

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Repealed 9/1/2025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Repealed by Chapter 426, 2025 General Session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

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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