

Part 7

Support Proceedings Under Convention

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

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

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

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

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

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

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

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

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

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

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

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

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