found on the real property for trespass, outstanding warrants, or any other legal cause.

(4)

(a) After law enforcement serves the notice to immediately vacate, the property owner or authorized agent may request that law enforcement stand by to keep the peace while the property owner or authorized agent of the property owner changes the locks and removes the personal property of the trespasser from the real property to or near the property line.

(b) Law enforcement is not liable to the trespasser or any other party for loss, destruction, or damage of property.

(c) The property owner and authorized agent are not liable to the trespasser or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

(5)

(a) An individual may bring a civil cause of action for wrongful removal under this section.

(b)

(i) An individual harmed by a wrongful removal under this section may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees.

(ii) The court shall expedite the trial and any hearing in an action described in this Subsection (5).

(6) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest a trespasser for trespassing, vandalism, theft, or other crimes.

Enacted by Chapter 295, 2025 General Session

Part 8a
Expungement of Eviction Records

78B-6-850 Definitions.

As used in this part:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an unlawful detainer action.
(2) "Eviction" means a cause of action for unlawful detainer under Part 8, Forcible Entry and Detainer.
(3) "Expunge" means to seal or otherwise restrict access to records held by a court or an agency.
(4) "Petitioner" means any person petitioning for expungement of an eviction under this part.
(5)
(a) "Tenant screening agency" means a person that, for a fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information for the purpose of furnishing a tenant screening report.
(b) "Tenant screening agency" does not include an owner as defined in Section 78B-6-801.
(6) "Tenant screening report" means any written, oral, or other communication prepared by a tenant screening agency that includes information about an individual's rental history for the purpose of serving as a factor in establishing the individual's eligibility for housing.
(7) "Unlawful detainer" means the same as that term is defined in Section 78B-6-801.

Amended by Chapter 139, 2023 General Session

78B-6-851 Stipulation to expungement by parties.

All parties to an eviction may stipulate in a settlement agreement to the expungement of an eviction.

Enacted by Chapter 372, 2022 General Session

78B-6-852 Automatic expungement of eviction.

(1)
(a) Without the filing of a petition, a court shall order expungement of all records of an eviction if:
(i) the entire case was dismissed;
(ii) there is no appeal pending for the case; and
(iii) at least three years have passed from the day on which the eviction was filed; or
(b) the parties to the eviction stipulated to expungement and have filed a stipulation with the court.
(2) The court shall issue an order of expungement when the court determines that an eviction qualifies for automatic expungement under Subsection (1).
(3) This section applies to evictions filed on or after July 1, 2022.

Enacted by Chapter 372, 2022 General Session

78B-6-853 Expungement by petition for eviction -- Venue -- Objection.

(1) Any party to an eviction may petition the court to expunge all records of the eviction if:
(a) the eviction was for:
(i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or
(ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and
(b) any judgment for the eviction has been satisfied and a satisfaction of judgment has been filed for the judgment.
(2)
(a) A petitioner shall file a petition and provide notice to any other party to the eviction in accordance with the Utah Rules of Civil Procedure.

(b) A petitioner shall bring a petition to expunge records of an eviction in the court that issued the order of restitution.

(3)

(a) Any party to the eviction may file a written objection to the petition with the court.

(b) If the court receives a written objection to the petition, the court may not expunge the eviction.

(4) Except as provided in Subsection (5), the court shall order expungement of all records of the eviction if the court does not receive a written objection within 60 days from the day on which the petition is filed.

(5) A court may not expunge an eviction if the judgment for the eviction has not been satisfied.

Amended by Chapter 194, 2024 General Session

78B-6-854 Notice of expunged eviction -- Tenant screening agency -- Effect of expungement.

(1)

(a) The Administrative Office of the Courts shall publish a list on the Utah Courts' website that provides notice of any eviction expunged under this section.

(b) Within 30 days from the day on which an expunged eviction is listed on the Utah Courts' website as described in Subsection (1)(a):

(i) an agency shall expunge any record of the expunged eviction in the custody of the agency; and

(ii) a tenant screening agency shall remove the expunged eviction from any database used by the tenant screening agency.

(2) If an eviction is expunged under this part, a tenant screening agency may not:

(a) disclose the eviction in a tenant screening report pertaining to an individual for whom the eviction has been expunged; or

(b) use the eviction as a factor in determining any score or recommendation in a tenant screening report pertaining to the individual for whom the eviction has been expunged.

(3) Upon entry of an expungement order by a court under this part:

(a) the eviction is considered to never have occurred; and

(b) the individual for whom the eviction is expunged may reply to an inquiry on the matter as though there was never an eviction.

(4)

(a) Except as provided in Subsection (1)(b), a court, an agency, a tenant screening agency, or an employee of a court, agency, or tenant screening agency, may not disclose any eviction to, or share any information in a record of an eviction with, a person if the eviction has been expunged under this part.

(b) An expunged record under this part may be released to, or viewed by, a party to the eviction.

Enacted by Chapter 372, 2022 General Session

Part 9
Mortgage Foreclosure

78B-6-901 Form of action -- Judgment -- Special execution.

(1) There is only one action for the recovery of any debt, or the enforcement of any right, secured solely by mortgage upon real estate and that action shall be in accordance with the provisions of this chapter.
(2) A judgment shall include:
(a) the amount due, with costs and disbursements;
(b) an order for the sale of mortgaged property, or a portion of it to satisfy the amount and accruing costs;
(c) direction to the sheriff to proceed and sell the property according to the provisions of law relating to sales on execution; and
(d) a special execution or order of sale shall be issued for that purpose.

Amended by Chapter 146, 2009 General Session

78B-6-901.5 Notice to tenant on residential property to be foreclosed.
(1) As used in this section, "residential rental property" means property on which a mortgage was given to secure an obligation the stated purpose of which is to finance residential rental property.
(2) Within 20 days after filing an action under this part to foreclose property that includes or constitutes residential rental property, the plaintiff in the action shall:
(a) post a notice:
(i) on the primary door of each dwelling unit on the property that is the subject of the foreclosure action, if the property has fewer than nine dwelling units; or
(ii) in at least three conspicuous places on the property that is the subject of the foreclosure action, if the property to be sold has nine or more dwelling units; or
(b) mail a notice to the occupant of each dwelling unit on the property that is the subject of the foreclosure action.
(3) The notice required under Subsection (2) shall:
(a) be in at least 14-point font;
(b) include the name and address of:
(i) the owner of the property;
(ii) the trustor or mortgagor, as the case may be, on the instrument creating a security interest in the property;
(iii) the trustee or mortgagee, as the case may be, on the instrument; and
(iv) the beneficiary, if the instrument is a trust deed;
(c) contain the legal description and address of the property; and
(d) include a statement in substantially the following form:

"Notice to Tenant

An action to foreclose the property described in this notice has been filed. If the foreclosure action is pursued to its conclusion, the described property will be sold at public auction to the highest bidder unless the default in the obligation secured by this property is cured.

If the property is sold, you may be allowed under federal law to continue to occupy your rental unit until your rental agreement expires, or until 90 days after the sale of the property at auction, whichever is later. If your rental or lease agreement expires after the 90-day period, you may need to provide a copy of your rental or lease agreement to the new owner to prove your right to remain on the property longer than 90 days after the sale of the property.

You must continue to pay your rent and comply with other requirements of your rental or lease agreement or you will be subject to eviction for violating your rental or lease agreement.

The new owner or the new owner's representative will probably contact you after the property is sold with directions about where to pay rent.

The new owner of the property may or may not want to offer to enter into a new rental or lease agreement with you at the expiration of the period described above."

(4) The failure to provide notice as required under this section or a defect in that notice may not be the basis for challenging or defending a foreclosure action or for invaliding a sale of the property pursuant to a foreclosure action.

Amended by Chapter 280, 2020 General Session

78B-6-902 Deficiency judgment -- Execution.

If it appears that the proceeds of the sale are insufficient and a balance still remains due, the judgment shall be docketed by the clerk and execution may be issued for the balance as in other cases. A general execution may not be issued until after the sale of the mortgaged property and the application of the amount realized to the preceding judgment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-903 Necessary parties -- Unrecorded rights barred.

A person holding a conveyance from or under the mortgagor or having a lien on the property, neither of which is properly documented or recorded in the proper office at the time of the commencement of the action, is not required to be made a party to the action. The proceedings and any judgment rendered are conclusive against the party holding the unrecorded conveyance or lien as if the person had been made a party to the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-904 Sales -- Disposition of surplus money.

If there is surplus money remaining after payment of the amount due on the mortgage, lien or encumbrance, with costs, the court may order the amount paid to the person entitled to it. In the meantime the court may direct it to be deposited with the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-905 Sales -- When debt due in installments.

If the debt for which the mortgage, lien, or encumbrance is held is not all due, then as soon as sufficient of the property has been sold to pay the amount due, with costs, the sale must cease. As often as more becomes due on principal or interest, the court may, on motion, order more to be sold. If the property cannot be sold in portions without injury to the parties, the entire parcel may be ordered sold and the entire debt and costs paid. There shall be a rebate of interest where a rebate is proper.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-906 Right of redemption -- Sales by parcels -- Of land and water stock.

(1) Sales of real estate under judgments of foreclosure of mortgages and liens are subject to redemption as in case of sales under executions generally.
(2) In all cases where the judgment directs the sale of land, together with shares of corporate stock evidencing title to a water right used, intended to be used, or suitable for use, on the land, the court shall equitably apportion the water stock to the land. If the court divides the land into individual parcels for sale, the water stock may also be divided and applied to each parcel. The land and water stock in each parcel shall be sold together, and for the purpose of the sale shall be regarded as real estate and subject to redemption as previously specified.
(3) In all sales of real estate under foreclosure the court may determine the parcels and the order in which the parcels of property shall be sold.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-907 Restraining possessor from injuring property.

The court or judge may upon a showing of good cause enjoin the party in possession of the property from doing any act to injure the property during the foreclosure of a mortgage on it, or after a sale on execution.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-908 Attorney fees.

(1) In all cases of foreclosure when an attorney's fee is claimed by the plaintiff, the amount shall be fixed by the court. No other or greater amount shall be allowed or decreed than the sum which shall appear by the evidence to be actually charged by and to be paid to the attorney for the plaintiff.
(2) If it shall appear that there is an agreement or understanding to divide the fees between the plaintiff and his attorney, or between the attorney and any other person except an attorney associated with him in the cause, the defendant shall only be ordered to pay the amount to be retained by the attorney or attorneys.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-909 Environmental impairment to real property security interest -- Remedies of lender.

(1) As used in this section:
(a) "Borrower" means:
(i) the trustor under a deed of trust, or a mortgagor under a mortgage, when the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation; and
(ii) includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.
(b) "Environmentally impaired" means the estimated costs to clean up and remediate a past or present release of any hazardous matter into, onto, beneath, or from the real property security exceed 25% of the higher of the aggregate fair market value of all security for the loan or extension of credit at the time:
(i) of the making of the loan or extension of credit;
(ii) of the discovery of the release or threatened release by the secured lender; or
(iii) an action is brought under this section.

(c) "Hazardous matter" means:
(i) any hazardous substance or hazardous material as defined in Section 19-6-302; or
(ii) any waste or pollutant as defined in Section 19-5-102.
(d) "Real property security" means any real property and improvements other than real property that contains only one but not more than four dwelling units, and is solely used for either:
(i) residential purposes; or
(ii) if reasonably contemplated by the parties to the deed of trust or mortgage, residential purposes as well as limited agricultural or commercial purposes incidental to the residential purposes.
(e) "Release" has the same meaning as in Section 19-6-302.
(f) "Secured lender" means:
(i) the trustee, the beneficiary, or both under a deed of trust against the real property security;
(ii) the mortgagee under a mortgage against the real property security; and
(iii) any successor-in-interest of the trustee, beneficiary, or mortgagee under the deed of trust or mortgage.
(2) Under this section:
(a) Estimated costs to clean up and remediate the contamination caused by the release include only those costs that would be incurred reasonably and in good faith.
(b) Fair market value is determined without giving consideration to the release, and is exclusive of the amount of all liens and encumbrances against the security that are senior in priority to the lien of the secured lender.
(c) Any real property security for any loan or extension of credit secured by a single parcel of real property is considered environmentally impaired if the property is:
(i) included in or proposed for the National Priorities List under Section 42 U.S.C. 9605;
(ii) any list identifying leaking underground storage tanks under 42 U.S.C. 6991 et seq.; or
(iii) in any list published by the Department of Environmental Quality under Section 19-6-311.
(3) A secured lender may elect between the following when the real property security is environmentally impaired and the borrower's obligations to the secured lender are in default:
(a)
(i) waiver of its lien against:
(A) any parcel of real property security or any portion of that parcel that is environmentally impaired; and
(B) all or any portion of the fixtures and personal property attached to the parcels; and
(ii) exercise of:
(A) the rights and remedies of an unsecured creditor, including reduction of its claim against the borrower to judgment; and
(B) any other rights and remedies permitted by law; or
(b) exercise of:
(i) the rights and remedies of a creditor secured by a deed of trust or mortgage and, if applicable, a lien against fixtures or personal property attached to the real property security; and
(ii) any other rights and remedies permitted by law, including the right to obtain a deficiency judgment.
(c) The provisions of this subsection take precedence over Section 78B-6-901.
(4)
(a) Subsection (3) is applicable only if in conjunction with and at the time of the making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation secured by the real property security, the secured lender:

(i) did not know or have reason to know of a release of any hazardous matter into, onto, beneath, or from the real property security; and
(ii) undertook all appropriate inquiry into the previous ownership and uses of the real property security consistent with good commercial or customary practice in an effort to minimize liability.
(b) For the purposes of Subsection (4)(a)(ii), the court shall take into account:
(i) any specialized knowledge or experience of the secured lender;
(ii) the relationship of the purchase price to the value of the real property security if uncontaminated;
(iii) commonly known or reasonably ascertainable information about the real property security;
(iv) the obviousness of the presence or likely presence of contamination at the real property security; and
(v) the ability to detect the contamination by appropriate inspection.
(5)
(a) Before the secured lender may waive its lien against any real property security under Subsection (3)(a) on the basis of environmental impairment the secured lender shall:
(i) provide written notice of the default to the borrower; and
(ii) bring a valuation and confirmation action against the borrower in a court of competent jurisdiction and obtain an order establishing the value of the subject real property security.
(b) The complaint in an action under Subsection (5)(a)(ii) may include causes of action for a money judgment for all or part of the secured obligation, in which case the waiver of the secured lender's liens under Subsection (3)(a) may result only if a final money judgment is obtained against the borrower.
(6)
(a) If a secured lender elects the rights and remedies under Subsection (3)(a) and the borrower's obligations are also secured by other real property security, fixtures, or personal property, the secured lender shall first foreclose against the additional collateral to the extent required by applicable law.
(b) Under this subsection the amount of the judgment of the secured lender under Subsection (3)(a) is limited to the remaining balance of the borrower's obligations after the application of the proceeds of the additional collateral.
(c) The borrower may waive or modify the foreclosure requirements of this Subsection (6) if the waiver or modification is in writing and signed by the borrower after default.
(7) This section does not affect any rights or obligations arising under contracts existing before July 1, 1993, and applies only to loans, extensions of credit, guaranties, or other obligations secured by real property security made, renewed, or modified on or after July 1, 1993.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 10
Waste

78B-6-1001 Right of action for waste -- Damages.

If a guardian, tenant for life or years, joint tenant, or tenant in common, of real property commits waste on the property, any person aggrieved by the waste may bring an action against the person. Judgment in the action may include treble damages.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1002 Right of action for injuries to trees -- Damage.

(1) Except as provided in Subsection (2), any person who, without authority, willfully or intentionally cuts down or carries off any wood or underwood, tree or timber, or girdles or otherwise willfully or intentionally injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, town or city lot, or cultivated grounds, or on the commons or public grounds of any city or town, or on the street or highway in front, without lawful authority, is liable to the owner of such land, or to the city or town, for treble the amount of damages which may be assessed in a civil action.

(2)

(a) The provisions of this section do not apply to injuries to a tree or timber on the land of another arising from a wildland fire.

(b) Liability for injuries to a tree or timber on the land of another arising from a wildland fire is determined in accordance with Section 65A-3-4.

Amended by Chapter 162, 2020 General Session

78B-6-1003 Limited damages in certain cases.

Nothing in Section 78B-6-1002 authorizes the recovery of more than the just value of the timber taken from uncultivated woodland for the repair of a public highway or bridge upon the land, or adjoining it.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 11
Nuisance

78B-6-1101 Definitions -- Nuisance -- Agriculture operations.

(1) As used in this part:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Critical infrastructure materials operations" means the same as the term "critical infrastructure materials use" is defined in Section 10-9a-901.

(c) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

(d) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(e)

(i) "Possession or use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or

consumption, as distinguished from distribution, of a controlled substance, and includes individual, joint, or group possession or use of a controlled substance.

(ii) For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of a controlled substance with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(2) A nuisance may be the subject of an action.

(3) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;

(c) criminal activity committed in concert with two or more individuals as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1)(d);

(g) prostitution as provided in Title 76, Chapter 5d, Prostitution; or

(h) the unlawful discharge of a firearm as provided in state or local law.

(4) A nuisance under this part includes:

(a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(i) drifts in more than once in each of two or more consecutive seven-day periods; and

(ii) creates any of the conditions described in Subsection (1)(d); or

(b) fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled substance that drift into a residential unit a person rents, leases, or owns, from another residential or commercial unit.

(5) Subsection (4)(a) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(6) Subsection (4)(a) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

Amended by Chapter 141, 2025 General Session
Amended by Chapter 173, 2025 General Session
Amended by Chapter 174, 2025 General Session
Amended by Chapter 178, 2025 General Session
Amended by Chapter 387, 2025 General Session

78B-6-1102 Right of action -- Remedies -- Jurisdiction for enforcement.

(1) An action for nuisance may be brought before a court with jurisdiction by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(2) Upon judgment, the court may, in addition to any other relief the court considers just and proper:
(a) award damages;
(b) order the nuisance to be enjoined or abated, which may include:
(i) requiring a defendant to make repairs to the nuisance property or property that is injuriously affected by the nuisance;
(ii) requiring a defendant to:
(A) install and maintain secure locks on the nuisance property's doors or windows;
(B) provide security personnel or video surveillance monitoring of the nuisance property; or
(C) install and maintain lighting in and around common areas; or
(iii) abatement by eviction as provided in this part;
(c) grant declaratory relief as described in Part 4, Declaratory Judgments; or
(d) award costs and reasonable attorney fees to the prevailing party as described in Section 76B-6-1114.
(3) A court that issues a judgment or order under this part retains jurisdiction to enforce the judgment or order.

Amended by Chapter 141, 2025 General Session

78B-6-1102.5 Violation of order enjoining a nuisance -- Civil penalty.

A person who knowingly violates any judgment or order abating or enjoining a nuisance, as that term is defined in Section 78B-6-1101:
(1) is guilty of a class B misdemeanor; and
(2) is subject to a civil penalty of $50 per day for each day that the nuisance continues in violation of the order.

Amended by Chapter 141, 2025 General Session

78B-6-1103 Manufacturing facility in operation over three years -- Limited application of restrictions.

(1)
(a) Notwithstanding Sections 76-9-1301 and 78B-6-1101, a manufacturing facility may not be considered a nuisance because of any changed circumstance in land uses near the facility if:
(i) the manufacturing facility has been in operation for more than three years; and
(ii) the manufacturing facility was not a nuisance at the time it began operation.
(b) The manufacturing facility may not increase the condition asserted to be a nuisance.
(c) The provisions of this Subsection (1) do not apply if a nuisance results from the negligent or improper operation of a manufacturing facility.
(2) Nothing in this section affects the right of a person to recover damages for injuries or damage sustained as a result of the pollution or change in the conditions of the waters of a stream or overflow of the lands of any person.
(3)
(a) Any and all ordinances now or in the future adopted by any county or municipal corporation in which a manufacturing facility is located and which makes its operation a nuisance or providing for an abatement as a nuisance in the circumstances set forth in this section are null and void.
(b) The provisions of this Subsection (3) may not apply whenever a nuisance results from the negligent or improper operation of a manufacturing facility.

Amended by Chapter 141, 2025 General Session
Amended by Chapter 173, 2025 General Session

78B-6-1106 Rental units -- Tobacco smoke -- Drug fumes.

(1) There is no cause of action for a nuisance under Subsection 78B-6-1101(4)(a) if the rental, lease, restrictive covenant, or purchase agreement for the unit states in writing that:
  (a) tobacco smoking is allowed in other units, either residential or commercial, and that tobacco smoke from those units may drift into the unit that is subject to the agreement; and
  (b) by signing the agreement the renter, lessee, or buyer acknowledges he has been informed that tobacco smoke may drift into the unit he is renting, leasing, or purchasing, and he waives any right to a cause of action for a nuisance under Subsection 78B-6-1101(4).

(2) A cause of action for a nuisance under Subsection 78B-6-1101(4)(a) may be brought against:
  (a) the individual generating the tobacco smoke;
  (b) the renter or lessee who permits or fails to control the generation of tobacco smoke, in violation of the terms of the rental or lease agreement, on the premises the renter or lessee rents or leases; or
  (c) the landlord, but only if:
    (i) the terms of the renter's or lessee's contract provide the unit will not be subject to the nuisance of drifting tobacco smoke;
    (ii) the complaining renter or lessee has provided to the landlord a statement in writing indicating that tobacco smoke is creating a nuisance in the renter's or lessee's unit; and
    (iii) the landlord knowingly allows the continuation of a nuisance under Subsection 78B-6-1101(4) after receipt of written notice under Subsection (2)(c)(ii), and in violation of the terms of the rental or lease agreement under Subsection (2)(c)(i).

(3) A cause of action for nuisance under Subsection 78B-6-1101(4)(b) may be brought against:
  (a) an individual who generates fumes by the unlawful manufacturing or the unlawful possession or use of a controlled substance;
  (b) a renter or lessee who permits or fails to control the generation of fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance on the premises the renter or lessee rents or leases; or
  (c) a landlord, but only if:
    (i) the complaining renter or lessee has provided to the landlord a statement in writing indicating that fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance are creating a nuisance in the renter's or lessee's unit; and
    (ii) the landlord knowingly allows the continuation of a nuisance under Subsection 78B-6-1101(4)(b) after receipt of written notice under Subsection (3)(c)(i).

Amended by Chapter 141, 2025 General Session

78B-6-1107 Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Discharge of a firearm -- Defense.

(1) Every building or place is a nuisance where:
  (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, acquisition, or use occurs of any controlled substance, precursor, or analog described in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 9, Part 14, Gambling, which creates the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);
(c) criminal activity is committed in concert with two or more individuals as described in Section 76-3-203.1;
(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
(f) parties occur frequently which create the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);
(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as described in Title 76, Chapter 5d, Prostitution;
(h) a violation of an offense under Title 76, Chapter 11, Weapons, occurs on the premises;
(i) the unlawful discharge of a firearm, as provided in state or local law, occurs on the premises; and
(j) human trafficking occurs as described in Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling.
(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to the possession or use of a controlled substance.
(3) Evidence of a previous conviction for a crime described in Subsection (1) may not be used in an action for nuisance under this part.

Amended by Chapter 141, 2025 General Session
Amended by Chapter 173, 2025 General Session
Amended by Chapter 174, 2025 General Session
Amended by Chapter 178, 2025 General Session
Amended by Chapter 208, 2025 General Session

78B-6-1108 Nuisance -- Abatement by eviction.
(1) Whenever there is reason to believe that a nuisance under Sections 78B-6-1107 through 78B-6-1114 is kept, maintained, or exists in any county, the county attorney of the county, the city attorney of any incorporated city, any citizen or citizens of the state residing in the county, or any person or business doing business in the county, in their own name or names, may bring an action for abatement by eviction in a court with jurisdiction.
(2) The court may designate a spokesperson from a group of citizens who would otherwise have the right to maintain an action in their individual names against the defendant under this section.

Amended by Chapter 141, 2025 General Session

78B-6-1109 Abatement by eviction order -- Grounds.
A court shall issue an order of abatement by eviction if the applicant shows, by a preponderance of the evidence, that:
(1) the applicant will suffer irreparable harm unless the order of abatement by eviction issues;
(2) the threatened injury to the applicant outweighs any damage the proposed order of abatement by eviction may cause the party to be evicted;
(3) the order of abatement by eviction would not be adverse to the public interest; and

(4) there is a substantial likelihood that:
(a) the applicant will prevail on the merits of the underlying claim; or
(b) the case presents serious issues on the merits which should be the subject of further litigation.

Amended by Chapter 141, 2025 General Session

78B-6-1110 Prior acts or threats of violence -- Protection of applicant or witness.

At the time of application for abatement of a nuisance by eviction pursuant to Sections 78B-6-1108 and 78B-6-1109, upon a showing of good cause the court may issue an order to protect the applicant or, if proof of the existence of the nuisance depends in whole or in part upon the affidavit of a witness who is not a peace officer, the witness, which order may include nondisclosure of the name, address, or any other information which may identify the individual protected by the order.

Amended by Chapter 141, 2025 General Session

78B-6-1111 Landlord, owner, or designated agent -- Necessary party -- Automatic eviction.

(1) A landlord, owner, or designated agent is a necessary party defendant in a nuisance action under Sections 78B-6-1107 through 78B-6-1114 for entry of an order to abate the nuisance by eviction where the acts complained of are those of a third party upon the premises of the landlord, owner, or designated agent.
(2) At the court's hearing on the action to abate the nuisance by eviction, the court shall notify the necessary parties, including the applicant, the tenant, and the landlord, owner, or designated agent, if:
(a) the court finds that a nuisance exists as described in Section 78B-6-1107; and
(b) as a result, the court is issuing an order to evict the tenant subject to compliance with the security requirement in Section 78B-6-1112.
(3) In all cases, including default judgments, the order of abatement by eviction may be issued and enforced immediately.

Amended by Chapter 141, 2025 General Session

78B-6-1112 Security requirement -- Amount not a limitation -- Jurisdiction over surety.

(1)
(a) The court shall condition issuance of an order of abatement by eviction on the giving of security by the applicant, in such sum and form as the court determines proper, unless:
(i) the court determines that none of the parties will incur or suffer costs, attorney fees, or damage as the result of any wrongful order of abatement by eviction;
(ii) the court determines that there exists some substantial reason for dispensing with the requirement of security; or
(iii) the applicant has proved, by a preponderance of the evidence, the existence of a nuisance described in Section 78B-6-1107.
(b) Security described in Subsection (1)(a) may not be required:
(i) of the United States, the state, or an officer, agency, or subdivision of the United States or the state; or
(ii) when prohibited by law.
(2) The amount of security may not limit the award of:

(a) reasonable attorney fees or costs incurred in connection with the order of abatement by eviction; or
(b) damages that may be awarded to a party who is found to have been wrongfully evicted.
(3)
(a) A surety upon a bond or undertaking under this section submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served.
(b) The surety's liability may be enforced on motion without the necessity of an independent action.
(c) The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall immediately provide a copy to the applicant or other person giving the security by the means established at the time of the application.
(4) Upon request, the applicant shall be granted a hearing to be held no later than three days from the date the defendant is served with notice of the applicant's giving of security, as described in Subsection (1).

Amended by Chapter 141, 2025 General Session

78B-6-1113 Evidence of nuisance.

In an action for nuisance or abatement by eviction, all evidence authorized by law, including evidence of reputation in a community, is admissible to prove the existence of a nuisance or the elements required for an order of abatement by eviction by a preponderance of the evidence.

Amended by Chapter 141, 2025 General Session

78B-6-1114 Award of costs and attorney fees.

(1) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees, which are not compensated for pursuant to some other provision of law, to the prevailing party in any case in which a party brings an action to abate a nuisance under this part.
(2) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees against a defendant landlord, owner, or designated agent only when the court finds that the defendant landlord, owner, or designated agent had actual notice of the nuisance action and willfully failed to take reasonable action within a reasonable time to abate the nuisance.

Amended by Chapter 141, 2025 General Session

78B-6-1115 Critical infrastructure materials operations -- Nuisance liability.

(1) Activities conducted in the normal and ordinary course of critical infrastructure materials operations or conducted in accordance with sound practices are presumed to be reasonable and not constitute a nuisance.
(2) Critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound critical infrastructure materials practices.

Enacted by Chapter 227, 2019 General Session

Part 12
Partition

78B-6-1201 Partition -- By cotenants of real property.

A person who is a joint tenant or tenant in common with another of real property may bring an action to partition the property for the benefit of each tenant. An action for partition may require the sale of the property if it appears that the partition cannot be made without prejudice to the owners.

Enacted by Chapter 3, 2008 General Session

78B-6-1202 Complaint -- To set forth interests of all parties.

(1) The interests of all persons in the property, whether the persons are known or unknown, shall be set forth in the complaint, specifically and particularly, as far as known to the plaintiff.
(2) If one or more of the parties, or the share or quantity of interest of any of the parties, is unknown to the plaintiff, uncertain or contingent, or the ownership of the inheritance depends upon an executory devise, or the remainder is a contingent remainder making the parties unknown, that fact must be set forth in the complaint.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1203 Parties -- Only holders of recorded rights necessary.

A person who does not have a conveyance of, or claim a lien on, the property, or some part of it, is not required to be made a party to the action, unless the conveyance or lien has been properly recorded.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1204 Lis pendens required.

(1) The plaintiff shall file a notice of the action with the recorders of all the counties in which the property is situated. The notice shall contain:
  (a) a copy of such complaint; or
  (b) a notice of the pendency of the action, containing:
    (i) the names of all known parties;
    (ii) the object of the action; and
    (iii) a description of the property affected.
(2) Once the notice is filed, all persons having an interest in the property shall be considered to have notice of the pendency of the action.
(3) This section does not apply if a plaintiff satisfies the requirements of a notice of pendency of an action required by Section 38-1a-701 or Section 38-10-106.
(4) If a complaint described in Subsection (1)(a) is amended after the notice is recorded, the plaintiff is not required to file an amended notice unless the property description has changed.

Amended by Chapter 103, 2017 General Session

78B-6-1205 Summons -- To whom directed.

The summons shall be directed to:

(1) all joint tenants;
(2) tenants in common of all persons having any interest in, or recorded liens upon the property or any portion of the property; and
(3) any other person claiming any interest in the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1206 Service by publication.

If a party having a share or interest is unknown, or any one of the known parties resides out of the state or cannot be found, the summons may be served upon them by publication in accordance with the Utah Rules of Civil Procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1207 Answer must set forth interests claimed.

(1) All defendants shall set forth in their answers, fully and particularly, the origin, nature, and extent of their respective interests in the property.
(2) If a defendant claims a lien on the property by mortgage, judgment, or otherwise, the defendant shall state the original amount and date of the mortgage or judgment, and the amounts remaining unpaid. The defendant shall also state whether the mortgage or judgment has been secured in any other way, and if secured, the extent and nature of the security. If this information is not provided, the defendant shall be considered to have waived any rights to the lien.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1208 Right of all parties may be determined.

The rights of all parties may be put in issue, tried, and determined by the action. If the court determines a sale of the premises is necessary, the title shall be ascertained to the satisfaction of the court before the judgment of sale can be made. If service of the summons was made by publication, similar proof is required concerning the rights of absent or unknown parties before judgment is rendered. If there are several unknown persons having an interest in the property, their rights may be considered together in the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1209 Partial partition allowed -- When.

(1) If the court determines that it is impracticable or highly inconvenient to make a complete partition among all the parties in interest, the court may first determine the shares or interests respectively held by the original cotenants as if they were the only parties to the action.
(2) After the initial partition, the court may partition separately each portion allotted among those claiming under a specific tenant whose interest was determined in Subsection (1), unless the parties choose to remain as tenants in common.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1210 When all holders of recorded rights are not made parties -- Procedure -- Reference.

If there are outstanding liens or encumbrances of record upon the property when the action is commenced, the persons holding the liens shall be made parties to the action. If the persons are not made parties, the court shall either order the persons made parties to the action by an amendment or supplemental complaint, or appoint a referee to determine whether the liens or encumbrances have been paid. If the referee determines that amounts remain due, the referee shall determine whether the amounts are secured or unsecured and the order of precedence among all the liens or encumbrances on the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1211 Notice of appearance before referee -- Referee's report.

(1) The referee appointed in Section 78B-6-1210 shall set a date to hear from each person holding a lien on the property. The plaintiff shall have a notice and summons served on each person identified in Section 78B-6-1210 who is not a party to the action.
(2) The summons shall state the specific time and place of the hearing and instruct the person to appear with proof of all amounts due.
(3) If the person cannot be found, the court may direct service to be made by publication in accordance with the Utah Rules of Civil Procedure.
(4) The referee shall provide a report to the court detailing his findings. The court shall confirm, modify, or set aside the findings. If the findings are set aside, a new referee may be appointed in accordance with Section 78B-6-1210.

Enacted by Chapter 3, 2008 General Session

78B-6-1212 If partition prejudicial, sale in lieu thereof -- Partition by referees.

(1) If the court determines that the property or any part of it cannot be partitioned without great prejudice to the owners, the court may order the property sold.
(2) If the court determines that the property may be partitioned, it shall order a partition according to the respective rights of the parties determined by the court and appoint three referees to do the partition. The court shall also designate a portion to remain undivided for the owners whose interests remain unknown or are not ascertained.
(3) If the action is for partition of a mining claim among the tenants in common, joint tenants, copartners, or parceners, the court, upon good cause shown by any party or parties in interest, may, instead of ordering partition to be made in the manner as provided, or a sale of the premises for cash, direct the referees to divide the claim in the manner provided in Subsections 78B-6-1213(5) through (11).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1213 Duties and powers of referees -- Procedure.

(1) In making the partition the referees must divide the property among the respective parties as determined by the court pursuant to the provisions of this part.
(2) The referees may designate the portions by proper landmarks, and may employ a surveyor with the necessary assistants to aid them.
(3) In all cases the court shall direct the referees making the partition to:
  (a) allot the share of each of the parties owning an interest; and
  (b) locate the share of each cotenant, including, if possible, the improvements made by the cotenant upon the property.

(4) The value of the improvements made by tenants in common shall be excluded from the valuation in making allotments if it can be done without material injury to the rights and interests of the other tenants in common.
(5) If the action is for partition of a mining claim, the court shall order the division of the claim by the referees not less than 20 nor more than 40 days from the date of the order, except by consent of all the parties in interest who have appeared in the action.
(6) On the day designated in the order the referees shall go to the property to be divided and proceed to divide the property. If the division requires more than one day to complete, the referees shall continue from day to day until the division is completed.
(7) Two or more of the tenants in common, joint tenants, copartners, or parceners may unite for the purposes of the division. The parties shall give the referees written notice of any unions before the referees begin the division. All who do not unite or give notice of separate action, shall, for the purposes of division, be considered to have united.
(8) The referees shall recognize:
(a) those named in the court order, their agents and attorneys;
(b) a guardian of a minor; and
(c) a guardian entitled to the custody and the management of the estate of an incompetent or incapacitated person.
(9) At the time and place of division one of the referees shall be selected to conduct the proceedings in the manner of public auction. The privilege of selecting first shall be offered to the party who agrees to take the smallest portion of the claim in proportion to that party's interest in the claim. Once the bids are closed, the referees shall measure and mark off, by distinct metes and bounds, the portion of the claim designated by the lowest bidder.
(10) Once the referees have marked off and set apart the interest of the lowest bidder, they shall offer to the remaining parties the privilege of selection as provided, and shall upon closing the bids, proceed in the same manner to locate and mark off the portion of the lowest bidder.
(11) The bidding shall continue and the interest of the lowest bidder marked off until only one party in interest remains. The party remaining shall become the owner of the remainder of the claim not marked off and set apart for the other parties.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1214 Report of referees.

The referees shall provide a written report of their proceedings, specifying the manner in which they executed their trust, describing the property divided, and the shares allotted to each party, with a particular description of each share.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1215 Confirmation, modification, or vacation by court -- Effect of death of party before judgment.

(1) The court may confirm, change, modify, or set aside the report, and if necessary, appoint new referees. Upon the report being confirmed judgment must be rendered that the partition be effectual forever. The judgment shall be binding and conclusive on all persons:
(a) named as parties to the action and their legal representatives, who have at the time any interest in the property, whether as:
(i) owners in fee;
(ii) tenants for life or for years; or

(iii) entitled to the reversion, remainder, or the inheritance of the property or of any portion after the determination of a particular estate in it;
(b) who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof as tenants for years or for life;
(c) interested in the property who may be unknown, to whom notice of the action for partition has been given by publications; and
(d) claiming from any parties or persons in Subsection (1)(c).
(2) A judgment is not invalid by reason of the death of any party before final judgment or decree, but the judgment or decree is as conclusive against the heirs, legal representatives, or assigns of the decedent as if it had been entered before the person's death.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1216 Tenant for years, less than 10, not affected by judgment.

The judgment does not affect tenants for years, less than 10, of the whole of the property which is the subject of the partition.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1217 Referees' expenses and fees -- Apportionment.

The expenses of the referees, including those of the surveyor and his assistants if employed, must be determined and allowed by the court, and the amount, together with the fees allowed by the court in its discretion to the referees, shall be apportioned equitably among the different parties to the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1218 Liens on undivided interests -- Apportionment.

A lien on an undivided interest or estate of any of the parties shall only be a charge on the share assigned to the party after the share is charged with its just proportion of the costs of the partition in preference to the lien.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1219 Setoff of estate for life or for years.

If there is an estate for life or years in an undivided share of the whole property and only a portion of the property is ordered to be sold, the estate may be set off in any part of the property not ordered to be sold.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1220 Proceeds of sale of encumbered property -- Disposition of.

The proceeds of the sale of encumbered property shall be applied under the direction of the court, as follows:
(1) to pay its just proportion of the general costs of the action;
(2) to pay the costs of the reference;
(3) to satisfy and cancel all recorded liens in their order of priority, by payment of the sums due and to become due; the amount due to be verified by affidavit at the time of payment;

(4) the residue among the owners of the property sold according to their respective shares therein.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1221 Lienholders required to exhaust other security first.

Any party to the action, who holds a lien upon the property or any portion of it and has other securities for the payment of the amount of the lien may be required by the court to exhaust the other securities before a distribution of the proceeds of sale. The court may also order a just reduction to be made from the amount of the lien on the property in the amount of the securities.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1222 Distribution of proceeds or securities.

The proceeds of sale and the securities taken by the referees shall be distributed by the referees to the persons entitled to them whenever the court directs. If no direction for distribution is given, all of the proceeds and securities must be paid into the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1223 Determination of adverse claims.

When the proceeds of the sale of any share or parcel belonging to persons who are parties to the action, and who are known or unknown, are paid into court, the action may continue between the parties for the determination of their respective claims. Further evidence may be taken by the court or a referee at the discretion of the court, and the court may, if necessary, require the parties to present the facts or law in controversy by pleadings as in an original action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1224 Sales at public auction -- Notice.

All sales of real property made by referees under this part shall be made at public auction to the highest bidder, upon notice published in the manner required for the sale of real property on execution. The notice shall state the terms of sale, and if the property or any part of it is to be sold subject to a prior estate, charge, or lien, that fact shall be stated also.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1225 Sales on credit -- Order for.

The court shall, in the order of sale, direct the terms of credit which may be allowed for the purchase money of any portion of the premises. For that portion of which the purchase money is required, the court shall also order it to be invested for the benefit of unknown owners, minors or parties out of the state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1226 Security for payment.

The referees may take separate mortgages and other securities;
(1) for the whole or convenient portions of the purchase money;
(2) on any part of the property directed by the court to be sold on credit;

(3) for the shares of any known owner of full age, in the name of the owner;
(4) for the shares of a minor, in the name of the guardian of the minor; and
(5) for other shares, in the name of the clerk of the court and his successors in office.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1227 Compensation for interest of tenant for life or years.

A person entitled to a tenancy for life or years whose estate has been sold, is entitled to receive a sum as reasonable compensation for the estate. The person's consent to accept the sum shall be filed in writing with the clerk of the court. Upon the filing of the consent, the clerk shall enter it in the minutes of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1228 Court determines reasonable compensation for tenant.

If consent is not given, filed, and entered as provided in Section 78B-6-1227 before a judgment of sale is rendered, the court shall determine what proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable sum to be allowed on account of the estate, and order the amount paid to the party, or deposited in the court for the person, as the case may require.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1229 If tenant unknown.

If persons entitled to the estate for life or years are unknown, the court shall provide for the protection of their rights in the same manner as if they were known and had appeared.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1230 Protection of vested, contingent, or future rights.

In all cases of sales if it appears that any person has a vested, contingent, or future right or estate in any of the property sold, the court shall ascertain and settle the proportionate value of the contingent or vested right or estate, and direct the proportion of the proceeds of the sale to be invested, secured, or paid over in a manner that would protect the rights and interests of the parties.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1231 Terms of sales -- Separate sale of distinct parcels.

In all cases of sales of property the terms shall be made known at the time, and if the premises consist of distinct farms or lots, they shall be sold separately.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1232 Who may not be purchaser.

(1) A referee or any person for the referee's benefit may not be interested in any purchase.
(2) A guardian of a minor party may not be interested in the purchase of any real property which is the subject of an action under this part except for the benefit of the minor.

(3) All sales contrary to the provisions of this section are void.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1233 Report of referees to the courts of sales.

(1) Once the sale of the property or any portion ordered to be sold is complete, the referees shall file a report with the court.
(2) The report shall include:
  (a) a description of the different parcels of land sold to each purchaser;
  (b) the name of the purchaser;
  (c) the price paid or secured;
  (d) the terms and conditions of the sale; and
  (e) the securities, if any, taken.
(3) The report shall be filed in the office of the clerk of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1234 Referees' deed on confirmation -- Disposition of proceeds.

If the sale is confirmed by the court, an order shall be entered directing the referees to execute conveyances and authorizing them to take securities pursuant to sale. The order may also give directions directing the disposition of the proceeds of the sale.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1235 Allowance on purchase price -- When interested party is purchaser.

If a party entitled to a share of the property, or a lienholder entitled to have his lien paid out of the sale, becomes a purchaser, the referees may take his receipt for so much of the proceeds of the sale as belongs to him.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1236 Conveyance to be recorded -- Operates as a bar.

(1) The conveyances shall be recorded in the county where the property is located.
(2) The recording shall be a bar against:
  (a) all persons interested in the property in any way, who have been named as parties in the action;
  (b) all parties or persons who were unknown, if the summons was served by publication, and all persons claiming under them; and
  (c) all persons having unrecorded deeds or liens at the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1237 Investment of sale proceeds for nonresidents or unknown parties.

When there are proceeds of a sale belonging to an unknown owner or to a person outside the state who has no legal representative inside the state, the proceeds shall be invested in bonds of the United States, this state, or a political subdivision of the state for the benefit of the persons entitled the proceeds.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1238 Clerk of court to be custodian.

(1) If the security of the proceeds of the sale is taken, or when an investment of any proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the court.

(2) The clerk of the court shall hold the security for the use and benefit of the parties interested, subject to an order of the court.

Amended by Chapter 158, 2024 General Session

78B-6-1239 Distribution of securities to parties entitled.

If security is taken by the referees on a sale, and the parties interested in the security, by an instrument in writing delivered to the referees, agree upon the shares and proportions to which they are respectively entitled, or when shares and proportions have been previously adjudged by the court, the securities shall be taken in the names of, and payable to, the parties respectively entitled, and shall be delivered to the parties upon their receipt. The agreement and receipt shall be filed with the clerk of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1240 Investment of securities by court clerk -- Accounting.

The clerk of the court in whose name a security is taken or by whom an investment is made, and his successors in office, shall receive the interest and principal as it becomes due, and apply and invest the same as the court may direct. The clerk shall also deposit with the county treasurer all securities taken, and keep an account, in a book provided and kept for that purpose in the clerk's office, free to inspection by all persons, of investments and money received and their disposition.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1241 Equalization.

(1) If a partition cannot be made equally among the parties according to their respective rights without prejudice to the rights and interests of some of them, and a partition is ordered, the courts may order compensation made by one party to another on account of the inequality.

(2) Compensation may not be required to be made to others by unknown owners or a minor, unless the court determines that the minor has sufficient personal property to make the payment and the minor's and the minor's interest will not be negatively affected.

(3) The court has the power in all cases to make compensatory adjustment among the parties according to the principles of equity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1242 Interests of minor -- Payment to guardian.

If the share of a minor is sold, the court may order the proceeds of the sale to be paid by the referee making the sale to the minor's general guardian or to the special guardian appointed for the minor in the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1243 Partition -- Payment of costs -- Enforcement of judgment.

(1) The costs of partition, including reasonable attorney fees, expended by the plaintiff or any of the defendants for the common benefit, fees of referees and other disbursements shall be paid by the parties entitled to share in the lands divided, in proportion to their respective interests, and may be included and specified in the judgment. The costs shall be a lien on the several shares, and the judgment may be enforced by execution against the shares and against other property held by the respective parties.

(2) If litigation arises between some of the parties, the court may require the expenses of the litigation to be paid by the parties to the litigation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1244 One referee instead of three allowed by consent.

The court, with the consent of the parties, may appoint a single referee instead of three referees in the proceedings under the provisions of this part, and the single referee has all the powers, and may perform all the duties, required of the three referees.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1245 Lien for costs and expenses advanced by one for benefit of all.

(1) The court shall allow expenses incurred, including attorney fees, in prosecuting or defending other actions or proceedings by any one of the tenants in common for the protection, confirmation or perfecting of the title, or setting the boundaries, or making a survey or surveys of the estate partitioned to be recovered by the party incurring the expenses.

(2) The court shall determine the amounts with interest from the date the expenditures occurred.

(3) The costs shall be:

(a) pleaded and allowed by the court;

(b) included in the final judgment;

(c) a lien upon the share of each tenant, in proportion to the tenant's interest; and

(d) enforced in the same manner as taxable costs of partition are taxed and collected.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1246 Abstract of title -- Costs and inspection.

(1) If the court determines that it was necessary to have an abstract of the title to the property to be partitioned created and the abstract has been procured by a party to the proceeding, the cost of the abstract, with interest from the date if its creation and availability for inspection by the respective parties to the action, shall be allowed and taxed.

(2) If the abstract is procured by the plaintiff before the commencement of the action the plaintiff shall file a notice with the complaint that an abstract of the title has been made and is available for the inspection and use of all the parties to the action. The notice shall state where the abstract will be available for inspection.

(3) If the plaintiff did not procure an abstract before commencing the action, and a defendant procures an abstract, the defendant shall, as soon as it has been directed it to be made, file a notice in the action with the clerk of the court, stating who is making the abstract and where it will be kept when finished.

(4) The court may direct who may have custody of the abstract.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1247 Interest on advances to be allowed.

Any disbursement made by a party under the direction of the court during the action shall accrue interest from the date it is made.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 12a
Uniform Partition of Heirs' Property Act

78B-6-1270 Definitions.

As used in this part:

(1) "Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

(2) "Collateral" means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual's ascendant or descendant.

(3) "Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

(4) "Determination of value" means a court order:

(a) determining the fair market value of heirs' property under Section 78B-6-1274 or 78B-6-1278; or

(b) adopting the valuation of the property agreed to by all the cotenants.

(5) "Heirs' property" means real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) there is no agreement in a record binding all the cotenants that governs the partition of the property;

(b) one or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) any of the following applies:

(i) 20% or more of the interests are held by cotenants who are relatives;

(ii) 20% or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

(iii) 20% or more of the cotenants are relatives.

(6) "Partition by sale" means a court-ordered sale of the entire heirs' property, whether by an auction, sealed bids, or an open-market sale conducted under Section 78B-6-1278.

(7) "Partition in kind" means the division of heirs' property into physically distinct and separately titled parcels.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) "Relative" means an ascendant, a descendant, a collateral, or an individual otherwise related to another individual by blood, marriage, adoption, or a law of this state other than this part.

Enacted by Chapter 304, 2022 General Session

78B-6-1271 Applicability -- Relation to other law.

(1) This part applies to partition actions filed on or after May 4, 2022.
(2)
(a) In an action to partition real property under Title 78B, Chapter 6, Part 12, Partition, the court shall determine whether the property is heirs' property.
(b) If the court determines that the property is heirs' property, the property shall be partitioned under this part, unless all of the cotenants otherwise agree in a record.
(3) This part supplements Title 78B, Chapter 6, Part 12, Partition, and if an action is governed by this part, replaces provisions of Title 78B, Chapter 6, Part 12, Partition, that are inconsistent with this part.

Enacted by Chapter 304, 2022 General Session

78B-6-1272 Service -- Notice by posting.
(1) This part does not limit or affect the method by which service of a complaint in a partition action may be made.
(2)
(a) If the plaintiff in a partition action files a notice by publication and the court determines that the property is heirs' property, the plaintiff, no later than 10 days after the day on which the court determines the property is heirs' property, shall post and maintain while the action is pending a conspicuous sign on the property that is the subject of the action.
(b) The sign shall:
(i) state that the action has commenced; and
(ii) identify the name and address of the court and the common designation by which the property is known.
(c) The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

Enacted by Chapter 304, 2022 General Session

78B-6-1273 Referees.
If the court appoints referees, each referee, in addition to the requirements and disqualifications applicable to referees in Title 78B, Chapter 6, Part 12, Partition, shall be disinterested and impartial and not a party to or a participant in the action.

Enacted by Chapter 304, 2022 General Session

78B-6-1274 Determination of value.
(1) Except as otherwise provided in Subsections (2) and (3), if the court determines that the property that is the subject of a partition action is heirs' property, the court shall determine the fair market value of the property by ordering an appraisal in accordance with Subsection (4).
(2) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.
(3) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.
(4)

(a) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property assuming sole ownership of the fee simple estate.
(b) On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.
(5) If an appraisal is conducted in accordance with Subsection (4), no later than 10 days after the day on which the appraisal is filed, the court shall send notice to each party with a known address, stating:
(a) the appraised fair market value of the property;
(b) that the appraisal is available at the court clerk's office; and
(c) that a party may file with the court an objection to the appraisal no later than 30 days after the day on which the notice is sent, stating the grounds for the objection.
(6)
(a) If an appraisal is filed with the court in accordance with Subsection (4), the court shall conduct a hearing to determine the fair market value of the property no sooner than 31 days after the day on which a copy of the notice of the appraisal is sent to each party under Subsection (5), whether or not an objection to the appraisal is filed under Subsection (5)(c).
(b) In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.
(7) After a hearing under Subsection (6), but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.

Enacted by Chapter 304, 2022 General Session

78B-6-1275 Cotenant buyout.

(1) If any cotenant requests a partition by sale, after the determination of value under Section 78B-6-1274, the court shall send notice to the parties that any cotenant, except a cotenant that requested the partition by sale, may buy all the interests of the cotenants that requested partition by sale.
(2) No later than 45 days after on the day on which the notice is sent under Subsection (1), any cotenant, except a cotenant that requested partition by sale, may give notice to the court that the cotenant elects to buy all the interests of the cotenants that requested partition by sale.
(3) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under Section 78B-6-1274 multiplied by the cotenant's fractional ownership of the entire parcel.
(4) After expiration of the 45-day period described in Subsection (2):
(a) if only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of the fact that the one cotenant seeks to buy all the interests of the other cotenants;
(b) if more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall:
(i) allocate the right to buy all the interests of the cotenants among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy; and
(ii) send notice to all the parties of that fact and of the price to be paid by each electing cotenant; or

(c) if no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties that no cotenant elects to buy all the interests of the cotenants and resolve the partition action under Subsections 78B-6-1276(1) and (2).

(5)

(a) If the court sends notice to the parties under Subsection (4)(a) or (b), the court shall set a date, no sooner than 60 days after the day on which the notice was sent, by which electing cotenants shall pay each cotenant's apportioned price to the court.

(b) After the day described in Subsection (5)(a):

(i) if all electing cotenants timely pay each cotenant's apportioned price to the court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to the amounts;

(ii) if no electing cotenant timely pays each cotenant's apportioned price, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or

(iii) if one or more but not all of the electing cotenants fail to pay a cotenant's apportioned price on time, the court, upon a motion, shall give notice to the electing cotenants that paid the cotenant's apportioned price of the interest remaining and the price for all that interest.

(6)

(a) No later than 20 days after the day on which the court gives notice in accordance with Subsection (5)(b)(iii), any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price to the court.

(b) After the 20-day period described in Subsection (6)(a):

(i) if only one cotenant pays the entire price for the remaining interest, the court shall:

(A) issue an order reallocating the remaining interest to that cotenant;

(B) issue an order promptly reallocating the interests of all of the cotenants; and

(C) disburse the amounts held by the court to the persons entitled to the amounts;

(ii) if no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or

(iii) if more than one cotenant pays the entire price for the remaining interest, the court shall:

(A) reapportion the remaining interest among the paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest;

(B) issue an order promptly reallocating all of the cotenants' interests;

(C) disburse the amounts held by the court to the persons entitled to the amounts; and

(D) promptly refund any excess payment held by the court.

(7) No later than 45 days after the day on which the court sends notice to the parties in accordance with Subsection (1), any cotenant entitled to buy an interest under this section may request the court to authorize the sale, as part of the pending action, of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

(8) If the court receives a timely request under Subsection (7), the court, after a hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable if:

(a) a sale authorized under this Subsection (8) occurs only after the purchase prices for all interests subject to sale under Subsections (1) through (6) have been paid to the court and those interests have been reallocated among the cotenants as provided in Subsections (1) through (6); and

(b) the purchase price for the interest of a nonappearing cotenant is based on the court's determination of value of the property under Section 78B-6-1274.

Enacted by Chapter 304, 2022 General Session

78B-6-1276 Partition alternatives.

(1)
(a) Except as provided in Subsection (1)(b), a court shall order partition in kind if:
(i) all the interests of all cotenants that requested partition by sale are not purchased by other cotenants in accordance with Section 78B-6-1275; or
(ii) after conclusion of the buyout under Section 78B-6-1275, a cotenant remains that has requested partition in kind.
(b) A court may not order a partition in kind if the court finds that partition in kind will result in great prejudice to the cotenants as a group after consideration of the factors listed in Section 78B-6-1277.
(c) In considering whether to order partition in kind under Subsection (1)(a), the court shall approve a request by two or more parties to have their individual interests aggregated.

(2) If the court does not order partition in kind under Subsection (1), the court shall order partition by sale in accordance with Section 78B-6-1278, or the court shall dismiss the action if no cotenant requested partition by sale.

(3) If the court orders partition in kind in accordance with Subsection (1), the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

(4)
(a) If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or the subject of a default judgment, if the cotenants' interests were not bought out in accordance with Section 78B-6-1275, a part of the property representing the combined interests of these cotenants as determined by the court.
(b) The part of the property allocated in accordance with Subsection (4)(a) shall remain undivided.

Enacted by Chapter 304, 2022 General Session

78B-6-1277 Considerations for partition in kind.

(1) In determining under Subsection 78B-6-1276(1) whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider:
(a) whether the heirs' property practicably can be divided among the cotenants;
(b) whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;
(c) evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;
(d) a cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(e) the lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;
(f) the degree to which the cotenants have contributed:
(i) the cotenants' pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property; or
(ii) to the physical improvement, maintenance, or upkeep of the property; and
(g) any other relevant factor.
(2) The court may not consider any one factor in Subsection (1) to be dispositive without weighing the totality of all relevant factors and circumstances.

Enacted by Chapter 304, 2022 General Session

78B-6-1278 Open-market sale, sealed bids, or auction.

(1) If the court orders a sale of heirs' property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.
(2)
(a) If the court orders an open-market sale and the parties agree on a real estate broker licensed in this state to offer the property for sale no later than 10 days after the day on which the court entered the order, the court shall appoint the broker and establish a reasonable commission.
(b) If the parties do not agree on a broker during the 10-day period described in Subsection (2)(a), the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission.
(c) The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value of the property and on the terms and conditions established by the court.
(3) If the broker appointed under Subsection (2) obtains within a reasonable time an offer to purchase the property for at least the determination of value:
(a) the broker shall comply with the reporting requirements in Section 78B-6-1279; and
(b) the sale may be completed in accordance with state law other than this part.
(4) If the broker appointed under Subsection (2) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after a hearing, may:
(a) approve the highest outstanding offer if there is an outstanding offer;
(b) redetermine the value of the property and order that the property continue to be offered for an additional time; or
(c) order that the property be sold by sealed bids or at an auction.
(5)
(a) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.
(b) If the court orders an auction, the auction shall be conducted in accordance with Section 78B-6-1224.
(6) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

Enacted by Chapter 304, 2022 General Session

78B-6-1279 Report of open-market sale.

(1) Unless required to do so within a shorter time by Title 78B, Chapter 6, Part 12, Partition, a broker appointed under Subsection 78B-6-1278(2) to offer heirs' property for open-market sale shall file a report with the court no later than seven days after the day on which the broker receives an offer to purchase the property for at least the determination of value under Section 78B-6-1274 or 78B-6-1278.
(2) The report required by Subsection (1) shall contain the following information:
(a) a description of the property to be sold to each buyer;
(b) the name of each buyer;
(c) the proposed purchase price;
(d) the terms and conditions of the proposed sale, including the terms of any owner financing;
(e) the amounts to be paid to lienholders;
(f) a statement of contractual or other arrangements or conditions of the broker's commission; and
(g) any other material fact relevant to the sale.

Enacted by Chapter 304, 2022 General Session

78B-6-1280 Uniformity of application and construction.

In applying and construing this part, consideration shall be given to the need to promote uniformity of this uniform law with respect to the subject matter of the uniform law among states that enact this uniform law.

Enacted by Chapter 304, 2022 General Session

78B-6-1281 Relation to Electronic Signatures in Global and National Commerce Act.

This part modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 304, 2022 General Session

Part 13
Quiet Title

78B-6-1301 Quiet title -- Action to determine adverse claim to property.

A person may bring an action against another person to determine rights, interests, or claims to or in personal or real property.

Enacted by Chapter 3, 2008 General Session

78B-6-1302 Definitions.

As used in this part:
(1) "Claimant" means a person who files a notice.
(2) "Guarantee" means an agreement by a claimant to pay an amount of damages:
(a) specified by the court;

(b) suffered as a result of the maintenance of a notice;
(c) to a person with an interest in the real property that is the subject of the notice; and
(d) if the requirements of Subsection 78B-6-1304(5) are met.
(3) "Notice" means a notice of the pendency of an action filed under Section 78B-6-1303.

Enacted by Chapter 3, 2008 General Session

78B-6-1303 Lis pendens -- Notice.
(1)
(a) Any party to an action filed in the United States District Court for the District of Utah, the United States Bankruptcy Court for the District of Utah, a district court of this state, or the Business and Chancery Court of this state, that affects the title to, or the right of possession of, real property may file a notice of pendency of action.
(b) A party that chooses to file a notice of pendency of action shall:
(i) first, file the notice with the court that has jurisdiction of the action; and
(ii) second, record a copy of the notice filed with the court with the county recorder in the county where the property or any portion of the property is located.
(c) A person may not file a notice of pendency of action unless a case has been filed and is pending in the United States District Court for the District of Utah, the United States Bankruptcy Court for the District of Utah, a district court of this state, or the Business and Chancery Court of this state.
(2) The notice shall contain:
(a) the caption of the case, with the names of the parties and the case number;
(b) the object of the action or defense; and
(c) the specific legal description of only the property affected.
(3) From the time of filing the notice, a purchaser, an encumbrancer of the property, or any other party in interest that may be affected by the action is considered to have constructive notice of pendency of action.

Amended by Chapter 401, 2023 General Session

78B-6-1304 Motions related to a notice of pendency of an action.
(1) Any time after a notice has been filed pursuant to Section 78B-6-1303, any of the following may make a motion to the court in which the action is pending to release the notice:
(a) a party to the action; or
(b) a person with an interest in the real property affected by the notice, including a prospective purchaser with an executed purchase contract.
(2) A court shall order notice of pendency of action released if:
(a) the court receives a motion to release under Subsection (1); and
(b) after a notice and hearing if determined to be necessary by the court, the court finds that the claimant has not established by a preponderance of the evidence the validity of the real property claim that is the subject of the notice.
(3) In deciding a motion under Subsection (2), if the underlying action for which a notice of pendency of action is filed is an action for specific performance, a court shall order a notice released if:
(a) the court finds that the party filing the action has failed to satisfy the statute of frauds for the transaction under which the claim is asserted relating to the real property; or

(b) the court finds that the elements necessary to require specific performance have not been established by a preponderance of the evidence.
(4) If a court releases a claimant's notice pursuant to this section, that claimant may not record another notice with respect to the same property without an order from the court in which the action is pending that authorizes the recording of a new notice of pendency.
(5) Upon a motion by any person with an interest in the real property that is the subject of a notice of pendency, a court may, at any time after the notice has been recorded, require, as a condition of maintaining the notice, that the claimant provide security to the moving party in the amount and form directed by the court, regardless of whether the court has received an application to release under Subsection (1).
(6) A person who receives security under Subsection (5) may recover from the surety an amount not to exceed the amount of the security upon a showing that:
(a) the claimant did not prevail on the real property claim; and
(b) the person receiving the security suffered damages as a result of the maintenance of the notice.
(7) The amount of security required by the court under Subsection (5) does not establish or limit the amount of damages or reasonable attorney fees and costs that may be awarded to a party who is found to have been damaged by a wrongfully filed notice of pendency.
(8) A court shall award costs and attorney fees to a prevailing party on any motion under this section unless the court finds that:
(a) the nonprevailing party acted with substantial justification; or
(b) other circumstances make the imposition of attorney fees and costs unjust.
(9) The motion permitted by this section does not apply to a notice of pendency of an action required by Section 38-1a-701 or Section 38-10-106.

Amended by Chapter 103, 2017 General Session

78B-6-1304.5 Civil liability for recording wrongful notice of pendency -- Damages.

A person is liable to the record owner of real property, or to a person with a leasehold interest in the real property that is damaged by the maintenance of a notice of pendency, for $10,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs, if the person records or causes to be recorded a notice of pendency against the real property, knowing or having reason to know that:
(1) legal action against the property has not been filed as required by Section 78B-6-1303;
(2) the notice is groundless;
(3) the notice fails to comply with the notice requirements of Subsection 78B-6-1303(2); or
(4) the notice contains an intentional material misstatement or false claim.

Enacted by Chapter 306, 2016 General Session

78B-6-1305 Disclaimer or default by defendant -- Costs.

The plaintiff may not recover costs of the action if:
(1) the defendant disclaims in his answer any interest or estate in the property; or
(2) allows judgment to be taken against him by refusing to answer.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1306 Termination of title pending action -- Judgment -- Damages.

If the plaintiff demonstrates a right to recover at the time the action is brought, but his right terminates during the pendency of the action, the verdict and judgment shall be according to the fact, and the plaintiff may recover damages for withholding the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1307 Setoff or counterclaim for improvements made.

If permanent improvements have been made by a defendant, or persons under whom the defendant claims in good faith, the value of the improvements, except improvements made upon mining property, shall be allowed as a setoff or counterclaim against the damages recovered for withholding the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1308 Right of entry pending action for purposes of action.

The court in which an action is pending under this part or for damages for an injury to property may, on motion and upon notice to either party, for good cause shown, issue an order allowing a party the right to enter the property and take surveys and measurements including any tunnels, shafts, or drifts, even though entry must be made through other lands belonging to parties to the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1309 Order for entry -- Liability for injuries.

The order shall describe the property, and a copy served on the owner or occupant. The party may enter the property with necessary surveyors and assistants, and may take surveys and measurements. The party shall be liable for any unnecessary injury done to the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1310 Mortgage not considered a conveyance -- Foreclosure necessary.

A mortgage of real property may not be considered a conveyance which would enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1311 Alienation pending action not to prejudice recovery.

An action for the recovery of real property against a person in possession cannot be prejudiced by any alienation made by the person, either before or after the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1312 Actions respecting mining claims -- Proof of customs and usage admissible.

In actions respecting mining claims proof must be admitted of the customs, usages, or regulations established and in force in the district, bar, diggings, or camp in which the claim is located. The customs, usages, or regulations, if not in conflict with the laws of this state or of the United States, shall govern any decision in the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1313 Temporary injunction in actions involving title to mining claims.

(1) The court may grant a postponement if:
  (a) the court is satisfied that the delay is necessary for either or both parties to adequately prepare for trial; and
  (b) the party requesting the postponement is not guilty of laches and is acting in good faith.
(2) The court may provide, as part of its order, that the party obtaining the postponement may not remove from the property which is the subject of the action any valuable quartz, rock, earth, or ores. The court may vacate the postponement order or hold the party in contempt if the order is violated.

Enacted by Chapter 3, 2008 General Session

78B-6-1314 Service of summons and conclusiveness of judgment.

If service of process is made upon unknown defendants by publication, the action shall proceed against the unknown persons in the same manner as against the defendants who are named and upon whom service is made by publication. Any unknown person who has or claims to have any right, title, estate, lien, or interest in the property, which is a cloud on the title and adverse to the plaintiff, who has been served as above, and anyone claiming under him, shall be concluded by any judgment in the action even though the unknown person may be under a legal disability.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1315 Judgment on default -- Court must require evidence -- Conclusiveness of judgment.

(1) If the summons has been served and the time for answering has expired, the court shall proceed to hear the cause as in other cases.
(2) The court may examine and determine the legality of the plaintiff's title and the title and claims of all the defendants and all unknown persons.
(3) The court may not enter any judgment by default against unknown defendants, but in all cases shall require evidence of plaintiff's title and possession and hear the evidence offered respecting the claims and title of any of the defendants. The court may enter judgment in accordance with the evidence and the law only after hearing all the evidence.
(4) The judgment shall be conclusive against all the persons named in the summons and complaint who have been served and against all unknown persons as stated in the complaint and summons who have been served by publication.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 15
Structured Settlement Protection Act

78B-6-1501 Title.

This part is known as the "Structured Settlement Protection Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1502 Definitions.

For purposes of this part:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Dependents" include:

(a) a payee's spouse;

(b) a payee's minor children; and

(c) all other persons for whom the payee is legally obligated to provide support, including alimony.

(3) "Discounted present value" means the present value of future payments determined by discounting the payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(4) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from the consideration.

(5) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(6) "Interested parties" means, with respect to any structured settlement:

(a) the payee;

(b) any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death;

(c) the annuity issuer;

(d) the structured settlement obligor; and

(e) any other party that has continuing rights or obligations under the structured settlement.

(7) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under Subsection 78B-6-1503(5).

(8) "Payee" means an individual who:

(a) is receiving tax free payments under a structured settlement; and

(b) proposes to make a transfer of payment rights under the settlement.

(9) "Periodic payments" includes both recurring payments and scheduled future lump sum payments.

(10) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of Section 130 of the United States Internal Revenue Code.

(11) "Responsible administrative authority" means, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.

(12) "Settled claim" means the original tort claim resolved by a structured settlement.

(13) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.

(14) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(15) "Structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(16) "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer if:
(a)
(i) the payee is domiciled in this state; or
(ii) the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in this state;
(b) the structured settlement agreement is approved by a court in this state; or
(c) the structured settlement agreement is expressly governed by the laws of this state.
(17) "Terms of the structured settlement" include, with respect to any structured settlement, the terms of:
(a) the structured settlement agreement;
(b) the annuity contract;
(c) any qualified assignment agreement; and
(d) any order or other approval of any court or other government authority that authorized or approved the structured settlement.
(18)
(a) Subject to Subsection (18)(b), "transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.
(b) "Transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to:
(i) redirect the structured settlement payments to:
(A) the insured depository institution; or
(B) an agent or successor in interest to the insured depository institution; or
(ii) otherwise enforce a blanket security interest against the structured settlement payment rights.
(19) "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights.
(20)
(a) Subject to Subsection (20)(b), "transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including:
(i) court filing fees;
(ii) attorney fees;
(iii) escrow fees;
(iv) lien recordation fees;
(v) judgment and lien search fees;
(vi) finders' fees;
(vii) commissions; and
(viii) other payments to a broker or other intermediary.
(b) "Transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.
(21) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1503 Required disclosures to payee.

Not less than three days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than 14 point, setting forth:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of the payments;

(3) the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the Applicable Federal Rate used in calculating the discounted present value;

(4) the gross advance amount;

(5) an itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any of the fees and disbursements;

(6) the net advance amount;

(7) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee; and

(8) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1504 Approval of transfers of structured settlement payment rights.

Direct or indirect transfer of structured settlement payment rights may not be effective and a structured settlement obligor or annuity issuer may not be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by the court that:

(1) the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents;

(2) the payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing; and

(3) the transfer does not contravene any applicable statute or the order of any court or other government authority.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1505 Effects of transfer of structured settlement payment rights.

Following a transfer of structured settlement payment rights under this chapter:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments.

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(a) if the transfer contravenes the terms of the structured settlement, for any taxes incurred by the parties as a consequence of the transfer; and

(b) for any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by the parties with the order of the court or arising as a consequence of the transferee's failure to comply with this part.

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees.

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1506 Procedure for approval of transfers.

(1) An application under this part for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or in any court which approved the structured settlement agreement.

(2) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under Section 78B-6-1504, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with the notice:

(a) a copy of the transferee's application;

(b) a copy of the transfer agreement;

(c) a copy of the disclosure statement required under Section 78B-6-1503;

(d) a listing of each of the payee's dependents, together with each dependent's age;

(e) notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and

(f) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1507 General provisions -- Construction.

(1) The provisions of this part may not be waived by any payee.

(2)

(a) Any transfer agreement entered into on or after May 6, 2002 by a payee who resides in this state shall provide that disputes under the transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state.

(b) A transfer agreement may not authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(3) The transfer of structured settlement payment rights may not extend to any payments that are life-contingent unless, before the date on which the payee signs the transfer agreement, the transferee establishes and agrees to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(a) periodically confirming the payee's survival; and

(b) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(4) A payee who proposes to make a transfer of structured settlement payment rights may not incur any of the following on the basis of a failure of the transfer to satisfy the requirements of this part:

(a) a penalty;

(b) a forfeiture of any application fee or other payment; or

(c) any liability to the proposed transferee or any assignee based on any failure of the transfer to satisfy the requirements of this part.

(5)

(a) This part may not be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into before May 6, 2002 is valid or invalid.

(b) This part does not apply to a transfer of payment rights under workers' compensation, as defined in Section 34A-2-422, that takes effect on or after April 30, 2007.

(6) Compliance with Section 78B-6-1503 and fulfillment of the conditions set forth in Section 78B-6-1504 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with the requirements or failure to fulfill the conditions.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-6-1508 Effective date.

This part shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after May 6, 2002; provided, however, that nothing contained in this part shall imply that any transfer under a transfer agreement reached prior to that date is either effective or ineffective.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 16
Social Host Liability Act

78B-6-1601 Title.

This part is known as the "Social Host Liability Act."

Enacted by Chapter 187, 2009 General Session

78B-6-1602 Definitions.

As used in this part:

(1) "Alcoholic beverage" is as defined in Section 32B-1-102.

(2) "Emergency response provider" means an individual providing services on behalf of:

(a) a law enforcement agency;

(b) a fire suppression agency; or

(c) another agency or a political subdivision of the state.

(3) "Law enforcement officer" is as defined in Section 53-13-103.
(4) "Local entity" means the political subdivision for which an emergency response provider provides emergency services.
(5) "Minor" means an individual under the age of 18 years old.
(6)
(a) Subject to Subsection (6)(b), "response costs" means the actual costs directly associated with an emergency response provider responding to, remaining at, or otherwise dealing with an underage drinking gathering, including:
(i) the costs of medical treatment to or for an emergency response provider injured because of an activity described in this Subsection (6)(a); and
(ii) the cost of repairing damage to equipment or property of a local entity that is attributable to an activity described in this Subsection (6)(a).
(b) "Response costs" does not include:
(i) the salary and benefits of an emergency response provider for the amount of time spent responding to, remaining at, or otherwise dealing with an underage drinking gathering; or
(ii) the administrative costs attributable to an activity described in Subsection (6)(b)(i).
(7) "Underage drinking gathering" means a gathering of two or more individuals:
(a) at which an individual knowingly serves, aids in the service of, or allows the service of an alcoholic beverage to an underage person; and
(b) to which an emergency response provider is required to respond, except for a response related solely to providing medical care at the location of the gathering.
(8) "Underage person" means an individual under the age of 21 years old.

Amended by Chapter 276, 2010 General Session

78B-6-1603 Citation -- Civil penalty.
(1) An individual may not knowingly conduct, aid, or allow an underage drinking gathering.
(2) A law enforcement officer may issue a written citation to an individual who violates Subsection (1).
(3) An individual issued a citation under this section is subject to a civil penalty equal to the sum of:
(a)
(i) a fine of $250 for a first citation; or
(ii) double the fine imposed for an immediately preceding citation for each subsequent citation; and
(b) the response costs of the underage drinking gathering, not to exceed $1,000.
(4) Two or more individuals who violate Subsection (1) for the same underage drinking gathering are jointly and severally liable under this section for response costs attributable to the underage drinking gathering.
(5) An individual who violates Subsection (1) is liable under this part regardless of whether the individual is present at an underage drinking gathering.
(6) If a minor is issued a citation under this section, the minor's parent or legal guardian may not be held liable for an amount of civil penalty imposed on the minor as a result of the minor's citation.

Enacted by Chapter 187, 2009 General Session

78B-6-1604 Collection of civil penalty.

(1) A local entity shall mail a notice of the civil penalty amount for which an individual is liable by first-class or certified mail within 14 days of the day after which a citation is issued under Section 78B-6-1603. The notice shall contain the following information:
  (a) the name of the one or more individuals being held liable for the payment of the civil penalty;
  (b) the address of the location where the underage drinking gathering occurs;
  (c) the date and time of the response;
  (d) the name of an emergency service provider who responds to the underage drinking gathering; and
  (e) an itemized list of the response costs for which the one or more individuals are liable.
(2)
  (a) An individual liable under Section 78B-6-1603 shall remit payment of a civil penalty to the local entity that provides the notice required by Subsection (1) within 90 days of the date on which the notice is sent.
  (b) Notwithstanding Subsection (2)(a), a local entity may:
    (i) reduce the amount of a civil penalty; or
    (ii) negotiate a payment schedule for a civil penalty.
(3)
  (a) A civil penalty imposed under this section may be appealed as provided in Section 78B-6-1606.
  (b) Notwithstanding Subsection (4), the payment of a civil payment is stayed upon an appeal made pursuant to Section 78B-6-1606.
(4)
  (a) The amount of a civil penalty owed under this part is considered a debt owed to the local entity by the individual held liable under this part for an underage drinking gathering.
  (b) After the notice required by Subsection (1), an individual owing a civil penalty is liable in a civil action brought in the name of the local entity for recovery of:
    (i) the civil penalty; and
    (ii) reasonable attorney fees.

Enacted by Chapter 187, 2009 General Session

78B-6-1605 Reservation of legal options -- Ordinances.
(1)
  (a) This part may not be construed as a waiver by a local entity of a right to seek reimbursement for actual costs of response services through another legal remedy or procedure.
  (b) The procedure provided for in this part is in addition to any other civil or criminal statute.
  (c) This part does not limit the authority of a law enforcement officer to make an arrest, or a private individual to make a lawful temporary detention under Section 77-7-3, for a criminal offense arising out of conduct regulated by this part.
(2) A local entity may impose by ordinance a stricter provision related to the conduct of an underage drinking gathering, including the imposition of a different civil penalty amount, except that the ordinance shall provide that a civil penalty for an underage drinking gathering may only be imposed by a local entity for which an emergency response provider provides services at the underage drinking gathering.

Amended by Chapter 199, 2025 General Session

78B-6-1606 Appeals.

An individual upon whom is imposed a civil penalty under this part may appeal the imposition of the civil penalty pursuant to the procedures used by the local entity for appealing a traffic citation or a violation of an ordinance.

Enacted by Chapter 187, 2009 General Session

Part 17
Civil Action for Identity Theft

78B-6-1701 Cause of action for identity theft.

(1) A petitioner who has been injured by a violation of Section 76-6-1102, Identity Fraud, or Section 76-6-525, Communications Fraud, may recover from the perpetrator:
  (a) compensatory damages in the amount of $1,000 or up to three times the amount of actual damages, whichever is greater;
  (b) attorney fees; and
  (c) court costs.
(2) Actual damages may include:
  (a) replacement or reissuance costs for checks and any personal identification documents;
  (b) the value of the petitioner's time spent:
    (i) repairing their credit history or rating; and
    (ii) attending civil or administrative hearings necessary to resolve any debt, lien, or other obligation arising from the offense;
  (c) lost wages; and
  (d) any other verifiable costs the court may choose to include.
(3) The court may award punitive damages in addition to compensatory damages.
(4) A perpetrator who is not tried or found not guilty of a violation of Section 76-6-1102, Identity Fraud, or Section 76-6-525, Communications Fraud, may be found liable under this section if the court finds by a preponderance of the evidence that the perpetrator participated in a violation and the petitioner was injured as a result.
(5)
  (a) A perpetrator who is found guilty of a violation of Section 76-6-1102, Identity Fraud, or Section 76-6-525, Communications Fraud, shall be found liable under this section.
  (b) If restitution was ordered in the criminal action, the amount ordered shall be deducted from any damages awarded under this section.

Amended by Chapter 173, 2025 General Session

Part 18
Renewal of Judgment Act

78B-6-1801 Title.

This part is known as the "Renewal of Judgment Act."

Enacted by Chapter 22, 2011 General Session

78B-6-1802 Renewal by motion.

A court of record may renew a judgment issued by a court if:

(1) a motion is filed within the original action;

(2) the motion is filed before the statute of limitations on the judgment, or any renewal thereof, expires;

(3) the motion includes an affidavit that contains an accounting of the judgment and all postjudgment payments, credits, and other adjustments which are provided for by law or are contained within the judgment;

(4) the facts in the supporting affidavit are determined by the court to be accurate and the affidavit affirms that notice was sent to the most current address known for the judgment debtor;

(5) the time for responding to the motion has expired; and

(6) the fee required by Subsection 78A-2-301(1)(l) has been paid to the clerk of the court.

Amended by Chapter 493, 2025 General Session

78B-6-1803 Notice.

Notice of a motion for renewal of judgment is served in accordance with the Rules of Civil Procedure and opposition may be filed pursuant to the rules.

Enacted by Chapter 22, 2011 General Session

78B-6-1804 Date and duration of judgment.

Upon granting a motion for the renewal of judgment, the court shall enter an order which renews the judgment from the date of entry of the order for the amount of time set forth in Subsection 78B-5-202(1).

Amended by Chapter 493, 2025 General Session

Part 19
Distribution of Bad Faith Patent Infringement Letters Act

78B-6-1901 Title -- Purpose.

(1) This part is known as the "Distribution of Bad Faith Patent Infringement Letters Act."

(2) The Legislature acknowledges that it is preempted from passing any law that conflicts with federal patent law. However, this part seeks to protect Utah businesses from the use of demand letters containing abusive and bad faith assertions of patent infringement, and build Utah's economy, while at the same time respecting federal law and not interfering with legitimate patent enforcement efforts.

Enacted by Chapter 310, 2014 General Session

78B-6-1902 Definitions.

As used in this part:

(1)

(a) "Demand letter" means a letter, email, or other written communication directed to a target and asserting or claiming that the target has engaged in patent infringement.

(b) "Demand letter" does not include a complaint filed in a United States District Court asserting patent infringement or discovery responses or other papers filed in an action.
(2) "Target" means a person or entity residing in, incorporated in, or organized under the laws of this state that has received a demand letter and includes the customers, distributors, and agents of the person or entity.
(3) "Sponsor" means the party or parties responsible for distribution of a demand letter.

Enacted by Chapter 310, 2014 General Session

78B-6-1903 Prohibition against distribution of demand letters containing bad faith assertions of patent infringement.
(1) A sponsor may not distribute a demand letter to a target that includes a bad faith assertion of patent infringement.
(2) A court may consider the following factors as evidence in determining whether a sponsor has or has not distributed a demand letter containing a bad faith assertion of patent infringement, but no one factor may be considered conclusive as to whether a demand letter contains a bad faith assertion of patent infringement:
(a) the demand letter does not contain all of the following information:
(i) the patent numbers of the patent or patents being asserted;
(ii) the name and address of the current patent owner or owners and any other person or entity having the right to enforce or license the patent;
(iii) the name and address of all persons and entities holding a controlling interest in the persons and entities identified in Subsection (2)(a)(ii) of this section;
(iv) the identification of at least one claim of each asserted patent that is allegedly infringed;
(v) for each claim identified in Subsection (2)(a)(iv), a description of one or more allegedly infringing products, including the make, model number, and other specific identifying indicia of allegedly infringing products, services, or methods made, used, offered for sale, sold, imported or performed by the target, provided in sufficient detail to allow the target to assess the merits of the assertion of patent infringement; and
(vi) identification of each judicial or administrative proceeding pending as of the date of the demand letter where the validity of the asserted patent or patents is under challenge; or
(b) the demand letter contains any of the following:
(i) an assertion of patent infringement based on a patent or a claim of a patent that has been previously held invalid or unenforceable in a final judicial or administrative decision from which no appeal is possible;
(ii) an assertion that a complaint has been filed alleging that the target has infringed the patent when no complaint has, in fact, been filed;
(iii) an assertion of infringement based on acts occurring after the asserted patent or claim at issue has expired or been held invalid or unenforceable;
(iv) an assertion of infringement of a patent that the sponsor does not own or have the right to enforce or license; or
(v) an assertion that the amount of compensation demanded will increase if the target retains counsel to defend against the assertions in the demand letter or if the target does not pay the sponsor within a period of 60 days or less;
(vi) a false or misleading statement; or
(vii) the demand letter demands payment of a license fee or response within an unreasonably short period of time depending on the number and complexity of the claims.

(3) A court may consider the following factors as evidence to mitigate a conclusion that a sponsor has distributed a demand letter containing a bad faith assertion of patent infringement:
(a) the demand letter contains the information described in Subsection (2)(a);
(b) the demand letter lacks the information described in Subsection (2)(a) and when the target requests the information, the sponsor provides the information within a reasonable period of time;
(c) the sponsor engages in a good faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy;
(d) the sponsor has made a substantial investment in the practice of the patent or in the production or sale of a product or item covered by the patent; and
(e) the sponsor is:
(i) the inventor or joint inventor of the patent or the original assignee of the inventor or joint inventor, or an entity owned by or affiliated with the original assignee; or
(ii) an institution of higher education or a technology transfer organization owned by or affiliated with an institution of higher education.

Enacted by Chapter 310, 2014 General Session

78B-6-1904 Action -- Enforcement -- Remedies -- Damages.
(1)
(a) A target who has received a demand letter asserting patent infringement in bad faith, or a person aggrieved by a violation of this part, may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
(b) The court may award the following remedies to a target who prevails in an action brought pursuant to this part:
(i) equitable relief;
(ii) actual damages;
(iii) costs and fees, including reasonable attorney fees; and
(iv) punitive damages in an amount to be established by the court, of not more than the greater of $50,000 or three times the total of damages, costs, and fees.
(2)
(a) The attorney general may conduct civil investigations and bring civil actions pursuant to this part.
(b) In an action brought by the attorney general under this part, the court may award or impose any relief the court considers prudent, including the following:
(i) equitable relief;
(ii) statutory damages of not less than $750 per demand letter distributed in bad faith; and
(iii) costs and fees, including reasonable attorney fees, to the attorney general.
(3) This part may not be construed to limit other rights and remedies available to the state or to any person under any other law.
(4) A demand letter or assertion of a patent infringement that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2) is not subject to the provisions of this part.
(5) The attorney general shall annually provide an electronic report to the Executive Appropriations Committee regarding the number of investigations and actions brought under this part. The report shall include:
(a) the number of investigations commenced;
(b) the number of actions brought under the provisions of this part;
(c) the current status of actions brought under Subsection (5)(b); and

(d) final resolution of actions brought under this part, including any recovery under Subsection (2).

Amended by Chapter 401, 2023 General Session

78B-6-1905 Bond.

(1) Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a sponsor has made a bad faith assertion of patent infringement in a demand letter in violation of this part, the court shall require the sponsor to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim under this part and amounts reasonably likely to be recovered under Subsections 78B-6-1904(1)(b)(ii) and (iii), conditioned upon payment of any amounts finally determined to be due to the target.
(2) A hearing on the appropriateness and amount of a bond under this section shall be held if either party requests it.
(3) A bond ordered pursuant to this section may not exceed $250,000. The court may waive the bond requirement if it finds the sponsor has available assets equal to the amount of the proposed bond or for other good cause shown.

Amended by Chapter 401, 2023 General Session

Part 21
Cause of Action for Minors Injured by Pornographic Material

78B-6-2100 Title.

This part is known as "Cause of Action for Minors Injured by Pornographic Material."

Enacted by Chapter 464, 2017 General Session

78B-6-2101 Definitions.

As used in this part:
(1) "Minor" means an individual less than 18 years of age.
(2) "Pornographic material" means material that:
(a) the average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;
(b) is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
(c) taken as a whole does not have serious literary, artistic, political, or scientific value.

Enacted by Chapter 464, 2017 General Session

78B-6-2102 Exemptions.

(1) If the conditions of Subsection (2) are met, this part does not apply to:
(a) the following, as defined in the Communications Act of 1934, as amended:
(i) an interactive computer service;
(ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or

(iii) a multichannel video programming distributor;
(b) an Internet service provider;
(c) a provider of an electronic communications service;
(d) a distributor of Internet-based video services;
(e) a hosting company as defined in Section 76-5c-401; or
(f) a distributor of electronic or computerized game software that users manipulate through interactive devices.
(2) This part does not apply to an entity described in Subsection (1) if:
(a) the distribution of pornographic material by the entity occurs only incidentally through the entity's function of:
(i) transmitting or routing data from one person to another person;
(ii) providing a connection between one person and another person; or
(iii) providing data storage space or data caching to a person; and
(b) the entity does not intentionally aid or abet in the distribution of the pornographic material.

Amended by Chapter 173, 2025 General Session

78B-6-2103 Liability -- Safe harbor.
(1) A person who is not exempt under Section 78B-6-2102, and who distributes or otherwise provides pornographic material to consumers is liable to a person if:
(a) at the time the pornographic material is viewed by the person, the person is a minor; and
(b) the pornographic material is the proximate cause for the person being harmed physically or psychologically, or by emotional or medical illnesses as a result of that pornographic material.
(2) Nothing in this part affects any private right of action existing under other law, including contract.
(3) Notwithstanding Subsection (1), a person who distributes or otherwise provides pornographic material is not liable under this section if the person who distributes or otherwise provides pornographic material:
(a) provides a warning that:
(i) is conspicuous;
(ii) appears before the pornographic material can be accessed; and
(iii) consists of a good faith effort to warn persons accessing the pornographic material that the pornographic material may be harmful to minors; and
(b) makes a good faith effort to verify the age of a person accessing the pornographic material.
(4) Subsection (3) may not be interpreted as exempting a person from complying with Title 13, Chapter 39, Child Protection Registry.
(5)
(a) Notwithstanding Section 78B-6-2105, a person who is not exempt under Section 78B-6-2102, and who distributes or otherwise provides obscene material to consumers without a warning label or without the metadata described in Subsection 78B-6-2105(3)(b) is not liable if the person demonstrates reasonable efforts to determine the location of recipients of obscene material within the state and the placement of warning labels on material that enters the state. Reasonable efforts shall result in a compliance rate that exceeds 75% of the content believed to enter the state within the shorter of six months prior to any claim, or from May 12, 2020, to the time of the claim. Proof of reasonable efforts shall remove liability only for the type of compliance for which reasonable efforts have been proven.
(b) The use of virtual private networks or similar technology by the consumer to hide the consumer's location may not be included in a compliance rate calculation.

(6) Notwithstanding Section 78B-6-2105, a video game without a warning label is not liable if it has a rating of the Entertainment Software Rating Board or equivalent, as long as it also explicitly provides notice of the content as part of the rating.

Amended by Chapter 168, 2024 General Session

78B-6-2104 Damages -- Class action.

(1) If a court finds that a person is violating Section 78B-6-2103, the court may award the plaintiff:
  (a) actual damages; and
  (b) punitive damages, if it is proven that the person targeted minors.
(2) A class action may be brought under this part in accordance with Utah Rules of Civil Procedure, Rule 23.

Amended by Chapter 442, 2020 General Session

78B-6-2105 Civil action for enforcement -- Penalties.

(1) A person who distributes or otherwise provides pornographic material to consumers may not distribute any obscene material or performance as defined in Section 76-5c-101 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance.
(2) The warning of the harm shall be prominently displayed in the following form:

STATE OF UTAH WARNING
Exposing minors to obscene material may damage or negatively impact minors.

(3)
  (a) For print publications created after May 12, 2020, the warning in Subsection (2) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section 76-5c-101.
  (b) For digital publications:
    (i) the warning in Subsection (2) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section 76-5c-101; or
    (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (2) prior to each video or image contained on the website.
(4) A person who violates this section shall be liable for a civil penalty not to exceed $2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations.
(5) The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.
(6) Each of the following violations shall create a separate liability per violation:
  (a) the sale or display of potentially harmful content without the warning required in Subsection (2), in accordance with Subsection (3); or
  (b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.
(7) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.

(8) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.
(9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:
(a) the nature and extent of the violation;
(b) the number and severity of the violations;
(c) the economic effect of the penalty on the violator;
(d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;
(e) the willfulness of the violator's misconduct;
(f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and
(g) any other factor that the court determines justice requires.
(10) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (11).
(11) A private person may bring an action in the public interest pursuant to this section if:
(a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;
(b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:
(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or
(ii) the attorney general believes that there is no merit to the action; and
(c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (17).
(12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.
(13) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:
(a) state that the person executing the notice believes that there is a violation; and
(b) provide factual information sufficient to establish the basis for the alleged violation.
(14) A person who serves a notice of alleged violation identified in Subsection (13) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (17). The person may file an action against the alleged violator, or recover from the alleged violator if:
(a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and
(b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:
(i) corrected the alleged violation and all similar violations known to the alleged violator;
(ii) agreed to pay a penalty for the alleged violation in the amount of $500 per violation; and
(iii) notified, in writing, the noticing party that the violation has been corrected.
(15) The written notice required in Subsection (14)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (17). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

(16) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

(17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required $500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of $500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

[ ] Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

[ ] Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code Sections 76-5c-205 and 76-5c-206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

(18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one time for a specific violation.

(19) Notwithstanding Subsection (17), the attorney general may file an action pursuant to Subsection (10) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (17) for the same alleged violation.

(20) Payments shall be made in accordance with this section.

(a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

(b) A penalty paid in accordance with the special compliance procedure in Subsection (17) shall be made directly to the noticing party.

(21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited into the Crime Victim Reparations Fund created in Section 63M-7-526. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(a) If the penalty is paid to a noticing party in accordance with Subsection (17), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.

(b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.

(22) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (16).

(23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

(24) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections (21), (22), and (23);

(b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(25) This section does not apply to:

(a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing obscene or pornographic material.

(26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (4) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Amended by Chapter 173, 2025 General Session

Part 22
Cause of Action to Protect Minors from Unfiltered Devices

(Contingently Effective)
78B-6-2201 Title.
This part is known as "Cause of Action to Protect Minors from Unfiltered Devices."

Enacted by Chapter 416, 2021 General Session
Revisor instructions Chapter 416, 2021 General Session

Part 23
Firearm Preemption Enforcement Act

78B-6-2301 Definitions.
As used in this part:
(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.
(2) "Firearm" means the same as that term is defined in Section 53-5a-102.1.
(3) "Legislative firearm preemption" means the preemption provided for in Section 53-5a-102.
(4) "Local or state governmental entity" means:
(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or
(b) a county, city, town, special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 208, 2025 General Session

78B-6-2302 Violation of legislative preemption -- Exceptions.
(1) A local or state governmental entity may not enact or enforce a directive that violates legislative firearm preemption.
(2) This part does not prohibit the enactment or enforcement of a directive:
(a) by a law enforcement agency if the directive pertains to a firearm issued to or used by a peace officer in the course of the peace officer's official duties;
(b) by a correctional facility or mental health facility under Section 76-8-311.3;
(c) of judicial administration if the directive establishes a secure courthouse;

(d) by the State Tax Commission if the directive establishes a secure area within a State Tax Commission facility; or
(e) by a local or state governmental entity if the directive is developed in response to and in accordance with legislative authority.

Enacted by Chapter 428, 2022 General Session

78B-6-2303 Civil action -- Injunction -- Damages -- Immunity.

(1) A person who is harmed by a local or state governmental entity that makes or causes to be enforced a directive in violation of legislative firearm preemption may submit a written communication to the local or state governmental entity that harmed the person asking the local or state governmental entity that harmed the person to rescind or repeal the directive.
(2)
(a) If a local or state governmental entity fails to rescind or repeal a directive within 30 days after the day on which the local or state governmental entity receives a request described in Subsection (1), the person who submitted the request may file suit against the local or state governmental entity that failed to rescind or repeal the directive.
(b) The suit described in Subsection (2)(a) may be filed in any court of this state having jurisdiction over the local or state governmental entity that failed to rescind or repeal the directive in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.
(3) If the court determines that the local or state governmental entity that failed to rescind or repeal the directive violated legislative firearm preemption, the court shall:
(a) order that the relevant directive is void;
(b) prohibit the local or state governmental entity that failed to rescind or repeal the void directive from enforcing the void directive; and
(c) award to the prevailing party:
(i) actual damages, which includes the cost of time in bringing the civil action or defending against the action;
(ii) reasonable attorney fees and costs in accordance with the laws of this state; and
(iii) interest on the sums awarded under this Subsection (3) accrued at the legal rate from the date on which the suit is filed.

Enacted by Chapter 428, 2022 General Session

Part 24
Asbestos Litigation Requirements

78B-6-2401 Definitions.

As used in this part:
(1) "AMA guides" means the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment in effect at the time of the performance of an examination or test on an exposed individual.
(2) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. Sec. 1910 at the time the asbestos action is filed.

(3) "Asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by the inhalation of asbestos fibers.

(4)

(a) "Asbestos action" means a claim for damages or other civil or equitable relief presented in a civil action resulting from, based on, or related to:

(i) the health effects of exposure to asbestos, including:

(A) loss of consortium;

(B) wrongful death;

(C) mental or emotional injury;

(D) risk or fear of disease or other injury; and

(E) costs of medical monitoring or surveillance; and

(ii) any other derivative claim made by or on behalf of an individual exposed to asbestos or a representative, spouse, parent, child, or other relative of that individual.

(b) "Asbestos action" does not include a claim for workers' compensation or veterans benefits.

(5) "Asbestos trust" means a:

(a) government-approved or court-approved trust that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(b) qualified settlement fund that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(c) compensation fund or claims facility created as a result of an administrative or legal action that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(d) court-approved bankruptcy that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products; or

(e) plan of reorganization or trust pursuant to 11 U.S.C. Sec. 524(g) or 11 U.S.C. Sec. 1121(a) or other applicable provision of law that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products.

(6) "ATS testing standards" means the official technical statements from the American Thoracic Society for pulmonary function testing in effect at the time of the performance of an examination or test on an exposed individual.

(7) "Board-certified physician in internal medicine" means a licensed physician who is certified by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(8) "Board-certified physician in occupational medicine" means a licensed physician who is certified in the specialty of:

(a) occupational medicine by the American Board of Preventative Medicine; or

(b) occupational and environmental medicine by the American Osteopathic Board of Preventative Medicine.

(9) "Board-certified physician in pathology" means a licensed physician:

(a) who holds primary certification in anatomic pathology or clinical pathology from the American Board of Pathology or the American Osteopathic Board of Pathology; and

(b) whose professional practice is principally in the field of pathology involving regular evaluation of pathology materials obtained from surgical or postmortem specimens.

(10) "Board-certified physician in pulmonary medicine" means a licensed physician who is certified in the specialty of pulmonary medicine by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.
(11) "Certified B reader" means a physician who is certified as a B reader by the National Institute for Occupational Safety and Health.
(12) "Chest x-ray" means a chest film taken in accordance with applicable state and federal laws and taken in the posterior-anterior view.
(13) "Exposed individual" means an individual whose exposure to asbestos is the basis for the asbestos action.
(14) "FEV1" means the maximal volume of air expelled in the first second during performance of spirometry.
(15) "FEV1/FVC ratio" means the ratio that is calculated from FEV1 divided by FVC.
(16) "FVC" means the maximal volume of air expired with maximum effort from a position of full inspiration.
(17) "ILO system" means the system for the classification of chest x-rays provided in the International Labour Office's Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses in effect at the time of the performance of an examination or test on an exposed individual.
(18) "Law firm" means a person that employs a lawyer.
(19) "Lawyer" means an individual who is authorized to provide legal services in any state or territory of the United States.
(20)
(a) "Nonmalignant condition" means a condition that may be caused by asbestos other than a diagnosed cancer.
(b) "Nonmalignant condition" does not include asbestos-related lung cancer accompanied by asbestosis.
(21) "Pathological evidence of asbestosis" means a statement by a board-certified physician in pathology that more than one representative section of lung tissue demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and there is no other more likely explanation for the presence of the fibrosis.
(22) "Plaintiff" means:
(a) the person bringing the asbestos action, including a personal representative if the asbestos action is brought by an estate; or
(b) a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.
(23) "Plethysmography" means the test for determining lung volume in which the exposed individual is enclosed in a chamber equipped to measure pressure, flow, or volume change.
(24) "Predicted lower limit of normal" means the fifth percentile of healthy populations based on age, height, and gender as referenced in the AMA guides.
(25) "Pulmonary function testing" means spirometry, lung volume testing, and diffusion capacity testing, including appropriate measurements, quality control data, and graphs, that are performed in accordance with the methods of calibration and techniques provided in the AMA guides and the ATS testing standards in effect at the time of the performance of a test on an exposed individual.
(26) "Qualified physician" means a licensed physician who:
(a) is a board-certified physician in internal medicine, a board-certified physician in occupational medicine, a board-certified physician in pathology, or a board-certified physician in pulmonary medicine, as is appropriate to the diagnostic specialty in question;

(b)
(i) conducted a physical examination of the exposed individual and took a detailed occupational, exposure, medical, smoking, and social history from the exposed individual; or
(ii) if the exposed individual is deceased, reviewed the pathology material and took a detailed history from the individual most knowledgeable about the information forming the basis of the asbestos action;
(c)
(i) treated the exposed individual and had a physician-patient relationship with the exposed individual at the time of the physical examination; or
(ii) if the licensed physician is a board-certified physician in pathology, examined tissue samples or pathological slides of the exposed individual;
(d) prepared or directly supervised the preparation and final review of a medical report under this part; and
(e) has not relied on any examinations, tests, radiographs, reports, or opinions of a doctor, clinic, laboratory, or testing company that performed an examination, test, radiograph, or screening of the exposed individual in violation of a law, regulation, licensing requirement, or medical ethics requirement of the state in which the examination, test, radiograph, or screening of the exposed individual was conducted.

(27) "Radiological evidence of asbestosis" means a quality 1 or 2 chest x-ray showing bilateral small, irregular opacities, classified by width as s, t, or u, that occur primarily in the lower lung zones graded by a certified B reader as at least 1/0 on the ILO system.

(28) "Radiological evidence of diffuse bilateral pleural thickening" means a quality 1 or 2 chest x-ray showing diffuse bilateral pleural thickening of at least b2 on the ILO system and blunting of at least one costophrenic angle as classified by a certified B reader.

(29) "Spirometry" means a test of air capacity of the lung through a spirometer that measures the volume of air inspired and expired.

(30) "Supporting test results" means a report by a certified B reader, x-ray examinations, diagnostic imaging of the chest, pathology reports, pulmonary function testing, and other tests, which are reviewed by the diagnosing physician or qualified physician in reaching the physician's conclusions.

(31) "Sworn declaration" means the same as that term is defined in Section 78B-18a-102.

(32) "Timed gas dilution" means a method for measuring total lung capacity in which the individual breaths into a spirometer containing a known concentration of an inert and insoluble gas for a specific time and the concentration of that inert and insoluble gas in the lung is compared to the concentration of that type of gas in the spirometer.

(33) "Total lung capacity" means the volume of gas contained in the lungs at the end of the maximal inspiration.

(34) "Trust claims materials" means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including:
(a) claims forms and supplementary materials;
(b) affidavits;
(c) depositions and trial testimony;
(d) work history;
(e) medical and health records;
(f) documents reflecting the status of a claim against an asbestos trust; and
(g) all documents relating to the settlement of the trust claim if the trust claim has settled.

(35) "Trust governance documents" means all documents that relate to eligibility and payment levels, including:

(a) claims payment matrices; and
(b) trust distribution procedures or plans for reorganization for an asbestos trust.
(36) " Veterans benefits" means a program for benefits in connection with military service administered by the United States Department of Veterans Affairs under United States Code, Title 38, Veterans Benefits.
(37)
(a) "Workers' compensation" means a program administered by the United States or a state to provide benefits, funded by a responsible employer or the employer's insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.
(b) "Workers' compensation" includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sec. 901 et seq., and Federal Employees' Compensation Act, 5 U.S.C. Sec. 8101 et seq.
(c) "Workers' compensation" does not include the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.

Renumbered and Amended by Chapter 80, 2023 General Session

78B-6-2402 Required disclosures by plaintiff within 21 days of filing asbestos action.
(1) Within 21 days after the day on which the first answer is filed in response to the plaintiff's complaint in an asbestos action, the plaintiff shall provide all parties with a sworn declaration stating the evidence providing the basis for each claim against each defendant, including:
(a) the name, address, date of birth, marital status, occupation, smoking history, and current and past employers and worksites of the exposed individual;
(b) the name and address of each individual who is knowledgeable about each exposure to asbestos and the exposed individual's relationship to that individual;
(c) the manufacturer or seller and the specific name of each asbestos-containing product, including any brand or trade name of that product, to which the exposed individual was exposed to asbestos or the other individual was exposed to asbestos if the exposed individual's exposure to asbestos was through another individual;
(d) the specific sites and the location at the sites that establish the direct connection between the exposed individual, or the other individual if the exposed individual's exposure to asbestos was through another individual, and each defendant;
(e) the beginning and ending dates of each exposure and the frequency of each exposure for the exposed individual or the other individual if the exposed individual's exposure to asbestos was through another individual;
(f) the condition that is alleged to have been caused by exposure to asbestos; and
(g) any supporting documentation relating to the information required under this Subsection (1).
(2) The sworn declaration under Subsection (1) is in addition to the disclosures required under Sections 78B-6-2403 and 78B-6-2405.
(3) Except as provided in Subsection (4), on a motion by a defendant in an asbestos action, the court shall dismiss a plaintiff's asbestos claim without prejudice:
(a) against a defendant if the defendant's asbestos-containing product or site is not specifically identified in the sworn declaration under Subsection (1); or
(b) against all defendants if the plaintiff fails to comply with Subsection (1).
(4) The court may not dismiss a plaintiff's asbestos claim under Subsection (3) upon a showing of good cause by the plaintiff.

Enacted by Chapter 80, 2023 General Session

78B-6-2403 Requirements for asbestos action alleging nonmalignant condition -- Evidence.

(1) Within 90 days after the day on which the plaintiff files the complaint in an asbestos action alleging a nonmalignant condition, the plaintiff shall file a detailed narrative medical report and diagnosis, signed under oath by a qualified physician and accompanied by supporting test results, constituting prima facie evidence that the exposed individual has a physical impairment for which exposure to asbestos was a substantial contributing factor.

(2) A defendant shall have a reasonable opportunity before trial to challenge the adequacy of the prima facie evidence required under this section.

(3) A court shall dismiss an asbestos action without prejudice upon a finding that the plaintiff failed to make the prima facie showing required by this section.

(4) To make a prima facie showing under Subsection (1), the detailed narrative medical report and diagnosis shall include:

(a)

(i) radiological evidence of asbestosis or pathological evidence of asbestosis;

(ii) radiological evidence of diffuse bilateral pleural thickening; or

(iii) a high-resolution computed tomography scan showing evidence of asbestosis or diffuse pleural thickening;

(b) a detailed occupational and exposure history from the exposed individual, or the individual most knowledgeable about the exposed individual's exposure to asbestos if the exposed individual is deceased, that includes:

(i) the exposed individual's principal places of employment;

(ii) the exposed individual's exposure to airborne contaminants; and

(iii) whether the exposed individual's principal places of employment involved any exposure to airborne contaminants, including asbestos fibers or other disease-causing dusts or fumes that may cause a physical impairment and the nature, duration, and level of that exposure;

(c) a detailed medical, social, and smoking history from the exposed individual, or the individual most knowledgeable about the exposed individual's exposure to asbestos if the exposed individual is deceased, that includes a thorough review of the past and present medical problems of the exposed individual and the likely cause of the medical problems;

(d) evidence verifying that at least 15 years have passed between the exposed individual's date of first exposure to asbestos and the date of diagnosis;

(e) evidence that the exposed individual has a permanent respiratory impairment rating of at least class 2 as defined by and evaluated in accordance with the AMA guides;

(f) evidence that asbestosis or diffuse bilateral pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial factor to the exposed individual's physical impairment based on a determination that the exposed individual has:

(i) FVC below the predicted lower limit of normal and a FEV1/FVC ratio, using actual values, equal to or above the predicted lower limit of normal;

(ii) total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal; or

(iii) a chest x-ray showing bilateral small, irregular opacities, classified by width as s, t, or u, and graded by a certified B reader as at least 2/1 on the ILO system; and

(g) a statement from the qualified physician that exposure to asbestos was a substantial contributing factor to the exposed individual's physical impairment and was likely not the result of any other cause.

(5) A statement by the qualified physician that the exposed individual's physical impairment is consistent with, or compatible with, an exposure to asbestos, or words to that effect, does not satisfy the requirements under Subsection (4)(g).
(6) Evidence relating to the prima facie showing under this section:
  (a) shall comply with the quality controls, equipment requirements, methods of calibration, and techniques provided in the AMA guides and ATS testing standards;
  (b) may not be based on testing or examination that violates a law, regulation, licensing requirement, or medical ethics requirement of the state in which the test or examination was conducted;
  (c) may not be obtained under the condition that the plaintiff retains the services of the lawyer or law firm sponsoring the examination, test, or screening;
  (d) does not create a presumption that the exposed individual has an asbestos-related injury or impairment; and
  (e) is not conclusive as to the liability of any defendant.
(7) A party in an asbestos action may not offer evidence at trial regarding, and the jury may not be informed of:
  (a) the grant or denial of a motion to dismiss an asbestos action under this section; or
  (b) the requirements of a prima facie showing under this section.
(8)
  (a) Except as provided in Subsection (8)(b), a plaintiff may not commence discovery against any defendant in an asbestos action until a court enters an order determining that the plaintiff has established a prima facie showing under this section.
  (b) The parties to an asbestos action may conduct discovery in regard to establishing or challenging a prima facie showing under this section.

Enacted by Chapter 80, 2023 General Session

78B-6-2404 Accrual of action alleging nonmalignant condition.

Notwithstanding the requirements of Section 78B-2-117, the statute of limitations for an asbestos action alleging a nonmalignant condition that is not time barred on or before May 3, 2023, may not begin to run until the earlier of the day on which:
(1) the exposed individual is diagnosed with a physical impairment that meets the prima facie evidence requirements of Section 78B-6-2403;
(2) the exposed individual discovered facts that would have led a reasonable individual to obtain a diagnosis with respect to the existence of a physical impairment from exposure to asbestos that would have met the prima facie evidence requirements of Section 78B-6-2403; or
(3) the exposed individual dies.

Enacted by Chapter 80, 2023 General Session

78B-6-2405 Required disclosures by plaintiff in asbestos action within 120 days of trial.
(1) For each asbestos action filed in this state, the plaintiff shall provide all parties with a sworn declaration identifying all asbestos trust claims that have been filed by the plaintiff or by anyone on the plaintiff's behalf, including claims with respect to asbestos-related conditions other than those that are the basis for the asbestos action or that potentially could be filed by the plaintiff against an asbestos trust.
(2) The sworn declaration shall be provided no later than 120 days prior to the date set for trial for the asbestos action.

(3) For each asbestos trust claim or potential asbestos trust claim identified in the sworn declaration, the sworn declaration shall include:
  (a) the name, address and contact information for the asbestos trust;
  (b) the amount claimed or to be claimed by the plaintiff;
  (c) the date the plaintiff filed the claim;
  (d) the disposition of the claim; and
  (e) whether there has been a request to defer, delay, suspend, or toll the claim.
(4) The sworn declaration shall include an attestation from the plaintiff, under penalties of perjury, that the sworn declaration is complete and based on a good faith investigation of all potential claims against asbestos trusts.
(5) The plaintiff shall make available to all parties all trust claims materials for each asbestos trust claim that has been filed by the plaintiff or by anyone on the plaintiff's behalf against an asbestos trust, including any asbestos-related disease.
(6) The plaintiff shall supplement the information and materials provided pursuant to this section within 90 days after the day on which the plaintiff files an additional asbestos trust claim, supplements an existing asbestos trust claim, or receives additional information or materials related to any claim or potential claim against an asbestos trust.
(7) Failure by the plaintiff to make available to all parties all trust claims materials as required by this part shall constitute grounds for the court to extend the trial date in an asbestos action.
(8)
  (a) A court shall stay an asbestos action if the court finds that the plaintiff has failed to make the disclosures required by this section within the time period described in Subsection (2).
  (b) If a plaintiff identifies a potential asbestos trust claim in the disclosures required by this section, the court may stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials for the asbestos trust claim.

Renumbered and Amended by Chapter 80, 2023 General Session

78B-6-2406 Identification of additional or alternative asbestos trusts by defendant before trial.

(1) Not less than 90 days before trial, if a defendant identifies an asbestos trust claim not previously identified by the plaintiff that the defendant reasonably believes the plaintiff can file, the defendant shall meet and confer with the plaintiff to discuss why the defendant believes the plaintiff has an additional asbestos trust claim.
(2) The defendant may move the court for an order to require the plaintiff to file the asbestos trust claim after the meeting under Subsection (1).
(3) The defendant shall produce or describe the documentation that the defendant possesses or is aware of in support of the motion under Subsection (2).
(4) Within 10 days after the day on which the plaintiff receives the defendant's motion under Subsection (2), the plaintiff shall for each asbestos trust claim identified by the defendant:
  (a) file the asbestos trust claim;
  (b) file a written response with the court setting forth the reasons why there is insufficient evidence for the plaintiff to file the asbestos trust claim; or
  (c) file a written response with the court requesting a determination that the plaintiff's expenses or the plaintiff's attorney fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the trust.
(5)

(a) If the court determines that there is a sufficient basis for the plaintiff to file the asbestos trust claim identified by the defendant, the court shall:
(i) order the plaintiff to file the asbestos trust claim; and
(ii) stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials no later than 30 days before trial.
(b) If the court determines that the plaintiff's expenses or the plaintiff's attorney fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the asbestos trust, the court shall stay the asbestos action until the plaintiff files with the court and provides all parties with a verified statement of the plaintiff's history of exposure, usage, or other connection to asbestos covered by the asbestos trust.

Renumbered and Amended by Chapter 80, 2023 General Session

78B-6-2407 Discovery of materials and documents for asbestos trust claim -- Use of asbestos trust materials.
(1) Trust claims materials and trust governance documents are presumed to be relevant and authentic and are admissible in evidence.
(2) Claims of privilege may not apply to any trust claims materials or trust governance documents.
(3) A defendant in an asbestos action may seek discovery from an asbestos trust.
(4) The plaintiff may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release information and materials sought by a defendant.
(5) If a plaintiff proceeds to trial in an asbestos action before an asbestos trust claim is resolved, the filing of the asbestos trust claim may be considered as relevant and admissible evidence.

Renumbered and Amended by Chapter 80, 2023 General Session

78B-6-2408 Failure to provide information -- Sanctions.
A plaintiff who fails to provide all of the information required under Section 78B-6-2405, 78B-6-2406, or 78B-6-2407, is subject to sanctions as provided in the Utah Rules of Civil Procedure and any other relief for the defendants that the court considers just and proper.

Renumbered and Amended by Chapter 80, 2023 General Session

Part 25
Claims to Which Immunity Applies

78B-6-2501 Definitions.
As used in this part:
(1) "Contamination claim" means a claim for which a government owner and the government owner's officers and employees have immunity under Subsection 63G-7-201(3)(b).
(2) "Government owner" means the same as that term is defined in Subsection 63G-7-201(3).

Enacted by Chapter 259, 2023 General Session

78B-6-2502 Award of double attorney fees and costs.

If a person asserts a contamination claim against a government owner or an officer or employee of the government owner for which the government owner or officer or employee are found to be immune under Subsection 63G-7-201(3)(b), the court shall award the government owner or officer or employee double the attorney fees and costs incurred by the government owner or officer or employee in defending the claim.

Enacted by Chapter 259, 2023 General Session

Part 26
Children's Device Protection Act

78B-6-2601 Definitions.

As used in this part:

(1) "Activate" means the process of powering on a device and associating the device with a user account.

(2) "Device" means a tablet or a smart phone manufactured on or after January 1, 2025.

(3) "Filter" means generally accepted and commercially reasonable software used on a device that is capable of preventing the device from accessing or displaying obscene material through Internet browsers or search engines owned or controlled by the manufacturer in accordance with prevailing industry standards including blocking known websites linked to obscene content via mobile data networks, wired Internet networks, and wireless Internet networks.

(4) "Internet" means the same as that term is defined in Section 13-40-102.

(5) "Manufacturer" means a person that:

(a)

(i) is engaged in the business of manufacturing a device;

(ii) holds the patents for the device the person manufactures; or

(iii) holds the patents for the operating system on a device; and

(b) has a commercial registered agent as that term is defined in Section 16-17-102.

(6) "Minor" means an individual under the age of 18 who is not emancipated, married, or a member of the armed forces of the United States.

(7) "Obscenity" means the same as that term is defined in Section 32B-1-504.

(8) "Operating system" means software that manages all of the other application programs on a device.

(9) "Password" means a string of characters or other secure method used to enable, deactivate, modify, or uninstall a filter on a device.

(10)

(a) "Retailer" means a person, that is not a manufacturer, that sells a device directly to consumers.

(b) "Retailer" includes an employee of a retailer acting in the course and scope of the employee's employment.

(11) "Smart phone" means the same as that term is defined in Section 63A-2-101.5.

(12) "Tablet" means a mobile device that:

(a) is equipped with a mobile operating system, touchscreen display, and rechargeable battery; and

(b) has the ability to support access to a cellular network.

(13) "Video game console" means a discrete computing system, including the system's components and peripherals, primarily used for playing video games, but does not include a smartphone or tablet.

Enacted by Chapter 166, 2024 General Session

78B-6-2602 Filter required.

All devices activated in the state shall:

(1) contain a filter;

(2) ask the user to provide the user's age during activation and account set-up;

(3) automatically enable the filter when the user is a minor based on the age provided by the user as described in Subsection (2);

(4) allow a password to be established for the filter;

(5) notify the user of the device when the filter blocks the device from accessing a website; and

(6) allow a non-minor user who has a password the option to deactivate and re-activate the filter.

Enacted by Chapter 166, 2024 General Session

78B-6-2603 Manufacturer liability.

(1) A manufacturer of a device is subject to civil liability if:

(a) a device is activated in the state;

(b) the device does not, upon activation in the state, enable a filter that complies with the requirements described in Section 78B-6-2602; and

(c) the minor accesses material that is obscene on the device.

(2) Notwithstanding Subsection (1), this section does not apply to a manufacturer that makes a good faith effort to provide a device that, upon activation of the device in the state, automatically enables a filter in accordance with Section 78B-6-2602.

(3) Nothing in this part:

(a) applies to a device manufactured before January 1, 2025;

(b) applies to a video game console; or

(c) creates a cause of action against a retailer of a device.

Enacted by Chapter 166, 2024 General Session

78B-6-2604 Individual liability.

With the exception of a minor's parent or legal guardian, a person may be liable in a civil and criminal action for intentionally enabling the password to remove the filter on a device in the possession of a minor if the minor accesses content that is obscene on the device.

Enacted by Chapter 166, 2024 General Session

78B-6-2605 Proceedings by the attorney general.

(1) The attorney general may bring an action in court against a person for a violation of this chapter:

(a) to enjoin any action that constitutes a violation of this chapter by the issuance of a temporary restraining order or preliminary or permanent injunction;

(b) to recover from a violator a civil penalty not to exceed $5,000 per violation, and not to exceed a total of $50,000 in aggregate, as determined by the court;

(c) to recover from a violator the attorney general's reasonable expenses, investigative costs, and attorney fees; and
(d) to obtain other appropriate relief as provided for under this chapter.
(2) The attorney general may seek revocation of any license or certificate authorizing a manufacturer to engage in business in this state if, after the manufacturer is found to have violated provisions of this part, the manufacturer demonstrates a repeated pattern of violations of the provisions of this part.
(3) For purposes of assessing a penalty under this section, a manufacturer is considered to have committed a separate violation for each device manufactured on or after January 1, 2025, that violates the provisions of Section 78B-6-2602.

Enacted by Chapter 166, 2024 General Session

78B-6-2606 Civil action by parent or legal guardian.
(1) A parent or legal guardian of a minor that accesses obscene content on a device as a result of a manufacturer's failure to comply with of Section 78B-6-2602 may bring a private cause of action in court against the manufacturer.
(2) A person bringing an action under Subsection (1) may recover:
(a)
(i) actual damages; or
(ii) where actual damages are difficult to ascertain due to the nature of the injury, $50,000 for each violation;
(b) if a violation is found to be knowing and willful, punitive damages in an amount determined by the court;
(c) nominal damages;
(d) attorney fees; and
(e) such other relief as the court deems appropriate, including court costs and expenses.
(3) Nothing herein shall preclude the bringing of a class action lawsuit against a manufacturer where the manufacturer's conduct in violation of Section 78B-6-2602 is knowing and willful.
(4) A parent or legal guardian of a minor may bring an action against any person who is not the parent or legal guardian of the child and who disables the filter from a device in the possession of the child which results in the minor's exposure to obscene content.
(5) A person bringing an action under Subsection (4) may recover:
(a)
(i) actual damages; or
(ii) where actual damages are difficult to ascertain due to the nature of the injury, $1,000 for each violation; and
(b) such other relief as the court deems appropriate.

Enacted by Chapter 166, 2024 General Session

Chapter 7
Protective Orders and Stalking Injunctions

Part 1

General Provisions

Repealed 9/1/2025

78B-7-101 Title.

This chapter is known and may be cited as "Protective Orders and Stalking Injunctions."

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 142, 2020 General Session

78B-7-102 Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Canadian domestic violence protection order" means the same as that term is defined in Section 78B-7-1201.

(4) "Child" means an individual who is younger than 18 years old.

(5) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

(6) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(7)

(a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn minor child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor child; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(8) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

(9) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(10) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(11) "Court clerk" means a district court clerk.
(12)
(a) "Dating partner" means an individual who:
(i)
(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or
(B) is 18 years old or older; and
(ii) is, or has been, in a dating relationship with the other party.
(b) "Dating partner" does not include an intimate partner.
(13)
(a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.
(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.
(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:
(i) all relevant factors shall be considered, including:
(A) whether the parties developed interpersonal bonding above a mere casual fraternization;
(B) the length of the parties' relationship;
(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;
(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;
(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and
(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and
(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (13)(c)(i) are found to support the existence of a dating relationship.
(14) "Dating violence" means:
(a) a criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by an individual against a dating partner; or
(b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal offense involving violence or physical harm against a dating partner of the individual.
(15) "Domestic violence" means the same as that term is defined in Section 77-36-1.
(16) "Ex parte civil protective order" means an order issued without notice to the respondent under:
(a) Part 2, Child Protective Orders;
(b) Part 4, Dating Violence Protective Orders;
(c) Part 5, Sexual Violence Protective Orders;
(d) Part 6, Cohabitant Abuse Protective Orders; or
(e) Part 11, Workplace Violence Protective Orders.
(17) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.
(18) "Foreign protection order" means:
(a) the same as that term is defined in Section 78B-7-302; or
(b) a Canadian domestic violence protection order.
(19) "Household animal" means an animal that is tamed and kept as a pet.
(20) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(21) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.
(22) "Minor child" means the same as that term is defined in Section 81-1-101.
(23) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.
(24) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.
(25) "Respondent" means the individual against whom enforcement of a protective order is sought.
(26) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Amended by Chapter 212, 2025 General Session
Amended by Chapter 332, 2025 General Session

78B-7-104 Venue of action for ex parte civil protective orders and civil protective orders.
(1) Except as provided in Part 2, Child Protective Orders, the district court has jurisdiction of any action for an ex parte civil protective order or civil protective order brought under this chapter.
(2) An action for an ex parte civil protective order or civil protective order brought under this chapter shall be filed in the county where either party resides, is temporarily domiciled, or in which the action complained of took place.

Amended by Chapter 297, 2022 General Session

78B-7-105 Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.
(1)
  (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:
    (i) an ex parte civil protective order;
    (ii) a civil protective order;
    (iii) an ex parte stalking injunction; or
    (iv) a civil stalking injunction.
  (b) The Administrative Office of the Courts shall:
    (i) develop and adopt uniform forms for petitions and the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and
    (ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).
(2) The forms described in Subsection (1)(b) shall include:
  (a) for a petition for an ex parte civil protective order or a civil protective order:
    (i) a statement notifying the petitioner for an ex parte civil protective order that knowing falsification of any statement or information provided for the purpose of obtaining a civil protective order may subject the petitioner to felony prosecution;
    (ii) language indicating the criminal penalty for a violation of an ex parte civil protective order or a civil protective order under this chapter and language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;
(iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name;
(v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and
(vi) a space for the date on which the provisions of the protective order expire;
(b) for a petition under Part 4, Dating Violence Protective Orders, a space to indicate whether an order under Subsection 78B-7-404(2)(e) or (f) regarding a household animal is requested; and
(c) for a petition under Part 6, Cohabitant Abuse Protective Orders:
(i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation;
(ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school that the child attends;
(iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance; and
(iv) a space to indicate whether an order under Subsection 78B-7-603(2)(k) or (l) regarding a household animal is requested.
(3) If the individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:
(a) the forms adopted under Subsection (1)(b);
(b) all other forms required to petition for a protective order or stalking injunction described in Subsection (1)(a), including forms for service;
(c) clerical assistance in filling out the forms and filing the petition, or if the court clerk's office designates another entity, agency, or person to provide that service, oversight over the entity, agency, or person to see that the service is provided;
(d) information regarding the means available for the service of process;
(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and
(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.
(4) A court clerk, constable, or law enforcement agency may not impose a charge for:
(a) filing a petition under this chapter;
(b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;
(c) obtaining copies, either certified or uncertified, necessary for service or delivery to law enforcement officials; or
(d) fees for service of:
(i) a petition under this chapter;
(ii) an ex parte civil protective order;
(iii) a civil protective order;

(iv) an ex parte civil stalking injunction; or
(v) a civil stalking injunction.
(5) A petition for an ex parte civil protective order and a civil protective order shall be in writing and verified.
(6)
(a) The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).
(b) A civil protective order that is issued shall, if applicable, include the following language:
"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.".
(c) An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:
"NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.".
(d) A child protective order issued under Part 2, Child Protective Orders, shall include:
(i) the date the order expires; and
(ii) a statement that the address provided by the petitioner will not be made available to the respondent.
(7)
(a)
(i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.
(ii) A charge may be imposed by the court clerk's office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.
(b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:
"Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order.".

Amended by Chapter 142, 2022 General Session

78B-7-105.5 Forms for motions, criminal protective orders, and criminal stalking injunctions.
(1)
(a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:
(i) a criminal protective order; or
(ii) a criminal stalking injunction.
(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for motions and protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and
(ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).
(2) The forms described in Subsection (1)(b) shall include:
(a) language indicating the criminal penalty for a violation of a criminal protective order or criminal stalking injunction under this chapter;
(b) language indicating that a criminal protective order that is a continuous protective order may be modified or dismissed under this chapter; and
(c) a space to indicate whether the party to be protected is an intimate partner to the defendant or a child of an intimate partner to the defendant.
(3) A criminal protective order and criminal stalking injunction shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).
(4) Except for a jail release agreement and jail release court order, a criminal protective order that is issued shall, if applicable, include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Enacted by Chapter 142, 2020 General Session

78B-7-108 Mutual protective orders.

(1) A court may not grant a mutual order or mutual civil protective orders to opposing parties, unless each party:
(a) files an independent petition against the other for a civil protective order, and both petitions are served;
(b) makes a showing at a due process civil protective order hearing of abuse or domestic violence committed by the other party; and
(c) demonstrates the abuse or domestic violence did not occur in self-defense.
(2) If the court issues mutual civil protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.
(3)
(a) Except as provided in Subsection (3)(b), a court may not grant a civil protective order to a petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:
(i) issued under:
(A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
(B) Title 80, Utah Juvenile Code;
(C) Part 6, Cohabitant Abuse Protective Orders; or
(D) Part 8, Criminal Protective Orders; or
(ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
(b) The court may grant a civil protective order to a petitioner described in Subsection (3)(a) if:
(i) the court determines that the requirements of Subsection (1) are met; and
(ii)

(A) the same court that issued the protective order, child protective order, or ex parte child protective order issues the civil protective order against the respondent; or
(B) if the matter is before a subsequent court, the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order, child protective order, or ex parte child protective order.

Amended by Chapter 159, 2021 General Session
Amended by Chapter 262, 2021 General Session

78B-7-109 Continuing duty to inform court of other proceedings -- Effect of other proceedings.

(1) Each party has a continuing duty to inform the court of each proceeding for a civil protective order or a criminal protective order, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.
(2)
(a) A civil protective order issued under this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.
(b) A petitioner is not barred from seeking a civil protective order because of other pending proceedings.
(c) A court may not delay granting a civil protective order under this chapter because of the existence of a pending civil action between the parties.
(d) If a petitioner seeks a civil protective order based upon facts related to an arrest, investigation, detention, charging, or conviction of the respondent, the court may consider the facts when determining whether to issue a civil protective order even if the records of the arrest, investigation, detention, charging, or conviction are expunged.
(3) A petitioner may omit the petitioner's address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

Amended by Chapter 239, 2025 General Session

78B-7-113 Statewide domestic violence network -- Peace officers' duties -- Prevention of abuse in absence of order -- Limitation of liability.

(1)
(a)
(i) Law enforcement units, the Department of Public Safety, and the Administrative Office of the Courts shall utilize statewide procedures to ensure that a peace officer at the scene of an alleged violation of a civil protective order or criminal protective order has immediate access to information necessary to verify the existence and terms of that order, and other orders of the court required to be made available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or Section 77-38-3.
(ii) The peace officers described in Subsection (1)(a)(i) shall use every reasonable means to enforce the court's order, in accordance with the requirements and procedures of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
(b) The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, established in Section 53-10-103, shall provide for a single, statewide network containing:

(i) all civil protective orders and criminal protective orders issued by a court of this state; and
(ii) all other court orders or reports of court action that are required to be available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
(c) The entities described in Subsection (1)(b) may utilize the same mechanism as the statewide warrant system, described in Section 53-10-208.
(d)
(i) Except as provided in Subsection (1)(d)(ii), the Administrative Office of the Courts shall make all orders and reports required to be available on the network available within 24 hours after court action.
(ii) If the court that issued an order that is required to be available under Subsection (1)(d)(i) is not part of the state court computer system, the Administrative Office of the Courts shall make the order and report available on the network within 72 hours after court action.
(e) The Administrative Office of the Courts and the Department of Public Safety shall make the information contained in the network available to a court, law enforcement officer, or agency upon request.
(2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is being abused, or that there is a substantial likelihood of immediate danger of abuse, although no civil or criminal protective order has been issued, that officer shall use all reasonable means to prevent the abuse, including:
(a) remaining on the scene as long as it reasonably appears there would otherwise be danger of abuse;
(b) making arrangements for the victim to obtain emergency medical treatment;
(c) making arrangements for the victim to obtain emergency housing or shelter care;
(d) explaining to the victim the victim's rights in these matters;
(e) asking the victim to sign a written statement describing the incident of abuse; or
(f) arresting and taking into physical custody the abuser in accordance with the provisions of Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
(3) No person or institution may be held criminally or civilly liable for the performance of, or failure to perform, any duty established by this chapter, so long as that person acted in good faith and without malice.

Amended by Chapter 142, 2020 General Session

78B-7-116 Full faith and credit for foreign protection orders.
(1) A foreign protection order is enforceable in this state as provided in Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, and Title 78B, Chapter 7, Part 12, Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act.
(2)
(a) A person entitled to protection under a foreign protection order may file the order in any district court by filing with the court a certified copy of the order. A filing fee may not be required.
(b) The person filing the foreign protection order shall swear under oath in an affidavit, that to the best of the person's knowledge the order is presently in effect as written and the respondent was personally served with a copy of the order.

(c) The affidavit described in Subsection (2)(b) shall be in the form adopted by the Administrative Office of the Courts, consistent with its responsibilities to develop and adopt forms under Section 78B-7-105.
(d) The court where a foreign protection order is filed shall transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.
(e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protection order available.
(f) After a foreign protection order is filed, the district court shall furnish a certified copy of the order to the person who filed the order.
(g) A filed foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the statewide domestic violence network described in Section 78B-7-113.
(3) Law enforcement personnel may:
(a) rely upon a certified copy of any foreign protection order which has been provided to the peace officer by any source;
(b) rely on the statement of the person protected by the order that the order is in effect and the respondent was personally served with a copy of the order; or
(c) consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
(4) A violation in Utah of a foreign protection order is subject to the same penalties as the violation of a protective order issued in Utah.

Amended by Chapter 212, 2025 General Session

78B-7-117 Court order for transfer of wireless telephone number.
(1) As used in this section, "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.
(2) At or after the time that a court issues a sentencing protective order or continuous protective order under Section 78B-7-804 or a cohabitant abuse protective order or no-fault cohabitant abuse protective order under Section 78B-7-603, the court may order the transfer of a wireless telephone number as provided in this section if:
(a) the perpetrator is the account holder for the wireless telephone number;
(b) the number is assigned to a telephone that is primarily used by the victim or an individual who will reside with the victim during the time that the protective order or the order of protection is in effect; and
(c) the victim requests transfer of the wireless telephone number.
(3) An order transferring a wireless telephone number under this section shall:
(a) direct a wireless service provider to transfer the rights to, and the billing responsibility for, the wireless telephone number to the victim; and
(b) include the wireless telephone number to be transferred, the name of the transferee, and the name of the account holder.
(4) A wireless service provider shall comply with an order issued under this section, unless compliance is not reasonably possible due to:
(a) the account holder having already terminated the account;
(b) differences in network technology that prevent the victim's device from functioning on the network to which the number is to be transferred;
(c) geographic or other service availability constraints; or
(d) other barriers outside the control of the wireless service provider.

(5) A wireless service provider that fails to comply with an order issued under this section shall, within four business days after the day on which the wireless service provider receives the order, provide notice to the victim stating:
(a) that the wireless service provider is not able to reasonably comply with the order; and
(b) the reason that the wireless service provider is not able to reasonably comply with the order.
(6) The victim has full financial responsibility for each wireless telephone number transferred to the victim by an order under this section, beginning on the day on which the wireless telephone number is transferred, including monthly service costs and costs for any mobile device associated with the wireless telephone number.
(7) This section does not preclude a wireless service provider from applying standard requirements for account establishment to the victim when transferring financial responsibility under Subsection (6).
(8) A wireless service provider, and any officer, employee, or agent of the wireless service provider, is not civilly liable for action taken in compliance with an order issued under this section.

Amended by Chapter 332, 2025 General Session

78B-7-118 Construction with Utah Rules of Civil Procedure.

To the extent the provisions of this chapter are more specific than the Utah Rules of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

Amended by Chapter 4, 2020 Special Session 5

78B-7-119 Duties of law enforcement -- Enforcement.

A law enforcement officer shall, without a warrant, arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of any of the following that has been served on the alleged perpetrator:
(1) an ex parte civil protective order;
(2) a civil protective order;
(3) an ex parte civil stalking injunction;
(4) a civil stalking injunction;
(5) a criminal protective order;
(6) a permanent criminal stalking injunction; or
(7) a foreign protective order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Enacted by Chapter 142, 2020 General Session

78B-7-120 Law enforcement -- Training -- Domestic violence -- Lethality assessments.

(1) In accordance with Section 77-36-2.1, the Department of Public Safety shall:
(a) develop training in domestic violence responses and lethality assessment protocols that includes information on:
(i) recognizing the symptoms of domestic violence and trauma;
(ii) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;
(iii) lethality assessment protocols and interviewing techniques, including indicators of strangulation;

(iv) responding to the needs and concerns of a victim of domestic violence;
(v) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and
(vi) understanding cultural perceptions and common myths of domestic violence;
(b) develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state; and
(c) develop specific training curriculums for the trainings described in Subsections (1)(a) and (b) that include:
(i) information on responding to domestic violence incidents, including trauma-informed and victim-centered interview techniques;
(ii) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and
(iii) standards for report writing.
(2) The Peace Officer Standards and Training Division shall incorporate training in domestic violence issues into training offered to all individuals seeking certification as a peace officer.
(3) The Department of Public Safety and the Administrative Office of the Courts shall coordinate to provide information and training on the lethality assessment protocols described in Section 77-36-2.1 to all judges, commissioners, and court staff who may encounter lethality assessment data in the courses of their duties.

Amended by Chapter 109, 2023 General Session
Amended by Chapter 447, 2023 General Session

78B-7-121 Requirements for proceedings between the parents of a child.
(1)
(a) As used in this section, "relevant proceeding" means a civil proceeding under this chapter:
(i) between the parents of a child;
(ii) that involves the care or custody of the child; and
(iii) that concerns a protective order under this chapter.
(b) "Relevant proceeding" does not include:
(i) any child protective, abuse, or neglect proceeding;
(ii) a juvenile justice proceeding; or
(iii) any child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.
(2) In a relevant proceeding, the court shall comply with the standards described in Section 81-9-104.

Enacted by Chapter 453, 2024 General Session

Part 2
Child Protective Orders

78B-7-201 Definitions.
As used in this chapter:
(1) "Abuse" means:

(a) physical abuse;
(b) sexual abuse;
(c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or
(d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.
(2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.
(3) "Court" means the district court or juvenile court.
(4) "Ex parte child protective order" means an order issued without notice to the respondent under this part.
(5) "Protective order" means:
(a) a child protective order; or
(b) an ex parte child protective order.
(6) All other terms have the same meaning as defined in Section 80-1-102.

Amended by Chapter 262, 2021 General Session

78B-7-202 Abuse or danger of abuse -- Child protective orders -- Ex parte child protective orders -- Guardian ad litem -- Referral to division.
(1)
(a) Any interested person may file a petition for a protective order:
(i) on behalf of a child who is being abused or is in imminent danger of being abused by any individual; or
(ii) on behalf of a child who has been abused by an individual who is not the child's parent, stepparent, guardian, or custodian.
(b) Before filing a petition under Subsection (1)(a), the interested person shall make a referral to the division.
(2) Upon the filing of a petition described in Subsection (1), the clerk of the court shall:
(a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;
(b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and
(c) identify and obtain any other background information that may be of assistance to the court.
(3) If it appears from a petition for a protective order filed under Subsection (1)(a)(i) that the child is being abused or is in imminent danger of being abused, or it appears from a petition for a protective order filed under Subsection (1)(a)(ii) that the child has been abused, the court may:
(a) without notice, immediately issue an ex parte child protective order against the respondent if necessary to protect the child; or
(b) upon notice to the respondent, issue a child protective order after a hearing in accordance with Subsection 78B-7-203(5).
(4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803.
(5) This section does not prohibit a protective order from being issued against a respondent who is a child.

Amended by Chapter 262, 2021 General Session

78B-7-203 Hearings.
(1)

(a) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within 21 days after the day on which the court makes the ex parte determination.
(b) If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within 21 days after the day on which the petitioner makes the request.

(2)
(a) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem.
(b) The notice of hearing described in Subsection (2)(a) shall contain:
(i) the name and address of the individual to whom the notice is directed;
(ii) the date, time, and place of the hearing;
(iii) the name of the child on whose behalf a petition is being brought; and
(iv) a statement that an individual is entitled to have an attorney present at the hearing.

(3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.
(4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.
(5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:
(a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or
(b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.
(6) Except as provided in Section 80-3-404, a child protective order is not an adjudication of abuse, neglect, or dependency under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Amended by Chapter 159, 2021 General Session
Amended by Chapter 262, 2021 General Session

78B-7-204 Content of orders -- Modification of orders -- Penalties.

(1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:
(a) enjoin the respondent from threatening to commit or committing abuse of the child;
(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;
(c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;
(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and
(e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.

(2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:

(a) determine temporary custody of the child who is the subject of the petition;
(b) determine parent-time with the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;
(c) determine child support in accordance with Title 81, Chapter 6, Child Support; and
(d) order any further relief the court considers necessary to provide for the safety and welfare of the child.

(3)
(a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:
(i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and
(ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.
(b) A violation of an order under Subsection (3)(a) is contempt of court.

(4)
(a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.
(b) At the hearing described in Subsection (4)(a):
(i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and
(ii) the court shall consider:
(A) the nature and duration of the abuse;
(B) the pain and trauma inflicted on the child as a result of the abuse;
(C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and
(D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.
(c) The child is not required to attend the hearing described in Subsection (4)(a).

Amended by Chapter 366, 2024 General Session

78B-7-205 Service -- Income withholding -- Expiration.

(1) If the court enters an ex parte child protective order or a child protective order, the court shall:
(a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;
(b) as soon as possible transmit the order to the county sheriff for service; and
(c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.

(2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.

(3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.
(4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.
(5)
  (a) A child protective order issued against a respondent who is a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires 150 days after the day on which the order is issued unless a different date is set by the court.
  (b) The court may not set a date on which a child protective order described in Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued without a finding of good cause.
  (c) The court may review and extend the expiration date of a child protective order described in Subsection (5)(a), but may not extend the expiration date more than 150 days after the day on which the order is issued without a finding of good cause.
  (d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not effective after the day on which the child who is the subject of the order turns 18 years old and the court may not extend the expiration date of a child protective order to a date after the day on which the child who is the subject of the order turns 18 years old.
(6) A child protective order issued against a respondent who is not a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires on the day on which the child turns 18 years old.

Amended by Chapter 330, 2023 General Session

78B-7-206 Statewide domestic violence network.

The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, shall post ex parte child protective orders, child protective orders, and any modifications to them on the statewide network established in Section 78B-7-113.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-207 Forms and assistance -- No fees.

(1) The Administrative Office of the Courts shall adopt and make available uniform forms for petitions and orders conforming to this part. The forms shall notify the petitioner that:
  (a) a knowing falsehood in any statement under oath may subject the petitioner to felony prosecution;
  (b) the petitioner may provide a copy of the order to the principal of the minor's school; and
  (c) the petitioner may enforce a court order through the court if the respondent violates or fails to comply with a provision of the order.
(2) If the petitioner is not represented, the clerk of the court shall provide, directly or through an agent:
  (a) the forms adopted pursuant to Subsection (1);
  (b) clerical assistance in completing the forms and filing the petition;
  (c) information regarding means for service of process;

(d) a list of organizations with telephone numbers that may represent the petitioner; and
(e) information regarding the procedure for transporting a jailed or imprisoned respondent to hearings, including transportation order forms when necessary.
(3) No fee may be imposed by a court, constable, or law enforcement agency for:
(a) filing a petition under this chapter;
(b) obtaining copies necessary for service or delivery to law enforcement officials; or
(c) service of a petition, ex parte child protective order, or child protective order.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3
Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

78B-7-301 Title.

This part is known as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-302 Definitions.

As used in this part:
(1) "Foreign protection order" means a protection order issued by a tribunal of another state.
(2) "Issuing state" means the state whose tribunal issues a protection order.
(3) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.
(4) "Protected individual" means an individual protected by a protection order.
(5) "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence, family-violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual.
(6) "Respondent" means the individual against whom enforcement of a protection order is sought.
(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.
(8) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-303 Judicial enforcement of order.

(1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued

in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(2) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(3) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(4) A foreign protection order is valid if it:

(a) identifies the protected individual and the respondent;

(b) is currently in effect;

(c) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.

(5) A foreign protection order valid on its face is prima facie evidence of its validity.

(6) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

(7) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

(a) the respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and

(b) the tribunal of the issuing state made specific findings in favor of the respondent.

(8)

(a) The juvenile court has jurisdiction to enforce foreign protection orders under this section over which the juvenile court would have had jurisdiction if the order had been originally sought in this state.

(b) The district court has jurisdiction to enforce foreign protection orders under this section:

(i) over which the district court would have had jurisdiction if the order had been originally sought in this state; or

(ii) that are not under the jurisdiction of the juvenile court under Subsection (8)(a).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-304 Nonjudicial enforcement of order.

(1) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

(2) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
(3) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
(4) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-305 Registration of order.

Any individual may register a foreign protection order in this state under Section 78B-7-116.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-306 Immunity.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-307 Other remedies.

A protected individual who pursues remedies under this part is not precluded from pursuing other legal or equitable remedies against the respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-308 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-309 Severability clause.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-310 Transitional provision.

This part applies to protection orders issued before July 1, 2006 and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2006. A request for enforcement of a foreign protection order made on or after July 1, 2006 for violations of a foreign protection order occurring before July 1, 2006 is governed by this part.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Dating Violence Protective Orders

78B-7-402 Definitions.

As used in this part:

(1) "Dating violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

(2) "Ex parte dating violence protective order" means an order issued without notice to the respondent under this part.

(3) "Protective order" means:

(a) a dating violence protective order; or

(b) an ex parte dating violence protective order.

Amended by Chapter 142, 2020 General Session

78B-7-403 Abuse or danger of abuse -- Dating violence protective orders.

(1) An individual may seek a protective order if the individual is subjected to, or there is a substantial likelihood the individual will be subjected to:

(a) abuse by a dating partner of the individual; or

(b) dating violence by a dating partner of the individual.

(2) An individual may seek an order described in Subsection (1) whether or not the individual has taken other action to end the relationship.

(3) An individual seeking a protective order may include another party in the petition for a protective order if:

(a) the individual seeking the order meets the requirements of Subsection (1); and

(b) the other party:

(i) is a family or household member of the individual seeking the protective order; and

(ii) there is a substantial likelihood the other party will be subjected to abuse by the dating partner of the individual.

(4) An individual seeking a protective order under this part shall, to the extent possible, provide information to facilitate identification of the respondent, including a name, social security number, driver license number, date of birth, address, telephone number, and physical description.

(5) A petition seeking a protective order under this part may not be withdrawn without written order of the court.

(6)

(a) An individual may not seek a protective order against an intimate partner of the individual under this part.

(b) An individual may seek a protective order against a cohabitant or an intimate partner of the individual under Part 6, Cohabitant Abuse Protective Orders.

Amended by Chapter 142, 2020 General Session

78B-7-404 Dating violence protective orders -- Ex parte dating violence protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the court may:
  (a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or
  (b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.
(2) A court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:
  (a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;
  (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;
  (c) order that the respondent:
    (i) is excluded and shall stay away from the petitioner's residence and its premises;
    (ii) except as provided in Subsection (4), stay away from the petitioner's:
      (A) school and the school's premises; and
      (B) place of employment and its premises; and
    (iii) stay away from any specified place frequented by the petitioner or any designated family or household member;
  (d) prohibit the respondent from being within a specified distance of the petitioner;
  (e) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;
  (f) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent; and
  (g) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.
(3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:
  (a) the relief described in Subsection (2); and
  (b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.
(4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:

(a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and
(b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.
(5) The court may not prohibit the respondent from possessing a firearm:
(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and
(b) unless the petition establishes:
(i) by a preponderance of the evidence that the respondent has committed abuse or dating violence against the petitioner; and
(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to petitioner or the designated family or household member.
(6) After the court issues a dating violence protective order, the court shall:
(a) as soon as possible, deliver the order to the county sheriff for service of process;
(b) make reasonable efforts at the hearing to ensure that the dating violence protective order is understood by the petitioner and the respondent, if present;
(c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and
(d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.
(7)
(a) The county sheriff that receives the order from the court, under Subsection (6)(a), shall:
(i) provide expedited service for protective orders issued in accordance with this part; and
(ii) after the order has been served, transmit verification of service of process to the statewide network described in Section 78B-7-113.
(b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:
(i) has contact with the respondent and service by that law enforcement agency is possible; or
(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
(8) When a protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
(9) A court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:
(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or
(b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Amended by Chapter 142, 2022 General Session

78B-7-405 Hearings -- Expiration -- Extension.
(1)

(a) The court shall set a date for a hearing on the petition for a dating violence protective order to be held within 21 days after the day on which the court issues an ex parte dating violence protective order.
(b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless extended by the court.
(c)
(i) The court may extend the 21-day period described in Subsection (1)(a) only if:
(A) the petitioner is unable to be present at the hearing;
(B) the respondent has not been served; or
(C) exigent circumstances exist.
(ii) Under no circumstances may an ex parte dating violence protective order be extended beyond 180 days from the day on which the court issues the initial ex parte dating violence protective order.
(d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence protective order, the ex parte dating violence protective order shall remain in effect until service of process of the dating violence protective order is completed.
(e) A dating violence protective order remains in effect for three years after the day on which the court issues the order.
(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 calendar days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within 21 days after the day on which the objection is filed.
(2) Upon a hearing under this section, the court may grant any of the relief permitted under Section 78B-7-404, except the court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.
(3) If the court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:
(a) set the matter for a hearing to be held within 21 days after the day on which the petitioner makes the request; and
(b) notify and serve the respondent.
(4)
(a) A dating violence protective order automatically expires under Subsection (1)(e), unless the petitioner files a motion before the day on which the dating violence protective order expires requesting an extension of the dating violence protective order and demonstrates that:
(i) there is a substantial likelihood the petitioner will be subjected to dating violence; or
(ii) the respondent committed or was convicted of a violation of the dating violence protective order that the petitioner requests be extended or dating violence after the day on which the dating violence protective order is issued.
(b)
(i) If the court denies the motion described in Subsection (4)(a), the dating violence protective order expires under Subsection (1)(e).
(ii) If the court grants the motion described in Subsection (4)(a), the court shall set a new date on which the dating violence protective order expires.

Amended by Chapter 159, 2021 General Session

78B-7-407 Penalties.

A violation of a protective order issued under this part is a class A misdemeanor.

Amended by Chapter 142, 2020 General Session

78B-7-408 Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further violence, including:
  (a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
  (b) confiscating the weapon or weapons involved in the alleged dating violence;
  (c) making arrangements for the victim and any child to obtain emergency housing or shelter;
  (d) providing protection while the victim removes essential personal effects;
  (e) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
  (f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2).

(2)
  (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter.
  (b) The written notice shall also include:
    (i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and
    (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a dating protective order is not issued or once the dating protective order is terminated.

Amended by Chapter 159, 2021 General Session

78B-7-409 Mutual dating violence protective orders.

(1) A court may not grant a mutual order or mutual dating violence protective orders to opposing parties, unless each party:
  (a) files an independent petition against the other for a dating violence protective order, and both petitions are served;
  (b) makes a showing at a due process dating violence protective order hearing of abuse or dating violence committed by the other party; and
  (c) demonstrates the abuse or dating violence did not occur in self-defense.

(2) If the court issues mutual dating violence protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3)
  (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil protective order that is issued under:
(A) this part;
(B) Part 2, Child Protective Orders;
(C) Part 6, Cohabitant Abuse Protective Orders;
(D) Part 8, Criminal Protective Orders; or
(E) Title 80, Utah Juvenile Code;
(ii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or
(iii) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:
(i) the court determines that the requirements of Subsection (1) are met; and
(ii)
(A) the same court issued the protective order against the respondent; or
(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(i) or (ii).

Amended by Chapter 262, 2021 General Session

Part 5
Sexual Violence Protective Orders

78B-7-502 Definitions.

As used in this part:
(1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.
(2) "Protective order" means:
(a) a sexual violence protective order; or
(b) an ex parte sexual violence protective order.
(3)
(a) "Sexual violence" means the commission or the attempt to commit:
(i) any sexual offense described in:
(A) Title 76, Chapter 5, Part 4, Sexual Offenses; or
(B) Title 76, Chapter 5b, Part 2, Sexual Exploitation;
(ii) human trafficking for sexual exploitation under Section 76-5-308.1; or
(iii) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.
(b) "Sexual violence" does not include an offense described in:
(i) Section 76-5-417, enticing a minor;
(ii) Section 76-5-418, sexual battery;
(iii) Section 76-5-419, lewdness;
(iv) Section 76-5-420, lewdness involving a child; or
(v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.
(4) "Sexual violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Amended by Chapter 173, 2025 General Session

78B-7-503 Sexual violence -- Sexual violence protective orders.

(1)
(a) An individual may seek a protective order under this part if the individual has been subjected to sexual violence and is neither a cohabitant nor a dating partner of the respondent.
(b) An individual may not seek a protective order on behalf of a child under this part.

(2) A petition seeking a sexual violence protective order may not be withdrawn without written order of the court.

Enacted by Chapter 365, 2019 General Session

78B-7-504 Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that sexual violence has occurred, the district court may:
(a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or
(b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.

(2) The district court may grant the following relief with or without notice in a protective order or in a modification to a protective order:
(a) prohibit the respondent from threatening to commit or committing sexual violence against the petitioner and a family or household member designated in the protective order;
(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or a family or household member designated in the protective order, directly or indirectly;
(c) order that the respondent:
(i) is excluded and shall stay away from the petitioner's residence and its premises;
(ii) subject to Subsection (4), stay away from the petitioner's:
(A) school and its premises;
(B) place of employment and its premises; or
(C) place of worship and its premises; or
(iii) stay away from any specified place frequented by the petitioner or a family or household member designated in the protective order;
(d) prohibit the respondent from being within a specified distance of the petitioner; or
(e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.

(3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:
(a) the relief described in Subsection (2); and
(b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.

(4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the

respondent, or attends the same place of worship as the respondent, the court may enter an order:

(a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or

(b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.

(5) The district court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to the petitioner or a family or household member designated in the protective order.

(6) After the day on which the district court issues a sexual violence protective order, the district court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the petitioner and the respondent, if present, understand the sexual violence protective order;

(c) transmit electronically, by the end of the business day after the day on which the court issues the order, a copy of the sexual violence protective order to a local law enforcement agency designated by the petitioner; and

(d) transmit a copy of the sexual violence protective order in the same manner as described in Section 78B-7-113.

(7)

(a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).

(b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:

(i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the district court to give specific consent to the modification or vacation of the provisions of the protective order; or

(ii) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Amended by Chapter 142, 2020 General Session

78B-7-505 Hearings -- Expiration -- Extension.

(1)

(a) The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within 21 days after the day on which the court issues an ex parte protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the court.

(c) The court may extend the 21-day period described in Subsection (1)(a) only if:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.

(e) A sexual violence protective order remains in effect for three years after the day on which the court issues the order.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 calendar days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within 21 days after the day on which the objection is filed.

(2) If the court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for hearing to be held within 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(3)

(a) A sexual violence protective order automatically expires under Subsection (1)(e) unless the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order and demonstrates that:

(i) there is a substantial likelihood the petitioner will be subjected to sexual violence; or

(ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.

(b)

(i) If the court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).

(ii) If the court grants the motion described in Subsection (3)(a), the court shall set a new date on which the sexual violence protective order expires.

(iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than three years after the day on which the court issues the order for extension.

(c) After the day on which the court issues an extension of a sexual violence protective order, the court shall take the action described in Subsection 78B-7-504(6).

(4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Amended by Chapter 159, 2021 General Session

78B-7-506 Service of process.

(1)

(a) The county sheriff that receives an order from the court under Subsection 78B-7-504(6) or 78B-7-505(3) shall:

(i) provide expedited service for the sexual violence protective order; and

(ii) after the sexual violence protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(b) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:
(i) has contact with the respondent; or
(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.
(2) When a sexual violence protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

Enacted by Chapter 365, 2019 General Session

78B-7-508 Penalties.
(1) A violation of a protective order issued under this part is a class A misdemeanor.
(2) A petitioner may be subject to criminal prosecution under Title 76, Chapter 8, Part 5, Falsification in Official Matters, for knowingly falsifying any statement or information provided for the purpose of obtaining a protective order.

Amended by Chapter 142, 2020 General Session

78B-7-509 Duties of law enforcement officers -- Notice to victims.
(1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:
(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
(b) making arrangements for the victim and any child to obtain emergency housing or shelter;
(c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
(d) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).
(2)
(a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this part.
(b) The written notice shall also include:
(i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and
(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

Enacted by Chapter 365, 2019 General Session

Part 6
Cohabitant Abuse Protective Orders

78B-7-601 Definitions.

As used in this part:
(1) "Cohabitant abuse protective order" means an order issued by a court under this part after a hearing on the petition for which the petitioner and respondent have been given notice.
(2) "Ex parte cohabitant abuse protective order" means an order issued under this part without notice to the respondent.
(3) "No-fault cohabitant abuse protective order" means an order issued under this part by a court, in accordance with Subsection 78B-7-603(4), without a finding by the court that the respondent has committed, or will commit, domestic violence or abuse.
(4) "Protective order" means:
(a) a cohabitant abuse protective order;
(b) an ex parte cohabitant abuse protective order; or
(c) a no-fault cohabitant abuse protective order.

Amended by Chapter 332, 2025 General Session

78B-7-602 Abuse or danger of abuse -- Cohabitant abuse protective orders.
(1) Any cohabitant who has been subjected to abuse or domestic violence, or to whom there is a substantial likelihood of abuse or domestic violence, may seek a protective order in accordance with this part, whether or not the cohabitant has left the residence or the premises in an effort to avoid further abuse.
(2) A petition for a protective order may be filed under this part regardless of whether an action for divorce between the parties is pending.
(3) A petition seeking a protective order may not be withdrawn without approval of the court.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-603 Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.
(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:
(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or
(b) upon notice, issue a protective order or modify a protective order after a hearing, regardless of whether the respondent appears.
(2) A court may grant the following relief, without notice, in an ex parte cohabitant abuse protective order or an ex parte modification of a protective order:
(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;
(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;
(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;
(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;
(ii) the petitioner's school or any designated family or household member's school;
(iii) the petitioner's or any designated family or household member's place of employment;
(iv) the petitioner's place of worship or any designated family or household member's place of worship; or
(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:
(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and
(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;

(k) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;

(l) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent;

(m) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(n) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of a cohabitant abuse protective order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2);

(b) order the transfer of a wireless telephone number in accordance with Section 78B-7-117; and

(c) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or minor child.

(4)

(a) A court may treat a petition for a protective order as a request for a no-fault cohabitant abuse protective order only if the petitioner and the respondent agree to the entry of a no-fault cohabitant abuse protective order and the terms of the order.

(b)

(i) Except as provided in Subsection (4)(b)(ii), the court may grant a no-fault cohabitant abuse protective order containing any of the relief described in Subsection (2) or (3) to which the parties agree.

(ii) A court may not issue mutual no-fault cohabitant abuse protective orders to opposing parties.

(c) A court may modify a no-fault cohabitant abuse protective order without holding a hearing if the petitioner and the respondent agree to the modification.

(d) If the petitioner and the respondent fail to agree to a modification of a no-fault cohabitant abuse protective order, the court may modify the no-fault cohabitant abuse protective order after holding a hearing and providing notice to the parties of the hearing.

(e) For purposes of 18 U.S.C. Sec. 922(g)(8), a no-fault cohabitant abuse protective order shall include a finding as to whether the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's or respondent's minor child.

(f)

(i) If the court issues a no-fault cohabitant abuse protective order as described in this Subsection (4), the no-fault cohabitant abuse protective order may not be introduced in a civil or criminal proceeding as evidence that the respondent committed domestic violence or abuse.

(ii) Subsection (4)(f)(i) does not preclude:

(A) a party from introducing other evidence of domestic violence or abuse in another civil proceeding or a criminal proceeding; or

(B) a court from considering other evidence of abuse and domestic violence in a proceeding regarding custody and parent-time of a minor child as described in Section 81-9-204.

(g) Nothing in this Subsection (4) prevents a petitioner from obtaining an ex parte cohabitant abuse protective order or a cohabitant abuse protective order under this part.

(5) Upon issuance of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:
(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
(b) civil offenses are those under Subsections (2)(h) through (n), Subsection (3)(a) as it refers to Subsections (2)(h) through (n), and Subsection (3)(c).
(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.
(8)
(a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.
(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:
(i) has contact with the respondent and service by that law enforcement agency is possible; or
(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
(9)
(a) When a protective order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.
(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:
(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order; or
(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order.
(11) A protective order may be modified without a showing of substantial and material change in circumstances.
(12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:
(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or
(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Amended by Chapter 332, 2025 General Session

78B-7-604 Hearings.

(1)

(a) The court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be held within 21 days after the day on which the court issues an ex parte cohabitant abuse protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a protective order, the ex parte cohabitant abuse protective order expires, unless extended by the court.

(c)

(i) The court may extend the 21-day period described in Subsection (1)(a) only if:

(A) the petitioner is unable to be present at the hearing;

(B) the respondent has not been served;

(C) the respondent has had the opportunity to present a defense at the hearing;

(D) the respondent requests that the ex parte cohabitant abuse protective order be extended; or

(E) exigent circumstances exist.

(ii) Under no circumstances may an ex parte cohabitant abuse protective order be extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant abuse protective order.

(d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse protective order, the ex parte cohabitant abuse protective order remains in effect until service of process of the protective order is completed.

(e) A cohabitant abuse protective order issued after notice and a hearing is effective until further order of the court.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing within 21 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-603.

(3) If the court denies a petition for an ex parte cohabitant abuse protective order or a petition to modify a protective order ex parte, the court shall, upon the request of the petitioner made within five days after the day on which the court denies the petition:

(a) set the matter for hearing to be held within 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(4)

(a) A respondent who has been served with an ex parte cohabitant abuse protective order may seek to vacate the ex parte cohabitant abuse protective order described in Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is set.

(b) The respondent's verified motion to vacate described in Subsection (4)(a) and a notice of hearing on the motion shall be personally served on the petitioner at least two days before the day on which the hearing on the motion to vacate is set.

Amended by Chapter 159, 2021 General Session

78B-7-605 Dismissal.

(1) Except as otherwise provided in Subsection 78B-7-603(10) concerning the criminal provisions of a cohabitant abuse protective order, the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if the court finds that:
  (a) the basis for the issuance of the protective order no longer exists;
  (b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; and
  (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent.
(2) The court shall enter sanctions against either party if the court determines that either party acted:
  (a) in bad faith; or
  (b) with intent to harass or intimidate the other party.
(3) If a divorce proceeding is pending between parties to a protective order action, the court shall dismiss the protective order when the court issues a decree of divorce for the parties if:
  (a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and
  (b)
    (i) the parties stipulate in writing or on the record to dismiss the protective order; or
    (ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.
(4) When the court dismisses a protective order, the court shall immediately:
  (a) issue an order of dismissal to be filed in the protective order action; and
  (b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

Amended by Chapter 215, 2024 General Session

78B-7-606 Expiration -- Extension.

(1)
  (a) Except as provided in Subsection (1)(b) and subject to the other provisions of this section, a cohabitant abuse protective order automatically expires three years after the day on which the cohabitant abuse protective order is entered.
  (b)
    (i) The civil provisions of a cohabitant abuse protective order described in Section 78B-7-603 expires 150 days after the day on which the cohabitant abuse protective order is entered, unless the court finds good cause for extending the expiration date of the civil provisions.
    (ii) Unless a motion under this section is granted, a court may not extend the civil provisions of a cohabitant abuse protective order for more than three years after the day on which the cohabitant abuse protective order is entered.
(2) A cohabitant abuse protective order automatically expires under Subsection (1), unless the petitioner files a motion before the day on which the cohabitant abuse protective order expires and demonstrates that:
  (a) the petitioner has a current reasonable fear of future harm, abuse, or domestic violence; or
  (b) the respondent committed or was convicted of a cohabitant abuse protective order violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the cohabitant abuse protective order.

(3)
(a) If the court grants the motion under Subsection (2), the court shall set a new date on which the cohabitant abuse protective order expires.
(b) The cohabitant abuse protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse protective order.

Amended by Chapter 159, 2021 General Session

78B-7-607 Penalties.
(1) A violation of a criminal provision of a protective order issued under this part is a class A misdemeanor.
(2) A violation of a civil provision of a protective order issued under this part is contempt of court.

Enacted by Chapter 142, 2020 General Session

78B-7-608 No denial of relief solely because of lapse of time.
The court may not deny a petitioner relief requested under this part solely because of a lapse of time between an act of domestic violence or abuse and the filing of the petition for a protective order.

Renumbered and Amended by Chapter 142, 2020 General Session

78B-7-609 Prohibition of court-ordered or court-referred mediation.
In any case brought under the provisions of this part, the court may not order the parties into mediation for resolution of the issues in a petition for a protective order.

Renumbered and Amended by Chapter 142, 2020 General Session

Part 7
Civil Stalking Injunctions

78B-7-701 Ex parte civil stalking injunction -- Civil stalking injunction.
(1)
(a)
(i) Except as provided in Subsection (1)(b), an individual who believes that the individual is the victim of stalking may bring a verified written petition for a civil stalking injunction against the alleged stalker.
(ii) A minor with the minor's parent or guardian may bring a petition on the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.
(b) A stalking injunction may not be obtained against:
(i) a law enforcement officer, governmental investigator, or licensed private investigator, as described in Subsection 76-5-106.5(6); or
(ii) an individual for engaging in conduct described in Subsection 76-5-106.5(6)(a)(ii).
(2) Notwithstanding Chapter 3a, Venue for Civil Actions, an individual shall bring a petition described in Subsection (1)(a) in the judicial district in which:

(a) the individual or respondent resides or is temporarily domiciled; or
(b) any of the events occurred.
(3)
(a) Except as provided in Subsection (3)(b), a petition for a civil stalking injunction shall include:
(i) the name of the petitioner;
(ii) the name and address, if known, of the respondent;
(iii) specific events and dates of the actions constituting the alleged stalking;
(iv) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and
(v) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.
(b)
(i) The petitioner's address shall be disclosed to the court for purposes of service.
(ii) On request of the petitioner, the petitioner's address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown.
(4)
(a) If the court determines that there is reason to believe that an offense of stalking has occurred, the court may issue an ex parte civil stalking injunction that includes any of the following:
(i) the respondent may be enjoined from committing stalking;
(ii) the respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;
(iii) the respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or
(iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated individuals under the circumstances.
(b)
(i) If the petitioner and respondent have minor children, the court shall follow the provisions of Section 78B-7-603 and take into consideration the respondent's custody and parent-time rights while ensuring the safety of the victim and the minor children.
(ii) If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.
(5)
(a) Within 10 days after the day on which the ex parte civil stalking injunction is served, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.
(b)
(i) The court shall hold a hearing requested by the respondent at the earliest possible time and within 10 days after the day on which the request is filed with the court unless the court finds compelling reasons to continue the hearing.
(ii) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(c) An ex parte civil stalking injunction issued under this section shall state on the civil stalking injunction's face:
(i) that the respondent is entitled to a hearing, upon written request within 10 days after the day on which the order is served;
(ii) the name and address of the court where the request may be filed;
(iii) that if the respondent fails to request a hearing within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and the civil stalking injunction expires three years after the day on which the ex parte civil stalking injunction is served; and
(iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(6)
(a) At the hearing, the court may modify, revoke, or continue the injunction.
(b) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(7)
(a) The ex parte civil stalking injunction shall be served on the respondent within 90 days after the day on which the ex parte civil stalking injunction is signed.
(b) An ex parte civil stalking injunction is effective upon service.
(c) If a hearing is not requested in writing by the respondent within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years after the day on which the ex parte civil stalking injunction is served.

(8)
(a) If the respondent requests a hearing after the 10-day period after service, the court shall set a hearing within a reasonable time from the date requested.
(b) At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

(9)
(a) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.
(b) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction does not depend upon entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years after the day on which the ex parte civil stalking injunction is served on the respondent.
(c)
(i) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent.
(ii) The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

(10) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking

injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(11) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court that granted the ex parte civil stalking injunction or civil stalking injunction.

(12) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.

(13) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(14) The court shall hear and decide all matters arising under this section.

(15) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.

(16) This section does not apply to preliminary injunctions issued under an action for dissolution of marriage or legal separation.

Amended by Chapter 238, 2025 General Session

78B-7-702 Mutual civil stalking injunctions.

(1) A court may not grant a mutual order or mutual civil stalking injunction to opposing parties, unless each party:

(a) files an independent petition against the other for a civil stalking injunction, and both petitions are served;

(b) makes a showing at an evidentiary hearing on the civil stalking injunction that stalking has occurred by the other party; and

(c) demonstrates the alleged act did not occur in self-defense.

(2) If the court issues mutual civil stalking injunctions, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court orders.

(3)

(a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil stalking injunction;

(ii) a civil protective order that is issued under:

(A) this part;

(B) Part 2, Child Protective Orders;

(C) Part 6, Cohabitant Abuse Protective Orders;

(D) Part 8, Criminal Protective Orders; or

(E) Title 80, Utah Juvenile Code;

(iii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or

(iv) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met; and

(ii)

(A) the same court issued the protective order against the respondent; or

(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(ii) or (iii).

Amended by Chapter 262, 2021 General Session

78B-7-703 Violation.

(1) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued under this part constitutes the criminal offense of stalking under Section 76-5-106.5 and is also a violation of the civil stalking injunction.

(2) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued under this part may be enforced by a civil action initiated by the petitioner, a criminal action initiated by a prosecuting attorney, or both.

Renumbered and Amended by Chapter 142, 2020 General Session

Part 8
Criminal Protective Orders

78B-7-801 Definitions.

As used in this part:

(1)

(a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 80-6-201.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in:
(a) Section 76-5-109, child abuse;
(b) Section 76-5-109.2, aggravated child abuse;
(c) Section 76-5-109.3, child abandonment;
(d) Section 76-5-109.4, child torture;
(e) Section 76-5-110, abuse or neglect of a child with a disability;
(f) Section 76-5-111, abuse of a vulnerable adult;
(g) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
(h) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
(i) Section 76-5-111.4, financial exploitation of a vulnerable adult;
(j) Section 76-5-114, commission of domestic violence in the presence of a child; or
(k) Section 76-5-418, sexual battery.
(5)
(a) "Qualifying offense" means:
(i) domestic violence;
(ii) an offense against a child or vulnerable adult; or
(iii) the commission or attempted commission of an offense described in Section 76-5-418, sexual battery, or Title 76, Chapter 5, Part 4, Sexual Offenses.
(b) "Qualifying offense" does not include an offense described in:
(i) Section 76-5-417, enticing a minor;
(ii) Section 76-5-419, lewdness; or
(iii) Section 76-5-420, lewdness involving a child.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 284, 2025 General Session

78B-7-802 Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.
(1) Upon arrest or issuance of a citation for a qualifying offense and before the individual is released under Section 77-20-204 or 77-20-205, the individual may not telephone, contact, or otherwise communicate with the alleged victim, directly or indirectly.
(2)
(a) After an individual is arrested or issued a citation for a qualifying offense, the individual may not be released before:
(i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or
(ii) the individual signs a jail release agreement.
(b) If an arrested individual is booked into jail, the arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (5)(a).
(c) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses , the magistrate shall issue a temporary pretrial status order, as defined in Section 77-20-102, in accordance with Section 77-20-205.
(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.
(3)

(a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.

(c)

(i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

(ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

(4) Except as provided in Subsections (3) and (11) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested or cited individual's initial scheduled court appearance described in Subsection (3)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection (3)(c); or

(c) 30 days after the day on which the individual is arrested or issued a citation.

(5)

(a)

(i) After an individual is arrested or issued a citation for a qualifying offense, an alleged victim who is not a minor may waive in writing any condition of a jail release agreement by:

(A) appearing in person to the law enforcement agency that arrested the individual or issued the citation to the individual for the qualifying offense;

(B) appearing in person to the jail or correctional facility that released the arrested individual from custody; or

(C) appearing in person to the clerk at the court of the jurisdiction where the charges are filed.

(ii) An alleged victim who is not a minor may waive in writing the release conditions prohibiting:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(iii) Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive any condition of a jail release agreement on behalf of an alleged victim who is a minor in the manner described in Subsections (5)(a)(i) and (ii).

(iv) A parent or guardian may not, without the approval of the court, waive the release conditions described in Subsection (5)(a)(ii) on behalf of an alleged victim who is a minor, if the alleged victim who is a minor:

(A) allegedly suffers bodily injury as a result of the qualifying offense;
(B) summons or attempts to summon emergency aid for the qualifying offense; or
(C) after the time at which the qualifying offense is allegedly committed and before the time at which the arrested or cited individual signs the jail release agreement, discloses to a law enforcement officer that the arrested or cited individual threatened the alleged victim who is a minor with bodily injury.

(v) Upon waiver, the release conditions described in Subsection (5)(a)(ii) do not apply to the arrested or cited individual.

(b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

(6)

(a) When an individual is arrested or issued a citation and subsequently released in accordance with Subsection (2), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the individual who is arrested or issued a citation, give the arrested or cited individual a copy of the jail release agreement or the jail release court order.

(b)

(i) When an individual arrested or issued a citation for domestic violence is released under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When an individual arrested or issued a citation for domestic violence is released under this section based upon a jail release court order or if a jail release agreement is modified under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.

(8) At the time an arrest is made or a citation is issued for a qualifying offense , the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or

(ii) the magistrate issues a jail release order that specifies the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release court order;

(c) the address of the appropriate court in the district or county in which the alleged victim resides;

(d) the availability and effect of any waiver of the release conditions; and

(e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(9) At the time an arrest is made or a citation is issued for a qualifying offense , the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released, including telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;
(b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:
(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or
(ii) the magistrate issues a jail release court order;
(c) notification of the penalties for violation of any jail release agreement or jail release court order; and
(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.
(10)
(a) A pretrial or sentencing protective order issued under this part supersedes a jail release agreement or jail release court order.
(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.
(11)
(a) This section does not apply if the individual arrested for the qualifying offense is a minor who is under 18 years old, unless the qualifying offense is domestic violence.
(b) A jail release agreement signed by, or a jail release court order issued against, a minor expires on the earlier of:
(i) the day of the minor's initial court appearance described in Subsection (3)(a);
(ii) the day on which the prosecutor transmits the notice of declination under Subsection (3)(c);
(iii) 30 days after the day on which the minor is arrested or issued a citation; or
(iv) the day on which the juvenile court terminates jurisdiction.

Amended by Chapter 4, 2021 Special Session 2

78B-7-803 Pretrial protective orders.
(1)
(a) When an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the alleged perpetrator's court appearance under Section 77-36-2.6:
(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and
(ii) state the court's findings and determination in writing.
(b) Except as provided in Subsection (5), in any criminal case, the court may, during any court hearing where the alleged perpetrator is present, issue a pretrial protective order, pending trial.
(c) When determining the necessity of imposing a pretrial protective order or other condition of pretrial release, a court may consider the results of any relevant lethality assessment conducted in accordance with Section 77-36-2.1.
(2) The court may include any of the following provisions in a pretrial protective order:
(a) an order enjoining the alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
(c) an order removing and excluding the alleged perpetrator from the victim's residence and the premises of the residence;
(d) an order requiring the alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;
(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;
(f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;
(g) an order requiring the alleged perpetrator to participate in an electronic or other type of monitoring program; and
(h) if the alleged victim and the alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3)
(a) If a court orders the removal and exclusion of the alleged perpetrator from the victim's residence in a pretrial protective order described in Subsection (2), the court shall include a provision in the pretrial protective order:
(i) prohibiting the alleged perpetrator from terminating any utility service to the victim's residence for at least 60 days from the day on which the pretrial protective order is issued; or
(ii) if appropriate, ordering the alleged perpetrator to restore any utility service to the victim's residence.
(b) A provision in a pretrial protective order described Subsection (3)(a)(i) or (ii) is not a determination that the alleged perpetrator is responsible for the costs of a utility service to a victim's residence.
(c) If the court includes a provision described in Subsection (3)(a) in a pretrial protective order, the court may include:
(i) a provision in the pretrial protective order addressing the party responsible for paying the costs of a utility service to the victim's residence; or
(ii) a provision in the pretrial protective order requiring the alleged perpetrator to pay the costs of restoring a utility service if the court includes the provision described in Subsection (3)(a)(ii).

(4) If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.
(5) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:
(a) the day on which the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805;
(b) the day on which the court makes a disposition of the alleged perpetrator's case under Title 80, Chapter 6, Part 7, Adjudication and Disposition; or
(c) the day on which the juvenile court terminates jurisdiction.
(6) A pretrial protective order issued under this section against an alleged perpetrator who is not a minor expires on the earliest of:

(a) the day on which the court dismisses the case;
(b) the day on which the court dismisses the pretrial protective order; or
(c) the day on which the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805.

Amended by Chapter 316, 2025 General Session

78B-7-804 Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.
(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.
(3)
(a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section 28 of the Utah Constitution.
(b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless:
(i) the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse; and
(ii) the court conducts a hearing.
(c)
(i) The court shall notify the perpetrator of the right to request a hearing.
(ii) A victim has a right to request a hearing.
(iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court.

(iv) The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.
(v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in Subsection (3)(b)(ii).
(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:
(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;
(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and
(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.
(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.
(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.
(6)
(a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.
(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:
(i) the day on which the juvenile court terminates jurisdiction; or
(ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice and Youth Services discharges the perpetrator.

Amended by Chapter 240, 2024 General Session

78B-7-805 Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.
(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.
(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3)
(a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.
(b)
(i) The court shall notify the perpetrator of the right to request a hearing.
(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.
(c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(d).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6)
(a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.
(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:
(i) the day on which the juvenile court terminates jurisdiction; or
(ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice and Youth Services discharges the perpetrator.

Amended by Chapter 277, 2025 General Session

78B-7-806 Penalties.

(1)
(a) A violation of Subsection 78B-7-802(1) is a class B misdemeanor.
(b) An individual who knowingly violates a jail release court order or jail release agreement executed under Subsection 78B-7-802(2) is guilty of:
(i) a third degree felony, if the original arrest was for a felony; or
(ii) a class A misdemeanor, if the original arrest was for a misdemeanor.

(2) A violation of a pretrial protective order issued under this part is:

(a) a third degree felony, if the original arrest or subsequent charge filed is a felony; or
(b) a class A misdemeanor, if the original arrest or subsequent charge filed is a misdemeanor.
(3) A violation of a sentencing protective order and of a continuous protective order issued under this part is:
(a) a third degree felony, if the conviction was a felony; or
(b) a class A misdemeanor, if the conviction was a misdemeanor.

Enacted by Chapter 142, 2020 General Session

78B-7-807 Notice to victims.
(1)
(a) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.
(b) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.
(c) A sentencing protective order or continuous protective order issued under this part shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.
(2)
(a) The Division of Adult Probation and Parole created in Section 64-14-202, or another provider, shall immediately report to the court and notify the victim of any violation of any sentencing protective order issued under this part.
(b) Notification of the victim under Subsection (2)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.
(3)
(a) Before release of an individual who is subject to a continuous protective order issued under this part, the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the individual who is subject to the continuous protective order:
(i) if the victim has provided the law enforcement agency contact information; and
(ii) in accordance with Section 64-13-14.7, if applicable.
(b) Before release, the law enforcement agency shall notify in writing the individual being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is punishable as described in Section 78B-7-806.
(4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective order, sentencing protective order, or a continuous protective order to the statewide domestic violence network described in Section 78B-7-113.

Amended by Chapter 214, 2025 General Session

Part 9
Criminal Stalking Injunctions

78B-7-901 Definitions.
As used in this part:
(1) "Conviction" means:

(a) a verdict or conviction;
(b) a plea of guilty or guilty with a mental condition;
(c) a plea of no contest; or
(d) the acceptance by the court of a plea in abeyance.
(2) "Immediate family" means the same as that term is defined in Section 76-5-106.5.

Amended by Chapter 184, 2023 General Session

78B-7-902 Permanent criminal stalking injunction -- Modification.
(1)
(a) The following serve as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim:
(i) a conviction for:
(A) stalking; or
(B) attempt to commit stalking; or
(ii) a plea to any of the offenses described in Subsection (1)(a)(i) accepted by the court and held in abeyance for a period of time.
(b)
(i) The district court shall issue a permanent criminal stalking injunction at the time of conviction.
(ii) The court shall give the defendant notice of the right to request a hearing.
(c) If the defendant requests a hearing under Subsection (1)(b), the court shall hold the hearing at the time of the conviction unless the victim requests otherwise, or for good cause.
(d) If the conviction was entered in a justice court, the victim shall file a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance with the court as an application and request for a hearing for a permanent criminal stalking injunction.
(2) The court shall issue a permanent criminal stalking injunction granting the following relief where appropriate:
(a) an order:
(i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and
(ii) requiring the defendant to stay away from the victim, except as provided in Subsection (4), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;
(b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (3), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and
(c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.
(3)
(a) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children.

(b) If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the permanent criminal stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and the court may modify the injunction to balance the parties' custody and parent-time rights.

(4) Except as provided in Subsection (3), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.

Enacted by Chapter 142, 2020 General Session

78B-7-903 Penalties.

(1) A violation of a permanent criminal stalking injunction issued under this part is a third degree felony in accordance with Subsection 76-5-106.5(3)(b).

(2) A violation of a permanent criminal stalking injunction issued under this part may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

Amended by Chapter 418, 2022 General Session
Amended by Chapter 430, 2022 General Session

78B-7-904 Notice to victims.

(1) The court shall send notice of permanent criminal stalking injunctions issued under this part to the statewide warrants network or similar system, including the statewide domestic violence network described in Section 78B-7-113.

(2) A permanent criminal stalking injunction issued under this part has effect statewide.

Enacted by Chapter 142, 2020 General Session

Part 10
Expungement of Protective Orders and Stalking Injunctions

78B-7-1001 Definitions.

As used in this part:

(1)

(a) "Agency" means, except as provided in Subsection (1)(b), a state, county, or local government entity that generates or maintains records relating to a civil order for which expungement may be ordered.

(b) "Agency" does not include the Division of Child and Family Services created in Section 80-2-201.

(2) "Civil order" means:

(a) an ex parte civil protective order;

(b) an ex parte civil stalking injunction;

(c) a civil protective order; or

(d) a civil stalking injunction.

(3)

(a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or
(ii) restricting or denying access to the record.
(b) "Expunge" does not include the destruction of a record.
(4) "Petitioner" means an individual petitioning for expungement of a civil order under this part.

Amended by Chapter 180, 2024 General Session

78B-7-1002 Retroactive application.

The provisions of this part apply retroactively to all civil orders issued before, on, or after May 4, 2022.

Enacted by Chapter 270, 2022 General Session

78B-7-1002.1 Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section, "personal identifying information" means:
(a) a current name, former name, nickname, or alias; and
(b) date of birth.
(2) If a civil order is sought against an individual and the court denies the civil order, the individual may move the court for an order to remove the link between the individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts.
(3) If a motion is filed under Subsection (2), the court shall grant the motion if:
(a) 30 days have passed from the day on which the case is denied; and
(b) an appeal has not been filed in the denied case within the 30-day period described in Subsection (3)(a).
(4) Removing the link to personal identifying information of a court record under Subsection (3) does not affect another agency's records.
(5) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Enacted by Chapter 194, 2024 General Session

78B-7-1003 Requirements for expungement of protective order or stalking injunction -- Venue.

(1)
(a) An individual against whom a civil order is sought may petition the court to expunge records of the civil order.
(b) A petitioner shall bring a petition for expungement under Subsection (1) in the court that issued the civil order.
(2) The petitioner shall file the petition for expungement under Subsection (1)in accordance with the Utah Rules of Civil Procedure.
(3)
(a) The petitioner shall provide notice to the individual filed the civil order against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.
(b) The individual who filed the civil order against the petitioner:
(i) may file a written objection with the court within 30 days after the day on which the petition is received by the individual; and

(ii) if the individual files a written objection, provide a copy of the written objection to the petitioner.

(c) If the court receives a written objection to the petition for expungement of a civil order, the court shall:

(i) set a date for a hearing on the petition;

(ii) provide notice at least 30 days before the day on which the hearing is held to:

(A) all parties of the civil order; and

(B) any other person or agency that the court has reason to believe may have relevant information related to the expungement of the civil order.

(d) The petitioner may respond, in writing, to any written objection within 14 days after the day on which the written objection is received by the court.

(4) If no written objection is received within 60 days from the day on which the petition for expungement is filed under Subsection (1), the court may grant the expungement in accordance with Subsection (5) or (6) without a hearing.

(5) A court may expunge an ex parte civil protective order or an ex parte civil stalking injunction if:

(a) the ex parte civil protective order or the ex parte civil stalking injunction was issued but:

(i) the ex parte civil protective order or the ex parte civil stalking injunction is dismissed, dissolved, or expired upon a hearing by the court;

(ii) the court did not issue a civil protective order or a civil stalking injunction on the same circumstances for which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iii) at least 30 days have passed from the day on which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(v) there are no criminal proceedings pending against the petitioner in the state; or

(b)

(i) the individual who filed the ex parte civil protective order or the ex parte civil stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex parte civil stalking injunction;

(ii) at least 30 days have passed from the day on which the hearing on the ex parte civil protective order or the ex parte civil stalking injunction was set to occur, including any continuance, postponement, or rescheduling of the hearing;

(iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(iv) there are no criminal proceedings pending against the petitioner in the state.

(6) A court may expunge a civil protective order or a civil stalking injunction if:

(a) the civil protective order or the civil stalking injunction has been dismissed, dissolved, vacated, or expired;

(b) three years have passed from the day on which the civil protective order or the civil stalking injunction is dismissed, dissolved, vacated, or expired;

(c) the petitioner has not been arrested, charged, or convicted for violating the civil protective order or the civil stalking injunction; and

(d) there are no criminal proceedings pending against the petitioner in the state.

Amended by Chapter 194, 2024 General Session

78B-7-1004 Distribution and effect of order of expungement -- Penalty.

(1) An individual who receives an order of expungement under Section 78B-7-1003 shall be responsible for delivering a copy of the order of expungement to any affected agency.
(2) If an agency receives an expungement order as described in Subsection (1), the agency shall expunge all records affected by the expungement order.
(3) Upon entry of an expungement order by a court under Section 78B-7-1003:
  (a) the civil order is considered to never have occurred; and
  (b) the petitioner may reply to an inquiry on the matter as though there was never a civil order.
(4)
  (a) Unless ordered by a court to do so, an agency or official may not divulge information or records that have been expunged under this part.
  (b) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the expungement order.
  (c) Any action taken by an agency after issuance of the expungement order but before the agency's receipt of a copy of the expungement order may not be invalidated by the order.
(5) An expungement order under this part may not:
  (a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body before issuance of the expungement order;
  (b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order; or
  (c) prevent an agency from maintaining, sharing, or distributing any record required by law.
(6) An employee or agent of an agency that is prohibited from disseminating information from an expunged record under this section who knowingly or intentionally discloses identifying information from the expunged record, unless allowed by law, is guilty of a class A misdemeanor.
(7) Records expunged under this part may be released to, or viewed by, the following individuals:
  (a) the petitioner; or
  (b) parties to a civil action arising out of the expunged civil order, providing the information is kept confidential and utilized only in the action.
(8) This part does not preclude a court from considering the same circumstances or evidence for which an expunged civil order was issued in any proceeding that occurs after the civil order is expunged.

Amended by Chapter 180, 2024 General Session

Part 11
Workplace Violence Protective Orders

78B-7-1101 Definitions.

As used in this part:
(1) "Employee" means an employee in the service of an employer for compensation.
(2) "Employer" means a person who employs an individual in this state.
(3) "Ex parte workplace violence protective order" means an order issued without notice to the respondent under this part.
(4) "Protective order" means:

(a) a workplace violence protective order; or
(b) an ex parte workplace violence protective order.
(5) "Workplace violence" means knowingly causing or threatening to cause bodily injury to, or significant damage to the property of, a person, if:
(a) the person is:
(i) an employer; or
(ii) an employee performing the employee's duties as an employee; and
(b)
(i) the action would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed; or
(ii) the threat:
(A) would cause a reasonable person to fear that the threat will be carried out; and
(B) if carried out, would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed.
(6) "Workplace violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Enacted by Chapter 170, 2023 General Session

78B-7-1102 Petition for a workplace violence protective order -- Notice to known targets of workplace violence.

(1) An employer may seek, or authorize an agent to seek, a protective order in accordance with this part, if the employer reasonably believes workplace violence has occurred against the employer or an employee of the employer.
(2) If an employer seeking a workplace violence protective order as described in Subsection (1) has knowledge that a specific individual is the target of workplace violence, the employer shall make a good faith effort to notify the targeted individual that the employer is seeking a workplace violence protective order.

Enacted by Chapter 170, 2023 General Session

78B-7-1103 Workplace violence protective orders -- Ex parte workplace violence protective orders -- Modification of orders -- Evidence in another lawsuit.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that workplace violence has occurred, the court may:
(a) without notice, immediately issue an ex parte workplace violence protective order against the respondent or modify an existing workplace violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or
(b) upon notice to the respondent, issue a workplace violence protective order or modify a workplace violence protective order after a hearing, regardless of whether the respondent appears.
(2)
(a) The court may grant the following relief with or without notice or a hearing in a protective order or in a modification to a protective order:
(i) enjoin the respondent from committing workplace violence;
(ii) enjoin the respondent from threatening the petitioner or an employee of the petitioner while performing the employee's duties as an employee; or

(iii) subject to Subsection (2)(c), order that the respondent is excluded and shall stay away from the petitioner's workplace.

(b) Except as provided in Subsection (2)(a), a protective order may not restrict the respondent's communications.

(c) The court shall narrowly tailor an order described in Subsection (2)(a)(iii) to the location where the respondent caused or threatened to cause bodily injury to, or significant damage to property of, the petitioner or an employee of the petitioner.

(3) After the court issues a protective order, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) transmit electronically, by the end of the business day after the day on which the court issues the protective order, a copy of the protective order to the local law enforcement agency that the petitioner designates; and

(c) transmit a copy of the protective order in the same manner as described in Section 78B-7-113.

(4) The court may modify or vacate a protective order after notice and hearing, if the petitioner:

(a)

(i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure; and

(ii) appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or

(b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

(5) The existence of a protective order may not be used as evidence of liability or damages in a lawsuit between the petitioner and the respondent regardless of whether the petitioner or respondent seeks to admit the facts underlying the protective order as evidence.

Enacted by Chapter 170, 2023 General Session

78B-7-1104 Hearings -- Expiration.

(1)

(a) A court shall set a date for a hearing on the petition to be held within 21 days after the day on which the court issues an ex parte workplace violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a workplace violence protective order, the ex parte workplace violence protective order expires on the day on which the hearing is held, unless the court extends the ex parte workplace violence protective order.

(c) Subject to Subsection (1)(d), a court may not extend an ex parte workplace violence protective order beyond 21 days after the day on which the court issues the ex parte workplace violence protective order, unless:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the court issues a workplace violence protective order, the ex parte workplace violence protective order remains in effect until service of process of the workplace violence protective order is completed.

(e) A workplace violence protective order issued after notice and a hearing remains in effect for a period the court determines, not to exceed 18 months after the day on which the court issues the order, unless the order is extended in accordance with Section 78B-7-1105.

(f)

(i) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the commissioner enters the recommended order.

(ii) If a party files an objection as described in Subsection (1)(f)(i), the judge shall hold a hearing on the objection within 21 days after the day on which the party files the objection.

(2)

(a) If a court denies a petition for an ex parte workplace violence protective order or a petition to modify a workplace violence protective order ex parte, the petitioner may, within five days after the day on which the court denies the petition, request a hearing.

(b) If the petitioner requests a hearing as described in Subsection (2)(a), the court shall:

(i) set a hearing to be held within 21 days after the day on which the petitioner makes the request; and

(ii) notify and serve the respondent.

Enacted by Chapter 170, 2023 General Session

78B-7-1105 Extension.

(1) A workplace violence protective order expires automatically, unless the petitioner:

(a) files a motion before the day on which the workplace violence protective order expires; and

(b) demonstrates that:

(i) there is a substantial likelihood that the petitioner an employee of the petitioner while performing the employee's duties as an employee; or

(ii) the respondent committed or was convicted of a violation of the workplace violence protective order that the petitioner requests be extended.

(2)

(a) Subject to Subsection (2)(b), if a court grants a motion described in Subsection (1)(a), the court shall set a new date on which the workplace violence protective order expires.

(b) A court may not extend a workplace violence protective order for more than 18 months after the day on which the court issues the order for extension.

(3) After the day on which the court issues an extension of a workplace violence protective order, the court shall take the action described in Subsection 78B-7-1103(3).

(4) This part does not prohibit a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Enacted by Chapter 170, 2023 General Session

78B-7-1106 Service of process.

(1) The county sheriff that receives an order from a court under Subsection 78B-7-1103(3) or 78B-7-1105(3), shall:

(a) provide expedited service for the protective order; and

(b) after the protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(2) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:

(a) has contact with the respondent; or
(b) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.

Enacted by Chapter 170, 2023 General Session

78B-7-1107 Penalties.

A violation of a protective order issued under this part is a class A misdemeanor.

Enacted by Chapter 170, 2023 General Session

78B-7-1108 Employer liability.

(1) An employer is immune from civil liability for:
(a) seeking a workplace violence protective order, if the employer acts in good faith in seeking the order; or
(b) failing to seek a workplace violence protective order.
(2) An employer's action or statement made under this part:
(a) is not an admission of any fact; and
(b) may be used for purposes of impeachment.

Enacted by Chapter 170, 2023 General Session

78B-7-1109 Limitations of part.

This part does not:
(1) modify the duty of an employer to provide a safe workplace for the employees of the employer;
(2) prohibit a person from engaging in constitutionally protected exercise of free speech, including non-threatening speech and speech involving labor disputes concerning organized labor; or
(3) prohibit a person from engaging in an activity that is part of a labor dispute.

Enacted by Chapter 170, 2023 General Session

Part 12
Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act

78B-7-1201 Definitions.

As used in this part:
(1) "Canadian domestic violence protection order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:
(a) being in physical proximity to a protected individual or following a protected individual;
(b) directly or indirectly contacting or communicating with a protected individual or other individual described in the order;
(c) being within a certain distance of a specified place or location associated with a protected individual; or

(d) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) "Domestic protection order" means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(4) "Law enforcement officer" means an individual authorized by the law of this state other than this part to enforce a domestic protection order.

(5) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(9)

(a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

(10) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this part to establish, enforce, or modify a domestic protection order.

Enacted by Chapter 212, 2025 General Session

78B-7-1202 Enforcement of Canadian domestic violence protection order by law enforcement officer.

(1) If a law enforcement officer determines under Subsection (3) or (4) that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protection order as if the terms were in an order of a tribunal.

(2) Presentation to a law enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(3) Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent, and on its face is in effect, constitutes probable cause to believe that a valid order exists.

(4) If a record of a Canadian domestic violence protection order is not presented as provided in Subsection (3), a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(5) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual.

(6) After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.
(7) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

Enacted by Chapter 212, 2025 General Session

78B-7-1203 Enforcement of Canadian domestic violence protection order by tribunal.
(1) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:
  (a) a person authorized by the law of this state other than this part to seek enforcement of a domestic protection order; or
  (b) a respondent.
(2) In a proceeding under Subsection (1), the tribunal shall follow the procedures of this state for enforcement of a domestic protection order.
(3) An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as described in Section 78B-7-1201.
(4) A Canadian domestic violence protection order is enforceable under this section if:
  (a) the order identifies a protected individual and a respondent;
  (b) the order is valid and in effect;
  (c) the issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and
  (d) the order was issued after:
    (i) the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or
    (ii) in the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.
(5) A Canadian domestic violence protection order valid on its face is prima facie evidence of the order's enforceability under this section.
(6) A claim that a Canadian domestic violence protection order does not comply with Subsection (4) is an affirmative defense in a proceeding seeking enforcement of the order.
(7) If a tribunal determines that a Canadian domestic violence protection order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and Section 78B-7-1202, and may not be registered under Section 78B-7-1204.
(8) This section applies to enforcement of a provision of a Canadian domestic violence protection order against a party to the order in which each party is a protected individual and respondent only if:
  (a) the party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and
  (b) the court made specific findings that entitled the party to the enforcement sought.

Enacted by Chapter 212, 2025 General Session

78B-7-1204 Registration of Canadian domestic violence protection order.

(1) An individual may register a Canadian domestic violence protection order in this state.

(2) To register the order, the individual must file a certified copy of the order in accordance with Section 78B-7-116.

(3) Registration in this state or filing under the law of this state other than this part of a Canadian domestic violence protection order is not required for enforcement of the order under this part.

Enacted by Chapter 212, 2025 General Session

78B-7-1205 Immunity.

The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence protection order if the act or omission was a good faith effort to comply with this part.

Enacted by Chapter 212, 2025 General Session

78B-7-1206 Other remedies.

An individual who seeks a remedy under this part may seek other legal or equitable remedies.

Enacted by Chapter 212, 2025 General Session

78B-7-1207 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 212, 2025 General Session

78B-7-1208 Relation to Electronic Signatures in Global and National Commerce Act.

This part modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 212, 2025 General Session

78B-7-1209 Application.

(1) This part applies to a Canadian domestic violence protection order issued before, on, or after May 7, 2025, and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after May 7, 2025.

(2) A request for enforcement of a Canadian domestic violence protection order made on or after May 7, 2025, for a violation of the order occurring before, on, or after May 7, 2025, is governed by this part.

Enacted by Chapter 212, 2025 General Session

78B-7-1210 Severability.

If any provision of this part or its application to any person or circumstance is held invalid, the remainder of this part shall be given effect without the invalid provision or application. The provisions of this part are severable.

Enacted by Chapter 212, 2025 General Session

Chapter 8
Miscellaneous

Part 2
Punitive Damages

78B-8-201 Basis for punitive damages awards -- Section inapplicable to DUI cases or providing illegal controlled substances -- Division of award with state -- Deposit of state judgment payments.

(1)

(a) Except as otherwise provided by statute, punitive damages may be awarded only if compensatory or general damages are awarded and it is established by clear and convincing evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of others.

(b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a) do not apply to any claim for punitive damages arising out of the tortfeasor's:

(i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;

(ii) causing death of another person by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or

(iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.

(c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not subject to the prior award of compensatory or general damages under Subsection (1)(a) whether or not restitution has been paid to the merchant prior to or as a part of a civil action under Section 78B-3-108.

(2) Evidence of a party's wealth or financial condition shall be admissible only after a finding of liability for punitive damages has been made.

(a) Discovery concerning a party's wealth or financial condition may only be allowed after the party seeking punitive damages has established a prima facie case on the record that an award of punitive damages is reasonably likely against the party about whom discovery is sought and, if disputed, the court is satisfied that the discovery is not sought for the purpose of harassment.

(b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of the tortfeasor's:

(i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;
(ii) causing death of another person or causing a person to be addicted by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or
(iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.

(3)
(a) In any case where punitive damages are awarded, the court shall enter judgment as follows:
(i) for the first $50,000, judgment shall be in favor of the injured party; and
(ii) any amount in excess of $50,000 shall be divided equally between the state and the injured party, and judgment to each entered accordingly.
(b)
(i) The actual and bona fide attorney fees and costs incurred in obtaining and collecting the judgment for punitive damages shall be considered to have been incurred by the state and the injured party in proportion to the judgment entered in each party's behalf.
(A) The state and injured party shall be responsible for each one's proportionate share only.
(B) The state is liable to pay its proportionate share only to the extent it receives payment toward its judgment.
(ii) If the court awards attorney fees and costs to the injured party as a direct result of the punitive damage award, the state shall have a corresponding credit in a proportionate amount based on the amounts of the party's respective punitive damage judgments. This credit may be applied as an offset against the amount of attorney fees and costs charged to the state for obtaining the punitive damage judgment.
(c) The state shall have all rights due a judgment creditor to collect the full amounts of both punitive damage judgments until the judgments are fully satisfied.
(i) Neither party is required to pursue collection.
(ii) In pursuing collection, the state may exercise any of its collection rights under Section 63A-3-301 et seq., Section 63A-3-502 et seq., and any other statutory provisions. Any amounts collected on these judgments by either party shall be held in trust and distributed as set forth in Subsection (3)(e).
(d) Unless all affected parties, including the state, expressly agree otherwise, collection on the punitive damages judgment shall be deferred until all other judgments have been fully paid. Any payment by or on behalf of any judgment debtor, whether voluntary, by execution, or otherwise, shall be distributed and applied in the following order:
(i) to the judgment for compensatory damage and any applicable judgment for attorney fees and costs;
(ii) to the initial $50,000 of the punitive damage judgment;
(iii) to any judgment for attorney fees and costs awarded as a direct result of the punitive damages; and
(iv) to the remaining judgments for punitive damages.
(e) Any partial payments shall be distributed equally between the state and injured party.
(f) After the payment of attorney fees and costs, all amounts paid on the state's judgment shall be remitted:
(i) for an amount received on or before May 11, 2025, to the state treasurer to be deposited into the General Fund; and
(ii) for an amount received after May 11, 2025, to the state treasurer to be deposited into the Victims Services Restricted Fund established in Section 63M-7-219.

Amended by Chapter 211, 2025 General Session

78B-8-202 Punitive damages -- Notification procedure.

(1) Whenever it appears from a return of a jury verdict in any court jury trial or from entry of a finding or order in any court bench trial, that punitive damages have been awarded to the plaintiff in a court action, the clerk of the court shall immediately notify the attorney general and state treasurer of the verdict, finding, or order. The notice shall contain:
  (a) the names of both parties to the action, and their attorneys;
  (b) the case number; and
  (c) the location of the court.
(2) In addition to the notice required in Subsection (1) of this section, the clerk of the court shall notify the attorney general and the state treasurer within five days after entry of a judgment award of punitive damages. The notice shall contain:
  (a) the name of the party and his attorney, against whom the judgment was ordered;
  (b) the amount of the judgment; and
  (c) the date on which the judgment was entered.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-203 Drug exception.

(1) Punitive damages may not be awarded if a drug causing the claimant's harm:
  (a) received premarket approval or licensure by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq. or the Public Health Service Act, 42 U.S.C. Section 201 et seq.;
  (b) is generally recognized as safe and effective under conditions established by the Federal Food and Drug Administration and applicable regulations, including packaging and labeling regulations.
(2) This limitation on liability for punitive damages does not apply if it is shown by clear and convincing evidence that the drug manufacturer knowingly withheld or misrepresented information required to be submitted to the Federal Food and Drug Administration under its regulations, which information was material and relevant to the claimant's harm.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3
Process Server Act

78B-8-301 Title.

This part is known as the "Process Server Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-302 Process servers.

(1) A complaint, a summons, or a subpoena may be served by an individual who is:
  (a) 18 years old or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; or

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's body a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a special function officer, as defined in Section 53-13-105, who is:

(i) employed as an appointed deputy sheriff by a county of the state; or

(ii) a constable.

(6) The following may not serve process issued by a court:

(a) an individual convicted of a felony violation of an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b); or

(b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) An individual serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Amended by Chapter 291, 2025 General Session

78B-8-303 Recoverable rates.

If the rates charged by private process servers exceed the rates established by law for service of process by persons under Subsection 78B-8-302(1), the excess charge may be recovered as costs of an action only if the court determines the service and charge were justifiable under the circumstances.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-304 Violations of service of process authority.

(1) It is a class A misdemeanor for a person serving process to falsify a return of service.
(2) It is an infraction for a person to bill falsely for process service.

Amended by Chapter 303, 2016 General Session

Part 4
Disease Testing for Peace Officers, Health Care Providers, and Volunteers

78B-8-401 Definitions.

As used in this part:

(1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.
(2) "COVID-19" means the same as that term is defined in Section 78B-4-517.
(3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically designated by the Labor Commission, in consultation with the Department of Health and Human Services, for the purposes of this part.
(4) "Emergency services provider" means:
  (a) an individual licensed under Section 53-2d-402, a peace officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or
  (b) an individual who provides for the care, control, support, or transport of a prisoner.
(5) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or peace officer.
(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.
(7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a capillary blood sample, a saliva test, or a blood draw.
(8) "Peace officer" means the same as that term is defined in Section 53-1-102.
(9) "Prisoner" means the same as that term is defined in Section 76-5-101.
(10) "Significant exposure" and "significantly exposed" mean:
  (a) exposure of the body of one individual to the blood or body fluids of another individual by:

(i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or
(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage;
(b) exposure of the body of one individual to the body fluids, including airborne droplets, of another individual if:
(i) the other individual displays symptoms known to be associated with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or
(ii) other evidence exists that would lead a reasonable person to believe that the other individual may be infected with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or
(c) exposure that occurs by any other method of transmission defined by the Labor Commission, in consultation with the Department of Health and Human Services, as a significant exposure.

Amended by Chapter 310, 2023 General Session
Amended by Chapter 330, 2023 General Session

78B-8-402 Petition -- Disease testing -- Notice -- Payment for testing.

(1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid, or a health care provider acting in the course and scope of the health care provider's duties as a health care provider may:
(a) request that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed voluntarily submit to testing; or
(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed submit to testing to determine the presence of a disease and that the results of that test be disclosed to the petitioner by the Department of Health and Human Services.
(2)
(a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a medical testing procedure of the respondent.
(b) The court or magistrate shall issue a warrant ordering the respondent to submit to a medical testing procedure within two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:
(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider;
(ii) the respondent refused to give consent to the medical testing procedure or is unable to give consent;
(iii) there may not be an opportunity to obtain a sample at a later date; and
(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.
(c)
(i) If the petitioner requests that the court order the respondent to submit to a blood draw, the petitioner shall request a person authorized under Section 41-6a-523 to perform the blood draw.
(ii) If the petitioner requests that the court order the respondent to submit to a medical testing procedure, other than a blood draw, the petitioner shall request that a qualified medical

professional, including a physician, a physician's assistant, a registered nurse, a licensed practical nurse, or a paramedic, perform the medical testing procedure.

(d)

(i) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health and Human Services for testing.

(ii) If the Department of Health and Human Services is unable to perform a medical testing procedure ordered by the court under this section, a qualified medical laboratory may perform the medical testing procedure if:

(A) the Department of Health and Human Services requests that the medical laboratory perform the medical testing procedure; and

(B) the result of the medical testing procedure is provided to the Department of Health and Human Services.

(3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with this section.

(4)

(a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.

(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.

(5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.

(6)

(a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.

(b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.

(c) The hearing shall be conducted in camera.

(7) The district court may enter an order requiring that an individual submit to testing, including a medical testing procedure, for a disease if the court finds probable cause to believe:

(a) the petitioner was significantly exposed; and

(b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider.

(8) The court may order that the use of reasonable force is permitted to complete an ordered test if the individual who is the subject of the petition is a prisoner.

(9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.

(10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.

(11)

(a) Upon order of the district court that an individual submit to testing for a disease, that individual shall report to the designated local health department to provide the ordered specimen within

five days after the day on which the court issues the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of Health and Human Services and to the local health department ordered to conduct or oversee the test.

(c) Notwithstanding the provisions of Section 26B-7-217, the Department of Health and Human Services and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section 26B-7-203 may not satisfy the requirements of the court order.

(12) The local health department or the Department of Health and Human Services shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

(13) The court, the court's personnel, the process server, the Department of Health and Human Services, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

(14)

(a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for each test performed in accordance with this section to the entity that performs the procedure.

(15) The entity that obtains a specimen for a test ordered under this section shall cause the specimen and the payment for the analysis of the specimen to be delivered to the Department of Health and Human Services for analysis.

(16) If the individual is incarcerated, the incarcerating authority shall either obtain a specimen for a test ordered under this section or shall pay the expenses of having the specimen obtained by a qualified individual who is not employed by the incarcerating authority.

(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

Amended by Chapter 330, 2023 General Session

78B-8-403 Confidentiality -- Disclosure -- Penalty.

A person or entity entitled to receive confidential information under this part, other than the individual tested and identified in the information, who violates this part by releasing or making public that confidential information, or by otherwise breaching the confidentiality requirements of this part, is guilty of a class B misdemeanor.

Amended by Chapter 185, 2017 General Session

78B-8-404 Department authority -- Rules.

The Labor Commission, in consultation with the Department of Health and Human Services, has authority to establish rules necessary for the purposes of Subsections 78B-8-401(2) and (8).

Amended by Chapter 330, 2023 General Session

78B-8-405 Construction.

Nothing in this part may be construed as prohibiting a person from voluntarily consenting to the request of a health care provider to submit to testing following a significant exposure.

Amended by Chapter 185, 2017 General Session

Part 5
Small Business Equal Access to Justice Act

78B-8-501 Title.

This part is known as the "Small Business Equal Access to Justice Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-502 Legislative findings -- Purpose.

The Legislature finds that small businesses may be deterred from seeking review of or defending against substantially unjustified governmental action because of the expense involved in securing the vindication of their rights. The purpose of this part is to entitle small businesses, under conditions set forth in this act, to recover reasonable litigation expenses.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-503 Definitions.

As used in this part:

(1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.

(2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney fees, and witness fees of all necessary witnesses, not in excess of $25,000 which a court finds were reasonably incurred in opposing action covered under this part.

(3) "Small business" means a commercial or business entity, including a sole proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.

(4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to actions brought under Title 76, Chapter 16, Part 5, Antitrust Offenses.

Amended by Chapter 173, 2025 General Session

78B-8-504 Litigation expense award authorized in actions by state.

In any civil judicial action commenced by the state, which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business which is a named party in the action if the small business prevails and the court finds that the state action was undertaken without substantial justification.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-505 Litigation expense award authorized in appeals from administrative decisions.

(1) In any civil judicial appeal taken from an administrative decision regarding a matter in which the administrative action was commenced by the state, and which involves the business regulatory functions of the state, a court may award reasonable litigation expenses to any small business which is a named party if the small business prevails in the appeal and the court finds that the state action was undertaken without substantial justification.

(2) Any state agency or political subdivision may require by rule or ordinance that a small business exhaust administrative remedies prior to making a claim under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-506 Payment of expenses awarded -- Statement required in agency's budget.

Expenses awarded under this part shall be paid from funds in the regular operating budget of the state entity. If sufficient funds are not available in the budget of the entity, the expenses shall be considered a claim governed by the provisions of Title 63G, Chapter 9, Board of Examiners Act. Every state entity against which litigation expenses have been awarded under this part shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 6
Transportation of Forest Products or Native Vegetation

78B-8-601 Definitions.

For purposes of this part:

(1) "Forest products" means any tree or portion thereof before it is manufactured into dimensional lumber, timbers, and ties, or mill peeled and made into power poles or house logs, including but not limited to coniferous and deciduous trees, Christmas trees, sawlogs, poles, posts, pulp logs, and fuelwood.

(2) "Native vegetation" means all other forest, desert, or rangeland vegetation including but not limited to shrubs, flora, roots, bulbs, and seed.

Enacted by Chapter 3, 2008 General Session

78B-8-602 Proof of ownership required to harvest or transport forest products or native vegetation -- Requirements for proof of ownership.

(1) It is unlawful for any person, firm, company, partnership, corporation, or business to harvest or transport timber, forest products, or other native vegetation without proof of ownership.

(2) Proof of ownership requires possession of:

(a) a contract, permit, or other writing issued by the landowner or proper state or federal agency;

(b) a bill of sale, or other sales receipt;

(c) a bill of lading or product load receipt;
(d) a ticket issued by the seller authorizing harvesting or removal; or
(e) any other legal instrument.
(3) The document required in Subsection (1) shall be issued by the landowner or proper state or federal agency and shall provide the following information:
(a) date of execution;
(b) name and address of person authorized to harvest or transport the products, if different from the purchaser;
(c) a legal or other sufficient description of the property from which the products are harvested or removed;
(d) the estimated amount or volume, species, and other pertinent information regarding the products harvested or transported;
(e) the delivery or scaling point;
(f) the name and address of the purchaser of the products;
(g) the name and address of the landowner, agency, or vendor; and
(h) an expiration date.

Enacted by Chapter 3, 2008 General Session

78B-8-603 Transportation of forest products or native vegetation into or through the state.

Timber, forest products, or native vegetation transported into or through the state shall be accompanied by a shipping permit or proof of ownership.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-604 Enforcement.

Any law enforcement officer specified in Section 53-13-103, or ranger, or special agent of the United States Forest Service or the United States Bureau of Land Management may:
(1) stop any vehicle or means of conveyance, including common carriers, containing timber, forest products, or native vegetation upon any road or highway of this state for the purpose of making an inspection and investigation but may not unduly detain a driver of such vehicle or means of conveyance;
(2) inspect the timber, forest product, or native vegetation in any vehicle, or other means of conveyance, including common carrier, to determine whether the provisions of this chapter have been complied with;
(3) seize and hold any timber, forest product, or native vegetation harvested, removed, or transported in violation of this part; and
(4) sell or dispose of the timber, forest product, or native vegetation as provided by rule by the appropriate agency.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-605 Exemptions.

The provisions of this part do not apply to the transportation of:
(1) wood chips, sawdust, and bark;
(2) products transported by the owner of the property or his agent from which the products were removed; or

(3) products for personal consumption incidental to camping and picnicking which is limited to the amount:
(a) needed for the duration of the picnic or campout; and
(b) used at the campsite.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-8-606 Violation as misdemeanor.

Violation of Sections 78B-8-602 through 78B-8-604 is a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 7
Utah Alternative Dispute Process for ADA Complaints Act

78B-8-701 Definitions.

As used in this part:
(1) "Americans with Disabilities Act" means the public accommodation protections of Title III of the Americans with Disabilities Act, 42 U.S.C. Secs. 12181 through 12189.
(2) "Prospective defendant" means a person that is an owner, lessor, or operator of a public accommodation, or a designated agent of the owner, lessor, or operator for service of process.
(3) "Prospective plaintiff" means an individual with a disability who may bring a cause of action under the Americans with Disabilities Act, 42 U.S.C. Sec. 12188.
(4) "Public accommodation" means the same as that term is defined in 42 U.S.C. Sec. 12181.

Enacted by Chapter 133, 2020 General Session

78B-8-702 Notice of a violation.

(1) Rather than file a civil action for an alleged violation of the Americans with Disabilities Act, a prospective plaintiff may notify the prospective defendant of the alleged violation.
(2) A prospective defendant that receives notice of an alleged violation under Subsection (1) shall have a reasonable amount of time to remedy the alleged violation.
(3) If a prospective defendant receives notice of an alleged violation in accordance with Subsection (1) and fails to remedy the alleged violation within a reasonable amount of time, a prospective plaintiff may provide the prospective defendant with written notice of the alleged violation.
(4) A written notice under Subsection (3) shall include:
(a) the name and contact information of the prospective plaintiff, and if applicable, the prospective plaintiff's attorney;
(b) detailed information about the alleged violation of the Americans with Disabilities Act, including:
(i) a description of the alleged violation;
(ii) the date on which the alleged violation occurred or was encountered; and
(iii) the location of the alleged violation at the place of public accommodation;
(c) a statement that the prospective defendant has 90 days after the day on which the prospective defendant receives written notice to remedy the alleged violation;

(d) if possible, the name and contact information of an organization that can provide the prospective defendant with an inspection, reasonably priced or free of charge, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act;
(e) a statement that the prospective defendant has 14 days after the day on which the prospective defendant receives the written notice to respond and indicate whether the prospective defendant will remedy the alleged violation;
(f) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (7); and
(g) an unsworn declaration stating that the prospective plaintiff provided the prospective defendant with the notice described in Subsection (1).

(5) If a prospective plaintiff sends a written notice under Subsection (3), the prospective defendant shall be given 90 days after the day on which the prospective defendant receives the written notice to remedy any alleged violation in the written notice.

(6)
(a) Except as provided in Subsection (6)(b), if a prospective plaintiff sends a written notice under Subsection (3), the prospective defendant shall obtain an inspection of the public accommodation to determine whether the place of public accommodation is in compliance with the Americans with Disabilities Act.
(b) If the prospective defendant is unable to obtain an inspection under Subsection (6)(a) for a reasonable price or free of charge, the prospective defendant is not required to obtain the inspection under this section.
(c) If the prospective defendant obtains an inspection, the prospective defendant is required to provide the prospective plaintiff with proof of an inspection but is not required to provide the prospective plaintiff with the results of that inspection.

(7) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the written notice described in Subsection (4).

(8) An unsworn declaration under this section shall conform to the requirements of Chapter 18a, Uniform Unsworn Declarations Act.

Enacted by Chapter 133, 2020 General Session

78B-8-703 Final warning of a violation.

(1) A prospective plaintiff may provide a prospective defendant with a final warning of an alleged violation of the Americans with Disabilities Act if the prospective plaintiff provided the prospective defendant with notice of the alleged violation in accordance with Section 78B-8-702 and the prospective defendant failed to remedy the alleged violation within the 90-day period described in Section 78B-8-702.

(2) A final warning under Subsection (1) shall include:
(a) a copy of the written notice and unsworn declaration described in Section 78B-8-702;
(b) a statement that the prospective defendant has 30 days after the day on which the final warning is received to remedy the alleged violation;
(c) a statement that the prospective defendant must provide the prospective plaintiff with proof that an inspection of the public accommodation has been conducted to determine whether the public accommodation is in compliance with the Americans with Disabilities Act and that the prospective defendant is responsible for the costs of the inspection;
(d) a statement that the prospective defendant has 14 days from the day on which the prospective defendant receives the final warning to respond and indicate whether the prospective defendant will remedy the alleged violation; and

(e) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (5).

(3) If a prospective plaintiff sends a final notice under Subsection (1), the prospective defendant shall be given 30 days after the day on which the prospective defendant receives the final warning to remedy an alleged violation.

(4)

(a) If a prospective plaintiff sends a final warning under this section, the prospective defendant shall obtain an inspection, at the prospective defendant's expense, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act.

(b) A prospective defendant is required to provide the prospective plaintiff with proof of the inspection described in Subsection (4)(a) but is not required to provide the prospective plaintiff with the results of that inspection.

(5) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the final warning described in Subsection (2).

Enacted by Chapter 133, 2020 General Session

78B-8-704 Filing a civil action.

This part does not prevent a prospective plaintiff from seeking any available remedies for an alleged violation under the Americans with Disabilities Act.

Enacted by Chapter 133, 2020 General Session

78B-8-705 Severability.

(1) If any provision of this part or the application of any part to any person or circumstance is held invalid by a court, the remainder of this part shall be given effect without the invalid provision or application.

(2) The provisions of this part are severable.

Enacted by Chapter 133, 2020 General Session

Chapter 9
Postconviction Remedies Act

Part 1
General Provisions

78B-9-101 Title.

This chapter is known as the "Post-Conviction Remedies Act."

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

78B-9-102 Replacement of prior remedies.

(1)

(a) This chapter establishes the sole remedy for any person who challenges a conviction or sentence for a criminal offense and who has exhausted all other legal remedies, including a direct appeal except as provided in Subsection (2). This chapter replaces all prior remedies for review, including extraordinary or common law writs. Proceedings under this chapter are civil and are governed by the rules of civil procedure. Procedural provisions for filing and commencement of a petition are found in Rule 65C, Utah Rules of Civil Procedure.
(b) A court may not enter an order to withdraw, modify, vacate or otherwise set aside a plea unless it is in conformity with this chapter or Section 77-13-6.
(2) This chapter does not apply to:
(a) habeas corpus petitions that do not challenge a conviction or sentence for a criminal offense;
(b) motions to correct a sentence pursuant to Rule 22(e), Utah Rules of Criminal Procedure; or
(c) actions taken by the Board of Pardons and Parole.

Amended by Chapter 450, 2017 General Session

78B-9-103 Applicability -- Effect on petitions.

Except for the limitation period established in Section 78B-9-107, this chapter applies only to post-conviction proceedings filed on or after July 1, 1996.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-9-104 Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:
(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;
(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;
(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;
(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;
(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:
(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;
(ii) the material evidence is not merely cumulative of evidence that was known;
(iii) the material evidence is not merely impeachment evidence; and
(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;
(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

(ii)

(A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-5d-206, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-5-419, lewdness;

(ix) Section 76-5d-202, engaging in prostitution;

(x) Section 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation; or

(xi) Section 76-5d-210, sexual solicitation of a child.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3)

(a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but

shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Amended by Chapter 173, 2025 General Session
Amended by Chapter 174, 2025 General Session

78B-9-105 Burden of proof.

(1)
(a) Except for claims raised under Subsection 78B-9-104(1)(h), the petitioner has the burden of pleading and proving by a preponderance of the evidence the facts necessary to entitle the petitioner to relief.
(b) For claims raised under Subsection 78B-9-104(1)(h), the petitioner has the burden of pleading and proving by clear and convincing evidence the facts necessary to entitle the petitioner to relief.
(c) 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.

Amended by Chapter 120, 2022 General Session

78B-9-106 Preclusion of relief -- Exception.

(1) A petitioner is not eligible for relief under this chapter upon any ground that:
(a) may still be raised on direct appeal or by a post-trial motion;
(b) was raised or addressed in the trial court, at trial, or on appeal;
(c) could have been but was not raised in the trial court, at trial, or on appeal;
(d) was raised or addressed in any previous request for post-conviction relief or could have been, but was not, raised in a previous request for postconviction relief; or
(e) is barred by the limitation period established in Section 78B-9-107.

(2)
(a) The state may raise any of the procedural bars or time bar at any time, including during an appeal from an order granting or denying postconviction relief, unless the court determines that the state should have raised the time bar or procedural bar at an earlier time.
(b) Any court may raise a procedural bar or time bar on the court's own motion, provided that the court gives the parties notice and an opportunity to be heard.

(3)
(a) Notwithstanding Subsection (1)(c), a petitioner may be eligible for relief on a basis that the ground could have been but was not raised in the trial court, at trial, or on appeal, if the failure to raise that ground was due to ineffective assistance of counsel.
(b) Notwithstanding Subsections (1)(c) and (1)(d), a petitioner may be eligible for relief on a basis that the ground could have been but was not raised in the trial court, at trial, on appeal, or in a previous request for postconviction relief, if the failure to raise that ground was due to force, fraud, or coercion as defined in Section 76-5-308.

(4) This section authorizes a merits review only to the extent required to address the exception set forth in Subsection (3).

(5) This section does not apply to a petition filed under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Amended by Chapter 46, 2021 General Session

78B-9-107 Statute of limitations for postconviction relief.

(1) A petitioner is entitled to relief only if the petition is filed within one year after the day on which the cause of action has accrued.

(2) For purposes of this section, the cause of action accrues on the later of the following dates:

(a) the last day for filing an appeal from the entry of the final judgment of conviction, if no appeal is taken;

(b) the entry of the decision of the appellate court that has jurisdiction over the case, if an appeal is taken;

(c) the last day for filing a petition for writ of certiorari in the Utah Supreme Court or the United States Supreme Court, if no petition for writ of certiorari is filed;

(d) the entry of the denial of the petition for writ of certiorari or the entry of the decision on the petition for certiorari review, if a petition for writ of certiorari is filed;

(e) the date on which petitioner knew or should have known, in the exercise of reasonable diligence, of evidentiary facts on which the petition is based; or

(f) the date on which the new rule described in Subsection 78B-9-104(1)(g) is established.

(3)

(a) The limitations period is tolled for any period during which the petitioner was prevented from filing a petition due to state action in violation of the United States Constitution, due to physical or mental incapacity, or for claims arising under Subsection 78B-9-104(1)(h), due to force, fraud, or coercion as defined in Section 76-5-308.

(b) The petitioner has the burden of proving by a preponderance of the evidence that the petitioner is entitled to relief under this Subsection (3).

(4) The statute of limitations is tolled during the pendency of the outcome of a petition asserting:

(a) exoneration through DNA testing under Section 78B-9-303; or

(b) factual innocence under Section 78B-9-402.

(5) Sections 77-19-8, 78B-2-104, and 78B-2-111 do not extend the limitations period established in this section.

(6) This section does not apply to a petition filed under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Amended by Chapter 120, 2022 General Session

78B-9-108 Effect of granting relief -- Notice.

(1) If the court grants the petitioner's request for relief, except requests for relief under Subsection 78B-9-104(1)(h), the court shall either:

(a) modify the original conviction or sentence; or

(b) vacate the original conviction or sentence and order a new trial or sentencing proceeding as appropriate.

(2) If the court grants the petitioner's request for relief under Subsection 78B-9-104(1)(h), the court shall:

(a) vacate the original conviction and sentence; and

(b) order the petitioner's records expunged in accordance with Section 77-40a-402.

(3)

(a) If the petitioner is serving a felony sentence, the order shall be stayed for five days. Within the stay period, the respondent shall give written notice to the court and the petitioner that the respondent will pursue a new trial or sentencing proceedings, appeal the order, or take no action.
(b) If the respondent fails to provide notice or gives notice at any time during the stay period that it intends to take no action, the court shall lift the stay and deliver the order to the custodian of the petitioner.
(c) If the respondent gives notice of intent to appeal the court's decision, the stay provided for by Subsection (3)(a) shall remain in effect until the appeal concludes, including any petitions for rehearing or for discretionary review by a higher court. The court may lift the stay if the petitioner can make the showing required for a certificate of probable cause under Section 77-20-302 and Utah Rules of Criminal Procedure, Rule 27.
(d) If the respondent gives notice that it intends to retry or resentence the petitioner, the trial court may order any supplementary orders as to arraignment, trial, sentencing, custody, bail, discharge, or other matters that may be necessary.

Amended by Chapter 120, 2022 General Session
Amended by Chapter 250, 2022 General Session

78B-9-109 Appointment of pro bono counsel or counsel from Indigent Appellate Defense Division.

(1)
(a) If any portion of the petition is not summarily dismissed, the court may, upon the request of an indigent petitioner, appoint counsel on a pro bono basis or from the Indigent Appellate Defense Division, created in Section 78B-22-902, to represent the petitioner in the postconviction court or on postconviction appeal.
(b) Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.
(2) In determining whether to appoint counsel, the court may consider:
(a) whether the petitioner is incarcerated;
(b) the likelihood that an evidentiary hearing will be necessary;
(c) the likelihood that an investigation will be necessary;
(d) the complexity of the factual and legal issues; and
(e) any other factor relevant to the particular case.
(3) An allegation that counsel appointed under this section was ineffective cannot be the basis for relief in any subsequent postconviction petition.

Amended by Chapter 295, 2022 General Session

78B-9-110 Appeal -- Jurisdiction.

Any party may appeal from the trial court's final judgment on a petition for post-conviction relief to the appellate court having jurisdiction pursuant to Section 78A-3-102 or 78A-4-103.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2

Capital Sentence Cases

78B-9-201 Post-conviction remedies -- 30 days.

A post-conviction remedy may not be applied for or entertained by any court within 30 days prior to the date set for execution of a capital sentence, unless the grounds for application are based on facts or circumstances which developed or first became known within that period of time.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-9-202 Appointment and payment of counsel in death penalty cases.

(1) A person who has been sentenced to death and whose conviction and sentence has been affirmed on appeal shall be advised in open court, on the record, in a hearing scheduled no less than 30 days prior to the signing of the death warrant, of the provisions of this chapter allowing challenges to the conviction and death sentence and the appointment of counsel for indigent petitioners.

(2)

(a) If a petitioner requests the court to appoint counsel, the court shall determine whether the petitioner is indigent and make findings on the record regarding the petitioner's indigency. If the court finds that the petitioner is indigent, it shall, subject to the provisions of Subsection (5), promptly appoint counsel who is qualified to represent petitioners in postconviction death penalty cases as required by Rule 8 of the Utah Rules of Criminal Procedure. Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.

(b) A petitioner who wishes to reject the offer of counsel shall be advised on the record by the court of the consequences of the rejection before the court may accept the rejection.

(3) Attorney fees and litigation expenses incurred in providing the representation provided for in this section and that the court has determined are reasonable shall be paid from state funds by the Division of Finance according to rules established pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(a) In determining whether the requested funds are reasonable, the court should consider:

(i) the extent to which the petitioner requests funds to investigate and develop evidence and legal arguments that duplicate the evidence presented and arguments raised in the criminal proceeding; and

(ii) whether the petitioner has established that the requested funds are necessary to develop evidence and legal arguments that are reasonably likely to support postconviction relief.

(b) The court may authorize payment of attorney fees at a rate of $125 per hour up to a maximum of $60,000. The court may exceed the maximum only upon a showing of good cause as established in Subsections (3)(e) and (f).

(c) The court may authorize litigation expenses up to a maximum of $20,000. The court may exceed the maximum only upon a showing of good cause as established in Subsections (3)(e) and (f).

(d) The court may authorize the petitioner to apply ex parte for the funds permitted in Subsections (3)(b) and (c) upon a motion to proceed ex parte and if the petitioner establishes the need for confidentiality. The motion to proceed ex parte must be served on counsel representing the state, and the court may not grant the motion without giving the state an opportunity to respond.

(e) In determining whether good cause exists to exceed the maximum sums established in Subsections (3)(b) and (c), the court shall consider:
(i) the extent to which the work done to date and the further work identified by the petitioner duplicates work and investigation performed during the criminal case under review; and
(ii) whether the petitioner has established that the work done to date and the further work identified is reasonably likely to develop evidence or legal arguments that will support postconviction relief.
(f) The court may permit payment in excess of the maximum amounts established in Subsections (3)(b) and (c) only on the petitioner's motion, provided that:
(i) if the court has granted a motion to file ex parte applications under Subsection (3)(d), the petitioner shall serve the motion to exceed the maximum amounts on an assistant attorney general employed in a division other than the one in which the attorney is employed who represents the state in the postconviction case; if the court has not granted a motion to file ex parte applications, then the petitioner must serve the attorney representing the state in the postconviction matter with the motion to exceed the maximum funds;
(ii) if the motion proceeds under Subsection (3)(f)(i), the designated assistant attorney general may not disclose to the attorney representing the state in the postconviction matter any material the petitioner provides in support of the motion except upon a determination by the court that the material is not protected by or that the petitioner has waived the attorney client privilege or work product doctrine; and
(iii) the court gives the state an opportunity to respond to the request for funds in excess of the maximum amounts provided in Subsections (3)(b) and (c).
(4) Nothing in this chapter shall be construed as creating the right to the effective assistance of postconviction counsel, and relief may not be granted on any claim that postconviction counsel was ineffective.
(5) If within 60 days of the request for counsel the court cannot find counsel willing to accept the appointment, the court shall notify the petitioner and the state's counsel in writing. In that event, the petitioner may elect to proceed pro se by serving written notice of that election on the court and state's counsel within 30 days of the court's notice that no counsel could be found. If within 30 days of its notice to the petitioner the court receives no notice that the petitioner elects to proceed pro se, the court shall dismiss any pending postconviction actions and vacate any execution stays, and the state may initiate proceedings under Section 77-19-9 to issue an execution warrant.
(6) Subject to Subsection (2)(a) the court shall appoint counsel to represent the petitioner for the first petition filed after the direct appeal. For all other petitions, counsel may not be appointed at public expense for a petitioner, except to raise claims:
(a) based on newly discovered evidence as defined in Subsection 78B-9-104(1)(e)(i); or
(b) based on Subsection 78B-9-104(1)(g) that could not have been raised in any previously filed post trial motion or postconviction proceeding.

Amended by Chapter 120, 2022 General Session

Part 3
Postconviction Testing of DNA

78B-9-301 Postconviction testing of DNA -- Petition -- Sufficient allegations -- Notification of victim -- Investigative genetic genealogy.

(1) As used in this part:
(a) "DNA" means deoxyribonucleic acid.
(b) "Factually innocent" means the same as that term is defined in Section 78B-9-401.5.
(c) "Genetic genealogy database utilization" means the same as that term is defined in Section 53-10-403.7.
(d) "Investigative genetic genealogy service" means the same as that term is defined in Section 53-10-403.7.
(2) An individual convicted of a felony offense may at any time file a petition for postconviction DNA testing in the trial court that entered the judgment of conviction if the individual asserts factual innocence under oath and the petition alleges:
(a) evidence has been obtained regarding the individual's case that is still in existence and is in a condition that allows DNA testing to be conducted;
(b) the chain of custody is sufficient to establish that the evidence has not been altered in any material aspect;
(c) the individual identifies the specific evidence to be tested and states a theory of defense, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;
(d) the evidence was not previously subjected to DNA testing, or if the evidence was tested previously, the evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing;
(e) the proposed DNA testing is generally accepted as valid in the scientific field or is otherwise admissible under Utah law;
(f) the evidence that is the subject of the request for testing:
(i) has the potential to produce new, noncumulative evidence; and
(ii) there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial; and
(g) the individual is aware of the consequences of filing the petition, including:
(i) the consequences specified in Sections 78B-9-302 and 78B-9-304; and
(ii) that the individual is waiving any statute of limitations in all jurisdictions as to any felony offense the individual has committed which is identified through DNA database comparison.
(3) The petition under Subsection (2) shall comply with Utah Rules of Civil Procedure, Rule 65C, including providing the underlying criminal case number.
(4) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel have a duty to cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.
(5)
(a)
(i) An individual who files a petition under this section shall serve notice upon the office of the prosecutor who obtained the conviction, and upon the Utah attorney general.
(ii) The attorney general shall, within 30 days after receipt of service of a copy of the petition, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.
(b) After the attorney general responds under Subsection (5)(a), the petitioner has the right to reply to the response of the attorney general.

(c) After the attorney general and the petitioner have filed a response and reply in compliance with Subsection (5)(b), the court shall order DNA testing if it finds by a preponderance of the evidence that all criteria of Subsection (2) have been met.

(6)

(a) If the court grants the petition for testing, the DNA test shall be performed by the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division created in Section 53-10-103, unless the individual establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the testing be conducted by any laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) under reasonable conditions designed to protect the state's interests in the integrity of the evidence; and

(ii) according to accepted scientific standards and procedures.

(7)

(a) DNA testing under this section shall be paid for from funds appropriated to the Department of Public Safety under Subsection 53-10-407(4)(d)(ii) from the DNA Specimen Restricted Account created in Section 53-10-407 if:

(i) the court ordered the DNA testing under this section;

(ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division has a conflict of interest or does not have the capability to perform the necessary testing; and

(iii) the petitioner who has filed for postconviction DNA testing under Section 78B-9-201 is serving a sentence of imprisonment and is indigent.

(b) Under this Subsection (7), costs of DNA testing include costs that are necessary to transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports of findings.

(8) If the individual is serving a sentence of imprisonment and is indigent, the state shall pay for the costs of the testing under this part, but if the result is not favorable to the individual, the court may order the individual to reimburse the state for the costs of the testing, in accordance with Subsections 78B-9-302(4) and 78B-9-304(1)(b).

(9) Any victim of the crime regarding which the individual petitions for DNA testing, who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.

(10) A court order requiring DNA testing under this section may include an order to perform an investigative genetic genealogy service or a genetic genealogy database utilization only if:

(a) the individual requests an investigative genetic genealogy service or a genetic genealogy database utilization;

(b) the individual demonstrates no other available DNA test can provide:

(i) a conclusive result; or

(ii) any result due to the nature or quantity of the DNA evidence;

(c) the individual demonstrates that an investigative genetic genealogy service or a genetic genealogy database utilization may reasonably be expected to provide meaningful information about the identity of the perpetrator;

(d) the investigative genetic genealogy service or genetic genealogy database utilization will be performed in accordance with the requirements described in Subsection (6); and

(e) if applicable, the individual or a third party agrees to pay for additional investigative expenses that may occur subsequent to the investigative genetic genealogy service or genetic genealogy database utilization.

Amended by Chapter 500, 2023 General Session

78B-9-302 Effect of petition for postconviction DNA testing -- Requests for appointment of counsel -- Appeals -- Subsequent postconviction petitions.

(1) The filing of a petition for DNA testing constitutes the person's consent to provide samples of body fluids for use in the DNA testing.

(2) The data from any DNA samples or test results obtained as a result of the petition may be entered into law enforcement DNA databases.

(3) The filing of a petition for DNA testing constitutes the person's waiver of any statute of limitations in all jurisdictions as to any felony offense the person has committed which is identified through DNA database comparison.

(4) The person filing the petition for postconviction DNA testing bears the cost of the testing unless:

  (a) the person is serving a sentence of imprisonment;

  (b) the person is indigent; and

  (c) the DNA test is favorable to the petitioner.

(5)

  (a) Subsections 78B-9-109(1) and (2), regarding the appointment of pro bono counsel, apply to any request for the appointment of counsel under this part.

  (b) Subsection 78B-9-109(3), regarding effectiveness of counsel, applies to subsequent postconviction petitions and to appeals under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-9-303 Consequences of postconviction DNA testing when result is favorable to person -- Procedures.

(1)

  (a) If the result of postconviction DNA testing is favorable to the person, the person may file a motion to vacate the conviction. The court shall give the state 30 days to respond in writing, to present evidence, and to be heard in oral argument prior to issuing an order to vacate the conviction. The state may by motion request an extension of the 30 days, which the court may grant upon good cause shown.

  (b) The state may stipulate to the conviction being vacated, or may request a hearing and attempt to demonstrate through evidence and argument that, despite the DNA test results, the state possesses sufficient evidence of the person's guilt so that the person is unable to demonstrate by clear and convincing evidence that the person is factually innocent of one or more offenses of which the person was convicted, and all the lesser included offenses related to those offenses.

(2)

  (a)

    (i) If the result of postconviction DNA testing is favorable to the person and the state opposes vacating the conviction, the court shall consider all the evidence presented at the original trial and at the hearing under Subsection (1)(b), including the new DNA test result.

    (ii) The court may consider:

      (A) evidence that was suppressed or would be suppressed at a criminal trial; and

      (B) hearsay evidence, and may consider that the evidence is hearsay in evaluating its weight and credibility.

(b) If the court, after considering all the evidence, determines that the DNA test result demonstrates by clear and convincing evidence that the person is factually innocent of one or more offenses of which the person was convicted, the court shall order that those convictions be vacated with prejudice and those convictions be expunged from the person's record.
(c) If the court, after considering all the evidence presented at the original trial and at the hearing under Subsection (1)(b), including the new DNA test result, finds by clear and convincing evidence that the person did not commit one or more offenses of which the person was convicted, but the court does not find by clear and convincing evidence that the person did not commit any lesser included offenses relating to those offenses, the court shall modify the original conviction and sentence of the person as appropriate for the lesser included offense, whether or not the lesser included offense was originally submitted to the trier of fact.
(d) If the court, after considering all the evidence presented at the original trial and at the hearing under Subsection (1)(b), including the new DNA test result, does not find by clear and convincing evidence that the person is factually innocent of the offense or offenses the person is challenging and does not find that Subsection (2)(c) applies, the court shall deny the person's petition regarding the offense or offenses.
(e) Any party may appeal from the trial court's final ruling on the petition under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-9-304 Consequences of postconviction DNA testing when result is unfavorable to person -- Procedures.

(1) If the result of postconviction DNA testing is not favorable to the person, the court shall deny the person's petition, and the court shall:
(a) report the unfavorable result to the Board of Pardons and Parole; and
(b) order the person to pay for the costs of the DNA testing unless the petitioner has already paid that cost.
(2) This section does not apply if the DNA test is inconclusive.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Postconviction Determination of Factual Innocence

78B-9-401 Title.

This part is known as "Postconviction Determination of Factual Innocence."

Enacted by Chapter 358, 2008 General Session

78B-9-401.5 Definitions.

As used in this part:
(1) "Bona fide and compelling issue of factual innocence" means that the newly discovered material evidence presented by the petitioner, if credible, would clearly establish the factual innocence of the petitioner.
(2) "Factual innocence" or "factually innocent" means a person did not:
(a) engage in the conduct for which the person was convicted;

(b) engage in conduct relating to any lesser included offenses of the crime for which the person was convicted; or
(c) commit any other felony arising out of or reasonably connected to the facts supporting the indictment or information upon which the person was convicted.
(3) "Newly discovered material evidence" means evidence that was not available to the petitioner at trial or during the resolution on the merits by the trial court of any motion to withdraw a guilty plea or motion for new trial and which is relevant to the determination of the issue of factual innocence, and may also include:
(a) evidence which was discovered prior to or in the course of any appeal or postconviction proceedings that served in whole or in part as the basis for vacatur or reversal of the conviction of petitioner; or
(b) evidence that supports the claims within a petition filed under Part 1, General Provisions, which is pending at the time of the court's determination of factual innocence.
(4) "Period of incarceration" means any sentence of imprisonment, including jail, which was served after judgement of conviction.

Enacted by Chapter 153, 2010 General Session

78B-9-402 Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.
(2)
(a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:
(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;
(ii) the specific evidence identified by the petitioner in the petition establishes innocence;
(iii) the material evidence is not merely cumulative of evidence that was known;
(iv) the material evidence is not merely impeachment evidence; and
(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.
(b)
(i) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a).
(ii) If the court finds the petition does not meet all the requirements of Subsection (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.
(3)
(a) The petition shall also contain an averment that:
(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction motion, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or
(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.
(b)

(i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

(ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied, the court may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(A) was not discovered by the petitioner or the petitioner's counsel;

(B) is material upon the issue of factual innocence; and

(C) has never been presented to a court.

(4)

(a) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence.

(b) The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or self serving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section 78B-9-301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9)

(a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b)

(i) The assigned judge shall conduct an initial review of the petition.

(ii) If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general.

(iii) If, upon completion of the initial review, the court does not dismiss the petition, the court shall order the attorney general to file a response to the petition.

(iv) The attorney general shall, within 30 days after the day on which the attorney general receives the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c)

(i) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if the court finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted.

(ii) No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d)

(i) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing.

(ii) If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12)

(a) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions.

(b) Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14)

(a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between two individuals and as recognized by the law; and

(ii) "Spouse" means an individual married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c)

(i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Individual, except automobile homicide under Section 76-5-207, applying the same principles

of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

Amended by Chapter 153, 2024 General Session

78B-9-403 Requests for appointment of counsel -- Appeals -- Postconviction petitions.

(1) Subsections 78B-9-109(1) and (2), regarding the appointment of pro bono counsel, apply to any request for the appointment of counsel under this part.
(2) Subsection 78B-9-109(3), regarding effectiveness of counsel, applies to subsequent postconviction petitions and to appeals under this part.

Enacted by Chapter 358, 2008 General Session

78B-9-404 Hearing upon petition -- Procedures -- Court determination of factual innocence.

(1)
  (a) In any hearing conducted under this part, the Utah attorney general shall represent the state.
  (b) The burden is upon the petitioner to establish the petitioner's factual innocence by clear and convincing evidence.
(2) The court may consider:
  (a) evidence that was suppressed or would be suppressed at a criminal trial; and
  (b) hearsay evidence, and may consider that the evidence is hearsay in evaluating its weight and credibility.
(3) In making its determination the court shall consider, in addition to the evidence presented at the hearing under this part, the record of the original criminal case and at any postconviction proceedings in the case.
(4) If the court, after considering all the evidence, determines by clear and convincing evidence that the petitioner:
  (a) is factually innocent of one or more offenses of which the petitioner was convicted, the court shall order that those convictions:
    (i) be vacated with prejudice; and
    (ii) be expunged from the petitioner's record; or
  (b) did not commit one or more offenses of which the petitioner was convicted, but the court does not find by clear and convincing evidence that the petitioner did not commit any lesser included offenses relating to those offenses, the court shall modify the original conviction and sentence of the petitioner as appropriate for the lesser included offense, whether or not the lesser included offense was originally submitted to the trier of fact.
(5)
  (a) If the court, after considering all the evidence, does not determine by clear and convincing evidence that the petitioner is factually innocent of the offense or offenses the petitioner is challenging and does not find that Subsection (4)(b) applies, the court shall deny the petition regarding the offense or offenses.
  (b) If the court finds that the petition was brought in bad faith, it shall enter the finding on the record, and the petitioner may not file a second or successive petition under this section without first applying to and obtaining permission from the court which denied the prior petition.
(6) At least 30 days prior to a hearing on a petition to determine factual innocence, the petitioner and the respondent shall exchange information regarding the evidence each intends to present at the hearing. This information shall include:

(a) a list of witnesses to be called at the hearing; and
(b) a summary of the testimony or other evidence to be introduced through each witness, including any expert witnesses.
(7) Each party is entitled to a copy of any expert report to be introduced or relied upon by that expert or another expert at least 30 days prior to hearing.
(8) The court, after considering all the evidence, may not find the petitioner to be factually innocent unless:
(a) the court determines by clear and convincing evidence that the petitioner did not commit one or more of the offenses of which the petitioner was convicted, as defined in Subsection 78B-9-401.5(2); and
(b) the determination is based upon the newly discovered material evidence described in the petition, pursuant to Section 78B-9-402, and as defined in Subsection 78B-9-401.5(3).

Amended by Chapter 220, 2012 General Session

78B-9-405 Judgment and assistance payment.
(1) As used in this section:
(a) "Felony" means a criminal offense classified as a felony under Title 76, Chapter 3, Punishments, or conduct that would constitute a felony if committed in Utah.
(b) "Petitioner" means a United States citizen or an individual who was otherwise lawfully present in this country at the time of the incident that gave rise to the underlying conviction.
(2)
(a) If a court finds a petitioner factually innocent under Part 3, Postconviction Testing of DNA, or under this part, and if the petitioner has served a period of incarceration, the court shall order that the petitioner receive for each year or portion of a year the petitioner was incarcerated, up to a maximum of 15 years, the monetary equivalent of the average annual nonagricultural payroll wage in Utah, as determined by the data most recently published by the Department of Workforce Services at the time of the petitioner's release from prison.
(b) The court's determination of the monetary equivalent of the average annual nonagricultural payroll wage shall be included in the order declaring that the petitioner is factually innocent.
(3) If a court orders that a petitioner is to receive payment under Subsection (2):
(a) the Utah Office for Victims of Crime shall pay from the Crime Victim Reparations Fund to the petitioner within 45 days of the court order under Subsection (2) an initial sum equal to either 20% of the total financial assistance payment as determined under Subsection (2) or an amount equal to two years of incarceration, whichever is greater, but not to exceed the total amount owed;
(b) the Legislature shall appropriate as nonlapsing funds from the General Fund, and no later than the next general session following the issuance of the court order under Subsection (2):
(i) to the Crime Victim Reparations Fund, the amount that was paid out of the fund under Subsection (3)(a); and
(ii) to the State Commission on Criminal and Juvenile Justice, as a separate line item, the amount ordered by the court for payments under Subsection (2), minus the amount reimbursed to the Crime Victim Reparations Fund under Subsection (3)(b)(i); and
(c) the State Commission on Criminal and Juvenile Justice shall pay the amount ordered by the court under Subsection (2), minus the amount paid by the Utah Office for Victims of Crime under Subsection (3)(a), to the petitioner:
(i) quarterly on or before the last day of the month next succeeding each calendar quarterly period; or

(ii) in one lump sum payment no later than the next succeeding July 31 after the day on which the court ordered the payment.

(4)

(a) For a payment under Subsection (3)(c):

(i) the petitioner shall choose, within 90 days after the day on which the payment under Subsection (3)(a) is made, whether the payment is disbursed under Subsection (3)(c)(i) or (ii); and

(ii) the State Commission on Criminal and Juvenile Justice shall disburse the payment in accordance with the petitioner's choice under Subsection (4)(a)(i).

(b) If the petitioner fails to make a choice under Subsection (4)(a)(i) within 90 days after the day on which the payment under Subsection (3)(a) is made, the State Commission on Criminal and Juvenile Justice shall pay the amount under Subsection (3)(c) in accordance with Subsection (3)(c)(i).

(c)

(i) If a court ordered a petitioner to receive a payment under this section on or before May 5, 2021, the petitioner may request that the State Commission on Criminal and Juvenile Justice disburse the remaining balance of the payment owed to the petitioner under Subsection (3)(c) in one lump sum payment.

(ii) If a petitioner submits a request under Subsection (4)(c)(i), the State Commission on Criminal and Juvenile Justice shall disburse the remaining balance of the payment owed to the petitioner in one lump sum payment.

(5) Payments under Subsection (3)(c)(i) shall:

(a) commence no later than one year after the effective date of the appropriation for the payments;

(b) be made to the petitioner for the balance of the amount ordered by the court after the initial payment under Subsection (3)(a); and

(c) be allocated so that the entire amount due to the petitioner under this section has been paid no later than 10 years after the effective date of the appropriation made under Subsection (3)(b).

(6)

(a) Payments under this section shall be reduced to the extent that the period of incarceration for which the petitioner seeks payment was attributable to a separate and lawful conviction.

(b) Payments under this section shall:

(i) be tolled upon the commencement of any period of incarceration due to the petitioner's subsequent conviction of a felony; and

(ii) resume upon the conclusion of that period of incarceration.

(c) The reduction of payments under Subsection (6)(a) or the tolling of payments pursuant to Subsection (6)(b) shall be determined by the same court that finds a petitioner to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.

(7)

(a) An individual is ineligible for any payments under this part if the individual was already serving a prison sentence in another jurisdiction at the time of the conviction of the crime for which that individual has been found factually innocent in accordance with Part 3, Postconviction Testing of DNA, or this part, and that individual is to be returned to that other jurisdiction upon release for further incarceration on the prior conviction.

(b) Ineligibility for any payments under this Subsection (7) shall be determined by the same court that finds an individual to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.

(8) Payments under this section:
(a) are not subject to any Utah state taxes; and
(b) may not be offset by any expenses incurred by the state or any political subdivision of the state, including expenses incurred to secure the petitioner's custody, or to feed, clothe, or provide medical services for the petitioner.
(9) If a court finds a petitioner to be factually innocent under Part 3, Postconviction Testing of DNA, or this part, the court shall also:
(a) issue an order of expungement of the petitioner's criminal record for all acts in the charging document upon which the payment under this part is based; and
(b) provide a letter to the petitioner explaining that the petitioner's conviction has been vacated on the grounds of factual innocence and indicating that the petitioner did not commit the crime or crimes for which the petitioner was convicted and was later found to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.
(10) A petitioner found to be factually innocent under Part 3, Postconviction Testing of DNA, or this part shall have access to the same services and programs available to Utah citizens generally as though the conviction for which the petitioner was found to be factually innocent had never occurred.
(11)
(a) Payments under this part constitute a full and conclusive resolution of the petitioner's claims on the specific issue of factual innocence.
(b) Pre-judgment interest may not be awarded in addition to the payments provided under this part.

Amended by Chapter 36, 2021 General Session

Part 5
Conviction Integrity Units Act

78B-9-501 Title.

This part is known as the "Conviction Integrity Units Act."

Enacted by Chapter 203, 2020 General Session

78B-9-502 Definitions.

As used in this part:
(1) "Bona fide and compelling evidence" means that the evidence presented by the petitioning prosecutor establishes by a preponderance of the evidence that:
(a) the convicted person is significantly likely to be factually innocent;
(b) newly discovered material evidence, if presented at or before the time of trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or
(c) there exists information discovered or received by the petitioning prosecution agency after a judgment of conviction and sentencing that:
(i) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or

(ii) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.
(2) "Convicted person" means the person whose conviction or sentence is under review.
(3) "Conviction Integrity Unit" means a program established by a prosecution agency to conduct extrajudicial, fact-based reviews of criminal convictions and sentences.
(4) "Establishing office" means the prosecution agency establishing a conviction integrity unit.
(5) "Factually innocent" means the same as that term is defined in Section 78B-9-401.5.
(6) "Legitimacy" means consistent with the United States and Utah constitutions, federal and state law, and all rules and principles of a fair and just legal system.
(7) "Newly discovered material evidence" means the same as that term is defined in Section 78B-9-401.5.
(8) "Petitioning prosecutor" means the prosecutor who files a civil petition seeking relief under this part.
(9) "Prosecution agency" means a county attorney, district attorney, the Office of the Attorney General, or other prosecution agency.
(10) "Significant" or "significantly likely," for purposes of this part, means to a large degree or of a noticeably or measurably large amount.

Enacted by Chapter 203, 2020 General Session

78B-9-503 Conviction Integrity Unit.
(1) A prosecution agency may establish a conviction integrity unit to investigate:
(a) plausible allegations of factual innocence;
(b) newly discovered material evidence; or
(c) information discovered or received by the prosecution agency after trial, judgment of conviction, or sentencing that:
(i) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or
(ii) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.
(2) A conviction integrity unit may review a conviction or sentence if the conviction and sentence:
(a)
(i) occurred within the judicial district of the establishing office; and
(ii) was prosecuted by the establishing office or another prosecution agency under the direct control and supervision of the establishing office; or
(b)
(i) occurred within a different judicial district or was prosecuted by another prosecution agency not under the direct control and supervision of the establishing office;
(ii)
(A) the prosecution agency that prosecuted the case has not established a conviction integrity unit; or
(B) the prosecution agency that prosecuted the case has established a conviction integrity unit but determines that review of the conviction or sentence should be conducted by a conviction integrity unit established by another prosecution agency; and
(iii) the district attorney, county attorney, attorney general, or other prosecutor that directly oversees and supervises the requesting agency requests the review.
(3)

(a) An individual convicted of a crime may submit an application to a conviction integrity unit requesting review of the individual's conviction or sentence as provided in Subsection (2).
(b) If a convicted person submits an application for review of a conviction that resulted in a sentence of death, and the application is submitted to any conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General, the conviction integrity unit that receives the application shall forward copies of the application to the Office of the Attorney General and to the convicted person's current counsel of record.
(c) If a conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General, undertakes any review of a conviction that resulted in a sentence of death, the conviction integrity unit shall send the findings and recommendations promptly upon completion to the Office of the Attorney General and to the convicted person's current counsel of record.
(d) If a conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General discovers or receives any information relevant to a conviction that resulted in a sentence of death, the conviction integrity unit that discovers or receives the information shall promptly notify the Office of the Attorney General and the convicted person's current counsel of record.

(4) The form of the application for review and its contents shall be determined by the establishing office.

(5) Once the review is complete, the conviction integrity unit shall present its findings and recommendations to:
(a) the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office; or
(b) if the review was requested by another prosecution agency under Subsection (2)(b), the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the prosecution agency that requested the review.

(6) The district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested review under Subsection (2)(b), is not required to accept or follow the findings and recommendations of the conviction integrity unit.

(7) The district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested review under Subsection (2)(b), may commence a civil proceeding by filing a petition in the district court with jurisdiction over the case seeking a court order to:
(a) vacate the conviction;
(b) vacate the conviction and order a new trial;
(c) vacate the sentence and order further proceedings; or
(d) modify the conviction or sentence.

(8) The decision to petition the district court under Subsection (7) is solely within the discretion of the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested the review under Subsection (2)(b).

(9) Except as otherwise provided in this part, a petition filed with the district court shall comply with the Utah Rules of Civil Procedure, Rule 65C, and shall include the number of the underlying criminal case that resulted in the judgment of conviction or sentence in connection with which the petitioning prosecutor seeks relief from the court.

(10) If a petition is filed under Subsection (7), the petitioning prosecutor shall promptly:

(a) notify the convicted person, in writing, that the petition has been filed and provide the convicted person with a copy of the petition and all other documents filed in support of the petition;
(b) notify the victim or the victim's representative, if any, in writing, that a petition has been filed, provide the victim or the victim's representative, if any, with a copy of the petition and all other documents filed in support, and advise the victim or the victim's representative of the victim's right to be heard by the court under Subsection (13); and
(c) if the underlying conviction was a felony offense, notify the Office of the Attorney General, in writing, that the petition has been filed and provide the attorney general with a copy of the petition and all other documents filed in support.

(11) If a petition is filed pursuant to Subsection (7), the Office of the Attorney General has standing to intervene as of right and to participate as a party in the district court proceeding if:
(a) the convicted person submitted an application under Subsection (3)(a) requesting review of the person's conviction or sentence by the conviction integrity unit;
(b) the conviction integrity unit undertook review of the convicted person's conviction or sentence as a result of the convicted person's application; and
(c) the Office of the Attorney General reasonably believes the relief requested by the petitioning prosecutor would be barred if the petition were filed or the relief were requested directly by the convicted person under Part 1, General Provisions.

(12) Upon review of the petition, the district court may:
(a) dismiss the petition as provided in Subsection (14);
(b) require that additional evidence be submitted;
(c) conduct an evidentiary hearing; or
(d) grant the relief requested by the petitioning prosecution agency, or any other relief expressly permitted by this part, if by a preponderance of the evidence the petition presents:
(i) bona fide and compelling evidence that the convicted person is significantly likely to be factually innocent;
(ii) bona fide and compelling newly discovered material evidence; or
(iii) bona fide and compelling information discovered or received by the petitioning prosecution agency after the trial, judgment of conviction, and sentencing that:
(A) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or
(B) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.

(13) If the court requests additional information or holds an evidentiary hearing, the convicted person, and the victim or the victim's representative, if any, and, if notice to the Office of the Attorney General was required under Subsection (10)(c), the attorney general, shall have the right to be heard by the district court, through written submissions or testimony.

(14) A district court may dismiss a petition without a hearing if the court finds by a preponderance of the evidence that the petition fails to assert grounds on which relief may be granted.

(15) In granting relief under this part, the district court may:
(a) vacate the conviction;
(b) vacate the conviction and order a new trial;
(c) vacate the sentence and order further proceedings; or
(d) modify the conviction or sentence.

(16) The district court shall state on the record the reasons for the court's decision.

(17)

(a) An appeal may be taken by the petitioning prosecutor from a final order entered under this part.
(b) If notice to the Office of the Attorney General was required under Subsection (10)(c), the petitioning prosecutor shall consult with the attorney general prior to filing an appeal and, if an appeal is filed by the petitioning prosecutor, the Office of the Attorney General has standing to intervene as of right and to participate as a party in all appellate proceedings.
(18) Attorney fees, costs, orders of restitution, or any other form of monetary relief are not available under this part.
(19) Nothing in this section:
(a) precludes a conviction integrity unit from reviewing a conviction or sentence based on information discovered or received directly by the establishing office or received from an individual other than the convicted individual;
(b) prohibits an establishing office from adopting additional written criteria for the convictions or sentences the establishing office will review or will decline to review; or
(c) requires a conviction integrity unit to review any conviction or sentence.
(20) Nothing in this part:
(a) including review by a conviction integrity unit or the filing of a petition under Subsection (7), may operate to stay any other proceeding, or to extend, toll, or otherwise alter any other deadline or limitation period under Title 78B, Chapter 9, Postconviction Remedies Act;
(b) may revive a claim or cause of action or implicate a defense otherwise available to the state under any other provision of Title 78B, Chapter 9, Postconviction Remedies Act, or any other applicable provision of law; or
(c) confers standing or creates a private right of action for a convicted person or victim of a convicted person.
(21) Relief under this part does not exclude any other available remedy.

Enacted by Chapter 203, 2020 General Session

Chapter 10
Utah Uniform Mediation Act

78B-10-101 Title.

This chapter is known as the "Utah Uniform Mediation Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-102 Definitions.

As used in this chapter:
(1) "Mediation" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.
(2) "Mediation communication" means conduct or a statement, whether oral, in a record, verbal, or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
(3) "Mediation party" means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.

(4) "Mediator" means an individual who is neutral and conducts a mediation.
(5) "Nonparty participant" means a person, other than a party or mediator, that participates in a mediation.
(6) "Person" means an individual, corporation, estate, trust, business trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.
(7) "Proceeding" means:
(a) a judicial, administrative, arbitral, or other adjudicative process, including related prehearing and posthearing motions, conferences, and discovery; or
(b) a legislative hearing or similar process.
(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(9) "Sign" means:
(a) to execute or adopt a tangible symbol with the present intent to authenticate a record; or
(b) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-103 Scope.
(1) Except as otherwise provided in Subsection (2) or (3), this chapter applies to a mediation in which:
(a) the mediation parties are required to mediate by statute, court, or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator;
(b) the mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or
(c) the mediation parties use as a mediator an individual who holds himself or herself out as a mediator or the mediation is provided by an entity that holds itself out as providing mediation.
(2) The chapter does not apply to a mediation:
(a) relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;
(b) relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;
(c) conducted by a judge as a part of the judge's official judicial duties; or
(d) conducted under the auspices of:
(i) a primary or secondary school if all the parties are students; or
(ii) a correctional institution for youths if all the parties are residents of that institution.
(3) If the parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under Sections 78B-10-104 through 78B-10-106 do not apply to the mediation or part agreed upon. However, Sections 78B-10-104 through 78B-10-106 apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

Amended by Chapter 232, 2012 General Session

78B-10-104 Privilege against disclosure -- Admissibility -- Discovery.

(1) Except as otherwise provided in Section 78B-10-106, a mediation communication is privileged as provided in Subsection (2) and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by Section 78B-10-105.
(2) In a proceeding, the following privileges apply:
(a) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.
(b) A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.
(c) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.
(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-105 Waiver and preclusion of privilege.
(1) A privilege under Section 78B-10-104 may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation, and:
(a) in the case of the privilege of a mediator, it is expressly waived by the mediator; and
(b) in the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.
(2) A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under Section 78B-10-104, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.
(3) A person that intentionally uses a mediation to plan, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under Section 78B-10-104.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-106 Exceptions to privilege.
(1) There is no privilege under Section 78B-10-104 for a mediation communication that is:
(a) in an agreement evidenced by a record signed by all parties to the agreement;
(b) available to the public under Title 63G, Chapter 2, Government Records Access and Management Act, or made during a mediation session which is open, or is required by law to be open, to the public;
(c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
(d) intentionally used to plan a crime, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;
(e) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;
(f) except as otherwise provided in Subsection (3), sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or
(g) subject to the reporting requirements in Section 26B-6-205 or 80-2-602.

(2) There is no privilege under Section 78B-10-104 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that:
(a) the evidence is not otherwise available;
(b) there is a need for the evidence that substantially outweighs the interest in protecting confidentiality; and
(c) the mediation communication is sought or offered in:
(i) a court proceeding involving a felony or misdemeanor; or
(ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.
(3) A mediator may not be compelled to provide evidence of a mediation communication referred to in Subsection (1)(f) or (2)(c)(ii).
(4) If a mediation communication is not privileged under Subsection (1) or (2), only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

Amended by Chapter 330, 2023 General Session

78B-10-107 Prohibited mediator reports.
(1) Except as required in Subsection (2), a mediator may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.
(2) A mediator may disclose:
(a) whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;
(b) a mediation communication as permitted under Section 78B-10-106; or
(c) a mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.
(3) A communication made in violation of Subsection (1) may not be considered by a court, administrative agency, or arbitrator.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-108 Confidentiality.
Unless subject to Title 52, Chapter 4, Open and Public Meetings Act, and Title 63G, Chapter 2, Government Records Access and Management Act, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-109 Mediator's disclosure of conflicts of interest -- Background.
(1) Before accepting a mediation, an individual who is requested to serve as a mediator shall:
(a) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an

existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(b) disclose any known fact to the mediation parties as soon as practical before accepting a mediation.

(2) If a mediator learns any fact described in Subsection (1)(a) after accepting a mediation, the mediator shall disclose it as soon as practicable.

(3) At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

(4) Subsections (1), (2), (3), and (6) do not apply to an individual acting as a judge or ombudsman.

(5) This chapter does not require that a mediator have a special qualification by background or profession.

(6) A mediator must be impartial, unless after disclosure of the facts required in Subsections (1) and (2) to be disclosed, the parties agree otherwise.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-110 Participation in mediation.

An attorney or other individual designated by a party may accompany the party to, and participate in, a mediation. A waiver of participation given before the mediation may be rescinded.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-111 International commercial mediation.

(1) In this section:

(a) "International commercial mediation" means an international commercial conciliation as defined in Article 1 of the Model Law.

(b) "Model Law" means the Model Law on International Commercial Conciliation adopted by the United Nations Commission on International Trade Law on 28 June 2002 and recommended by the United Nations General Assembly in a resolution (A/RES/57/18) dated 19 November 2002.

(2) Except as otherwise provided in Subsections (3) and (4), if a mediation is an international commercial mediation, the mediation is governed by the Model Law.

(3) Unless the parties agree in accordance with Subsection 78B-10-103(3) that all or part of an international commercial mediation is not privileged, Sections 78B-10-104 through 78B-10-106 and any applicable definitions in Section 78B-10-102 of this chapter apply to the mediation and nothing in Article 10 of the Model Law derogates from Sections 78B-10-104 through 78B-10-106.

(4) If the parties to an international commercial mediation agree under Article 1, Section (7), of the Model Law that the Model Law does not apply, this chapter applies.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-112 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act or authorize electronic delivery of any of the notices described in Section 103(b) of that act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-113 Uniformity of application and construction.

In applying and construing this chapter, consideration should be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-10-114 Application to existing agreements or referrals.

(1) This chapter governs a mediation pursuant to a referral or an agreement to mediate made on or after May 1, 2006.
(2) Notwithstanding Subsection (1), on or after May 1, 2007, this chapter governs all agreements to mediate whenever made.

Renumbered and Amended by Chapter 3, 2008 General Session

Chapter 10a
Tort Arbitration

78B-10a-101 Title.

This chapter is known as "Tort Arbitration."

Enacted by Chapter 197, 2011 General Session

78B-10a-102 General provisions -- Filing -- Notice -- Limits.

(1) Except for bodily injury cases involving a motor vehicle as described in Sections 31A-22-303, 31A-22-305, and 31A-22-305.3, medical malpractice cases as described in Section 78B-3-401, and governmental claims described in Section 63G-7-401, any party to an action for personal injury or property damage as a result of tortious conduct may elect to submit all bodily injury claims and property damage claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a district court if:
  (a) the claimant or the claimant's representative has:
    (i) previously and timely filed a complaint in a district court that includes a claim for bodily injury or property damage, or both; and
    (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint is answered; and
  (b) the notice required under Subsection (1)(a)(ii) is filed while the action under Subsection (1)(a)(i) is still pending.
(2) All parties shall respond within 30 days to the notice either agreeing or refusing to agree to arbitration. If a party does not respond, it is considered a refusal.
  (a) If all parties agree to arbitration, the arbitration shall proceed in accordance with this chapter.
  (b) If the parties do not agree to arbitration, the action shall proceed to trial. The request for arbitration may not be revealed during a trial or while a damage award is being deliberated.
(3) If the parties agree to submit a bodily injury or property damage claim to arbitration under Subsection (1), the party initially requesting arbitration or the party's representative is limited to an arbitration award not to exceed $50,000.

Enacted by Chapter 197, 2011 General Session

78B-10a-103 Punitive damages.

A claim for punitive damages may not be made in an arbitration proceeding in accordance with this chapter or any subsequent proceeding, even if the claim is later resolved through a trial de novo in accordance with Section 78B-10a-108.

Enacted by Chapter 197, 2011 General Session

78B-10a-104 Rescission -- Discovery.

(1)
(a) Any party who has agreed to arbitration in accordance with this chapter may rescind the agreement if the rescission is made within:
(i) 90 days after the agreement to arbitrate; and
(ii) not less than 30 days before any scheduled arbitration hearing.
(b) A person seeking to rescind an agreement to arbitrate in accordance with this chapter shall:
(i) file a notice of the rescission of the agreement to arbitrate with the district court where the matter was filed; and
(ii) send copies of the notice of the rescission of the agreement to arbitrate to all counsel of record in the action.
(c) All discovery completed in anticipation of the arbitration hearing shall be available for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of Evidence.
(d) A party who has agreed to arbitrate in accordance with this chapter and then rescinded the agreement to arbitrate may not subsequently request to arbitrate the claim again.
(2)
(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process agreed to in accordance with this chapter is subject to Rule 26, Utah Rules of Civil Procedure.
(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected in accordance with this chapter or the date the answer is filed, whichever is longer.

Enacted by Chapter 197, 2011 General Session

78B-10a-105 Selection of arbitrator or panel -- Costs.

(1)
(a) Unless otherwise agreed to in writing by the parties, a claim submitted to arbitration shall be resolved by a single arbitrator.
(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on a single arbitrator within 90 days of the answer of the defendant.
(c) If the parties are unable to agree on a single arbitrator as required by Subsection (1)(b), a panel of three arbitrators shall be selected in accordance with Subsection (1)(d).
(d) If a panel of three arbitrators is selected:
(i) each side shall select one arbitrator; and
(ii) the arbitrators appointed under Subsection (1)(d)(i) shall jointly select one additional arbitrator to be included on the panel.
(2) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (1)(a); and
(b) if an arbitration panel is selected under Subsection (1)(d), each party shall pay:
(i) the fees and costs of the arbitrator selected by that party's side; and
(ii) an equal share of the fees and costs of the arbitrator selected under Subsection (1)(d)(ii).

Enacted by Chapter 197, 2011 General Session

78B-10a-106 Governing provisions.

(1) Except as otherwise provided in this chapter and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted in accordance with this chapter shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
(2)
(a) Subject to the provisions of this chapter, the Utah Rules of Civil Procedure and Utah Rules of Evidence apply to arbitration proceedings.
(b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied with the intent of concluding the claim in a timely and cost-efficient manner.
(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the matter is filed.
(d) Dispositive motions shall be filed, heard, and decided by the district court prior to the arbitration proceeding in accordance with the court's scheduling order.

Enacted by Chapter 197, 2011 General Session

78B-10a-107 Decision -- Award -- Court action.

(1) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.
(2) An arbitration award issued in accordance with this chapter shall be the final resolution of all property damage or bodily injury claims between the parties and may be reduced to judgment by the court upon motion and notice unless:
(a) either party, within 20 days after service of the arbitration award:
(i) files a notice requesting a trial de novo in the district court; and
(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo; or
(b) the arbitration award has been satisfied.

Enacted by Chapter 197, 2011 General Session

78B-10a-108 Trial de novo.

(1)
(a) Upon filing a notice requesting a trial de novo in accordance with Subsection 78B-10a-107(2):
(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;
(ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice of the request for a trial de novo; and
(iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed in accordance with Subsection 78B-10a-107(2)(a)(i).

(2)

(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection 78B-10a-107(2), does not obtain a verdict that is at least $5,000 and 30% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (2)(c), the costs under Subsection (2)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (2) may not exceed $6,000.

(3)

(a) If a defendant, as the moving party in a trial de novo requested in accordance with Subsection 78B-10a-107(2), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (3)(c), the costs under Subsection (3)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs in accordance with this Subsection (3) may not exceed $6,000.

(4) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (2) and (3), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(a) was not fully disclosed in writing prior to the arbitration proceeding; or

(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(5) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(6)

(a) If a defendant requests a trial de novo under Subsection 78B-10a-107(2), the total verdict at trial may not exceed $15,000 above any available limits of insurance coverage and the total verdict may not exceed $65,000.

(b) If a plaintiff requests a trial de novo under Subsection 78B-10a-107(2), the verdict at trial may not exceed $50,000.

Enacted by Chapter 197, 2011 General Session

78B-10a-109 Interest.

All arbitration awards issued in accordance with this chapter shall bear prejudgment interest pursuant to Sections 15-1-1 and 78B-5-824, and postjudgment interest pursuant to Section 15-1-4.

Enacted by Chapter 197, 2011 General Session

Chapter 11
Utah Uniform Arbitration Act

78B-11-101 Title.

This chapter is known as the "Utah Uniform Arbitration Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-102 Definitions.

As used in this chapter:

(1) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) "Court" means a court of competent jurisdiction in this state.

(4) "Knowledge" means actual knowledge.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(6) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-103 Notice.

(1) Except as otherwise provided in this chapter, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(2) A person has notice if the person has knowledge of the notice or has received notice.

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-104 Application.

(1) This chapter applies to any agreement to arbitrate made on or after May 6, 2002.

(2) This chapter applies to any agreement to arbitrate made before May 6, 2002, if all the parties to the agreement or to the arbitration proceeding agree on the record.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-105 Effect of agreement to arbitrate -- Nonwaivable provisions.

(1) Except as otherwise provided in Subsections (2) and (3), a party to an agreement to arbitrate or to an arbitration proceeding may waive or, the parties may vary the effect of, the requirements of this chapter to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) waive or agree to vary the effect of the requirements of Subsection 78B-11-106(1), 78B-11-107(1), 78B-11-118(1) or (2), or Section 78B-11-109, 78B-11-127, or 78B-11-129;

(b) agree to unreasonably restrict the right under Section 78B-11-110 to notice of the initiation of an arbitration proceeding;

(c) agree to unreasonably restrict the right under Section 78B-11-113 to disclosure of any facts by a neutral arbitrator; or
(d) waive the right under Section 78B-11-117 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this chapter, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.
(3) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or Sections 78B-11-108, 78B-11-115, 78B-11-119, 78B-11-123 through 78B-11-125, 78B-11-130, Subsection 78B-11-104(1), 78B-11-121(3) or (4), or 78B-11-126(1) or (2).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-106 Application for judicial relief.
(1) Except as otherwise provided in Section 78B-11-129, an application for judicial relief under this chapter shall be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.
(2) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this chapter shall be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or rule of court for serving motions in pending cases.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-107 Validity of agreement to arbitrate.
(1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.
(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.
(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.
(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-108 Motion to compel arbitration.
(1) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:
(a) if the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and
(b) if the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.
(2) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the

issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.
(3) If the court finds that there is no enforceable agreement, it may not, pursuant to Subsection (1) or (2), order the parties to arbitrate.
(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.
(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise a motion under this section may be made in any court as provided in Section 78B-11-128.
(6) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.
(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-109 Provisional remedies.
(1) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.
(2) After an arbitrator is appointed and is authorized and able to act:
  (a) the arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and
  (b) a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.
(3) A party does not waive a right of arbitration by making a motion under Subsection (1) or (2).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-110 Initiation of arbitration.
(1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.
(2) Unless a person objects for lack or insufficiency of notice under Subsection 78B-11-116(3) not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack of or insufficiency of notice.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-111 Consolidation of separate arbitration proceedings.

(1) Except as otherwise provided in Subsection (3), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:
  (a) there are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;
  (b) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;
  (c) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and
  (d) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.
(2) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.
(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-112 Appointment of arbitrator -- Service as a neutral arbitrator.
(1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed by the court has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.
(2) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-113 Disclosure by arbitrator.
(1) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:
  (a) a financial or personal interest in the outcome of the arbitration proceeding; and
  (b) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.
(2) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.
(3) If an arbitrator discloses a fact required by Subsection (1) or (2) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact

disclosed, the objection may be a ground under Subsection 78B-11-124(1)(b) for vacating an award made by the arbitrator.

(4) If the arbitrator did not disclose a fact as required by Subsection (1) or (2), upon timely objection by a party, the court under Subsection 78B-11-124(1)(b) may vacate an award.

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under Subsection 78B-11-124(1)(b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under Subsection 78B-11-124(1)(b).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-114 Action by majority.

If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under Subsection 78B-11-116(3).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-115 Immunity of arbitrator -- Competency to testify -- Attorney fees and costs.

(1) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded by this section supplements any immunity under other law.

(3) The failure of an arbitrator to make a disclosure required by Section 78B-11-113 does not cause any loss of immunity under this section.

(4) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This Subsection (4) does not apply:

(a) to the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(b) to a hearing on a motion to vacate an award under Subsection 78B-11-124(1)(a) or (b) if the movant establishes prima facie evidence that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of Subsection (4), and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and other reasonable expenses of litigation.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-116 Arbitration process.

(1) An arbitrator may conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.
(2) An arbitrator may decide a request for summary disposition of a claim or particular issue:
(a) if all interested parties agree; or
(b) upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.
(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.
(4) At a hearing under Subsection (3), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.
(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with Section 78B-11-112 to continue the proceeding and to resolve the controversy.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-117 Representation.

A party to an arbitration proceeding may be represented by an attorney.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-118 Witnesses -- Subpoenas -- Depositions -- Discovery.

(1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.
(2) In order to make the proceedings fair, expeditious, and cost-effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.
(3) An arbitrator may permit any discovery the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and

other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(4) If an arbitrator permits discovery under Subsection (3), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

(6) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

(8) Upon stipulation of the parties, or where a statute or the written agreement of the parties provides that discovery shall be conducted in accordance with the Rules of Civil Procedure, an attorney may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding, enforced in the manner for enforcement of subpoenas in a civil action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-119 Judicial enforcement of preaward ruling by arbitrator.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under Section 78B-11-120. A prevailing party may make a motion to the court for an expedited order to confirm the award under Section 78B-11-123, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under Section 78B-11-124 or 78B-11-125.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-120 Award.

(1) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified in the agreement, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree on the record to extend the time. The court

or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-121 Change of award by arbitrator.

(1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:
  (a) on any grounds stated in Subsection 78B-11-125(1)(a) or (c);
  (b) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
  (c) to clarify the award.
(2) A motion under Subsection (1) must be made and notice given to all parties within 20 days after the movant receives notice of the award.
(3) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.
(4) If a motion to the court is pending under Section 78B-11-123, 78B-11-124, or 78B-11-125, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:
  (a) on any grounds stated in Subsection 78B-11-125(1)(a) or (c);
  (b) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
  (c) to clarify the award.
(5) An award modified or corrected pursuant to this section is subject to Sections 78A-6-357, 78B-11-123, 78B-11-124, and 78B-11-125.

Amended by Chapter 262, 2021 General Session

78B-11-122 Remedies -- Fees and expenses of arbitration proceeding.

(1) An arbitrator may award punitive damages or other exemplary relief if the award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.
(2) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if the award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.
(3) As to all remedies other than those authorized by Subsections (1) and (2), an arbitrator may order any remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under Section 78B-11-123 or for vacating an award under Section 78B-11-124.
(4) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.
(5) If an arbitrator awards punitive damages or other exemplary relief under Subsection (1), the arbitrator shall specify in the award the basis in fact justifying, and the basis in law authorizing, the award and state separately the amount of the punitive damages or other exemplary relief.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-123 Confirmation of award.

After a party to an arbitration proceeding receives notice of an award in a matter not pending before a court, the party may petition the court for an order confirming the award. If the notice of award is in a matter pending before the court, the party may file a motion for an order confirming the award. The court shall issue a confirming order unless the award is modified or corrected pursuant to Section 78B-11-121 or 78B-11-125 or is vacated pursuant to Section 78B-11-124.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-124 Vacating an award.

(1) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:
  (a) the award was procured by corruption, fraud, or other undue means;
  (b) there was:
    (i) evident partiality by an arbitrator appointed as a neutral arbitrator;
    (ii) corruption by an arbitrator; or
    (iii) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
  (c) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to Section 78B-11-116, so as to substantially prejudice the rights of a party to the arbitration proceeding;
  (d) an arbitrator exceeded the arbitrator's authority;
  (e) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising an objection under Subsection 78B-11-116(3) not later than the beginning of the arbitration hearing; or
  (f) the arbitration was conducted without proper notice of the initiation of an arbitration as required in Section 78B-11-110 so as to substantially prejudice the rights of a party to the arbitration proceeding.
(2) A motion under this section must be filed within 90 days after the movant receives notice of the award pursuant to Section 78B-11-120 or within 90 days after the movant receives notice of a modified or corrected award pursuant to Section 78B-11-121, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.
(3) If the court vacates an award on a ground other than that set forth in Subsection (1)(e), it may order a rehearing. If the award is vacated on a ground stated in Subsection (1)(a) or (b), the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in Subsection (1)(c), (d), or (f), the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in Subsection 78B-11-120(2) for an award.
(4) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-125 Modification or correction of award.

(1) Upon motion made within 90 days after the movant receives notice of the award pursuant to Section 78B-11-120 or within 90 days after the movant receives notice of a modified or corrected award pursuant to Section 78B-11-121, the court shall modify or correct the award if:
  (a) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;
  (b) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or
  (c) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.
(2) If a motion made under Subsection (1) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.
(3) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-126 Judgment on award -- Attorney fees and litigation expenses.
(1) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment conforming to the award. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.
(2) A court may allow reasonable costs of the motion and subsequent judicial proceedings.
(3) On application of a prevailing party to a contested judicial proceeding under Section 78B-11-123, 78B-11-124, or 78B-11-125, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-127 Jurisdiction.
(1) A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.
(2) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-128 Venue.
A motion pursuant to Section 78B-11-106 must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-129 Appeals.
(1) An appeal may be taken from:
(a) an order denying a motion to compel arbitration;
(b) an order granting a motion to stay arbitration;
(c) an order confirming or denying confirmation of an award;
(d) an order modifying or correcting an award;
(e) an order vacating an award without directing a rehearing; or
(f) a final judgment entered pursuant to this chapter.
(2) An appeal under this section must be taken as from an order or a judgment in a civil action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-130 Electronic Signatures in Global and National Commerce Act.
The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464, and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-11-131 Effect of chapter on prior agreements or proceedings.
This act does not affect an action or proceeding commenced or right accrued before this chapter takes effect. Subject to Section 78B-11-104 of this chapter, an arbitration agreement made before May 6, 2002 shall be governed by the arbitration act in force on the date the agreement was signed.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Chapter 13
Utah Uniform Child Custody Jurisdiction and Enforcement Act

Renumbered 9/1/2025

Part 1
General Provisions

Repealed 9/1/2025
78B-13-101 Title.
This chapter is known as the "Utah Uniform Child Custody Jurisdiction and Enforcement Act."

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-102 Definitions.

As used in this chapter:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual under 18 years of age and not married.

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or parent-time with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or parent-time with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3, Enforcement.

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) "Initial determination" means the first child custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) "Issuing state" means the state in which a child custody determination is made.

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) "Person" includes government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe, or band, or Alaskan Native village which is recognized by federal law or formally acknowledged by a state.

(17) "Writ of assistance" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-103 Proceedings governed by other law.

(1) For purposes of this section, "adoption proceeding" means any proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(2) This chapter does not govern:

(a) an adoption proceeding; or

(b) a proceeding pertaining to the authorization of emergency medical care for a child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-104 Application to Indian tribes.

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as a state of the United States for purposes of Part 1, General Provisions, and Part 2, Jurisdiction.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under the provisions of Part 3, Enforcement.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-105 International application of chapter.

(1) A court of this state shall treat a foreign country as a state of the United States for purposes of applying Part 1, General Provisions, and Part 2, Jurisdiction.

(2) A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under Part 3, Enforcement.

(3) The court need not apply the provisions of this chapter when the child custody law of the other country violates fundamental principles of human rights.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-106 Binding force of child custody determination.

A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state or notified in accordance with Section 78B-13-108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. The determination is conclusive as to them as to all decided issues of law and fact except to the extent the determination is modified.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-107 Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-108 Notice to persons outside state.

(1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for the service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.
(2) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.
(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-109 Appearance and limited immunity.

(1) A party to a child custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under Part 2, Jurisdiction, a party in a proceeding to modify a child custody determination under Part 2, Jurisdiction, or a petitioner in a proceeding to enforce or register a child custody determination under Part 3, Enforcement, may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.
(2) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this chapter. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the laws of that state may be accomplished in this state.
(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-110 Communication between courts.

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.
(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.
(3) A communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of that communication.

(4) Except as provided in Subsection (3), a record shall be made of the communication. The parties shall be informed promptly of the communication and granted access to the record.
(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-111 Taking testimony in another state.
(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.
(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.
(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-112 Cooperation between courts -- Preservation of records.
(1) A court of this state may request the appropriate court of another state to:
  (a) hold an evidentiary hearing;
  (b) order a person to produce or give evidence under procedures of that state;
  (c) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
  (d) forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
  (e) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.
(2) Upon request of a court of another state, a court of this state may:
  (a) hold a hearing or enter an order described in Subsection (1); or
  (b) order a person in this state to appear alone or with the child in a custody proceeding in another state.
(3) A court of this state may condition compliance with a request under Subsection (2)(b) upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. If the person who has physical custody of the child cannot be served or fails to

obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against the person to secure his appearance with the child in the other state.
(4) Travel and other necessary and reasonable expenses incurred under Subsections (1) and (2) may be assessed against the parties according to the law of this state.
(5) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 2
Jurisdiction

Renumbered 9/1/2025

78B-13-201 Initial child custody jurisdiction.

(1) Except as otherwise provided in Section 78B-13-204, a court of this state has jurisdiction to make an initial child custody determination only if:
  (a) this state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;
  (b) a court of another state does not have jurisdiction under Subsection (1)(a), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section 78B-13-207 or 78B-13-208; and
    (i) the child and the child's parents, or the child and at least one parent or a person acting as a parent have a significant connection with this state other than mere physical presence; and
    (ii) substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;
  (c) all courts having jurisdiction under Subsection (1)(a) or (b) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 78B-13-207 or 78B-13-208; or
  (d) no state would have jurisdiction under Subsection (1)(a), (b), or (c).
(2) Subsection (1) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.
(3) Physical presence of, or personal jurisdiction over, a party or a child is neither necessary nor sufficient to make a child custody determination.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-202 Exclusive, continuing jurisdiction.

(1) Except as otherwise provided in Section 78B-13-204, a court of this state that has made a child custody determination consistent with Section 78B-13-201 or 78B-13-203 has exclusive, continuing jurisdiction over the determination until:

(a) a court of this state determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or
(b) a court of this state or a court of another state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in this state.
(2) A court of this state that has exclusive, continuing jurisdiction under this section may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum under Section 78B-13-207.
(3) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 78B-13-201.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-203 Jurisdiction to modify determination.

Except as otherwise provided in Section 78B-13-204, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under Subsection 78B-13-201(1)(a) or (b) and:
(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under Section 78B-13-202 or that a court of this state would be a more convenient forum under Section 78B-13-207; or
(2) a court of this state or a court of the other state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in the other state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-204 Temporary emergency jurisdiction.

(1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.
(2) If there is no previous child custody determination that is entitled to be enforced under this chapter, and if no child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 78B-13-201 through 78B-13-203, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 78B-13-201 through 78B-13-203. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 78B-13-201 through 78B-13-203, a child custody determination made under this section becomes a final determination, if:
(a) it so provides; and
(b) this state becomes the home state of the child.
(3) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 78B-13-201 through 78B-13-203, any order issued by a court of this state under this section shall specify in the order a period of time which the court considers

adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 78B-13-201 through 78B-13-203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made, by a court of a state having jurisdiction under Sections 78B-13-201 through 78B-13-203, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to Sections 78B-13-201 through 78B-13-203, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made by a court of another state under a statute similar to this section shall immediately communicate with the court of that state. The purpose of the communication is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-205 Notice -- Opportunity to be heard -- Joinder.

(1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of Section 78B-13-108 shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(2) This chapter does not govern the enforceability of a child custody determination made without notice and an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-206 Simultaneous proceedings.

(1) Except as otherwise provided in Section 78B-13-204, a court of this state may not exercise its jurisdiction under this chapter if at the time of the commencement of the proceeding a proceeding concerning the custody of the child had been previously commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section 78B-13-207.

(2) Except as otherwise provided in Section 78B-13-204, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 78B-13-209. If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:
(a) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
(b) enjoin the parties from continuing with the proceeding for enforcement; or
(c) proceed with the modification under conditions it considers appropriate.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-207 Inconvenient forum.
(1) A court of this state that has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion, request of another court, or motion of a party.
(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate that a court of another state exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:
(a) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
(b) the length of time the child has resided outside this state;
(c) the distance between the court in this state and the court in the state that would assume jurisdiction;
(d) the relative financial circumstances of the parties;
(e) any agreement of the parties as to which state should assume jurisdiction;
(f) the nature and location of the evidence required to resolve the pending litigation, including the testimony of the child;
(g) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
(h) the familiarity of the court of each state with the facts and issues of the pending litigation.
(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.
(4) A court of this state may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
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

Renumbered 9/1/2025

78B-13-209 Information to be submitted to court.

(1) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:
  (a) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or parent-time with the child and, if so, identify the court, the case number of the proceeding, and the date of the child custody determination, if any;
  (b) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding; and
  (c) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parent-time with, the child and, if so, the names and addresses of those persons.
(2) If the information required by Subsection (1) is not furnished, the court, upon its own motion or that of a party, may stay the proceeding until the information is furnished.
(3) If the declaration as to any of the items described in Subsection (1) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.
(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) 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 put at risk by the disclosure of identifying information, that information shall be sealed and not disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-210 Appearance of parties and child.

(1) A court of this state may order a party to a child custody proceeding who is in this state to appear before the court personally with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear physically with the child.
(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 78B-13-108 include a statement directing the party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to the party.
(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.
(4) If a party to a child custody proceeding who is outside this state is directed to appear under Subsection (2) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 3
Enforcement

Renumbered 9/1/2025

78B-13-301 Definitions.

As used in this part:

(1) "Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.
(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-302 Scope -- Hague Convention Enforcement.

This chapter may be invoked to enforce:
(1) a child custody determination; and
(2) an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-303 Duty to enforce.
(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.
(2) A court may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The procedure provided by this part does not affect the availability of other remedies to enforce a child custody determination.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-304 Temporary parent-time.
(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:
  (a) a parent-time schedule made by a court of another state; or
  (b) the parent-time provisions of a child custody determination of another state that does not provide for a specific parent-time schedule.
(2) If a court of this state makes an order under Subsection (1)(b), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Part 2, Jurisdiction. The order remains in effect until an order is obtained from the other court or the period expires.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-305 Registration of child custody determination.
(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state:
  (a) a letter or other document requesting registration;
  (b) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
  (c) except as otherwise provided in Section 78B-13-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or parent-time in the child custody determination sought to be registered.
(2) On receipt of the documents required by Subsection (1), the registering court shall:

(a) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and
(b) serve notice upon the persons named pursuant to Subsection (1)(c) and provide them with an opportunity to contest the registration in accordance with this section.
(3) The notice required by Subsection (2)(b) shall state:
(a) that a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;
(b) that a hearing to contest the validity of the registered determination shall be requested within 20 days after service of notice; and
(c) that failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.
(4) A person seeking to contest the validity of a registered order shall request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:
(a) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
(b) the child custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction; or
(c) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 78B-13-108 in the proceedings before the court that issued the order for which registration is sought.
(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.
(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-306 Enforcement of registered determination.

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.
(2) A court of this state shall recognize and enforce, but may not modify except in accordance with Part 2, Jurisdiction, a registered child custody determination of another state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-307 Simultaneous proceedings.

If a proceeding for enforcement under this part has been or is commenced in this state and a court of this state determines that a proceeding to modify the determination has been commenced in another state having jurisdiction to modify the determination under Part 2, Jurisdiction, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-308 Expedited enforcement of child custody determination.

(1) A petition under this part shall be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination shall state:

(a) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under this chapter or federal law and, if so, identify the court, the case number of the proceeding, and the action taken;

(c) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding;

(d) the present physical address of the child and the respondent, if known; and

(e) whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(3) If the child custody determination has been registered and confirmed under Section 78B-13-305, the petition shall also state the date and place of registration.

(4) The court shall issue an order directing the respondent to appear with or without the child at a hearing and may enter any orders necessary to ensure the safety of the parties and the child.

(5) The hearing shall be held on the next judicial day following service of process unless that date is impossible. In that event, the court shall hold the hearing on the first day possible. The court may extend the date of hearing at the request of the petitioner.

(6) The order shall state the time and place of the hearing and shall advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under Section 78B-13-312, and may set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) the child custody determination has not been registered and confirmed under Section 78B-13-305, and that:

(i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 78B-13-108 in the proceedings before the court that issued the order for which enforcement is sought; or

(b) the child custody determination for which enforcement is sought was registered and confirmed under Section 78B-13-305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-309 Service of petition and order.

Except as otherwise provided in Section 78B-13-311, the petition and order shall be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-310 Hearing and order.

(1) Unless the court enters a temporary emergency order pursuant to Section 78B-13-204, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:
  (a) the child custody determination has not been registered and confirmed under Section 78B-13-305, and that:
    (i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
    (ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law; or
    (iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 78B-13-108 in the proceedings before the court that issued the order for which enforcement is sought; or
  (b) the child custody determination for which enforcement is sought was registered and confirmed under Section 78B-13-305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.
(2) The court shall award the fees, costs, and expenses authorized under Section 78B-13-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.
(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.
(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-311 Writ to take physical custody of child.

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a writ of assistance to take physical custody of the child if the child is likely to suffer serious imminent physical harm or removal from this state.
(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this state, it may issue a writ of assistance to take physical custody of the child. The petition shall be heard within 72 hours after the writ is executed. The writ shall include the statements required by Subsection 78B-13-308(2).
(3) A writ to take physical custody of a child shall:
  (a) recite the facts upon which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;

(b) direct law enforcement officers to take physical custody of the child immediately; and
(c) provide for the placement of the child pending final relief.
(4) The respondent shall be served with the petition, writ, and order immediately after the child is taken into physical custody.
(5) A writ of assistance to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.
(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-312 Costs, fees, and expenses.
(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, 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 or expenses are sought establishes that the award would be clearly inappropriate.
(2) The court may not assess fees, costs, or expenses against a state except as otherwise provided by law other than this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-313 Recognition and enforcement.
A court of this state shall accord full faith and credit to an order made consistently with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court authorized to do so under Part 2, Jurisdiction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-314 Appeals.
An appeal may be taken from an order in a proceeding under this chapter in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under Section 78B-13-204, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-13-315 Role of prosecutor or attorney general.
(1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or Attorney General may take any lawful action,

including resort to a proceeding under this chapter or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:
(a) an existing child custody determination;
(b) a request from a court in a pending child custody case;
(c) a reasonable belief that a criminal statute has been violated; or
(d) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.
(2) A prosecutor or attorney general acts on behalf of the court and may not represent any party to a child custody determination.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-316 Role of law enforcement.

At the request of a prosecutor or the attorney general acting under Section 78B-13-315 a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or attorney general with responsibilities under Section 78B-13-315.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-317 Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under Section 78B-13-315 or 78B-13-316.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-13-318 Transitional provision.

A motion or other request for relief made in a child custody or enforcement proceeding which was commenced before the effective date of this chapter is governed by the law in effect at the time the motion or other request was made.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Chapter 14
Utah Uniform Interstate Family Support Act

Renumbered 9/1/2025

Part 1
General Provisions

Repealed 9/1/2025

78B-14-101 Title.

This chapter is known as the "Utah Uniform Interstate Family Support Act."

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-102 Definitions.

As used in this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this state as provided in Section 78B-14-308;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) in which the convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other source of income as defined in Section 26B-9-101, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.
(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.
(16) "Obligee" means:
(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;
(b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;
(c) an individual seeking a judgment determining parentage of the individual's child; or
(d) a person who is a creditor in a proceeding under Part 7, Support Proceedings Under Convention.
(17) "Obligor" means an individual who, or the estate of a decedent that:
(a) owes or is alleged to owe a duty of support;
(b) is alleged but has not been adjudicated to be a parent of a child;
(c) is liable under a support order; or
(d) is a debtor in a proceeding under Part 7, Support Proceedings Under Convention.
(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.
(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.
(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(21) "Register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.
(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.
(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.
(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.
(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.
(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian nation or tribe.
(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:
(a) seek enforcement of support orders or laws relating to the duty of support;
(b) seek establishment or modification of child support;
(c) request determination of parentage of a child;
(d) attempt to locate obligors or their assets; or
(e) request determination of the controlling child support order.
(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee

in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees, and other relief.
(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Amended by Chapter 381, 2024 General Session

Renumbered 9/1/2025
78B-14-103 State tribunal and support enforcement agency.
(1) The district court and the Utah Department of Health and Human Services are the tribunals of this state.
(2) The Utah Department of Health and Human Services is the state support enforcement agency.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025
78B-14-104 Remedies cumulative.
(1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.
(2) This chapter does not:
(a) provide the exclusive method of establishing or enforcing a support order under the law of this state; or
(b) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or parent-time in a proceeding under this chapter.

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

Renumbered 9/1/2025
78B-14-105 Application of chapter to residents of foreign countries and foreign support proceedings.
(1) A tribunal of this state shall apply Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order and, as applicable, Part 7, Support Proceedings Under Convention, to a support proceeding involving:
(a) a foreign support order;
(b) a foreign tribunal; or
(c) an obligee, obligor, or child residing in a foreign country.
(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order.
(3) Part 7, Support Proceedings Under Convention, applies only to a support proceeding under the convention. In a proceeding, if a provision of Part 7, Support Proceedings Under Convention is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination

of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, Part 7, Support Proceedings Under Convention, controls.

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

Renumbered 9/1/2025

Part 2
Jurisdiction

Renumbered 9/1/2025

78B-14-201 Bases for jurisdiction over nonresident.

(1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual, or the individual's guardian or conservator, if:
  (a) the individual is personally served with notice within this state;
  (b) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
  (c) the individual resided with the child in this state;
  (d) the individual resided in this state and provided prenatal expenses or support for the child;
  (e) the child resides in this state as a result of the acts or directives of the individual;
  (f) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
  (g) the individual asserted parentage of a child in the putative father registry maintained in this state by the state registrar of vital records in the Department of Health pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act; or
  (h) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.
(2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of Section 78B-14-611 are met, or, in the case of a foreign support order, unless the requirements of Section 78B-14-615 are met.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-202 Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 78B-14-205, 78B-14-206, and 78B-14-211.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-14-203 Initiating and responding tribunal of state.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

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

Renumbered 9/1/2025

78B-14-204 Simultaneous proceedings in another state.

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:
  (a) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;
  (b) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and
  (c) if relevant, this state is the home state of the child.
(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:
  (a) the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;
  (b) the contesting party timely challenges the exercise of jurisdiction in this state; and
  (c) if relevant, the other state or foreign country is the home of the child.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-205 Continuing, exclusive jurisdiction to modify child support order.

(1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order, and:
  (a) at the time of the filing of a request for modification, this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
  (b) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.
(2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:
  (a) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or
  (b) its order is not the controlling order.

(3) If a tribunal of another state has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to the act, which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.
(4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.
(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-206 Continuing jurisdiction to enforce child support order.

(1) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:
  (a) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or
  (b) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.
(2) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

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

Renumbered 9/1/2025

78B-14-207 Determination of controlling child-support order.

(1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and shall be so recognized.
(2) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and shall be recognized:
  (a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls.
  (b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls, or if an order has not been issued in the current home state of the child, the order most recently issued controls.
  (c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order, which controls.
(3) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under Subsection (2). The request may be filed with a

registration for enforcement or registration for modification pursuant to Part 6, Registration, Enforcement, and Modification of Support Order, or may be filed as a separate proceeding.

(4) A request to determine which is the controlling order shall be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order under Subsection (1), (2), or (3) has continuing jurisdiction to the extent provided in Section 78B-14-205 or 78B-14-206.

(6) A tribunal of this state that determines by order which is the controlling order under Subsection (2)(a), (b), or (3) that issues a new controlling order under Subsection (2)(c), shall state in that order:

(a) the basis upon which the tribunal made its determination;

(b) the amount of prospective support, if any; and

(c) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section 78B-14-209.

(7) Within 30 days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings under this chapter.

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

Renumbered 9/1/2025

78B-14-208 Child support orders for two or more obligees.

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

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

Renumbered 9/1/2025

78B-14-209 Credit for payments.

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state or foreign country.

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

Renumbered 9/1/2025

78B-14-210 Application of chapter to nonresident subject to personal jurisdiction.

A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to Section 78B-14-316, communicate with a tribunal outside this state pursuant to Section 78B-14-317, and obtain discovery through a tribunal outside this state pursuant to Section 78B-14-318. In all other respects, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, do not apply and the tribunal shall apply the procedural and substantive law of this state.

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

Renumbered 9/1/2025

78B-14-211 Continuing, exclusive jurisdiction to modify spousal support order.

(1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.
(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.
(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:
  (a) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or
  (b) a responding tribunal to enforce or modify its own spousal support order.

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

Renumbered 9/1/2025

Part 3
Civil Provisions of General Application

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

Part 4
Establishment of Support Order or Determination of Parentage

Renumbered 9/1/2025

78B-14-401 Establishment of support order.

(1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(a) the individual seeking the order resides outside this state; or

(b) the support enforcement agency seeking the order is located outside this state.

(2) The tribunal may issue a temporary child support order if the tribunal determines that an order is appropriate and the individual ordered to pay is:

(a) a presumed father of the child;

(b) petitioning to have his paternity adjudicated;

(c) identified as the father of the child through genetic testing;

(d) an alleged father who has declined to submit to genetic testing;

(e) shown by clear and convincing evidence to be the father of the child;

(f) an acknowledged father determined in accordance with Title 78B, Chapter 15, Part 3, Voluntary Declaration of Paternity Act;

(g) the mother of the child; or

(h) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.
(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 78B-14-305.

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

Renumbered 9/1/2025
78B-14-402 Proceeding to determine parentage.
A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this chapter or a law or procedure substantially similar to this chapter.

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

Renumbered 9/1/2025

Part 5
Enforcement of Support Order Without Registration

Renumbered 9/1/2025
78B-14-501 Employer's receipt of income-withholding order of another state.
An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support-enforcement agency, to the person defined as the obligor's employer under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025
78B-14-502 Employer's compliance with income-withholding order of another state.
(1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
(2) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.
(3) Except as otherwise provided in Subsection (4) and Section 78B-14-503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:
(a) the duration and amount of periodic payments of current child support, stated as a sum certain;
(b) the person designated to receive payments and the address to which the payments are to be forwarded;

(c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
(d) the amount of periodic payments of fees and costs for a support-enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
(e) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:
(a) the employer's fee for processing an income withholding order;
(b) the maximum amount permitted to be withheld from the obligor's income; and
(c) the times within which the employer must implement the withholding order and forward the child support payment.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-503 Employer's compliance with two or more income-withholding orders.

If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for the withholding and allocating income withheld for two or more child support obligees.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-504 Immunity from civil liability.

An employer that complies with an income withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

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

Renumbered 9/1/2025

78B-14-505 Penalties for noncompliance.

An employer that willfully fails to comply with an income withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

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

Renumbered 9/1/2025

78B-14-506 Contest by obligor.

(1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Part 6, Registration,

Enforcement, and Modification of Support Order, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

(2) The obligor shall give notice of the contest to:

(a) a support-enforcement agency providing services to the obligee;

(b) each employer that has directly received an income-withholding order relating to the obligor; and

(c) the person designated to receive payments in the income-withholding order or if no person is designated, to the obligee.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-14-507 Administrative enforcement of orders.

(1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state, or seeking to enforce a foreign support order, may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

Part 6
Registration, Enforcement, and Modification of Support Order

Renumbered 9/1/2025

78B-14-601 Registration of order for enforcement.

A support order or income-withholding order issued in another state, or a foreign support order, may be registered in this state for enforcement.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-602 Procedure to register order for enforcement.

(1) Except as otherwise provided in Section 78B-14-706, a support order or income-withholding order of another state, or a foreign support order, may be registered in this state by sending the following records to the appropriate tribunal in this state:

(a) a letter of transmittal to the tribunal requesting registration and enforcement;

(b) two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
(d) the name of the obligor and, if known:
(i) the obligor's address and Social Security number;
(ii) the name and address of the obligor's employer and any other source of income of the obligor; and
(iii) a description and the location of property of the obligor in this state not exempt from execution; and
(e) except as otherwise provided in Section 78B-14-312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.
(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state, or a foreign support order, together with one copy of the documents and information, regardless of their form.
(3) A petition or comparable pleading seeking a remedy that shall be affirmatively sought under law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.
(4) If two or more orders are in effect, the person requesting registration shall:
(a) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
(b) specify the order alleged to be the controlling order, if any; and
(c) specify the amount of consolidated arrears, if any.
(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-603 Effect of registration for enforcement.

(1) A support order or income-withholding order issued in another state, or a foreign support order, is registered when the order is filed in the registering tribunal of this state.
(2) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.
(3) Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-604 Choice of law.

(1) Except as otherwise provided in Subsection (4), the law of the issuing state or foreign country governs:
(a) the nature, extent, amount, and duration of current payments under a registered support order;
(b) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) the existence and satisfaction of other obligations under the support order.
(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.
(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.
(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

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

Renumbered 9/1/2025
78B-14-605 Notice of registration of order.
(1) When a support order or income-withholding order issued in another state, or a foreign support order, is registered, the registering tribunal of this state shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.
(2) A notice shall inform the nonregistering party:
(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;
(b) that a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after notice, unless the registered order is under Section 78B-14-707;
(c) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and
(d) of the amount of any alleged arrearages.
(3) If the registering party asserts that two or more orders are in effect, a notice shall also:
(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;
(b) notify the nonregistering party of the right to a determination of which is the controlling order;
(c) state that the procedures provided in Subsection (2) apply to the determination of which is the controlling order; and
(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.
(4) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025
78B-14-606 Procedure to contest validity or enforcement of registered support order.
(1) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by Section 78B-14-605. The

nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 78B-14-607.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

78B-14-607 Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) the issuing tribunal lacked personal jurisdiction over the contesting party;

(b) the order was obtained by fraud;

(c) the order has been vacated, suspended, or modified by a later order;

(d) the issuing tribunal has stayed the order pending appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made;

(g) the statute of limitation under Section 78B-14-604 precludes enforcement of some or all of the alleged arrearages; or

(h) the alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under Subsection (1), a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under Subsection (1) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

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

Renumbered 9/1/2025

78B-14-608 Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

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

Renumbered 9/1/2025

78B-14-609 Procedure to register child support order of another state for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Sections 78B-14-601 through 78B-14-608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading shall specify the grounds for modification.

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

Renumbered 9/1/2025

78B-14-610 Effect of registration for modification.

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of Section 78B-14-611 or 78B-14-613 have been met.

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

Renumbered 9/1/2025

78B-14-611 Modification of child support order of another state.

(1) If Section 78B-14-613 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:
  (a) the following requirements are met:
    (i) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;
    (ii) a petitioner who is a nonresident of this state seeks modification; and
    (iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or
  (b) this state is the residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.
(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.
(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and shall be so recognized under Section 78B-14-207 establishes the aspects of the support order which are nonmodifiable.
(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.
(5) On issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(6) Notwithstanding Subsections (1) through (5) and Subsection 78B-14-201(2), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:
(a) one party resides in another state; and
(b) the other party resides outside the United States.

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

Renumbered 9/1/2025
78B-14-612 Recognition of order modified in another state.

If a child support order issued by a tribunal of this state is modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this state:
(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;
(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and
(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025
78B-14-613 Jurisdiction to modify child support order of another state when individual parties reside in this state.

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.
(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of this part, Part 1, General Provisions, and Part 2, Jurisdiction, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, Part 7, Support Proceedings Under Convention, and Part 8, Rendition, do not apply.

Amended by Chapter 348, 2016 General Session

Renumbered 9/1/2025
78B-14-614 Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-14-615 Jurisdiction to modify child support order of foreign country.

(1) Except as otherwise provided in Section 78B-14-711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to Section 78B-14-611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

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

Renumbered 9/1/2025

78B-14-616 Procedure to register child support order of foreign country for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under Sections 78B-14-601 through 78B-14-608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition shall specify the grounds for modification.

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

Renumbered 9/1/2025

Part 7
Support Proceedings Under Convention

Renumbered 9/1/2025

78B-14-701.5 Definitions.

As used in this part:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in Subsection 78B-14-102(5)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in Subsection 78B-14-102(5)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in Subsection 78B-14-102(5)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:
(A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or
(B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and
(iii) may be reviewed and modified by a foreign tribunal; and
(b) includes a maintenance arrangement or authentic instrument under the convention.
(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

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

Renumbered 9/1/2025
78B-14-702 Applicability.
This part applies only to a support proceeding under the convention. In such a proceeding, if a provision of this part is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, this part controls.

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

Renumbered 9/1/2025
78B-14-703 Relationship of Department of Health and Human Services to United States central authority.
The Utah Department of Health and Human Services is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025
78B-14-704 Initiation by Department of Health and Human Services of support proceeding under convention.
(1) In a support proceeding under this part, the Utah Department of Health and Human Services shall:
(a) transmit and receive applications; and
(b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
(2) The following support proceedings are available to an obligee under the convention:
(a) recognition or recognition and enforcement of a foreign support order;
(b) enforcement of a support order issued or recognized in this state;
(c) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
(d) establishment of a support order if recognition of a foreign support order is refused under Subsection 78B-14-708(2)(b), (d), or (i);
(e) modification of a support order of a tribunal of this state; and
(f) modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:
(a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
(b) modification of a support order of a tribunal of this state; and
(c) modification of a support order of a tribunal of another state or a foreign country.
(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025
78B-14-705 Direct request.
(1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.
(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, Sections 78B-14-706 through 78B-14-713 apply.
(3) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:
(a) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and
(b) an obligee or obligor that in the issuing country has benefitted from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.
(4) A petitioner filing a direct request is not entitled to assistance from the Department of Human Services.
(5) This part does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

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

Renumbered 9/1/2025
78B-14-706 Registration of convention support order.
(1) Except as otherwise provided in this part, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in Part 6, Registration, Enforcement, and Modification of Support Order.
(2) Notwithstanding Section 78B-14-311 and Subsection 78B-14-602(1), a request for registration of a convention support order shall be accompanied by:
(a) a complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law;
(b) a record stating that the support order is enforceable in the issuing country;
(c) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the

support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;
(d) a record showing the amount of arrears, if any, and the date the amount was calculated;
(e) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and
(f) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.
(3) A request for registration of a convention support order may seek recognition and partial enforcement of the order.
(4) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under Section 78B-14-707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.
(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

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

Renumbered 9/1/2025
78B-14-707 Contest of registered convention support order.
(1) Except as otherwise provided in this part, Sections 78B-14-605 through 78B-14-608 apply to a contest of a registered convention support order.
(2) A party contesting a registered convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest shall be filed not later than 60 days after notice of the registration.
(3) If the nonregistering party fails to contest the registered convention support order by the time specified in Subsection (2), the order is enforceable.
(4) A contest of a registered convention support order may be based only on grounds set forth in Section 78B-14-708. The contesting party bears the burden of proof.
(5) In a contest of a registered convention support order, a tribunal of this state:
(a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and
(b) may not review the merits of the order.
(6) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.
(7) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

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

Renumbered 9/1/2025
78B-14-708 Recognition and enforcement of registered convention support order.
(1) Except as otherwise provided in Subsection (2), a tribunal of this state shall recognize and enforce a registered convention support order.
(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
(b) the issuing tribunal lacked personal jurisdiction consistent with Section 78B-14-201;
(c) the order is not enforceable in the issuing country;
(d) the order was obtained by fraud in connection with a matter of procedure;
(e) a record transmitted in accordance with Section 78B-14-706 lacks authenticity or integrity;
(f) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;
(g) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;
(h) payment, to the extent alleged arrears have been paid in whole or in part;
(i) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:
(i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
(ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or
(j) the order was made in violation of Section 78B-14-711.
(3) If a tribunal of this state does not recognize a convention support order under Subsection (2)(b), (d), or (i):
(a) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and
(b) the Department of Human Services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section 78B-14-704.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025
78B-14-709 Partial enforcement.

If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

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

Renumbered 9/1/2025
78B-14-710 Foreign support agreement.
(1) Except as otherwise provided in Subsections (3) and (4), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.
(2) An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:
(a) a complete text of the foreign support agreement; and

(b) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(a) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) the agreement was obtained by fraud or falsification;

(c) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

(d) the record submitted under Subsection (2) lacks authenticity or integrity.

(5) A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

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

Renumbered 9/1/2025

78B-14-711 Modification of convention child support order.

(1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(a) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(b) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, Subsection 78B-14-708(3) applies.

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

Renumbered 9/1/2025

78B-14-712 Personal information -- Limit on use.

Personal information gathered or transmitted under this part may be used only for the purposes for which it was gathered or transmitted.

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

Renumbered 9/1/2025

78B-14-713 Record in original language -- English translation.

A record filed with a tribunal of this state under this part shall be in the original language and, if not in English, shall be accompanied by an English translation.

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

Renumbered 9/1/2025

Part 8
Rendition

Renumbered 9/1/2025
78B-14-801 Grounds for rendition.
(1) For purposes of this part, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.
(2) The governor of this state may:
  (a) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or
  (b) on the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.
(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-14-802 Conditions of rendition.
(1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.
(2) If, under this chapter or a law substantially similar to this chapter, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.
(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 9
Uniformity of Application

Renumbered 9/1/2025

78B-14-901 Uniformity of application and construction.

This chapter is a uniform act. In applying and construing it, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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

Renumbered 9/1/2025

78B-14-902 Transitional provision.

This chapter applies to proceedings begun on or after July 1, 2015:
(1) to establish a support order or determine parentage of a child; or
(2) to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Amended by Chapter 45, 2015 General Session

Renumbered 9/1/2025

Chapter 15
Utah Uniform Parentage Act

Renumbered 9/1/2025

Part 1
General Provisions

Repealed 9/1/2025

78B-15-101 Title.

This chapter is known as the "Utah Uniform Parentage Act."

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-102 Definitions.

As used in this chapter:
(1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.
(2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.
(3)
(a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse.

(b) "Assisted reproduction" includes:
(i) intrauterine insemination;
(ii) donation of eggs;
(iii) donation of embryos;
(iv) in vitro fertilization and transfer of embryos; and
(v) intracytoplasmic sperm injection.
(4) "Birth expenses" means all medical costs associated with the birth of a child, including the related expenses for the biological mother during her pregnancy and delivery.
(5) "Birth mother" means the biological mother of a child.
(6) "Child" means an individual of any age whose parentage may be determined under this chapter.
(7) "Commence" means to file the initial pleading seeking an adjudication of parentage in the appropriate tribunal of this state.
(8) "Declarant father" means a male who, along with the biological mother claims to be the genetic father of a child, and signs a voluntary declaration of paternity to establish the man's paternity.
(9) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid declaration of paternity under Part 3, Voluntary Declaration of Paternity Act, or adjudication by a tribunal.
(10)
(a) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration.
(b) "Donor" does not include:
(i) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;
(ii) a woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in Part 8, Gestational Agreement; or
(iii) a parent under Part 7, Assisted Reproduction, or an intended parent under Part 8, Gestational Agreement.
(11) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.
(12) "Financial support" means a base child support award as defined in Section 81-6-101, all past-due support which accrues under an order for current periodic payments, and sum certain judgments for past-due support.
(13)
(a) "Genetic testing" means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child.
(b) "Genetic testing" includes an analysis of one or a combination of the following:
(i) deoxyribonucleic acid; or
(ii) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.
(14) "Gestational mother" means an adult woman who gives birth to a child under a gestational agreement.
(15) "Man" means a male individual of any age.
(16) "Medical support" means a provision in a support order that requires the purchase and maintenance of appropriate insurance for health and dental expenses of dependent children, and assigns responsibility for uninsured medical expenses.

(17) "Parent" means an individual who has established a parent-child relationship under Section 78B-15-201.
(18)
(a) "Parent-child relationship" means the legal relationship between a child and a parent of the child.
(b) "Parent-child relationship" includes the mother-child relationship and the father-child relationship.
(19) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:
(a) the likelihood that the tested man is the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is the father of the child; and
(b) the likelihood that the tested man is not the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.
(20) "Presumed father" means a man who, by operation of law under Section 78B-15-204, is recognized as the father of a child until that status is rebutted or confirmed as set forth in this chapter.
(21) "Probability of paternity" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.
(22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(23) "Signatory" means an individual who authenticates a record and is bound by its terms.
(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory, Native American Tribe, or insular possession subject to the jurisdiction of the United States.
(25) "Support-enforcement agency" means a public official or agency authorized under Title IV-D of the Social Security Act which has the authority to seek:
(a) enforcement of support orders or laws relating to the duty of support;
(b) establishment or modification of child support;
(c) determination of parentage; or
(d) location of child-support obligors and their income and assets.
(26) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025

78B-15-103 Scope -- Choice of law.

(1) This chapter applies to determinations of parentage in this state.
(2) The tribunal shall apply the law of this state to adjudicate the parent-child relationship. The applicable law may not depend upon:
(a) the place of birth of the child; or
(b) the past or present residence of the child.
(3) This chapter may not create, enlarge, or diminish parental rights or duties under other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-104 Jurisdiction -- Authority of Office of Recovery Services -- Dismissal of petition.

(1)

(a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has original jurisdiction over any action brought under this chapter.

(b) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a paternity action filed in the district court, the district court may transfer jurisdiction over the paternity action to the juvenile court.

(2) The Office of Recovery Services is authorized to establish paternity in accordance with this chapter, Title 26B, Chapter 9, Recovery Services and Administration of Child Support, and Title 63G, Chapter 4, Administrative Procedures Act.

(3) A court shall, without adjudicating paternity, dismiss a petition that is filed under this chapter by an unmarried biological father if he is not entitled to consent to the adoption of the child under Sections 78B-6-121 and 78B-6-122.

Amended by Chapter 330, 2023 General Session

Repealed 9/1/2025

78B-15-105 Protection of participants.

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, Social Security number, the child's day-care facility, or school.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025

78B-15-106 Determination of maternity.

Provisions of this chapter relating to determination of paternity also apply to determinations of maternity.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025

78B-15-107 Effect.

An adjudication or declaration of paternity shall be filed with the state registrar in accordance with Section 26B-8-104.

Repealed by Chapter 426, 2025 General Session
Amended by Chapter 330, 2023 General Session

Repealed 9/1/2025

78B-15-108 Obligation to provide address.

A party to an action under this chapter has a continuing obligation to keep the tribunal informed of the party's current address.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025
78B-15-109 Limitation on recovery from the obligor.

The obligor's liabilities for past support are limited to the period of four years preceding the commencement of an action.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025
78B-15-110 Duty of attorney general and county attorney.

Whenever the state commences an action under this chapter, it shall be the duty of the attorney general or the county attorney of the county where the obligee resides to represent the state. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out his responsibilities under this chapter.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025
78B-15-111 Default judgment.

Utah Rule of Civil Procedure 55, Default Judgment, shall apply to paternity actions commenced under this chapter.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025
78B-15-112 Standard of proof.

The standard of proof in a trial to determine paternity is "by clear and convincing evidence."

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025
78B-15-113 Parent-time rights of father.

(1) If the tribunal determines that the alleged father is the father, the tribunal may upon the tribunal's own motion or upon motion of the father, order parent-time rights in accordance with Title 81, Chapter 9, Custody, Parent-time, and Visitation, as the tribunal considers appropriate under the circumstances.
(2) Parent-time rights may not be granted to a father if the child has been subsequently adopted.

Repealed by Chapter 426, 2025 General Session

Amended by Chapter 366, 2024 General Session

Repealed 9/1/2025

78B-15-114 Social Security number in tribunal records.

The Social Security number of any individual who is subject to a paternity determination shall be placed in the records relating to the matter.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Repealed 9/1/2025

78B-15-115 Settlement agreements.

An agreement of settlement with the alleged father is binding only when approved by the tribunal.

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 2
Parent and Child Relationship

Renumbered 9/1/2025

78B-15-201 Establishment of parent-child relationship.

(1)
(a) The mother-child relationship is established between a woman and a child by:
(i) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement;
(ii) an adjudication of the woman's maternity;
(iii) adoption of the child by the woman;
(iv) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law; or
(v) an unrebutted presumption of maternity of the child established in the same manner as under Section 78B-15-204.
(b) In this chapter, the presumption of maternity shall be treated the same as a presumption of paternity as established in Subsection 78B-15-201(2)(a).
(2) The father-child relationship is established between a man and a child by:
(a) an unrebutted presumption of the man's paternity of the child under Section 78B-15-204;
(b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration of Paternity Act, unless the declaration has been rescinded or successfully challenged;
(c) an adjudication of the man's paternity;
(d) adoption of the child by the man;
(e) the man having consented to assisted reproduction by a woman under Part 7, Assisted Reproduction, which resulted in the birth of the child; or

(f) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

Amended by Chapter 156, 2017 General Session

Renumbered 9/1/2025

78B-15-202 No discrimination based on marital status.

A child born to parents who are not married to each other whose paternity has been determined under this chapter has the same rights under the law as a child born to parents who are married to each other.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-203 Consequences of establishment of parentage.

Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-204 Presumption of paternity.

(1) A man is presumed to be the father of a child if:
  (a) he and the mother of the child are married to each other and the child is born during the marriage;
  (b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
  (c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce or after a decree of separation; or
  (d) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:
    (i) the assertion is in a record filed with the Office of Vital Records;
    (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
    (iii) he promised in a record to support the child as his own.
(2) A presumption of paternity established under this section may only be rebutted in accordance with Section 78B-15-607.
(3) If a child has an adjudicated father, the results of genetic testing are inadmissable to challenge paternity except as set forth in Section 78B-15-607.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 3
Voluntary Declaration of Paternity Act

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

Part 4
Registry

Renumbered 9/1/2025

78B-15-401 Maintenance of records.

(1) The Office of Vital Records shall register the following records which are filed with the office:
  (a) all declarations of paternity;
  (b) all judicial and administrative determinations of paternity; and
  (c) all notices of proceedings to establish paternity which are filed pursuant to Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.
(2) A notice of initiation of paternity proceedings may not be accepted into the registry unless accompanied by a copy of the pleading which has been filed with the court to establish paternity.
(3) A notice of initiation of paternity proceedings may not be filed if another man is the adjudicated or declarant father.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-402 Effect of registration.

(1) An unmarried biological father who desires to be notified of a proceeding for adoption of a child must file a notice of the initiation of paternity proceedings as required by Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.
(2) A registrant shall promptly notify the registry in a record of any change in the information registered. The Office of Vital Records shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-403 Notice of proceeding.

Notice of an adoption proceeding shall be given to unmarried biological fathers pursuant to Section 78B-6-110.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-404 Required form.

(1) The Office of Vital Records shall prepare a form to be filed with the agency. The form shall require the signature of the registrant and state that the form is signed under penalty of perjury.

(2) The form shall also state that:

(a) a timely filing of notice of the initiation of paternity proceedings which is filed pursuant to Subsection 78B-15-402(1) entitles the registrant to notice of a proceeding for adoption of the child;

(b) a timely filing does not commence a proceeding to establish paternity;

(c) the information disclosed on the form may be used against the registrant to establish paternity;

(d) services to assist in establishing paternity of a child who is not placed for adoption are available to the registrant through the Office of Recovery Services;

(e) the registrant should also file in another state if conception or birth of the child occurred in the other state;

(f) information on registries of other states is available from the Office of Vital Records; and

(g) procedures exist to remove the filing of a proceeding to establish paternity if the proceeding is dismissed, or if a finding of paternity is rescinded or set aside under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-405 Furnishing of information -- Confidentiality.

(1) The Office of Vital Records shall send a copy of the filing to a person or entity set forth in Subsection (2), who has requested a copy. The copy of the filing shall be sent to the most recent address provided by the requestor.

(2) Information contained in records which are filed pursuant to Section 78B-15-401 is confidential and may be released on request only to:

(a) a tribunal or a person designated by the tribunal;

(b) the mother of the child who is the subject of the filing;

(c) an agency authorized by other law to receive the information;

(d) a licensed child-placing agency;

(e) the Office of Recovery Services, the Office of the Attorney General, or a support-enforcement agency of another state or tribe;

(f) a party or the party's attorney of record in a proceeding under this chapter or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the filing; and

(g) the registry of paternity in another state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-406 Penalty for releasing information.

A person who intentionally or knowingly, releases confidential information from the Office of Vital Records which is filed pursuant to Section 78B-15-401 to a person or agency not authorized to receive the information under Section 78B-15-405 is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-407 Removal of registration.

The Office of Vital Records may remove a registration in accordance with rules adopted by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-408 Fees for registry.

(1) A fee may not be charged to remove a registration.
(2) Except as otherwise provided in Subsection (3), the Office of Vital Records may charge a reasonable fee for registering records pursuant to Section 78B-15-401, making a search of the registry, and for furnishing a certificate.
(3) The Office of Recovery Services, the Office of the Attorney General, and support-enforcement agencies of other states or tribes may not be required to pay the fee authorized by Subsection (2).

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-409 Search of records -- Certificate.

(1) Upon the request of an individual, tribunal, or agency identified in Section 78B-15-405, the Office of Vital Records shall search its records for any registration made pursuant to Section 78B-15-401 and furnish to the requestor a certificate of search which shall be signed on behalf of the office and state that:
  (a) a search has been made of the records of the Office of Vital Records; and
  (b) a registration containing the information required to identify the registrant:
    (i) has been found and is attached to the certificate of search; or
    (ii) has not been found.
(2) A petitioner shall file the certificate of search with the tribunal in connection with a proceeding for adoption.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-410 Admissibility of information.

A certificate of search of the registry of paternity in this or another state is admissible in a proceeding for adoption of a child and, if relevant, in other legal proceedings.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 5
Genetic Testing

Renumbered 9/1/2025

78B-15-501 Scope of part.

This part governs genetic testing of an individual to determine parentage, whether the individual:

(1) voluntarily submits to testing; or

(2) is tested pursuant to an order of a tribunal or a support-enforcement agency.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-502 Order for testing.

(1) Upon the motion of any party to the action, except as otherwise provided in this part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) If a request for genetic testing of a child is made before birth, the tribunal may not order in-utero testing.

(3) If two or more men are subject to an order for genetic testing, the testing may be ordered concurrently or sequentially.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-503 Requirements for genetic testing.

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) the American Association of Blood Banks, or a successor to its functions;

(b) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

(c) an accrediting body designated by the federal Secretary of Health and Human Services.

(2) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-504 Report of genetic testing.

(1) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this part is self-authenticating.

(2) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:
(a) the names and photographs of the individuals whose specimens have been taken;
(b) the names of the individuals who collected the specimens;
(c) the places and dates the specimens were collected;
(d) the names of the individuals who received the specimens in the testing laboratory;
(e) the dates the specimens were received; and
(f) the fingerprints of the individuals whose specimens have been taken.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-505 Genetic testing results -- Rebuttal.
(1) Under this chapter, a man is presumed to be identified as the father of a child if the genetic testing complies with this part and the results disclose that:
(a) the man has at least a 99% probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and
(b) a combined paternity index of at least 100 to 1.
(2) A man identified under Subsection (1) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this part which:
(a) excludes the man as a genetic father of the child; or
(b) identifies another man as the possible father of the child.
(3) If an issue is raised as to whether the appropriate ethnic or racial group database was used by the testing laboratory, the testing laboratory will be asked to rerun the test using the correct ethnic or racial group database. If the testing laboratory does not have an adequate database, another testing laboratory may be engaged to perform the calculations.
(4) If a presumption of paternity is not rebutted by a second test, the tribunal shall issue an order establishing paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-506 Costs of genetic testing.
(1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of initial genetic testing shall be advanced:
(a) by a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;
(b) by the individual who made the request;
(c) as agreed by the parties; or
(d) as ordered by the tribunal.
(2) In cases in which the cost is advanced by the support-enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-507 Additional genetic testing.

The tribunal shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under Section 78B-15-505, the tribunal may not order additional testing unless the party provides advance payment for the testing. If the tribunal orders a second genetic test in accordance with this section, the additional testing must be completed within 45 days of the tribunal's order or the requesting party's objection to the first test will be automatically denied. If failure to complete the test occurs because of noncooperation of the mother or unavailability of the child, the time will be tolled.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-508 Genetic testing when specimens not available.

(1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under extraordinary circumstances the tribunal considers to be just, the tribunal may order the following individuals to submit specimens for genetic testing:
  (a) the parents of the man;
  (b) brothers and sisters of the man;
  (c) other children of the man and their mothers; and
  (d) other relatives of the man necessary to complete genetic testing.
(2) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-509 Deceased individual.

For good cause shown, the tribunal may order genetic testing of a deceased individual.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-510 Identical brothers.

(1) The tribunal may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.
(2) If each brother satisfies the requirements as the identified father of the child under Section 78B-15-505 without consideration of another identical brother being identified as the father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-511 Confidentiality of genetic testing.

Release of the report of genetic testing for parentage is controlled by Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 6
Adjudication of Parentage

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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 in accordance with Section 81-6-106.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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, the mother, or a support enforcement agency at any time before 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.

(d) If a support enforcement agency seeks to rebut the presumption of parentage and the presumptive parent opposes the rebuttal, the agency's request shall be denied. Otherwise, the denial of the agency's motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence, taking into account the best interests of the child.

(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.

Amended by Chapter 156, 2017 General Session

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

78B-15-610 Joinder of judicial proceedings -- Court reliance of custody and parent-time standards.

(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.

(3) A court may determine issues of custody, parent-time, visitation, and child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 9, Custody, Parent-time, and Visitation.

(4)

(a) If a parentage action is determining issues of custody or parent-time for a child and the parents of the child are not married, the parties shall attend the mandatory parenting course described in Subsection 81-9-103(1)(b) within:

(i) for the petitioner, 60 days after the day on which the petition is filed; and

(ii) for the respondent, 30 days after the day on which the respondent is served.

(b) The clerk of the court shall provide notice to a petitioner that the petitioner is required to attend the parenting course.

(c) A petition shall include information regarding the parenting course when the petition is served on the respondent.

(d) The court may not grant a final custody or parent-time order in a parentage action until:

(i) both parties have attended the parenting course; and

(ii) both parties have presented a certificate of course completion to the court.

(5) For a party that is unable to pay the costs of the parenting course, and before the court enters an order for custody or parent-time in the parentage action, the court shall:

(a) make a final determination of indigency; and
(b) order the party to pay the costs of the parenting course if the court determines the party is not indigent.
(6)
(a) Notwithstanding Subsection (4), the court may waive the requirement that the parties attend the parenting course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.
(b) If the requirement is waived, the court may proceed with entering a final custody or parent-time order.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025
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

Renumbered 9/1/2025
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-2-803, 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 262, 2021 General Session

Renumbered 9/1/2025
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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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

Renumbered 9/1/2025

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.
(7) A party to an adjudication may not bring a challenge under Subsection (6) if the party committed the fraud.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025

Part 7
Assisted Reproduction

Renumbered 9/1/2025
78B-15-701 Scope.
This part does not apply to the birth of a child conceived by means of sexual intercourse, or as result of a gestational agreement as provided in Part 8, Gestational Agreement.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-702 Parental status of donor.
A donor is not a parent of a child conceived by means of assisted reproduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-703 Husband's paternity of child of assisted reproduction.
If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in Section 78B-15-704, he is the father of a resulting child born to his wife.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025
78B-15-704 Consent to assisted reproduction.
(1) A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband. This requirement does not apply to the donation of eggs for assisted reproduction by another woman.

(2) Failure of the husband to sign a consent required by Subsection (1), before or after the birth of the child, does not preclude a finding that the husband is the father of a child born to his wife if the wife and husband openly treat the child as their own.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-705 Limitation on husband's dispute of paternity.

(1) Except as otherwise provided in Subsection (2), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:
  (a) within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and
  (b) the tribunal finds that he did not consent to the assisted reproduction, before or after the birth of the child.
(2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal determines that:
  (a) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;
  (b) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and
  (c) the husband never openly treated the child as his own.
(3) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-706 Effect of dissolution of marriage.

(1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.
(2) The consent of the former spouse to assisted reproduction may be revoked by that individual in a record at any time before placement of eggs, sperm, or embryos.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-707 Parental status of deceased spouse.

If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased spouse would be a parent of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-708 Access to identifying information and medical history.

(1) A person conceived through assisted reproduction who is at least 18 years of age shall be provided, upon the person's request, access to the nonidentifying medical history of the donor who assisted in the reproduction process that resulted in the person's birth.
(2) Under no circumstance may a person who donated to a fertility clinic for the purpose of assisted reproduction be liable for financial support to the child conceived through assisted reproduction or the child's parent.
(3) Except as provided in this section, a donor's request to remain anonymous shall be given full deference.

Enacted by Chapter 159, 2015 General Session

Renumbered 9/1/2025

Part 8
Gestational Agreement

Renumbered 9/1/2025

78B-15-801 Gestational agreement authorized.

(1) A prospective gestational mother, the prospective gestational mother's spouse if the prospective gestational mother is married, a donor or the donors, and the intended parents may enter into a written agreement providing that:
  (a) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;
  (b) the prospective gestational mother, the prospective gestational mother's spouse if the prospective gestational mother is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and
  (c) the intended parents become the parents of the child.
(2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance.
(3)
  (a) The intended parents shall be married.
  (b) Both intended parents must be parties to the gestational agreement.
(4) A gestational agreement is enforceable only if validated as provided in Section 78B-15-803.
(5) A gestational agreement does not apply:
  (a) to the birth of a child conceived by means of sexual intercourse; or
  (b) if neither intended parent is a donor.
(6) The parties to a gestational agreement shall be 21 years old or older.
(7) The gestational mother's eggs may not be used in the assisted reproduction procedure.
(8) If the gestational mother is married, the gestational mother's spouse's sperm or eggs may not be used in the assisted reproduction procedure.

Amended by Chapter 367, 2024 General Session

Renumbered 9/1/2025

78B-15-802 Requirements of petition.

(1) The intended parents and the prospective gestational mother may file a petition in the district tribunal to validate a gestational agreement.

(2) A petition to validate a gestational agreement may not be maintained unless either the mother or intended parents have been residents of this state for at least 90 days.
(3) The prospective gestational mother's spouse, if the prospective gestational mother is married, must join in the petition.
(4) A copy of the gestational agreement must be attached to the petition.

Amended by Chapter 367, 2024 General Session

Renumbered 9/1/2025
78B-15-803 Hearing to validate gestational agreement.
(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.
(2) The tribunal may issue an order under Subsection (1) only on finding that:
  (a) the residence requirements of Section 78B-15-802 have been satisfied and the parties have submitted to the jurisdiction of the tribunal under the jurisdictional standards of this part;
  (b) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with Sections 78B-6-128 through 78B-6-131, and the intended parents meet the standards of fitness applicable to adoptive parents;
  (c) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate:
    (i) signed by the licensed mental health professional that affirms that all parties have discussed options and consequences of the agreement; and
    (ii) presented to the tribunal;
  (d) all parties have voluntarily entered into the agreement and understand the agreement's terms;
  (e) the prospective gestational mother has had at least one pregnancy and delivery and the prospective gestational mother's bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;
  (f) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for all reasonable health-care expense if the agreement is terminated;
  (g) the consideration, if any, paid to the prospective gestational mother is reasonable;
  (h) all the parties to the agreement are 21 years old or older;
  (i) the gestational mother's eggs are not being used in the assisted reproduction procedure; and
  (j) if the gestational mother is married, the gestational mother's spouse's sperm or eggs are not being used in the assisted reproduction procedure.
(3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

Amended by Chapter 367, 2024 General Session

Renumbered 9/1/2025
78B-15-804 Inspection of records.
The proceedings, records, and identities of the individuals to a gestational agreement under this part are subject to inspection under the confidentiality standards applicable to adoptions as provided under other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-805 Exclusive, continuing jurisdiction.

Subject to the jurisdictional standards of Section 78B-13-201, the tribunal conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-806 Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, the prospective gestational mother's spouse, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.
(2) The tribunal for good cause shown also may terminate the gestational agreement.
(3) An individual who terminates an agreement shall file notice of the termination with the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part. An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.
(4) A prospective gestational mother, or the prospective gestational mother's spouse if married, is not liable to the intended parents for terminating an agreement pursuant to this section.

Amended by Chapter 367, 2024 General Session

Renumbered 9/1/2025

78B-15-807 Parentage under validated gestational agreement.

(1) Upon birth of a child to a gestational mother, the intended parents shall file notice with the tribunal that a child has been born to the gestational mother within 300 days after assisted reproduction. Thereupon, the tribunal shall issue an order:
  (a) confirming that the intended parents are the parents of the child;
  (b) if necessary, ordering that the child be surrendered to the intended parents; and
  (c) directing the Office of Vital Records to issue a birth certificate naming the intended parents as parents of the child.
(2) If the parentage of a child born to the gestational mother is in dispute as not the result of an assisted reproduction, the tribunal shall order genetic testing to determine the parentage of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-808 Gestational agreement -- Miscellaneous provisions.

(1) A gestational agreement may provide for payment of consideration.
(2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard the gestational mother's health or that of the embryo or fetus.

(3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and the gestational mother's spouse's consent to the agreement is not required, nor is the gestational mother's spouse a presumed parent of the resulting child.

Amended by Chapter 367, 2024 General Session

Renumbered 9/1/2025

78B-15-809 Effect of nonvalidated gestational agreement.

(1) A gestational agreement, whether in a record or not, which is not validated by a tribunal is not enforceable.
(2) If a birth results under a gestational agreement that is not judicially validated as provided in this part, the parent-child relationship is determined as provided in Part 2, Parent and Child Relationship.
(3) The individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees as provided in Section 78B-15-622.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Part 9
Miscellaneous

Renumbered 9/1/2025

78B-15-901 Uniformity of application and construction.

This chapter is a uniform law. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-15-902 Transitional provision.

A proceeding to adjudicate parentage which was commenced before May 1, 2005 is governed by the law in effect at the time the proceeding was commenced.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

Chapter 16
Utah Uniform Child Abduction Prevention Act

Repealed 9/1/2025

78B-16-101 Title.

This chapter is known as the "Utah Uniform Child Abduction Prevention Act."

Repealed by Chapter 426, 2025 General Session
Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-102 Definitions.

In this chapter:

(1) "Abduction" means the wrongful removal or wrongful retention of a child.
(2) "Child" means an unemancipated individual who is less than 18 years of age.
(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order.
(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, visitation, or parent-time with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.
(5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.
(6) "Petition" includes a motion or its equivalent.
(7) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.
(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.
(9) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. The term does not include a passport or visa.
(10) "Wrongful removal" means the taking of a child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.
(11) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-103 Cooperation and communication among courts.

Sections 78B-13-110, 78B-13-111, and 78B-13-112 apply to cooperation and communications among courts in proceedings under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-104 Actions for abduction prevention measures.

(1) A court on its own motion may order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.
(2) A party to a child custody determination or another individual or entity having a right under the law of this state or any other state to seek a child custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this chapter.
(3) A prosecutor or public authority designated under Section 78B-13-315 may seek a warrant to take physical custody of a child under Section 78B-16-109 or other appropriate prevention measures.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-105 Jurisdiction.

(1) A petition under this chapter may be filed only in a court that has jurisdiction to make a child custody determination with respect to the child at issue under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
(2) A court of this state has temporary emergency jurisdiction under Section 78B-13-204 if the court finds a credible risk of abduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-106 Contents of petition.

(1) A petition under this chapter must be verified and include a copy of any existing child custody determination, if available. The petition must specify the risk factors for abduction, including the relevant factors described in Section 78B-16-107.
(2) Subject to Subsection 78B-13-209(5), if reasonably ascertainable, the petition must contain:
  (a) the name, date of birth, and gender of the child;
  (b) the customary address and current physical location of the child;
  (c) the identity, customary address, and current physical location of the respondent;
  (d) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action;
  (e) a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case; and
  (f) any other information required to be submitted to the court for a child custody determination under Section 78B-13-209.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-107 Factors to determine risk of abduction.

(1) In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:
  (a) has previously abducted or attempted to abduct the child;
  (b) has threatened to abduct the child;

(c) has recently engaged in activities that may indicate a planned abduction, including:
(i) abandoning employment;
(ii) selling a primary residence;
(iii) terminating a lease;
(iv) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;
(v) applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child; or
(vi) seeking to obtain the child's birth certificate or school or medical records;
(d) has engaged in domestic violence, stalking, or child abuse or neglect;
(e) has refused to follow a child custody determination;
(f) lacks strong familial, financial, emotional, or cultural ties to the state or the United States;
(g) has strong familial, financial, emotional, or cultural ties to another state or country;
(h) is likely to take the child to a country that:
(i) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;
(ii) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:
(A) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;
(B) is noncompliant according to the most recent compliance report issued by the United States Department of State; or
(C) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;
(iii) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;
(iv) has laws or practices that would:
(A) enable the respondent, without due cause, to prevent the petitioner from contacting the child;
(B) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or
(C) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;
(v) is included by the United States Department of State on a current list of state sponsors of terrorism;
(vi) does not have an official United States diplomatic presence in the country; or
(vii) is engaged in active military action or war, including a civil war, to which the child may be exposed;
(i) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;
(j) has had an application for United States citizenship denied;
(k) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver license, or other government-issued identification card or has made a misrepresentation to the United States government;
(l) has used multiple names to attempt to mislead or defraud; or
(m) has engaged in any other conduct the court considers relevant to the risk of abduction.

(2) In the hearing on a petition under this chapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-108 Provisions and measures to prevent abduction.

(1) If a petition is filed under this chapter, the court may enter an order which must include:
  (a) the basis for the court's exercise of jurisdiction;
  (b) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;
  (c) a detailed description of each party's custody and visitation rights and residential arrangements for the child;
  (d) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and
  (e) identification of the child's country of habitual residence at the time of the issuance of the order.

(2) If, at a hearing on a petition under this chapter or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order must include the provisions required by Subsection (1) and measures and conditions, including those in Subsections (3), (4), and (5), that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody, visitation, and parent-time rights of the parties. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(3) An abduction prevention order may include one or more of the following:
  (a) an imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:
    (i) the travel itinerary of the child;
    (ii) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and
    (iii) copies of all travel documents;
  (b) a prohibition of the respondent directly or indirectly:
    (i) removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;
    (ii) removing or retaining the child in violation of a child custody determination;
    (iii) removing the child from school or a child-care or similar facility; or
    (iv) approaching the child at any location other than a site designated for supervised visitation;
  (c) a requirement that a party to register the order in another state as a prerequisite to allowing the child to travel to that state;
  (d) with regard to the child's passport:
    (i) a direction that the petitioner place the child's name in the United States Department of State's Child Passport Issuance Alert Program;

(ii) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and

(iii) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;

(e) as a prerequisite to exercising custody, visitation, or parent-time, a requirement that the respondent provide:

(i) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;

(ii) to the court:

(A) proof that the respondent has provided the information in Subsection (3)(e)(i); and

(B) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;

(iii) to the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and

(iv) a written waiver under the Privacy Act, 5 U.S.C. Section 552a, with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and

(f) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in the United States.

(4) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(a) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(b) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction; and

(c) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(5) To prevent imminent abduction of a child, a court may:

(a) issue a warrant to take physical custody of the child under Section 78B-16-109 or the law of this state other than this chapter;

(b) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this chapter or the law of this state other than this chapter; or

(c) grant any other relief allowed under the law of this state other than this chapter.

(6) The remedies provided in this chapter are cumulative and do not affect the availability of other remedies to prevent abduction.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-109 Warrant to take physical custody of child.

(1) If a petition under this chapter contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(2) The respondent on a petition under Subsection (1) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

(3) An ex parte warrant under Subsection (1) to take physical custody of a child must:

(a) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;

(b) direct law enforcement officers to take physical custody of the child immediately;

(c) state the date and time for the hearing on the petition; and

(d) provide for the safe interim placement of the child pending further order of the court.

(4) If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(5) The petition and warrant must be served on the respondent when or immediately after the child is taken into physical custody.

(6) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under Subsection (1) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs, and other reasonable expenses and losses arising out of the issuance of the ex parte warrant.

(8) This chapter does not affect the availability of relief allowed under the law of this state other than this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-110 Duration of abduction prevention order.

An abduction prevention order remains in effect until the earliest of:

(1) the time stated in the order;

(2) the emancipation of the child;

(3) the child's attaining 18 years of age; or

(4) the time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under Sections 78B-13-201 through 78B-13-203.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-111 Uniformity of application and construction.

This chapter is a uniform act. In applying and construing it, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

Renumbered 9/1/2025

78B-16-112 Relation to electronic signatures in global and national commerce act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of the act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Renumbered and Amended by Chapter 3, 2008 General Session

Chapter 17
Utah Uniform Interstate Depositions and Discovery Act

Part 1
General Provisions

78B-17-101 Title.

This chapter is known as the "Utah Uniform Interstate Depositions and Discovery Act."

Enacted by Chapter 278, 2008 General Session

78B-17-102 Definitions.

As used in this chapter:

(1) "Foreign jurisdiction" means a state other than Utah.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(a) attend and give testimony at a deposition;

(b) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(c) permit inspection of premises under the control of the person.

Enacted by Chapter 278, 2008 General Session

78B-17-103 Scope -- Unauthorized practice of law prohibited -- Reciprocity required.

(1) Except as provided in Subsection (3), this chapter applies only to issuance, service, and enforcement of subpoenas as provided in this chapter.

(2) Except as provided in Subsection 78B-17-201(1)(b), nothing in this chapter may be construed to exempt an attorney from another state from complying with statutes and rules governing unauthorized practice of law or from the requirements contained in the Utah Rules of Civil Procedure governing limited appearance.

(3) Parties resident in another state may use the provisions of this chapter for issuance, service, or enforcement of subpoenas only if the other state has enacted this uniform act or enacted provisions substantially similar to this uniform act.

Enacted by Chapter 278, 2008 General Session

Part 2
Process for Issuance and Service of a Subpoena by a Party in Another State

78B-17-201 Issuance of subpoena.

(1)

(a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a court in the judicial district in which discovery is sought to be conducted in Utah.

(b) A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in Utah, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to whom the foreign subpoena is directed.

(3) A subpoena under Subsection (2) must:

(a) incorporate the terms used in the foreign subpoena; and

(b) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

Enacted by Chapter 278, 2008 General Session

78B-17-202 Service of subpoena.

A subpoena issued by a clerk of court under Section 78B-17-201 must be served in compliance with Rule 4 and Rule 5, Utah Rules of Civil Procedure.

Enacted by Chapter 278, 2008 General Session

78B-17-203 Depositions, production, inspection, and contempt remedies for subpoenas.

Section 78B-6-301 and Utah Rules of Civil Procedure 26 through 37 and 45 apply to subpoenas issued under Section 78B-17-201.

Enacted by Chapter 278, 2008 General Session

78B-17-204 Application to court.

An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under Section 78B-17-201 must comply with the rules or statutes of Utah and be submitted to the court in the judicial district in which discovery is to be conducted.

Enacted by Chapter 278, 2008 General Session

Part 3
Uniform Application and Construction - Application to Pending Actions

78B-17-301 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 278, 2008 General Session

78B-17-302 Application to pending actions.

This chapter applies to requests for discovery in cases pending on May 5, 2008.

Enacted by Chapter 278, 2008 General Session

Chapter 18a
Uniform Unsworn Declarations Act

Part 1
General Provisions

78B-18a-101 Title.

This chapter is known as the "Uniform Unsworn Declarations Act."

Enacted by Chapter 298, 2018 General Session

78B-18a-102 Definitions.

In this chapter:

(1) "Law" includes a statute, judicial decision or order, rule of court, executive order, and administrative rule, regulation, or order.

(2) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(3) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(4)

(a) "Sworn declaration" means a declaration in a signed record given under oath.

(b) "Sworn declaration" includes a sworn statement, verification, certificate, and affidavit.

(5) "Unsworn declaration" means a declaration in a signed record not given under oath but given under penalty of Title 76, Chapter 8, Part 5, Falsification in Official Matters.

Enacted by Chapter 298, 2018 General Session

78B-18a-103 Applicability.

This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States.

Enacted by Chapter 298, 2018 General Session

78B-18a-104 Validity of unsworn declaration.

(1) Except as otherwise provided in Subsection (2), if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.
(2) This chapter does not apply to:
(a) a deposition;
(b) an oath of office;
(c) an oath required to be given before a specified official other than a notary public;
(d) a declaration to be recorded under Title 57, Real Estate; or
(e) an oath required by Section 75-2-504.

Enacted by Chapter 298, 2018 General Session

78B-18a-105 Required medium.

If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in the same medium.

Enacted by Chapter 298, 2018 General Session

78B-18a-106 Form of unsworn declaration.

An unsworn declaration under this chapter must be in substantially the following form:

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.
Signed on the ___ day of _____, _____, at _____.
Date Month Year City or other location, and state or country

_____
Printed name

_____
Signature

Enacted by Chapter 298, 2018 General Session

78B-18a-107 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 298, 2018 General Session

78B-18a-108 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 298, 2018 General Session

Chapter 19
Utah Uniform Collaborative Law Act

78B-19-101 Title.

This chapter may be cited as the "Utah Uniform Collaborative Law Act."

Enacted by Chapter 382, 2010 General Session

78B-19-102 Definitions.

In this chapter:

(1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:
  (a) is made to conduct, participate in, continue, or reconvene a collaborative law process; and
  (b) occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.
(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.
(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:
  (a) sign a collaborative law participation agreement; and
  (b) are represented by collaborative lawyers.
(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.
(5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution described in a collaborative law participation agreement.
(6) "Law firm" means:
  (a) lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association;
  (b) lawyers employed in a legal services organization;
  (c) the legal department of a corporation or other organization; or
  (d) the legal department of a government or governmental subdivision, agency, or instrumentality.
(7) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.
(8) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
(10) "Proceeding" means:
(a) a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related pre-hearing and post-hearing motions, conferences, and discovery; or
(b) a legislative hearing or similar process.
(11) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.
(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.
(14) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic symbol, sound, or process.
(15) "Tribunal" means:
(a) a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or
(b) a legislative body conducting a hearing or similar process.

Enacted by Chapter 382, 2010 General Session

78B-19-103 Applicability.

This chapter applies to a collaborative law participation agreement that meets the requirements of Section 78B-19-104 signed on or after May 11, 2010.

Enacted by Chapter 382, 2010 General Session

78B-19-104 Collaborative law participation agreement -- Requirements.

(1) A collaborative law participation agreement must:
(a) be in a record;
(b) be signed by the parties;
(c) state the parties' intention to resolve a collaborative matter through a collaborative law process under this chapter;
(d) describe the nature and scope of the matter;
(e) identify the collaborative lawyer who represents each party in the process; and
(f) contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.
(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this chapter.

Enacted by Chapter 382, 2010 General Session

78B-19-105 Beginning and concluding a collaborative law process.

(1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.
(3) A collaborative law process is concluded by a:
(a) resolution of a collaborative matter as evidenced by a signed record;
(b) resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or
(c) termination of the process.
(4) A collaborative law process terminates:
(a) when a party gives notice to other parties in a record that the process is ended; or
(b) when a party:
(i) begins a proceeding related to a collaborative matter without the agreement of all parties; or
(ii) in a pending proceeding related to the matter:
(A) initiates a pleading, motion, order to show cause, or request for a conference with the tribunal;
(B) requests that the proceeding be put on the tribunal's calendar; or
(C) takes similar action requiring notice to be sent to the parties; or
(c) except as otherwise provided by Subsection (5), when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.
(5) A party's collaborative lawyer shall give prompt notice to all other parties of a discharge or withdrawal, in accordance with the Rules of Civil Procedure.
(6) A party may terminate a collaborative law process with or without cause.
(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by Subsection (4)(c) is sent to the parties:
(a) the unrepresented party engages a successor collaborative lawyer; and
(b) in a signed record:
(i) the parties consent to continue the process by reaffirming the collaborative law participation agreement;
(ii) the agreement is amended to identify the successor collaborative lawyer; and
(iii) the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.
(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.
(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

Enacted by Chapter 382, 2010 General Session

78B-19-106 Proceedings pending before tribunal -- Status report.
(1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. Parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject to Subsection (3) and Sections 78B-19-107 and 78B-19-108, the filing shall include a request for a stay of the proceeding.
(2) Parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes and request the stay to be lifted. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under Subsection (1) may require parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.
(4) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

Enacted by Chapter 382, 2010 General Session

78B-19-107 Emergency orders.

During a collaborative law process, a court may issue emergency orders, including protective orders in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Part 2, Child Protective Orders, to protect the health, safety, welfare, or interest of a party or member of a party's household.

Amended by Chapter 142, 2020 General Session

78B-19-108 Approval of agreement by tribunal.

A court may approve an agreement resulting from a collaborative law process.

Enacted by Chapter 382, 2010 General Session

78B-19-109 Disclosure of information.

Except as provided by law other than this chapter, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. Parties may define the scope of disclosure during the collaborative law process.

Enacted by Chapter 382, 2010 General Session

78B-19-110 Standards of professional responsibility and mandatory reporting not affected.

This chapter does not affect:
(1) the professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or
(2) the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

Enacted by Chapter 382, 2010 General Session

78B-19-111 Appropriateness of collaborative law process.

Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:
(1) assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(2) provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and
(3) advise the prospective party that:
(a) after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;
(b) participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and
(c) the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by the Rules of Professional Conduct.

Enacted by Chapter 382, 2010 General Session

78B-19-112 Coercive or violent relationship.
(1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.
(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.
(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:
(a) the party or the prospective party requests to begin or to continue a process; and
(b) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

Enacted by Chapter 382, 2010 General Session

78B-19-113 Confidentiality of collaborative law communication.
A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law of this state other than this chapter.

Enacted by Chapter 382, 2010 General Session

78B-19-114 Authority of tribunal in case of noncompliance.
(1) If an agreement fails to meet the requirements of Section 78B-19-104, or a lawyer fails to comply with Section 78B-19-111 or 78B-19-112, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they:
(a) signed a record indicating an intention to enter into a collaborative law participation agreement; and
(b) reasonably believed they were participating in a collaborative law process.

(2) If a court makes the findings specified in Subsection (1), and the interests of justice require, the court may:
(a) enforce an agreement evidenced by a record resulting from the process in which the parties participated;
(b) apply the disqualification provisions of Sections 78B-19-105 and 78B-19-106; and
(c) apply the privileges in the Utah Rules of Evidence.

Enacted by Chapter 382, 2010 General Session

78B-19-115 Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 382, 2010 General Session

78B-19-116 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C.A. Sec. 7001 et seq. (2009), but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C.A. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C.A. Sec. 7003(b).

Enacted by Chapter 382, 2010 General Session

Renumbered 9/1/2025

Chapter 20
Uniform Deployed Parents Custody, Parent-time, and Visitation Act

Renumbered 9/1/2025

Part 1
General Provisions

Repealed 9/1/2025

78B-20-101 Title.

This chapter is known as the "Uniform Deployed Parents Custody, Parent-Time, and Visitation Act."

Repealed by Chapter 426, 2025 General Session
Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-102 Definitions.

As used in this chapter:
(1) "Adult" means an individual who has attained 18 years old or is an emancipated minor.
(2)
(a) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis.
(b) "Caretaking authority" includes physical custody, parent-time, right to access, and visitation.

(3) "Child" means:
(a) an unemancipated individual who has not attained 18 years old; or
(b) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.
(4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.
(5) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.
(6) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.
(7) "Deploying parent" means a service member who is deployed or has been notified of impending deployment and is:
(a) a parent of a child under the law of this state other than this chapter; or
(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.
(8) "Deployment" means the movement or mobilization of a service member for more than 90 days but less than 18 months pursuant to uniformed service orders that:
(a) are designated as unaccompanied;
(b) do not authorize dependent travel; or
(c) otherwise do not permit the movement of family members to the location to which the service member is deployed.
(9) "Family care plan" means a formal written contingency plan mandated by regulation of the various departments and components of the uniformed service that requires certain service member parents of minor children to plan in advance for the smooth, rapid transfer of parental responsibilities to designees during the absence of the service member due to death, incapacity, short-term absences, long-term absences, including deployments, or noncombatant evacuation operations.
(10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, or an individual recognized to be in a familial relationship with a child under the law of this state other than this chapter.
(11)
(a) "Limited contact" means the authority of a nonparent to visit a child for a limited time.
(b) "Limited contact" includes authority to take the child to a place other than the residence of the child.
(12) "Nonparent" means an individual other than a deploying parent or other parent.
(13) "Other parent" means an individual who, in common with a deploying parent, is:
(a) a parent of a child under the law of this state other than this chapter; or
(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.
(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(15) "Return from deployment" means the conclusion of a service member's deployment as specified in uniformed service orders.
(16) " Service member" means a member of a uniformed service.

(17) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic symbol, sound, or process.
(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(19) "Uniformed service" means:
(a) active and reserve components of the United States armed forces;
(b) the United States Merchant Marine;
(c) the commissioned corps of the United States Public Health Service;
(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
(e) the National Guard of a state.

Amended by Chapter 44, 2023 General Session

Renumbered 9/1/2025
78B-20-103 Remedies for noncompliance.

In addition to other remedies under the law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025
78B-20-104 Jurisdiction.

(1) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
(2) If a court has issued a temporary order regarding custodial responsibility pursuant to Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, during the deployment.
(3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
(4) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.
(5) This section does not prevent a court from exercising temporary emergency jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-105 Notification required of deploying parent.

(1) Except as otherwise provided in Subsection (4) and subject to Subsection (3), a deploying parent shall in a record notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(2) Except as otherwise provided in Subsection (4) and subject to Subsection (3), each parent shall in a record provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under Subsection (1).

(3) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under Subsection (1), or notification of a plan for custodial responsibility during deployment under Subsection (2), may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(4) Notification in a record under Subsection (1) or (2) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(5) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-106 Duty to notify of change of address.

(1) Except as otherwise provided in Subsection (2), an individual to whom custodial responsibility has been granted during deployment pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide notice to any court that has issued a custody or child support order concerning the child, which is in effect.

(2) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under Subsection (1) may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-107 General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

Amended by Chapter 44, 2023 General Session

Renumbered 9/1/2025

Part 2
Agreement Addressing Custodial Responsibility During Deployment

Renumbered 9/1/2025

78B-20-201 Form of agreement.

(1) The parents of a child may enter into a temporary agreement under this part granting custodial responsibility during deployment. When the parents of a child include one or more servicemembers, the parents should enter into an agreement granting custodial responsibility before notice of deployment, but may also enter into an agreement granting custodial responsibility following notice of deployment.

(2) An agreement under Subsection (1) shall be:

(a) in writing; and

(b) signed by both parents and any nonparent to whom custodial responsibility is granted.

(3) Subject to Subsection (4), an agreement under Subsection (1), if feasible, shall:

(a) identify the destination, duration, and conditions of the deployment that is the basis for the agreement if the deployment has been noticed;

(b) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(c) specify any decision-making authority that accompanies a grant of caretaking authority;

(d) specify any grant of limited contact to a nonparent;

(e) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(f) specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(g) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(h) acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(i) provide that the agreement will terminate according to the procedures under Part 4, Return from Deployment, after the deploying parent returns from deployment; and

(j) if the agreement is required to be filed pursuant to Section 78B-20-205, specify which parent is required to file the agreement.

(4) The omission of any of the items specified in Subsection (3) does not invalidate an agreement under this section.

(5) A servicemember shall ensure that the servicemember's family care plan reflects orders and agreements entered and filed pursuant to this chapter.

Amended by Chapter 224, 2017 General Session

Renumbered 9/1/2025

78B-20-202 Nature of authority created by agreement.

(1) An agreement under this part is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under Section 78B-2-203. The agreement may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(2) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this part has standing to enforce the agreement until it has been terminated by court order, by modification under Section 78B-20-203, or under Part 4, Return from Deployment.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-203 Modification of agreement.

(1) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this part.

(2) If an agreement is modified under Subsection (1) before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(3) If an agreement is modified under Subsection (1) during deployment of a deployed parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-204 Power of attorney.

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under the law of this state other than this chapter or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-205 Filing agreement or power of attorney with court.

(1) An agreement or power of attorney under this part shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.

(2) Notwithstanding Subsection (1), failure to file an agreement or power of attorney does not invalidate an otherwise valid agreement or power of attorney.

Amended by Chapter 224, 2017 General Session

Renumbered 9/1/2025

Part 3
Judicial Procedure for Granting Custodial Responsibility During Deployment

Renumbered 9/1/2025

78B-20-301 Definition.

In this part, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-302 Proceeding for temporary custody -- Order.

(1) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under Section 78B-20-104 or, if there is no pending proceeding in a court with jurisdiction under Section 78B-20-104, in a new action for granting custodial responsibility during deployment.

Amended by Chapter 373, 2022 General Session

Renumbered 9/1/2025

78B-20-303 Expedited hearing.

If a motion to grant custodial responsibility is filed under Subsection 78B-20-302(2) before a deploying parent deploys, the court shall conduct an expedited hearing.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-304 Testimony by electronic means.

In a proceeding under this part, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-305 Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility pursuant to this part, the following rules apply:

(1) a prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of the law of this state other than this chapter for modifying a judicial order regarding custodial responsibility; and
(2) the court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, unless the court finds that the agreement is contrary to the best interest of the child.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-306 Grant of caretaking or decision-making authority to nonparent.

(1) On motion of a deploying parent and in accordance with the law of this state other than this chapter, if it is in the best interest of the child a court may grant caretaking authority to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.
(2) Unless a grant of caretaking authority to a nonparent under Subsection (1) is agreed to by the other parent, the grant is limited to an amount of time not greater than:
  (a) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or
  (b) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.
(3) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-307 Grant of limited contact.

On motion of a deploying parent, and in accordance with the law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-308 Nature of authority created by temporary custody order.

(1) A grant of authority under this part is temporary and terminates under Part 4, Return from Deployment, after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(2) A nonparent granted caretaking authority, decision-making authority, or limited contact under this part has standing to enforce the grant until it is terminated by court order or under Part 4, Return from Deployment.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-309 Content of temporary custody order.

(1) An order granting custodial responsibility under this part shall:
  (a) designate the order as temporary; and
  (b) identify to the extent feasible the destination, duration, and conditions of the deployment.
(2) If applicable, an order for custodial responsibility under this part shall:
  (a) specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent;
  (b) if the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;
  (c) provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;
  (d) provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;
  (e) provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and
  (f) provide that the order will terminate pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-310 Order for child support.

If a court has issued an order granting caretaking authority under this part, or an agreement granting caretaking authority has been executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, the court may enter a temporary order for child support consistent with the law of this state other than this chapter if the court has jurisdiction under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-311 Modifying or terminating grant of custodial responsibility to nonparent.

(1) Except for an order under Section 78B-20-305, except as otherwise provided in Subsection (2), and consistent with Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent, other parent, or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is

consistent with this part and it is in the best interest of the child. A modification is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Amended by Chapter 373, 2022 General Session

Renumbered 9/1/2025

Part 4
Return from Deployment

Renumbered 9/1/2025

78B-20-401 Procedure for terminating temporary grant of custodial responsibility established by agreement.

(1) At any time after return from deployment, a temporary agreement granting custodial responsibility under Part 2, Agreement Addressing Custodial Responsibility During Deployment, may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(2) A temporary agreement under Part 2, Agreement Addressing Custodial Responsibility During Deployment, granting custodial responsibility terminates:

(a) if an agreement to terminate under Subsection (1) specifies a date for termination, on that date; or

(b) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(3) In the absence of an agreement under Subsection (1) to terminate, a temporary agreement granting custodial responsibility terminates under Part 2, Agreement Addressing Custodial Responsibility During Deployment, 30 days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(4) If a temporary agreement granting custodial responsibility was filed with a court pursuant to Section 78B-20-205, an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

Amended by Chapter 224, 2017 General Session

Renumbered 9/1/2025

78B-20-402 Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment. After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-403 Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under Part 2, Agreement Addressing Custodial Responsibility During Deployment, or a provision of a court order specifying temporary custodial responsibility during deployment issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or Title 81, Chapter 9, Custody, Parent-time, and Visitation, is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025

78B-20-404 Termination by operation of law of temporary grant of custodial responsibility established by court order.

(1) If an agreement between the parties to terminate a court order for temporary custodial responsibility during deployment under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or to terminate a provision of an order for temporary custodial responsibility during deployment entered under Title 81, Chapter 9, Custody, Parent-time, and Visitation, has not been filed, the temporary order terminates 30 days after the day on which the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

Amended by Chapter 366, 2024 General Session

Renumbered 9/1/2025

Part 5
Miscellaneous Provisions

Renumbered 9/1/2025

78B-20-501 Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-502 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section

101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 292, 2016 General Session

Renumbered 9/1/2025

78B-20-503 Savings clause.

This chapter does not affect the validity of a temporary court order concerning custodial responsibility during deployment that was entered before May 10, 2016.

Enacted by Chapter 292, 2016 General Session

Chapter 21
Uniform Commercial Real Estate Receivership Act

78B-21-101 Title.

This chapter is known as the "Uniform Commercial Real Estate Receivership Act."

Enacted by Chapter 431, 2017 General Session

78B-21-102 Definitions.

As used in this chapter:

(1) "Affiliate" means:

(a) with respect to an individual:

(i) a companion of the individual;

(ii) a lineal ancestor or descendant, whether by blood or adoption, of:

(A) the individual; or

(B) a companion of the individual;

(iii) a companion of an ancestor or descendant described in Subsection (1)(a)(ii);

(iv) a sibling, aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece, or grandnephew of the individual, whether related by the whole or the half blood or adoption, or a companion of a sibling, aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece, or grandnephew of the individual; or

(v) any other individual occupying the residence of the individual; and

(b) with respect to a person other than an individual:

(i) another person that directly or indirectly controls, is controlled by, or is under common control with the person;

(ii) an officer, director, manager, member, partner, employee, or trustee or other fiduciary of the person; or

(iii) a companion of, or an individual occupying the residence of, an individual described in Subsection (1)(b)(i) or (ii).

(2) "Companion" means:

(a) the spouse of an individual;

(b) the domestic partner of an individual; or

(c) another individual in a civil union with an individual.

(3) "Court" means a court of this state with jurisdiction over the action under Title 78A, Judiciary and Judicial Administration.
(4) "Executory contract" means a contract, including a lease, under which each party has an unperformed obligation and the failure of a party to complete performance would constitute a material breach.
(5) "Governmental unit" means an office, department, division, bureau, board, commission, or other agency of this state or a subdivision of this state.
(6) "Lien" means an interest in property that secures payment or performance of an obligation.
(7) "Mortgage" means a record, however denominated, that creates or provides for a consensual lien on real property or rents, even if the mortgage also creates or provides for a lien on personal property.
(8) "Mortgagee" means a person entitled to enforce an obligation secured by a mortgage.
(9) "Mortgagor" means a person that grants a mortgage or a successor in ownership of the real property described in the mortgage.
(10) "Owner" means the person for whose property a receiver is appointed.
(11) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
(12) "Proceeds" means the following property:
  (a) whatever is acquired on the sale, lease, license, exchange, or other disposition of receivership property;
  (b) whatever is collected on, or distributed on account of, receivership property;
  (c) rights arising out of receivership property;
  (d) to the extent of the value of receivership property, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to the property; or
  (e) to the extent of the value of receivership property and to the extent payable to the owner or mortgagee, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to the property.
(13) "Property" means all of a person's right, title, and interest, both legal and equitable, in real and personal property, tangible and intangible, wherever located and however acquired. The term includes proceeds, products, offspring, rents, or profits of or from the property.
(14) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or court order, transfer, sell, lease, license, exchange, collect, or otherwise dispose of receivership property.
(15) "Receivership" means a proceeding in which a receiver is appointed.
(16) "Receivership property" means the property of an owner that is described in the order appointing a receiver or a subsequent order. The term includes any proceeds, products, offspring, rents, or profits of or from the property.
(17) "Record" means, when used as a noun, information that is inscribed on a tangible medium or that is stored on an electronic or other medium and is retrievable in perceivable form.
(18) "Rents" means:
  (a) sums payable for the right to possess or occupy, or for the actual possession or occupation of, real property of another person;
  (b) sums payable to a mortgagor under a policy of rental-interruption insurance covering real property;
  (c) claims arising out of a default in the payment of sums payable for the right to possess or occupy real property of another person;

(d) sums payable to terminate an agreement to possess or occupy real property of another person;
(e) sums payable to a mortgagor for payment or reimbursement of expenses incurred in owning, operating, and maintaining real property or constructing or installing improvements on real property; or
(f) other sums payable under an agreement relating to the real property of another person which constitute rents under law of the state other than this chapter.
(19) "Secured obligation" means an obligation the payment or performance of which is secured by a security agreement.
(20) "Security agreement" means an agreement that creates or provides for a lien.
(21) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

Amended by Chapter 401, 2023 General Session

78B-21-103 Notice and opportunity for a hearing.
(1) Except as otherwise provided in Subsection (2), the court may issue an order under this chapter only after notice and opportunity for a hearing, as appropriate in the circumstances.
(2) The court may issue an order under this chapter:
(a) without prior notice if the circumstances require issuance of an order before notice is given;
(b) after notice and without a prior hearing if the circumstances require issuance of an order before a hearing is held; or
(c) after notice and without a hearing if no interested party timely requests a hearing.

Enacted by Chapter 431, 2017 General Session

78B-21-104 Scope -- Exclusions.
(1) Except as otherwise provided in Subsection (2) or (3), this chapter applies to a receivership for an interest in real property and any personal property related to or used in operating the real property.
(2) This chapter does not apply to a receivership for an interest in real property improved by one to four dwelling units unless:
(a) the interest is used for agricultural, commercial, industrial, or mineral-extraction purposes, other than incidental uses by an owner occupying the property as the owner's primary residence;
(b) the interest secures an obligation incurred at a time when the property was used or planned for use for agricultural, commercial, industrial, or mineral-extraction purposes;
(c) the owner planned or is planning to develop the property into one or more dwelling units to be sold or leased in the ordinary course of the owner's business; or
(d) the owner is collecting or has the right to collect rents or other income from the property from a person other than an affiliate of the owner.
(3) This chapter does not apply to a receivership authorized by law of this state other than this chapter in which the receiver is a governmental unit or an individual acting in an official capacity on behalf of the governmental unit.
(4) This chapter does not limit the authority of a court to appoint a receiver under other state law.
(5) Unless displaced by a particular provision of this chapter, the principles of law and equity supplement this chapter.

Enacted by Chapter 431, 2017 General Session

78B-21-105 Power of court.

The court that appoints a receiver under this chapter has exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property.

Enacted by Chapter 431, 2017 General Session

78B-21-106 Appointment of receiver.

(1) The court may appoint a receiver:
- (a) before judgment, to protect a party that demonstrates an apparent right, title, or interest in real property that is the subject of the action, if the property or the property's revenue-producing potential:
  - (i) is being subjected to or is in danger of waste, loss, dissipation, or impairment; or
  - (ii) has been or is about to be the subject of a voidable transaction;
- (b) after judgment:
  - (i) to carry the judgment into effect; or
  - (ii) to preserve nonexempt real property pending appeal or when an execution has been returned unsatisfied and the owner refuses to apply the property in satisfaction of the judgment;
- (c) in an action in which a receiver for real property may be appointed on equitable grounds; or
- (d) during the time allowed for redemption, to preserve a property sold in an execution or foreclosure sale and secure the property's rents to the person entitled to the property's rents.

(2) In connection with the foreclosure or other enforcement of a mortgage, a mortgagee is entitled to appointment of a receiver for the mortgaged property if:
- (a) appointment is necessary to protect the property from waste, loss, transfer, dissipation, or impairment;
- (b) the mortgagor agreed in a signed record to appointment of a receiver on default;
- (c) the owner agreed, after default and in a signed record, to appointment of a receiver;
- (d) the property and any other collateral held by the mortgagee are not sufficient to satisfy the secured obligation;
- (e) the owner fails to turn over to the mortgagee proceeds or rents the mortgagee was entitled to collect; or
- (f) the holder of a subordinate lien obtains appointment of a receiver for the property.

(3)
- (a) The court may condition appointment of a receiver without prior notice under Subsection 78B-21-103(2)(a) or without a prior hearing under Subsection 78B-21-103(2)(b) on the giving of security by the person seeking the appointment for the payment of damages, reasonable attorney fees, and costs incurred or suffered by any person if the court later concludes that the appointment was not justified.
- (b) If the court later concludes that the appointment described in Subsection (3)(a) was justified, the court shall release the security.

Enacted by Chapter 431, 2017 General Session

78B-21-107 Disqualification from appointment as receiver -- Disclosure of interest.

(1) The court may not appoint a person as receiver unless the person submits to the court a statement under penalty of perjury that the person is not disqualified.
(2) Except as otherwise provided in Subsection (3), a person is disqualified from appointment as receiver if the person:
(a) is an affiliate of a party;
(b) has an interest materially adverse to an interest of a party;
(c) has a material financial interest in the outcome of the action, other than the compensation the court may allow the receiver;
(d) has a debtor-creditor relationship with a party; or
(e) holds an equity interest in a party, other than a noncontrolling interest in a publicly traded company.
(3) A person is not disqualified from appointment as receiver solely because the person:
(a) was appointed receiver or is owed compensation in an unrelated matter involving a party or was engaged by a party in a matter unrelated to the receivership;
(b) is an individual obligated to a party on a debt that is not in default and was incurred primarily for personal, family, or household purposes; or
(c) maintains with a party a deposit account as defined in Section 70A-9a-102.
(4) A person seeking appointment of a receiver may nominate a person to serve as receiver, but the court is not bound by the nomination.

Enacted by Chapter 431, 2017 General Session

78B-21-108 Receiver's bond -- Alternative security.
(1) Except as otherwise provided in Subsection (2), a receiver shall post with the court a bond that:
(a) is conditioned on the faithful discharge of the receiver's duties;
(b) has one or more sureties approved by the court;
(c) is in an amount the court specifies; and
(d) is effective as of the date of the receiver's appointment.
(2)
(a) The court may approve the posting by a receiver with the court of alternative security, such as a letter of credit or deposit of funds.
(b) The receiver may not use receivership property as alternative security.
(c) Interest that accrues on deposited funds must be paid to the receiver on the receiver's discharge.
(3) The court may authorize a receiver to act before the receiver posts the bond or alternative security required by this section.
(4) A claim against a receiver's bond or alternative security must be made not later than one year after the date the receiver is discharged.

Enacted by Chapter 431, 2017 General Session

78B-21-109 Status of receiver as lien creditor.
On appointment of a receiver, the receiver has the status of a lien creditor under:
(1) Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, as to receivership property that is personal property or fixtures; and
(2) Title 57, Chapter 9, Marketable Record Title, as to receivership property that is real property.

Enacted by Chapter 431, 2017 General Session

78B-21-110 Security agreement covering after-acquired property.

Except as otherwise provided by law of this state other than this chapter, property that a receiver or owner acquires after appointment of the receiver is subject to a security agreement entered into before the appointment to the same extent as if the court had not appointed the receiver.

Enacted by Chapter 431, 2017 General Session

78B-21-111 Collection and turnover of receivership property.

(1) Unless the court orders otherwise, on demand by a receiver:
  (a) a person that owes a debt that is receivership property and is matured or payable on demand or on order shall pay the debt to or on the order of the receiver, except to the extent the debt is subject to setoff or recoupment; and
  (b) subject to Subsection (3), a person that has possession, custody, or control of receivership property shall turn the property over to the receiver.
(2) A person that has notice of the appointment of a receiver and owes a debt that is receivership property may not satisfy the debt by payment to the owner.
(3) If a creditor has possession, custody, or control of receivership property and the validity, perfection, or priority of the creditor's lien on the property depends on the creditor's possession, custody, or control, the creditor may retain possession, custody, or control until the court orders adequate protection of the creditor's lien.
(4) Unless a bona fide dispute exists about a receiver's right to possession, custody, or control of receivership property, the court may sanction as civil contempt a person's failure to turn the property over when required by this section.

Enacted by Chapter 431, 2017 General Session

78B-21-112 Powers and duties of receiver.

(1) Except as limited by court order or law of this state other than this chapter, a receiver may:
  (a) collect, control, manage, conserve, and protect receivership property;
  (b) operate a business constituting receivership property, including preservation, use, sale, lease, license, exchange, collection, or disposition of the property in the ordinary course of business;
  (c) in the ordinary course of business, incur unsecured debt and pay expenses incidental to the receiver's preservation, use, sale, lease, license, exchange, collection, or disposition of receivership property;
  (d) assert a right, claim, cause of action, or defense of the owner that relates to receivership property;
  (e) seek and obtain instruction from the court concerning receivership property, exercise of the receiver's powers, and performance of the receiver's duties;
  (f) on subpoena, compel a person to submit to examination under oath, or to produce and permit inspection and copying of designated records or tangible things, with respect to receivership property or any other matter that may affect administration of the receivership;
  (g) engage a professional as provided in Section 78B-21-115;
  (h) apply to a court of another state for appointment as ancillary receiver with respect to receivership property located in that state; and
  (i) exercise any power conferred by court order, this chapter, or a law of the state other than this chapter.

(2) With court approval, a receiver may:
(a) incur debt for the use or benefit of receivership property other than in the ordinary course of business;
(b) make improvements to receivership property;
(c) use or transfer receivership property other than in the ordinary course of business as provided in Section 78B-21-116;
(d) adopt or reject an executory contract of the owner as provided in Section 78B-21-117;
(e) pay compensation to the receiver as provided in Section 78B-21-121, and to each professional engaged by the receiver as provided in Section 78B-21-115;
(f) recommend allowance or disallowance of a claim of a creditor as provided in Section 78B-21-120; and
(g) make a distribution of receivership property as provided in Section 78B-21-120.
(3) A receiver shall:
(a) prepare and retain appropriate business records, including a record of each receipt, disbursement, and disposition of receivership property;
(b) account for receivership property, including the proceeds of a sale, lease, license, exchange, collection, or other disposition of the property;
(c) file with the county recorder of the county where the property is located a copy of the order appointing the receiver and, if a legal description of the real property is not included in the order, the legal description;
(d) disclose to the court any fact arising during the receivership that would disqualify the receiver under Section 78B-21-107; and
(e) perform any duty imposed by court order, this chapter, or a law of the state other than this chapter.
(4) The powers and duties of a receiver may be expanded, modified, or limited by court order.

Enacted by Chapter 431, 2017 General Session

78B-21-113 Duties of owner.
(1) An owner shall:
(a) assist and cooperate with the receiver in the administration of the receivership and the discharge of the receiver's duties;
(b) preserve and turn over to the receiver all receivership property in the owner's possession, custody, or control;
(c) identify all records and other information relating to the receivership property, including a password, authorization, or other information needed to obtain or maintain access to or control of the receivership property, and make available to the receiver the records and information in the owner's possession, custody, or control;
(d) on subpoena, submit to examination under oath by the receiver concerning the acts, conduct, property, liabilities, and financial condition of the owner or any matter relating to the receivership property or the receivership; and
(e) perform any duty imposed by court order, this chapter, or a law of the state other than this chapter.
(2) If an owner is a person other than an individual, this section applies to each officer, director, manager, member, partner, trustee, or other person exercising or having the power to exercise control over the affairs of the owner.
(3) If a person knowingly fails to perform a duty imposed by this section, the court may:

(a) award the receiver actual damages caused by the person's failure, reasonable attorney fees, and costs; and
(b) sanction the failure as civil contempt.

Enacted by Chapter 431, 2017 General Session

78B-21-114 Stay -- Injunction.

(1) Except as otherwise provided in Subsection (4) or ordered by the court, an order appointing a receiver operates as a stay, applicable to all persons, of an act, action, or proceeding:
(a) to obtain possession of, exercise control over, or enforce a judgment against receivership property; and
(b) to enforce a lien against receivership property to the extent the lien secures a claim against the owner that arose before entry of the order.
(2) Except as otherwise provided in Subsection (4), the court may enjoin an act, action, or proceeding against or relating to receivership property if the injunction is necessary to protect the property or facilitate administration of the receivership.
(3) A person whose act, action, or proceeding is stayed or enjoined under this section may apply to the court for relief from the stay or injunction for cause.
(4) An order under Subsection (1) or (2) does not operate as a stay or injunction of:
(a) an act, action, or proceeding to foreclose or otherwise enforce a mortgage by the person seeking appointment of the receiver;
(b) an act, action, or proceeding to perfect, or maintain or continue the perfection of, an interest in receivership property;
(c) commencement or continuation of a criminal proceeding;
(d) commencement or continuation of an action or proceeding, or enforcement of a judgment other than a money judgment in an action or proceeding, by a governmental unit to enforce the governmental unit's police or regulatory power; or
(e) establishment by a governmental unit of a tax liability against the owner or receivership property or an appeal of the liability.
(5) The court may void an act that violates a stay or injunction under this section.
(6) If a person knowingly violates a stay or injunction under this section, the court may:
(a) award actual damages caused by the violation, reasonable attorney fees, and costs; and
(b) sanction the violation as civil contempt.

Enacted by Chapter 431, 2017 General Session

78B-21-115 Engagement and compensation of professional.

(1)
(a) With court approval, a receiver may engage an attorney, accountant, appraiser, auctioneer, broker, or other professional to assist the receiver in performing a duty or exercising a power of the receiver.
(b) The receiver shall disclose to the court:
(i) the identity and qualifications of the professional;
(ii) the scope and nature of the proposed engagement;
(iii) any potential conflict of interest; and
(iv) the proposed compensation.
(2)

(a) A person is not disqualified from engagement under this section solely because of the person's engagement by, representation of, or other relationship with the receiver, a creditor, or a party.
(b) This chapter does not prevent the receiver from serving in the receivership as an attorney, accountant, auctioneer, or broker when authorized by law.
(3)
(a) A receiver or professional engaged under Subsection (1) shall file with the court an itemized statement of the time spent, work performed, and billing rate of each person that performed the work and an itemized list of expenses.
(b) The receiver shall pay the amount approved by the court.

Enacted by Chapter 431, 2017 General Session

78B-21-116 Use or transfer of receivership property not in ordinary course of business.
(1) As used in this section, "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
(2) With court approval, a receiver may use receivership property other than in the ordinary course of business.
(3)
(a) With court approval, a receiver may transfer receivership property other than in the ordinary course of business by sale, lease, license, exchange, or other disposition.
(b) Unless the agreement of sale provides otherwise, a sale under this section is:
(i) free and clear of a lien of the person that obtained appointment of the receiver, any subordinate lien, and any right of redemption; and
(ii) subject to a senior lien.
(4) A lien on receivership property that is extinguished by a transfer under Subsection (3) attaches to the proceeds of the transfer with the same validity, perfection, and priority the lien had on the property immediately before the transfer, even if the proceeds are not sufficient to satisfy all obligations secured by the lien.
(5)
(a) A transfer under Subsection (3) may occur by means other than a public auction sale.
(b) A creditor holding a valid lien on the property to be transferred may purchase the property and offset against the purchase price part or all of the allowed amount secured by the lien, if the creditor tenders funds sufficient to satisfy in full the reasonable expenses of transfer and the obligation secured by any senior lien extinguished by the transfer.
(6) A reversal or modification of an order approving a transfer under Subsection (3) does not affect the validity of the transfer to a person that acquired the property in good faith or revive against the person any lien extinguished by the transfer, whether the person knew before the transfer of the request for reversal or modification, unless the court stayed the order before the transfer.

Enacted by Chapter 431, 2017 General Session

78B-21-117 Executory contract.
(1) As used in this section, "timeshare interest" means the same as that term is defined in Section 57-19-2.
(2)
(a) Except as otherwise provided in Subsection (8), with court approval, a receiver may adopt or reject an executory contract of the owner relating to receivership property.

(b) The court may condition the receiver's adoption and continued performance of the contract on terms appropriate under the circumstances.
(c) If the receiver does not request court approval to adopt or reject the executory contract within a reasonable time after the receiver's appointment, the receiver is deemed to have rejected the executory contract.
(3) A receiver's performance of an executory contract before court approval under Subsection (2) of the executory contract's adoption or rejection is not an adoption of the executory contract and does not preclude the receiver from seeking approval to reject the executory contract.
(4) A provision in an executory contract that requires or permits a forfeiture, modification, or termination of the executory contract because of the appointment of a receiver or the financial condition of the owner does not affect a receiver's power under Subsection (2) to adopt the executory contract.
(5)
(a) A receiver's right to possess or use receivership property pursuant to an executory contract terminates on rejection of the executory contract under Subsection (2).
(b) Rejection is a breach of the executory contract effective immediately before appointment of the receiver.
(c) A claim for damages for rejection of the executory contract must be submitted by the later of:
(i) the time set for submitting a claim in the receivership; or
(ii) 30 days after the court approves the rejection.
(6) If at the time a receiver is appointed, the owner has the right to assign an executory contract relating to receivership property under law of this state other than this chapter, the receiver may assign the executory contract with court approval.
(7) If a receiver rejects an executory contract for the sale of receivership property that is real property in possession of the purchaser or a real-property timeshare interest under Subsection (2), the purchaser may:
(a) treat the rejection as a termination of the executory contract, and in that case the purchaser has a lien on the property for the recovery of any part of the purchase price the purchaser paid; or
(b) retain the purchaser's right to possession under the executory contract, and in that case the purchaser shall continue to perform all obligations arising under the executory contract and may offset any damages caused by nonperformance of an obligation of the owner after the date of the rejection, but the purchaser has no right or claim against other receivership property or the receiver on account of the damages.
(8) A receiver may not reject an unexpired lease of real property under which the owner is the landlord if:
(a) the tenant occupies the leased premises as the tenant's primary residence;
(b) the receiver was appointed at the request of a person other than a mortgagee; or
(c) the receiver was appointed at the request of a mortgagee and:
(i) the lease is superior to the lien of the mortgage;
(ii) the tenant has an enforceable agreement with the mortgagee or the holder of a senior lien under which the tenant's occupancy will not be disturbed as long as the tenant performs the tenant's obligations under the lease;
(iii) the mortgagee has consented to the lease, either in a signed record or by the mortgagee's failure to timely object that the lease violated the mortgage; or
(iv) the terms of the lease were commercially reasonable at the time the lease was agreed to and the tenant did not know or have reason to know that the lease violated the mortgage.

Enacted by Chapter 431, 2017 General Session

78B-21-118 Defenses and immunities of receiver.

(1) A receiver is entitled to all defenses and immunities provided by law of this state other than this chapter for an act or omission within the scope of the receiver's appointment.

(2) A receiver may be sued personally for an act or omission in administering receivership property only with approval of the court that appointed the receiver.

Enacted by Chapter 431, 2017 General Session

78B-21-119 Interim report of receiver.

A receiver may file, or if ordered by the court shall file, an interim report that includes:

(1) the activities of the receiver since appointment or a previous report;

(2) receipts and disbursements, including a payment made or proposed to be made to a professional engaged by the receiver;

(3) receipts and dispositions of receivership property;

(4) fees and expenses of the receiver and, if not filed separately, a request for approval of payment of the fees and expenses; and

(5) any other information required by the court.

Enacted by Chapter 431, 2017 General Session

78B-21-120 Notice of appointment -- Claim against receivership -- Distribution to creditors.

(1) Except as otherwise provided in Subsection (6), a receiver shall give notice of appointment of the receiver to creditors of the owner by:

  (a) deposit for delivery through first-class mail or other commercially reasonable delivery method to the last known address of each creditor; and

  (b) publication as directed by the court.

(2)

  (a) Except as otherwise provided in Subsection (6), the notice required by Subsection (1) must specify the date by which each creditor holding a claim against the owner that arose before appointment of the receiver must submit the claim to the receiver.

  (b) The date specified must be at least 90 days after the later of the notice under Subsection (1)(a) or the last publication under Subsection (1)(b).

  (c) The court may extend the period for submitting the claim.

  (d) Unless the court orders otherwise, a claim that is not submitted timely is not entitled to a distribution from the receivership.

(3) A claim submitted by a creditor under this section must:

  (a) state the name and address of the creditor;

  (b) state the amount and basis of the claim;

  (c) identify any property securing the claim;

  (d) be signed by the creditor under penalty of perjury; and

  (e) include a copy of any record on which the claim is based.

(4) An assignment by a creditor of a claim against the owner is effective against the receiver only if the assignee gives timely notice of the assignment to the receiver in a signed record.

(5)

  (a) At any time before entry of an order approving a receiver's final report, the receiver may file with the court an objection to a claim of a creditor, stating the basis for the objection.

(b) The court shall allow or disallow the claim according to law of this state other than this chapter.
(6) If the court concludes that receivership property is likely to be insufficient to satisfy claims of each creditor holding a perfected lien on the property, the court may order that:
(a) the receiver need not give notice under Subsection (1) of the appointment to all creditors of the owner, but only such creditors as the court directs; and
(b) unsecured creditors need not submit claims under this section.
(7) Subject to Section 78B-21-121:
(a) a distribution of receivership property to a creditor holding a perfected lien on the property must be made in accordance with the creditor's priority under law of this state other than this chapter; and
(b) a distribution of receivership property to a creditor with an allowed unsecured claim must be made as the court directs according to law of this state other than this chapter.

Enacted by Chapter 431, 2017 General Session

78B-21-121 Fees and expenses.
(1) The court may award a receiver from receivership property the reasonable and necessary fees and expenses of performing the duties of the receiver and exercising the powers of the receiver.
(2) The court may order one or more of the following to pay the reasonable and necessary fees and expenses of the receivership, including reasonable attorney fees and costs:
(a) a person that requested the appointment of the receiver, if the receivership does not produce sufficient funds to pay the fees and expenses; or
(b) a person whose conduct justified or would have justified the appointment of the receiver under Subsection 78B-21-106(1)(a).

Enacted by Chapter 431, 2017 General Session

78B-21-122 Removal of receiver -- Replacement -- Termination of receivership.
(1) The court may remove a receiver for cause.
(2) The court shall replace a receiver that dies, resigns, or is removed.
(3) If the court finds that a receiver that resigns or is removed, or the representative of a receiver that is deceased, has accounted fully for and turned over to the successor receiver all receivership property and has filed a report of all receipts and disbursements during the service of the replaced receiver, the replaced receiver is discharged.
(4)
(a) The court may discharge a receiver and terminate the court's administration of the receivership property if the court finds that appointment of the receiver was improvident or that the circumstances no longer warrant continuation of the receivership.
(b) If the court finds that the appointment was sought wrongfully or in bad faith, the court may assess against the person that sought the appointment:
(i) the fees and expenses of the receivership, including reasonable attorney fees and costs; and
(ii) actual damages caused by the appointment, including reasonable attorney fees and costs.

Enacted by Chapter 431, 2017 General Session

78B-21-123 Final report of receiver -- Discharge.

(1) On completion of a receiver's duties, the receiver shall file a final report including:
(a) a description of the activities of the receiver in the conduct of the receivership;
(b) a list of receivership property at the commencement of the receivership and any receivership property received during the receivership;
(c) a list of disbursements, including payments to professionals engaged by the receiver;
(d) a list of dispositions of receivership property;
(e) a list of distributions made or proposed to be made from the receivership for creditor claims;
(f) if not filed separately, a request for approval of the payment of fees and expenses of the receiver; and
(g) any other information required by the court.
(2) If the court approves a final report filed under Subsection (1) and the receiver distributes all receivership property, the receiver is discharged.

Enacted by Chapter 431, 2017 General Session

78B-21-124 Receivership in another state -- Ancillary proceeding.
(1) The court may appoint a receiver appointed in another state, or that person's nominee, as an ancillary receiver with respect to property located in this state or subject to the jurisdiction of the court for which a receiver could be appointed under this chapter, if:
(a) the person or nominee would be eligible to serve as receiver under Section 78B-21-107; and
(b) the appointment furthers the person's possession, custody, control, or disposition of property subject to the receivership in the other state.
(2) The court may issue an order that gives effect to an order entered in another state appointing or directing a receiver.
(3) Unless the court orders otherwise, an ancillary receiver appointed under Subsection (1) has the rights, powers, and duties of a receiver appointed under this chapter.

Enacted by Chapter 431, 2017 General Session

78B-21-125 Effect of enforcement by mortgagee.
(1) A request by a mortgagee for appointment of a receiver, the appointment of a receiver, or application by a mortgagee of receivership property or proceeds to the secured obligation does not:
(a) make the mortgagee a mortgagee in possession of the real property;
(b) make the mortgagee an agent of the owner;
(c) constitute an election of remedies that precludes a later action to enforce the secured obligation;
(d) make the secured obligation unenforceable;
(e) limit any right available to the mortgagee with respect to the secured obligation;
(f) constitute an action within the meaning of Section 78B-6-901; or
(g) except as otherwise provided in Subsection (2), bar a deficiency judgment pursuant to law of this state other than this chapter governing or relating to a deficiency judgment.
(2) If a receiver sells receivership property that pursuant to Subsection 78B-21-116(3) is free and clear of a lien, the ability of a creditor to enforce an obligation that had been secured by the lien is subject to law of the state other than this chapter relating to a deficiency judgment.

Enacted by Chapter 431, 2017 General Session

78B-21-126 Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the law's subject matter among states that enact it.

Enacted by Chapter 431, 2017 General Session

78B-21-127 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 431, 2017 General Session

78B-21-128 Transition.

This chapter does not apply to a receivership for which the receiver was appointed before May 9, 2017.

Enacted by Chapter 431, 2017 General Session

78B-21-129 Finality of orders.

A court order that is entered pursuant to this chapter and that resolves a discrete factual dispute or legal issue is a final appealable order within the meaning of Utah Rules of Civil Procedure, Rule 54(a), unless expressly stated otherwise in the court order.

Enacted by Chapter 431, 2017 General Session

Chapter 22
Indigent Defense Act

Part 1
General Provisions

78B-22-101 Title.

This chapter is known as the "Indigent Defense Act."

Renumbered and Amended by Chapter 326, 2019 General Session

78B-22-102 Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(3) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(4) "Eligible county" means:
(a) a county of the fourth, fifth, and sixth class, as classified in Section 17-50-501; and
(b) a county of the third class, as classified in Section 17-50-501, if the county of the third class has no municipality with a population of 100,000 or more.
(5) "Executive director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.
(6) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual.
(7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual through:
(a) a contract with an indigent defense system to provide indigent defense services;
(b) an order issued by the court under Subsection 78B-22-203(2)(a); or
(c) direct employment with an indigent defense system.
(8) "Indigent defense services" means:
(a) the representation of an indigent individual by an indigent defense service provider; and
(b) the provision of indigent defense resources for an indigent individual.
(9) "Indigent defense system" means:
(a) a city or town that is responsible for providing indigent defense services;
(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or
(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.
(10) "Indigent individual" means:
(a) a minor who is:
(i) arrested and admitted into detention for an offense under Section 78A-6-103;
(ii) charged by petition or information in the juvenile or district court; or
(iii) described in this Subsection (10)(a), who is appealing an adjudication or other final court action; and
(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.
(11) "Minor" means the same as that term is defined in Section 80-1-102.
(12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.
(13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Fund as provided in Sections 78B-22-702 and 78B-22-703.

Amended by Chapter 217, 2025 General Session

Part 2
Appointment of Counsel

Superseded 9/1/2025
78B-22-201 Right to counsel.
(1) A court shall advise the following of the individual's right to counsel no later than the individual's first court appearance:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;
(b) a parent or legal guardian facing an action initiated by the state under:
(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;
(ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or
(iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights;
(c) a parent or legal guardian facing an action initiated by any party under:
(i) Section 78B-6-112; or
(ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or
(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.
(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Amended by Chapter 281, 2022 General Session

Effective 9/1/2025
78B-22-201 Right to counsel.
(1) A court shall advise the following of the individual's right to counsel no later than the individual's first court appearance:
(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;
(b) a parent or legal guardian facing an action initiated by the state under:
(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;
(ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or
(iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights;
(c) a parent or legal guardian facing an action initiated by any party under:
(i) Section 81-13-205; or
(ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or
(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.
(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Amended by Chapter 426, 2025 General Session

78B-22-201.5 Affidavit of indigency.
(1) Except as provided in Subsection (5), on or after January 1, 2022, an individual, who is seeking appointment of an indigent defense service provider, shall submit an affidavit of indigency described in Subsection (2) to the court.
(2) An affidavit of indigency shall include the following information:
(a) the individual's identifying information, including:
(i) the individual's legal name and any known aliases;
(ii) the individual's mobile or residential phone number;
(iii) the individual's residential address; and
(iv) the individual's date of birth; and
(b) the individual's financial information, including:

(i) any financial support or benefit that the individual receives from a state or federal government;
(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;
(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;
(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;
(v) the number, ages, and relationships of any dependents; and
(vi) any extraordinary financial conditions that would prevent the individual from retaining private counsel.

(3) The affidavit of indigency shall:
(a) require the signature of the individual; and
(b) include a statement that:
(i) by signing the affidavit the individual confirms that, to the best of the individual's knowledge, the information in the affidavit is true;
(ii) the individual may be subject to a criminal penalty for a written false statement under Section 76-8-504;
(iii) the individual authorizes an indigent defense system to contact or request information from the individual or a third party to verify whether an individual is indigent; and
(iv) the individual may be ordered to pay the cost of the individual's indigent defense services if a court determines that the individual is not indigent.

(4) The Judicial Council or Supreme Court shall adopt an affidavit of indigency form described in Subsection (2) to be distributed to an individual seeking the appointment of an indigent defense service provider.

(5) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Enacted by Chapter 4, 2021 Special Session 2

78B-22-202 Determining indigency.

(1) A court shall find an individual indigent if the individual:
(a) has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; or
(b) has insufficient income or other means to pay for legal counsel and the necessary expenses of representation without depriving the individual or the individual's family of food, shelter, clothing, or other necessities, considering:
(i) the individual's ownership of, or any interest in, personal or real property;
(ii) the amount of debt owed by the individual or that might reasonably be incurred by the individual because of illness or other needs within the individual's family;
(iii) the number, ages, and relationships of any dependents;
(iv) the probable expense and burden of defending the case;
(v) the reasonableness of fees and expenses charged by an attorney and the scope of representation undertaken when represented by privately retained defense counsel; and
(vi) any other factor the court considers relevant.

(2) Notwithstanding Subsection (1), a court may not find an individual indigent if the individual transferred or otherwise disposed of assets since the commission of the offense with the intent of becoming eligible to receive indigent defense services.

(3)

(a) The court may:

(i) make a finding of indigency at any time; and

(ii) rely on information contained in an affidavit of indigency described in Section 78B-22-201.5 in making a finding about whether an individual is an indigent individual.

(b) An individual's inability to submit, or to provide the information required in, an affidavit of indigency under Section 78B-22-201.5 does not preclude a court from:

(i) making a finding about whether an individual is an indigent individual under this section; or

(ii) appointing an indigent defense service provider under Section 78B-22-203.

Amended by Chapter 4, 2021 Special Session 2

78B-22-203 Order for indigent defense services.

(1)

(a) Except as provided in Subsection (6), a court shall appoint an indigent defense service provider who is employed by an indigent defense system or who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual; and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2)

(a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system if the court finds by clear and convincing evidence that:

(i) all the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3)

(a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) A court may only order the representation of an indigent individual by an indigent defense service provider in accordance with this section.

(5) A court may not order indigent defense resources be provided to an indigent individual, except as provided in Subsection (3).

(6)

(a) For an individual prosecuted for aggravated murder and found indigent, a court from a county participating in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701 shall notify the Office of Indigent Defense Services of the finding of indigency.

(b) The office shall assign an indigent defense service provider qualified under Utah Rules of Criminal Procedure, Rule 8, with whom the office has a preliminary contract to provide indigent defense services for an assigned rate.

Amended by Chapter 193, 2024 General Session

78B-22-204 Waiver by a minor.

(1) A minor may not waive the right to be represented by counsel at all stages of court proceedings unless:

(a) the minor has consulted with counsel; and

(b) the court is satisfied that in light of the minor's unique circumstances and attributes:

(i) the minor's waiver is knowing and voluntary; and

(ii) the minor understands the consequences of the waiver.

(2) A minor may not decline to enter into a nonjudicial adjustment without first being advised of their right to consult with counsel, consistent with the requirements of Section 80-6-304.

Amended by Chapter 324, 2025 General Session

Part 3
Indigent Defense Systems and Services

78B-22-301 Standards for indigent defense systems -- Written report.

(1) An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the core principles adopted by the commission under Section 78B-22-404.

(2)

(a) On or before March 30 of each year, all indigent defense systems shall submit a written report to the commission that describes each indigent defense system's compliance with the commission's core principles.
(b) If an indigent defense system fails to submit a timely report under Subsection (2)(a), the indigent defense system is disqualified from receiving a grant from the commission for the following calendar year.

Amended by Chapter 371, 2020 General Session
Amended by Chapter 392, 2020 General Session

78B-22-302 Compensation for indigent defense services.
(1) An indigent defense system shall fund indigent defense services ordered by a court under Section 78B-22-203.
(2) An indigent defense system shall ensure that there are adequate funds for indigent defense resources when a court orders indigent defense services under Section 78B-22-203.

Amended by Chapter 182, 2023 General Session

78B-22-303 Pro bono provision of indigent defense services -- Liability limits.
A defense attorney is immune from suit if the defense attorney provides indigent defense services to an indigent individual:
(1) at no cost; and
(2) without gross negligence or willful misconduct.

Enacted by Chapter 326, 2019 General Session

78B-22-304 Reimbursement for indigent defense services.
A court may order a parent or legal guardian of a minor who is appointed indigent defense services under this chapter to reimburse the cost of the minor's indigent defense services, as determined by the court, unless the court finds the parent or legal guardian indigent under Section 78B-22-202.

Enacted by Chapter 326, 2019 General Session

Part 4
Utah Indigent Defense Commission

78B-22-401 Utah Indigent Defense Commission -- Creation -- Purpose.
(1) There is created the Utah Indigent Defense Commission within the State Commission on Criminal and Juvenile Justice.
(2) The purpose of the commission is to assist:
(a) the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code; and
(b) the Office of Indigent Defense Services, created in Section 78B-22-451, with carrying out the statutory duties assigned to the commission and the Office of Indigent Defense Services.

Amended by Chapter 371, 2020 General Session
Amended by Chapter 392, 2020 General Session
Amended by Chapter 395, 2020 General Session

78B-22-402 Commission members -- Member qualifications -- Terms -- Vacancy.

(1)
(a) The commission is composed of 15 members.
(b) The governor, with the advice and consent of the Senate, and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, shall appoint the following 11 members:
(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;
(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;
(iii) one attorney who represents parents in child welfare cases, recommended by an entity funded under the Child Welfare Parental Representation Program created in Section 78B-22-802;
(iv) one attorney representing minority interests recommended by the Utah Minority Bar Association;
(v) one member recommended by the Utah Association of Counties from a county of the first or second class;
(vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;
(vii) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;
(viii) two members recommended by the Utah League of Cities and Towns from its membership; and
(ix) one retired judge recommended by the Judicial Council.
(c) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate.
(d) The Judicial Council shall appoint a member from the Administrative Office of the Courts.
(e) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a member of the commission.
(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).
(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.
(4) A member appointed to the commission shall have significant experience in indigent criminal defense , representing parents in child welfare cases, or in juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.
(5) An individual who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission .
(6) A commission member shall hold office until the member's successor is appointed.
(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner, and in accordance with the same procedure, as the original appointment.
(9)
(a) The commission shall elect annually a chair from the commission's membership to serve a one-year term.
(b) A commission member may not serve as chair of the commission for more than three consecutive terms.
(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
(11)
(a) A majority of the members of the commission constitutes a quorum.
(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.
(c) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 529, 2024 General Session

78B-22-404 Powers and duties of the commission.
(1) The commission shall:
(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:
(i) an indigent defense system shall ensure that in providing indigent defense services:
(A) an indigent individual receives conflict-free indigent defense services; and
(B) there is a separate contract for each type of indigent defense service; and
(ii) an indigent defense system shall ensure an indigent defense service provider has:
(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;
(B) adequate access to indigent defense resources;
(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;
(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;
(E) adequate compensation without financial disincentives;
(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;
(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;
(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;
(c) emphasize the importance of ensuring constitutionally effective indigent defense services;
(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;
(e) oversee individuals and entities involved in providing indigent defense services;
(f) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701; and
(g) develop and oversee the provision of resources for minors to access legal advice when considering a nonjudicial adjustment.
(2) The commission may:
(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;
(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;
(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and
(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

Amended by Chapter 324, 2025 General Session

78B-22-405 Indigent Defense Resources Restricted Account -- Administration.
(1)
(a) There is created within the General Fund a restricted account known as the "Indigent Defense Resources Restricted Account."
(b) Appropriations from the account are nonlapsing.
(2) The account consists of:
(a) money appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;
(b) any other money received by the commission from any source to carry out the purposes of this part; and
(c) any interest and earnings from the investment of account money.
(3) The commission shall administer the account and, subject to appropriation, disburse money from the account for the following purposes:
(a) to establish and maintain a statewide indigent defense data collection system;
(b) to establish and administer a grant program to provide grants of state money and other money to indigent defense systems as set forth in Section 78B-22-406;
(c) to provide training and continuing legal education for indigent defense service providers; and
(d) for administrative costs.

Amended by Chapter 392, 2020 General Session

78B-22-406 Indigent defense services grant program.
(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and
(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in an eligible county.
(2) The commission may use grant money:
(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;
(b) to establish and maintain local indigent defense data collection systems;
(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;
(d) to provide training and continuing legal education for indigent defense service providers;
(e) to assist indigent defense systems with appeals from juvenile court proceedings;
(f) to pay for indigent defense resources and costs and expenses for parental representation attorneys as described in Subsection 78B-22-804(2); and
(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.
(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:
(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and
(b)
(i) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals; or
(ii) the indigent defense system shall use the grant in an innovative manner that meets the commission's core principles for the effective representation of indigent individuals.
(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Amended by Chapter 217, 2025 General Session

78B-22-407 Cooperation and participation with the commission.

Indigent defense systems and indigent defense service providers shall cooperate and participate with the commission in the collection of data, investigation, audit, and review of indigent defense services.

Renumbered and Amended by Chapter 326, 2019 General Session

78B-22-452 Duties of the office.

(1) The office shall:
(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;
(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:
(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and
(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;
(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;
(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;
(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;
(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:
(i) is incarcerated in a state prison located in an eligible county;
(ii) is charged with having committed a crime within that state prison; and
(iii) has been appointed counsel in accordance with Section 78B-22-203;
(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;
(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;
(j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;
(k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
(l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
(m) provide access for a minor to receive legal advice, at no cost, in connection with considering a nonjudicial adjustment;
(n) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:
(i) the operations of the commission;
(ii) the operations of the indigent defense systems in the state; and
(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;
(o) submit recommendations to the commission for improving indigent defense services in the state;
(p) publish an annual report on the commission's website; and
(q) perform all other duties assigned by the commission related to indigent defense services.
(2) The office may:
(a) enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office; and
(b) employ or contract with an attorney to provide counsel, at no cost, to any minor considering a nonjudicial adjustment.
(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Amended by Chapter 217, 2025 General Session

Part 4a
Office of Indigent Defense Services

78B-22-451 Office of Indigent Defense Services -- Creation.

There is created under the commission the Office of Indigent Defense Services.

Amended by Chapter 235, 2021 General Session

78B-22-453 Executive director -- Qualifications -- Staff.

(1) The commission:
  (a) shall appoint the executive director, by a majority vote of the commission, to carry out the duties of the office described in Section 78B-22-452; and
  (b) may remove the executive director by majority vote of the commission.
(2) The executive director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time executive director.
(3) The executive director shall hire staff as necessary to carry out the duties of the office as described in Section 78B-22-452, including:
  (a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and
  (b) one individual with data collection and analysis skills.
(4) When appointing the executive director of the office under Subsection (1), the commission shall give preference to an individual with experience in adult criminal defense, representing parents in child welfare cases, or in juvenile delinquency defense.
(5) When hiring the assistant director, the executive director shall give preference to an individual with experience in adult criminal defense, representing parents in child welfare cases, or in juvenile delinquency defense.

Amended by Chapter 228, 2021 General Session
Amended by Chapter 235, 2021 General Session

78B-22-454 Defense of indigent inmates.

(1) The office shall pay for indigent defense services for indigent inmates from the Indigent Inmate Fund created in Section 78B-22-455.
(2) A contract under this part shall ensure that indigent defense services are provided in a manner consistent with the core principles described in Section 78B-22-404.
(3) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.
(4)
  (a) A county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional property tax levy by ordinance at .0001 per dollar of taxable value in the county.
  (b) If the county governing body imposes the additional property tax levy by ordinance, the revenue shall be deposited into the Indigent Inmate Fund as provided in Section 78B-22-455 to fund the purposes of this part.

(c) Upon notification that the fund has reached the amount specified in Subsection 78B-22-455(6), a county shall deposit revenue derived from the property tax levy after the county receives the notice into a county account used exclusively to provide indigent defense services.
(d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Fund.

Amended by Chapter 451, 2022 General Session

78B-22-455 Indigent Inmate Fund.

(1) There is created a custodial fund known as the "Indigent Inmate Fund" to be disbursed by the office in accordance with contracts entered into under Subsection 78B-22-452(1)(g).
(2) Money deposited into this fund shall only be used:
(a) to pay indigent defense services for an indigent inmate who:
(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;
(ii) is charged with having committed a crime within that state prison; and
(iii) has been appointed counsel in accordance with Section 78B-22-203; and
(b) to cover costs of administering the Indigent Inmate Fund.
(3) The fund consists of:
(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 78B-22-454(4), which shall be the total county obligation for payment of costs listed in Subsection (2) for defense services for indigent inmates;
(b) appropriations made to the fund by the Legislature; and
(c) interest and earnings from the investment of fund money.
(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.
(5)
(a) In any calendar year in which the fund has insufficient funding, or is projected to have insufficient funding, the commission shall request a supplemental appropriation from the Legislature in the following general session to provide sufficient funding.
(b) The state shall pay any or all of the reasonable and necessary money to provide sufficient funding into the Indigent Inmate Fund.
(6) The fund is capped at $1,000,000.
(7) The office shall notify the contributing counties when the fund approaches $1,000,000 and provide each county with the amount of the balance in the fund.
(8) Upon notification by the office that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach $1,000,000 and discontinue contributions until notified by the office that the balance has fallen below $1,000,000, at which time counties that meet the requirements of Section 78B-22-454 shall resume contributions.

Amended by Chapter 451, 2022 General Session

Part 7
Indigent Aggravated Murder Defense Fund

78B-22-701 Establishment of Indigent Aggravated Murder Defense Fund -- Use of fund -- Compensation for indigent legal defense from fund.

(1) As used in this part, "fund" means the Indigent Aggravated Murder Defense Fund.

(2)
  (a) There is established a custodial fund known as the "Indigent Aggravated Murder Defense Fund."
  (b) The office shall disburse money from the fund at the direction of the commission and subject to this chapter.

(3) The fund consists of:
  (a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;
  (b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and
  (c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to fulfill the constitutional and statutory mandates for the provision of constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited into the fund is used only:
  (a) to pay an indigent defense service provider appointed to represent an individual prosecuted for aggravated murder;
  (b) for defense resources necessary to effectively represent the individual; and
  (c) for costs associated with the management of the fund and defense service providers.

Amended by Chapter 193, 2024 General Session

78B-22-701.5 Administration of Indigent Aggravated Murder Defense Fund.

(1) The commission shall establish rules and procedures for the application by a county for disbursements, and the screening and approval of the applications for the money from the fund.

(2) The office shall:
  (a) receive, screen, and approve, or disapprove the application of a county for disbursements from the fund;
  (b) calculate the amount of the annual contribution to be made to the fund by each participating county;
  (c) prescribe forms for the application for money from the fund;
  (d) oversee and approve the disbursement of money from the fund as described in Section 78B-22-701; and
  (e) negotiate, enter into, and administer contracts with legal counsel, qualified under and meeting the standards consistent with this chapter, to provide indigent defense services to an indigent individual prosecuted in a participating county for an offense involving aggravated murder.

Renumbered and Amended by Chapter 193, 2024 General Session

78B-22-702 County participation.

(1)
  (a) A county may participate in the fund subject to the provisions of this chapter.
  (b) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive money from the fund.

(c) The commission may revoke a county's participation in the fund if the county fails to pay the county's assessments when due.
(2) To participate in the fund, the legislative body of a county shall:
(a) adopt a resolution approving participation in the fund and committing that county to fulfill the assessment requirements as set forth in Subsection (3) and Section 78B-22-703; and
(b) submit a certified copy of that resolution together with an application to the commission.
(3) By January 15 of each year, a participating county shall contribute to the fund an amount computed in accordance with Section 78B-22-703.
(4) A participating county may withdraw from participation in the fund upon:
(a) adoption by the county's legislative body of a resolution to withdraw; and
(b) notice to the commission by January 1 of the year before withdrawal.
(5) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when due, shall forfeit the right to:
(a) any previously paid assessment;
(b) relief from the county's obligation to pay the county's assessment during the period of the county's participation in the fund; and
(c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid the county's assessment.

Amended by Chapter 193, 2024 General Session

78B-22-703 County and state obligations.
(1)
(a) Except as provided in Subsection (1)(b), a participating county shall pay into the fund annually an amount calculated by multiplying the average of the percent of the county's population to the total population of all participating counties and of the percent of the county's taxable value of the locally and centrally assessed property located within that county to the total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the commission to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.
(b) The fund minimum is equal to or greater than 50 cents per person of all counties participating.
(c) The amount paid by a participating county under this Subsection (1) is the total county obligation for payment of costs in accordance with Section 78B-22-701.
(2)
(a) A county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, is required to make an equity payment in addition to the assessment required by Subsection (1).
(b) The equity payment is determined by the commission and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.
(3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least $250,000, the commission by a majority vote may terminate the fund.
(4) If the fund is terminated, the remaining money shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.
(5)

(a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.
(b) In the calendar year following a deficit year, the commission shall increase the assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.
(6) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the commission shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.
(7) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

Amended by Chapter 193, 2024 General Session

78B-22-704 Application and qualification for fund money.
(1) A participating county may apply to the office for benefits from the fund if that county has incurred, or reasonably anticipates incurring, expenses for indigent defense services provided to an indigent individual for an offense involving aggravated murder.
(2) An application may not be made nor benefits provided from the fund for a case filed before September 1, 1998.
(3) If the application of a participating county is approved by the office, the office shall negotiate, enter into, and administer a contract for the cost of indigent defense services with an attorney or entity appointed to represent the indigent individual.
(4) A nonparticipating county is responsible for paying for indigent defense services in the nonparticipating county and is not eligible for any legislative relief.

Amended by Chapter 193, 2024 General Session

Part 8
Child Welfare Parental Representation Program

78B-22-801 Definitions.
As used in this part:
(1) "Contracted parental representation attorney" means an attorney who represents an indigent individual who is a parent in a child welfare case under a contract with the office or a contributing county.
(2) "Contributing county" means a county that complies with this part for participation in the fund described in Section 78B-22-804.
(3) "Fund" means the Child Welfare Parental Representation Fund created in Section 78B-22-804.
(4) "Program" means the Child Welfare Parental Representation Program created in Section 78B-22-802.

Amended by Chapter 228, 2021 General Session
Amended by Chapter 262, 2021 General Session
Amended by Chapter 262, 2021 General Session, (Coordination Clause)

78B-22-802 Child Welfare Parental Representation Program -- Creation -- Duties -- Annual report -- Budget.

(1) There is created within the office the Child Welfare Parental Representation Program.
(2)
(a) The office shall:
(i) administer and enforce the program in accordance with this part;
(ii) manage the operation and budget of the program;
(iii) develop and provide educational and training programs for contracted parental representation attorneys; and
(iv) provide information and advice to assist a contracted parental representation attorney to comply with the attorney's professional, contractual, and ethical duties.
(b) In administering the program, the office shall contract with:
(i) a person who is qualified to perform the program duties under this section; and
(ii) an attorney, as an independent contractor, in accordance with Section 78B-22-803.
(3)
(a) The executive director shall prepare a budget of:
(i) the administrative expenses for the program; and
(ii) the amount estimated to fund needed contracts and other costs.
(b) On or before October 1 of each year, the executive director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.

Amended by Chapter 228, 2021 General Session
Amended by Chapter 235, 2021 General Session

78B-22-803 Child welfare parental defense contracts.
(1)
(a) The office may enter into a contract with an attorney to provide indigent defense services for a parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires indigent defense services under Section 80-3-104.
(b) The office shall make payment for the representation, costs, and expenses of a contracted parental representation attorney from the fund in accordance with Section 78B-22-804.
(2)
(a) Except as provided in Subsection (2)(b), a contracted parental representation attorney shall:
(i) complete a basic training course provided by the office;
(ii) provide parental representation services consistent with the commission's core principles described in Section 78B-22-404;
(iii) have experience in child welfare cases; and
(iv) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection (2)(a) an attorney who has equivalent training or adequate experience.

Amended by Chapter 228, 2021 General Session
Amended by Chapter 262, 2021 General Session

78B-22-804 Child Welfare Parental Representation Fund -- Contracts for coverage by the fund.

(1) There is created an expendable special revenue fund known as the "Child Welfare Parental Representation Fund."
(2) Subject to availability, the office may make distributions from the fund for the following purposes:
(a) to pay for indigent defense resources for contracted parental representation attorneys;
(b) for administrative costs of the program; and
(c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.
(3) The fund consists of:
(a) federal funds received by the state as partial reimbursement for amounts expended by the Utah Indigent Defense Commission to pay for parental representation;
(b) appropriations made to the fund by the Legislature;
(c) interest and earnings from the investment of fund money;
(d) proceeds deposited by contributing counties under this section; and
(e) private contributions to the fund.
(4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
(5)
(a) If the office anticipates a deficit in the fund during a fiscal year:
(i) the commission may request an appropriation from the Legislature; and
(ii) the Legislature may fund the anticipated deficit through appropriation.
(b) If the anticipated deficit is not funded by the Legislature under Subsection (5)(a), the office may request an interim assessment from contributing counties as described in Subsection (6) to fund the anticipated deficit.
(6)
(a) A county legislative body and the office may annually enter into a contract for the office to provide indigent defense services for a parent in a child welfare case in the county out of the fund.
(b) A contract described in Subsection (6)(a) shall:
(i) require the contributing county described in Subsection (6)(a) to pay into the fund an amount defined by a formula established by the commission; and
(ii) provide for revocation of the contract for the contributing county's failure to pay the assessment described in Subsection (5) on the due date established by the commission.
(7) After the first year of operation of the fund, a contributing county that enters into a contract under Subsection (6) to initiate or reestablish participation in the fund is required to make an equity payment in the amount determined by the commission, in addition to the assessment described in Subsection (5).
(8) A contributing county that withdraws from participation in the fund, or whose participation in the fund is revoked as described in Subsection (6) for failure to pay the contributing county's assessment when due, shall forfeit any right to any previously paid assessment by the contributing county or coverage from the fund.

Amended by Chapter 438, 2023 General Session

78B-22-805 Interdisciplinary Parental Representation Pilot Program.
(1) As used in this section:
(a) "Parental representation liaison" means an individual who has a bachelor's or graduate degree in social work, sociology, psychology, human services, or a closely related field.

(b) "Program" means the Interdisciplinary Parental Representation Pilot Program created in this section.

(2)

(a) There is created within the commission the Interdisciplinary Parental Representation Pilot Program.

(b) The purpose of the program is to enhance the legal representation of a parent in a child welfare case by including a parental representation liaison as a member of the parent's interdisciplinary legal team.

(3)

(a) A county may submit a proposal to the commission for a grant to develop a parental representation liaison position to provide services to parents involved in a child welfare case in the county.

(b) A proposal described in Subsection (3)(a) shall include details regarding:

(i) how the county plans to use the grant award to fulfill the purpose described in Subsection (2);

(ii) any plan to use funding sources in addition to a grant awarded under this section for the proposal; and

(iii) other information the commission determines necessary to evaluate the proposal for a grant award under this section.

(c) In evaluating a proposal for a grant award under this section, the commission shall consider:

(i) the extent to which the proposal will fulfill the purpose described in Subsection (2);

(ii) the cost of the proposal;

(iii) the extent to which other funding sources identified in the proposal are likely to benefit the proposal;

(iv) the sustainability of the proposal;

(v) the need for parental representation liaison engagement in child welfare cases in the county that submitted the proposal; and

(vi) whether the proposal will support improvements in indigent defense services in accordance with the commission core principles described in Section 78B-22-404.

(4) Before October 1, 2023, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the program that includes information on:

(a) the number of grants awarded under the program; and

(b) whether the program had any impact on child welfare case outcomes.

Amended by Chapter 438, 2023 General Session

Part 9
Indigent Appellate Defense Division

Superseded 9/1/2025

78B-22-901 Definitions.

As used in this part:

(1)

(a) "Appellate defense services" means the representation of an indigent individual:

(i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under Section 77-18a-1;

(ii) in an action or on appeal for postconviction relief under Chapter 9, Postconviction Remedies Act; or
(iii) in an appeal of right from an action for the termination or restoration of parental rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.
(b) "Appellate defense services" does not include the representation of an indigent individual:
(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder; or
(ii) in an action or appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.
(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Amended by Chapter 229, 2023 General Session

Effective 9/1/2025
78B-22-901 Definitions.
As used in this part:
(1)
(a) "Appellate defense services" means the representation of an indigent individual:
(i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under Section 77-18a-1;
(ii) in an action or on appeal for postconviction relief under Chapter 9, Postconviction Remedies Act; or
(iii) in an appeal of right from an action for the termination or restoration of parental rights under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption.
(b) "Appellate defense services" does not include the representation of an indigent individual:
(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder; or
(ii) in an action or appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.
(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Amended by Chapter 426, 2025 General Session

78B-22-902 Indigent Appellate Defense Division.
There is created the Indigent Appellate Defense Division within the Office of Indigent Defense Services.

Enacted by Chapter 371, 2020 General Session

Superseded 9/1/2025
78B-22-903 Powers and duties of the division.
(1) The division shall:
(a) provide appellate defense services:
(i) for an appeal under Section 77-18a-1, in eligible counties;
(ii) for an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in eligible counties.

Amended by Chapter 217, 2025 General Session

Effective 9/1/2025

78B-22-903 Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in eligible counties;

(ii) for an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.
(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in eligible counties.

Amended by Chapter 426, 2025 General Session

78B-22-904 Chief appellate officer -- Qualifications -- Staff -- Duties.
(1)
(a) After consulting with the commission, the executive director shall appoint a chief appellate officer.
(b) When appointing the chief appellate officer, the executive director shall give preference to an individual with experience in adult criminal appellate defense representation.
(2) The chief appellate officer shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the chief appellate officer.
(3) The chief appellate officer shall carry out the duties of the division described in Section 78B-22-903.
(4) The chief appellate officer shall:
(a) provide appellate defense services in an eligible county;
(b) hire staff as necessary to carry out the duties of the division described in Section 78B-22-903; and
(c) perform all other duties that are necessary for the division to carry out the division's statutory duties.
(5) The chief appellate officer may provide appellate defense services in an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual.

Amended by Chapter 217, 2025 General Session

Part 10
Indigency Verification

78B-22-1001 Verification of indigency -- Pilot program.
(1) Beginning on July 1, 2022, and ending on June 30, 2025, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection (5).
(2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection (5):
(a) an individual was found to be indigent by a court; and
(b) the indigent defense system provided indigent defense services to the individual.
(3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.

(4) An indigent defense system described in Subsection (1) shall report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, concerning the results of the pilot program described in this section, on or before November 1 of each year of the three-year pilot program.
(5) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Enacted by Chapter 4, 2021 Special Session 2

78B-22-1002 Recovery of costs for indigent defense services.
(1) Except as provided in Subsection (2), a court shall order an individual to pay the indigent defense system for the cost of indigent defense services in accordance with Subsection 76-3-201(4)(d) and Section 77-32b-104 if:
(a) the individual was provided indigent defense services by the indigent defense system; and
(b) the indigent defense system provides financial documentation or proof to the court that demonstrates that the individual is not indigent under Section 78B-22-202.
(2) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Amended by Chapter 497, 2023 General Session

Part 11
Youth Defense Fund

78B-22-1101 Definitions for part.
As used in this part:
(1) "Fund" means the Youth Defense Fund created in Section 78B-22-1102.
(2) "Participating county" means a county that complies with this part for participation in the fund.

Enacted by Chapter 328, 2025 General Session

78B-22-1102 Establishment of Youth Defense Fund -- Use of fund -- Compensation from fund.
(1) There is established a custodial fund known as the Youth Defense Fund.
(2) The fund consists of:
(a) money received from participating counties as described in Section 78B-22-1104;
(b) appropriations made to the fund by the Legislature as described in Subsection 78B-22-1104(8); and
(c) interest and earnings from the investment of fund money.
(3) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.
(4) The fund shall be used to fulfill the constitutional and statutory mandates for the provision of constitutionally effective defense for juveniles referred to the juvenile court.
(5) Money allocated to or deposited into the fund is used only:
(a) to pay an indigent defense service provider appointed to represent a minor referred to the juvenile court;
(b) for defense resources necessary to effectively represent the minor; and

(c) for costs associated with the management of the fund and indigent defense service providers.

Enacted by Chapter 328, 2025 General Session

78B-22-1103 Administration of Youth Defense Fund.

(1) The commission shall establish rules and procedures for the application by a county for participation in the fund.
(2) The office shall:
(a) receive, screen, and approve or disapprove the application of a county seeking to participate in the fund;
(b) calculate the amount of the annual contribution to be made to the fund by each participating county;
(c) oversee and approve disbursement of money from the fund; and
(d) negotiate, enter into, and administer a contract with an attorney or entity to provide indigent defense services to a minor referred to the juvenile court in a participating county if the attorney or entity:
(i) is qualified to provide indigent defense services under this chapter; and
(ii) meets the standards consistent for providing indigent defense services under this chapter.

Enacted by Chapter 328, 2025 General Session

78B-22-1104 County participation in the Youth Defense Fund.

(1) A county may participate in the fund in accordance with the provisions of this section.
(2) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive indigent defense services provided for by the fund.
(3) The commission may revoke a county's participation in the fund if the county fails to pay the county's assessments when the assessments are due.
(4) To participate in the fund, the legislative body of a county shall:
(a) adopt a resolution that approves participation in the fund and commits the county to fulfilling the assessment requirements; and
(b) submit a certified copy of that resolution together with an application to the commission.
(5) On or before January 15 of each year, a participating county shall contribute to the fund an amount determined by the office.
(6) A participating county may withdraw from participation in the fund upon:
(a) adoption by the county's legislative body of a resolution to withdraw; and
(b) notice to the commission on or before January 1 of the year in which the county intends to withdraw.
(7) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when the assessments are due, shall forfeit the right to:
(a) any previously paid assessment;
(b) relief from the county's obligation to pay the county's assessment during the period of the county's participation in the fund; and
(c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid the county's assessment.
(8)
(a) If the fund runs a deficit during a calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the office shall increase the amount of the annual assessment that is required for participation in the fund by an amount at least equal to the deficit of the previous calendar year.
(c) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the office shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.
(d) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

Enacted by Chapter 328, 2025 General Session

Chapter 23
Agreements to Confess Judgment

78B-23-101 Definitions.
Reserved

Enacted by Chapter 132, 2019 General Session

78B-23-102 Certain agreements to confess judgment void.
(1) Except as provided in Subsection (2), parties may execute an agreement or stipulation to confess judgment before a default giving rise to an action.
(2)
(a) In an employment contract or a consumer credit contract, an agreement or stipulation to confess judgment is void if the agreement or stipulation is executed:
(i) on or after May 14, 2019; and
(ii) before a default giving rise to an action in which the judgment under the agreement or stipulation is to be confessed.
(b) To satisfy the requirements of Subsection (2)(a)(ii), the parties need only execute the agreement or stipulation after the default giving rise to the underlying action and not after any subsequent default on the agreement or stipulation.

Amended by Chapter 439, 2020 General Session

Renumbered 9/1/2025

Chapter 24
Uniform Unregulated Child Custody Transfer Act

Renumbered 9/1/2025

Part 1
General Provisions

Renumbered 9/1/2025
78B-24-101 Definitions.

As used in this chapter:
(1) "Child" means an unemancipated individual under 18 years old.
(2)
(a) "Child-placing agency" means a person with authority under other law of this state to identify or place a child for adoption.
(b) "Child-placing agency" does not include a parent of a child.
(3) "Custody" means the exercise of physical care and supervision of a child.
(4)
(a) "Intercountry adoption" means an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement.
(b) "Intercountry adoption" includes an adoption finalized in the child's country of residence or in a state.
(5) "Parent" means an individual recognized as a parent under other law of this state.
(6) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
(7) "Record" means information:
(a) inscribed on a tangible medium; or
(b) stored in an electronic or other medium and retrievable in perceivable form.
(8)
(a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.
(b) "State" includes a federally recognized Indian tribe.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025
78B-24-102 Limitations on applicability.
This chapter does not apply to custody of an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, to the extent governed by the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 through 1963.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

Part 2
Prohibition of Unregulated Custody Transfer

Renumbered 9/1/2025
78B-24-201 Definitions.
As used in this part:
(1) "Guardian" means a person recognized as a guardian under other law of this state.
(2) "Intermediary" means a person that assists or facilitates a transfer of custody of a child, whether or not for compensation.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-202 Applicability.

This part does not apply to a transfer of custody of a child by a parent or guardian of the child to:

(1) a parent of the child;
(2) a stepparent of the child;
(3) an adult who is related to the child by blood, marriage, or adoption;
(4) an adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child for a substantial period, and whom the parent or guardian reasonably believed, at the time of the transfer, to be a fit custodian of the child;
(5) an Indian custodian, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, of the child; or
(6) a member of the child's customary family unit recognized by the child's indigenous group.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-203 Prohibited custody transfer.

(1) Except as provided in Subsection (2), a parent or guardian of a child, or an individual with whom a child has been placed for adoption, may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.
(2) A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:
  (a) adoption or guardianship;
  (b) judicial award of custody;
  (c) placement by or through a child-placing agency;
  (d) other judicial or tribal action; or
  (e) safe relinquishment under Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.
(3)
  (a) A person may not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates Subsection (1).
  (b) This subsection does not apply if the person as soon as practicable after the transfer, notifies the Division of Child and Family Services of the transfer or takes appropriate action to establish custody under Subsection (2).
(4) A violation of this section is a class B misdemeanor.
(5) A violation of Subsection (1) is not established solely because a parent or guardian that transfers custody of a child does not regain custody.

Amended by Chapter 330, 2023 General Session

Renumbered 9/1/2025

78B-24-204 Authority and responsibility of the Division of Child and Family Services.

(1) If the Division of Child and Family Services has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of Subsection 78B-24-203(1), the

Division of Child and Family Services may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the child.

(2) If the Division of Child and Family Services conducts a home visit for a child adopted or placed through an intercountry adoption, the Division of Child and Family Services shall:

(a) prepare a report on the welfare and plan for permanent placement of the child; and

(b) provide a copy of the report to the United States Department of State.

(3) This chapter does not prevent the Division of Child and Family Services from taking appropriate action under law of this state.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-205 Prohibited soliciting or advertising.

(1) A person may not solicit or advertise to:

(a) find a person to which to make a transfer of custody in violation of Subsection 78B-24-203(1);

(b) identify a child for a transfer of custody in violation of Subsection 78B-24-203(3); or

(c) act as an intermediary in a transfer of custody in violation of Subsection 78B-24-203(3).

(2) A violation of this section is a class B misdemeanor.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

Part 3
Information and Guidance

Renumbered 9/1/2025

78B-24-301 Definitions.

As used in this part, "prospective adoptive parent" means an individual who has been approved or permitted under other law of this state to adopt a child.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-302 Scope.

This part applies to placement for adoption of a child who:

(1) has been or is in foster or institutional care;

(2) previously has been adopted in a state;

(3) has been or is being adopted under the law of a foreign country;

(4) has come or is coming to a state from a foreign country to be adopted;

(5) is not a citizen of the United States;

(6) has an attachment or trauma-related disorder; or

(7) suffered from prenatal exposure to alcohol or drugs.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-303 General adoption information.

(1) Within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the child-placing agency shall provide or cause to be provided to the prospective adoptive parent general adoption information.

(2) The information under Subsection (1) shall address:

(a) possible physical, mental, emotional, and behavioral issues concerning:

(i) identity, loss, and trauma that a child might experience before, during, or after adoption; and

(ii) a child leaving familiar ties and surroundings;

(b) the effect that access to resources, including health insurance, might have on the ability of an adoptive parent to meet the needs of a child;

(c) causes of disruption of an adoptive placement or dissolution of an adoption and resources available to help avoid disruption or dissolution; and

(d) prohibitions under Sections 78B-24-203 and 78B-24-205.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-304 Information about a child.

(1)

(a) Except as prohibited by other law of this state, within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent information specific to the child that is known or reasonably obtainable by the child-placing agency and material to the prospective adoptive parents informed decision to adopt the child.

(b) The information under Subsection (1)(a) shall include:

(i) the child's family, cultural, racial, religious, ethnic, linguistic, and educational background;

(ii) the child's physical, mental, emotional, and behavioral health;

(iii) circumstances that may adversely affect the child's physical, mental, emotional, or behavioral health;

(iv) the child's medical history, including immunizations;

(v) the medical history of the child's genetic parents and siblings;

(vi) the history of an adoptive or out-of-home placement of the child and the reason the adoption or placement ended;

(vii) the child's United States immigration status;

(viii) medical, therapeutic, and educational resources, including language-acquisition training, available to the adoptive parent and child after placement or adoption to assist in responding effectively to physical, mental, emotional, or behavioral issues; and

(ix) available records relevant to the information in Subsections (1)(b)(i) through (viii).

(2) If, before an adoption is finalized, additional information under Subsection (1) that is material to a prospective adoptive parent's informed decision to adopt the child becomes known or reasonably obtainable by the child-placing agency, the child-placing agency shall provide the information to the prospective adoptive parent.

(3) If, after an adoption is finalized, additional information under Subsection (1) becomes known to the child-placing agency, the child-placing agency shall make a reasonable effort to provide the information to the adoptive parent.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-305 Guidance and instruction.

(1) A child-placing agency placing a child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the child to help prepare the parent to respond effectively to needs of the child which are known or reasonably ascertainable by the child-placing agency.

(2) The guidance and instruction under Subsection (1) shall address, if applicable:

(a) the potential effect on the child of:

(i) previous adoption or out-of-home placement;

(ii) multiple previous adoptions or out-of-home placements;

(iii) trauma, insecure attachment, fetal alcohol exposure, or malnutrition;

(iv) neglect, abuse, drug exposure, or similar adversity;

(v) separation from a sibling or significant caregiver; and

(vi) a difference in ethnicity, race, or cultural identity between the child and the prospective adoptive parent or other child of the parent;

(b) information available from the federal government on the process for the child to acquire United States citizenship; and

(c) any other matter the child-placing agency considers material to the adoption.

(3) The guidance and instruction under Subsection (1) shall be provided:

(a) for adoption of a child residing in the United States, a reasonable time before the adoption is finalized; or

(b) for an intercountry adoption, in accordance with federal law.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-306 Information about financial assistance and support services.

On request of a child who was placed for adoption or the child's adoptive parent, the child-placing agency placing the child or the Division of Child and Family Services shall provide information about how to obtain financial assistance or support services:

(1) to assist the child or parent to respond effectively to adjustment, behavioral, and other challenges; and

(2) to help preserve the placement or adoption.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-307 Child-placing agency compliance.

(1) The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2)

(a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Amended by Chapter 240, 2024 General Session

Renumbered 9/1/2025

78B-24-308 Rulemaking authority.

The Division of Licensing and Background Checks, created in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.

Amended by Chapter 240, 2024 General Session

Renumbered 9/1/2025

Part 4
Miscellaneous Provisions

Renumbered 9/1/2025

78B-24-401 Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform act.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-402 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-403 Transitional provisions.

(1) Part 2, Prohibition of Unregulated Custody Transfer, applies to:
  (a) a transfer of custody on or after May 4, 2022; and
  (b) soliciting or advertising on or after May 4, 2022.
(2) Part 3, Information and Guidance, applies to placement of a child for adoption more than 60 days after May 4, 2022.

Enacted by Chapter 326, 2022 General Session

Renumbered 9/1/2025

78B-24-404 Severability.

If a provision of this chapter or the provision's application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

Enacted by Chapter 326, 2022 General Session

Chapter 25
Uniform Public Expression Protection Act

78B-25-101 Title.

This chapter may be cited as the "Uniform Public Expression Protection Act."

Enacted by Chapter 488, 2023 General Session

78B-25-102 Scope.

(1) As used in this section:
- (a) "Goods or services" does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.
- (b) "Governmental unit" means a public corporation or government or governmental subdivision, agency, or instrumentality.
- (c) "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

(2) Except as provided in Subsection (3), this chapter applies to a cause of action asserted in a civil action against a person based on the person's:
- (a) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;
- (b) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or
- (c) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or Utah Constitution, on a matter of public concern.

(3) This chapter does not apply to a cause of action asserted:
- (a) against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;
- (b) by a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or
- (c) against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

Enacted by Chapter 488, 2023 General Session

78B-25-103 Special motion for expedited relief.

Not later than 60 days after the day on which a party is served with a complaint, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this chapter applies, or at a later time on a showing of good cause, the party may file a special motion for expedited relief to dismiss the cause of action or part of the cause of action.

Enacted by Chapter 488, 2023 General Session

78B-25-104 Stay.

(1) Except as provided in Subsections (4) through (7), on the filing of a motion under Section 78B-25-103:
  (a) all other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed; and
  (b) on motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under Section 78B-25-103.
(2) A stay under Subsection (1) remains in effect until the day on which an order ruling on the motion under Section 78B-25-103 is entered and expiration of the time under Utah Rules of Appellate Procedure, Rule 4, for the moving party to appeal the order.
(3)
  (a) Except as provided in Subsections (5) through (7), if a party appeals from an order ruling on a motion under Section 78B-25-103, all proceedings between all parties in the action are stayed.
  (b) A stay under Subsection (3)(a) remains in effect until the day on which the appeal concludes.
(4) During a stay under Subsection (1), the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under Subsection 78B-25-107(1) and the information is not reasonably available unless discovery is allowed.
(5) A motion under Section 78B-25-110 for costs, attorney fees, and expenses is not subject to a stay under this section.
(6) A stay under this section does not affect a party's ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.
(7) During a stay under this section, the court for good cause may hear and rule on:
  (a) a motion unrelated to the motion under Section 78B-25-103; and
  (b) a motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

Enacted by Chapter 488, 2023 General Session

78B-25-105 Hearing.

(1) The court shall hear a motion under Section 78B-25-103 not later than 60 days after the day on which the motion is filed, unless the court orders a later hearing:
  (a) to allow discovery under Subsection 78B-25-104(4); or
  (b) for other good cause.
(2) If the court orders a later hearing under Subsection (1)(a), the court shall hear the motion under Section 78B-25-103 not later than 60 days after the day on which the court issues an order allowing the discovery, unless the court orders a later hearing under Subsection (1)(b).

Enacted by Chapter 488, 2023 General Session

78B-25-106 Proof.

In ruling on a motion under Section 78B-25-103, the court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

Enacted by Chapter 488, 2023 General Session

78B-25-107 Dismissal of cause of action in whole or part.

(1) In ruling on a motion under Section 78B-25-103, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:
  (a) the moving party establishes under Subsection 78B-25-102(2) that this chapter applies;
  (b) the responding party fails to establish under Subsection 78B-25-102(3) that this chapter does not apply; and
  (c) either:
    (i) the responding party fails to establish a prima facie case as to each essential element of the cause of action; or
    (ii) the moving party establishes that:
      (A) the responding party failed to state a cause of action upon which relief can be granted; or
      (B) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

(2) A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under Section 78B-25-103 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorney fees, and expenses under Section 78B-25-110.

(3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under Section 78B-25-103 establishes for the purpose of Section 78B-25-110 that the moving party prevailed on the motion.

Enacted by Chapter 488, 2023 General Session

78B-25-108 Ruling.

The court shall rule on a motion under Section 78B-25-103 not later than 60 days after the day on which a hearing is held under Section 78B-25-105.

Enacted by Chapter 488, 2023 General Session

78B-25-109 Appeal.

(1) A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under Section 78B-25-103.

(2) The appeal shall be filed in accordance with Utah Rules of Appellate Procedure, Rule 4.

Enacted by Chapter 488, 2023 General Session

78B-25-110 Costs, attorney fees, and expenses.

On a motion under Section 78B-25-103, the court shall award court costs, reasonable attorney fees, and reasonable litigation expenses related to the motion:

(1) to the moving party if the moving party prevails on the motion; or

(2) to the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

Enacted by Chapter 488, 2023 General Session

78B-25-111 Construction.

This chapter shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the United States Constitution or the Utah Constitution.

Enacted by Chapter 488, 2023 General Session

78B-25-112 Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the uniform law's subject matter among states that enact the uniform law.

Enacted by Chapter 488, 2023 General Session

78B-25-113 Transitional provision.

This chapter applies to a civil action filed or cause of action asserted in a civil action on or after May 3, 2023.

Enacted by Chapter 488, 2023 General Session

78B-25-114 Savings clause.

This chapter does not affect a cause of action asserted before May 3, 2023, in a civil action or a motion under Laws of Utah 2008, Chapter 3, Sections 1087 and 1088, regarding the cause of action.

Amended by Chapter 381, 2024 General Session

78B-25-115 Severability.

If any provision of this chapter or the chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Enacted by Chapter 488, 2023 General Session