

1 Article 3.

2 Civil Provisions of General Application.

3 **§ 52C-3-301. Proceedings under this Chapter.**

4 (a) Except as otherwise provided in this Chapter, this Article applies to all proceedings
5 under this Chapter.

6 (b) This Chapter provides for the following proceedings:

- 7 (1) Establishment of an order for spousal support or child support pursuant to
8 Article 4 of this Chapter;
- 9 (2) Enforcement of a support order and income withholding order of another
10 state without registration pursuant to Article 5 of this Chapter;
- 11 (3) Registration of an order for spousal support or child support of another state
12 or enforcement pursuant to Article 6 of this Chapter;
- 13 (4) Modification of an order for child support or spousal support issued by a
14 tribunal of this State pursuant to Article 2, Part 2 of this Chapter;
- 15 (5) Registration of an order for child support of another state for modification
16 pursuant to Article 6 of this Chapter;
- 17 (6) Determination of paternity pursuant to Article 7 of this Chapter; and
- 18 (7) Assertion of jurisdiction over nonresidents pursuant to Article 2, Part 1 of
19 this Chapter.

20 (c) An individual petitioner or a support enforcement agency may commence a
21 proceeding authorized under this Chapter by filing a petition in an initiating tribunal for
22 forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a
23 tribunal of another state which has or can obtain personal jurisdiction over the respondent.
24 (1995, c. 538, s. 7(c).)

25
26 **§ 52C-3-302. Action by minor parent.**

27 A minor parent, or a guardian or other legal representative of a minor parent, may maintain
28 a proceeding on behalf of or for the benefit of the minor's child. (1995, c. 538, s. 7(c).)

29
30 **§ 52C-3-303. Application of law of this State.**

31 Except as otherwise provided by this Chapter, a responding tribunal of this State:

- 32 (1) Shall apply the procedural and substantive law, including the rules on choice
33 of law, generally applicable to similar proceedings originating in this State
34 and may exercise all powers and provide all remedies available in those
35 proceedings; and
- 36 (2) Shall determine the duty of support and the amount payable in accordance
37 with the law and support guidelines of this State. (1995, c. 538, s. 7(c).)

38
39 **§ 52C-3-304. Duties of initiating tribunal.**

40 (a) Upon the filing of a petition authorized by this Chapter, an initiating tribunal of this
41 State shall forward three copies of the petition and its accompanying documents:

- 42 (1) To the responding tribunal or appropriate support enforcement agency in the
43 responding state; or
- 44 (2) If the identity of the responding tribunal is unknown, to the state information
45 agency of the responding state with a request that they be forwarded to the
46 appropriate tribunal and that receipt be acknowledged.

47 (b) If a responding state has not enacted this act or a law or procedure substantially
48 similar to this act, a tribunal of this State may issue a certificate or other document and make
49 findings required by the law of the responding state. If the responding State is a foreign
50 jurisdiction, the tribunal may specify the amount of support sought and provide other

1 documents necessary to satisfy the requirements of the responding state. (1995, c. 538, s. 7(c);
2 1997-433, s. 10.4; 1998-17, s. 1.)

3
4 **§ 52C-3-305. Duties and powers of responding tribunal.**

5 (a) When a responding tribunal of this State receives a petition or comparable pleading
6 from an initiating tribunal or directly pursuant to G.S. 52C-3-301(c) it shall cause the petition
7 or pleading to be filed and notify the petitioner where and when it was filed.

8 (b) A responding tribunal of this State, to the extent otherwise authorized by law, may
9 do one or more of the following:

- 10 (1) Issue or enforce a support order, modify a child support order, or render a
11 judgment to determine parentage;
- 12 (2) Order an obligor to comply with a support order, specifying the amount and
13 the manner of compliance;
- 14 (3) Order income withholding;
- 15 (4) Determine the amount of any arrears, and specify a method of payment;
- 16 (5) Enforce orders by civil or criminal contempt, or both;
- 17 (6) Set aside property for satisfaction of the support order;
- 18 (7) Place liens and order execution on the obligor's property;
- 19 (8) Order an obligor to keep the tribunal informed of the obligor's current
20 residential address, telephone number, employer, address of employment,
21 and telephone number at the place of employment;
- 22 (9) Issue an order for arrest for an obligor who has failed after proper notice to
23 appear at a hearing ordered by the tribunal and enter the order for arrest in
24 any local and State computer systems for criminal warrants;
- 25 (10) Order the obligor to seek appropriate employment by specified methods;
- 26 (11) Award reasonable attorneys' fees and other fees and costs; and
- 27 (12) Grant any other available remedy.

28 (c) A responding tribunal of this State shall include in a support order issued under this
29 Chapter, or in the documents accompanying the order, the calculations on which the support
30 order is based.

31 (d) A responding tribunal of this State may not condition the payment of a support order
32 issued under this Chapter upon compliance by a party with provisions for visitation.

33 (e) If a responding tribunal of this State issues an order under this Chapter, the tribunal
34 shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal,
35 if any. (1995, c. 538, s. 7(c); 1997-433, s. 10.5; 1998-17, s. 1.)

36
37 **§ 52C-3-306. Inappropriate tribunal.**

38 If a petition or comparable pleading is received by an inappropriate tribunal of this State, it
39 shall forward the pleading and accompanying documents to an appropriate tribunal in this State
40 or another state and notify the petitioner where and when the pleading was sent. (1995, c. 538,
41 s. 7(c); 1997-433, s. 10.6; 1998-17, s. 1.)

42
43 **§ 52C-3-307. Duties of support enforcement agency.**

44 (a) A support enforcement agency of this State, upon request, shall provide services to a
45 petitioner in a proceeding under this Chapter.

46 (b) A support enforcement agency that is providing services to the petitioner as
47 appropriate shall:

- 48 (1) Take all steps necessary to enable an appropriate tribunal in this State or
49 another state to obtain jurisdiction over the respondent;
- 50 (2) Request an appropriate tribunal to set a date, time, and place for a hearing;

- 1 (3) Make a reasonable effort to obtain all relevant information, including
2 information as to income and property of the parties;
- 3 (4) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after
4 receipt of a written notice from an initiating, responding, or registering
5 tribunal, send a copy of the notice to the petitioner;
- 6 (5) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after
7 receipt of a written communication from the respondent or the respondent's
8 attorney, send a copy of the communication to the petitioner; and
- 9 (6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

10 (c) This Chapter does not create or negate a relationship of attorney and client or other
11 fiduciary relationship between a support enforcement agency or the attorney for the agency and
12 the individual being assisted by the agency. (1995, c. 538, s. 7(c); 1997-433, s. 10.7; 1998-17,
13 s. 1.)
14

15 **§ 52C-3-308. Representation of obligee.**

16 It shall be the duty of the district attorney to represent the obligee in proceedings authorized
17 by this Chapter unless alternative arrangements are made by the obligee. An obligee may
18 employ private counsel to represent the obligee in proceedings authorized by this Chapter.
19 (1995, c. 538, s. 7(c).)
20

21 **§ 52C-3-309. Duties of State information agency.**

22 (a) The Department of Health and Human Services, Division of Social Services, is
23 designated as the State information agency under this Chapter.

24 (b) The State information agency shall:

- 25 (1) Compile and maintain a current list, including addresses, of the tribunals in
26 this State which have jurisdiction under this Chapter and any support
27 enforcement agencies in this State and transmit a copy to the state
28 information agency of every other state;
- 29 (2) Maintain a register of tribunals and support enforcement agencies received
30 from other states;
- 31 (3) Forward to the appropriate tribunal in the place in this State in which the
32 individual obligee or the obligor resides, or in which the obligor's property is
33 believed to be located, all documents concerning a proceeding under this
34 Chapter received from an initiating tribunal or the state information agency
35 of the initiating state; and
- 36 (4) Obtain information concerning the location of the obligor and the obligor's
37 property within this State not exempt from execution, by such means as
38 postal verification and federal or state locator services, examination of
39 telephone directories, requests for the obligor's address from employers, and
40 examination of governmental records, including, to the extent not prohibited
41 by other law, those relating to real property, vital statistics, law enforcement,
42 taxation, motor vehicles, drivers licenses, and social security. (1995, c. 538,
43 s. 7(c); 1997-443, s. 11A.118(a).)
44

45 **§ 52C-3-310. Pleadings and accompanying documents.**

46 (a) A petitioner seeking to establish or modify a support order or to determine
47 parentage in a proceeding under this Chapter must verify the petition. Unless otherwise ordered
48 under G.S. 52C-3-311, the petition or accompanying documents must provide, so far as known,
49 the name, residential address, and social security numbers of the obligor and the obligee, and
50 the name, sex, residential address, social security number, and date of birth of each child for
51 whom support is sought. The petition must be accompanied by a certified copy of any support

1 order in effect. The petition may include any other information that may assist in locating or
2 identifying the respondent.

3 (b) The petition must specify the relief sought. The petition and accompanying
4 documents must conform substantially with the requirements imposed by the forms mandated
5 by federal law for use in cases filed by a support enforcement agency. (1995, c. 538, s. 7(c).)
6

7 **§ 52C-3-311. Nondisclosure of information in exceptional circumstances.**

8 Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or
9 child would be unreasonably put at risk by the disclosure of identifying information, or if an
10 existing order so provides, a tribunal shall order that the address of the child or party or other
11 identifying information not be disclosed in a pleading or other document filed in a proceeding
12 under this Chapter. (1995, c. 538, s. 7(c).)
13

14 **§ 52C-3-312. Costs and fees.**

15 (a) The petitioner shall not be required to pay a filing fee or other costs.

16 (b) If an obligee prevails, a responding tribunal may assess against an obligor filing
17 fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses
18 incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or
19 expenses against the obligee or the support enforcement agency of either the initiating or the
20 responding state, except as provided by other law. Attorneys' fees may be taxed as costs, and
21 may be ordered paid directly to the attorney, who may enforce the order in the attorney's own
22 name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

23 (c) The tribunal shall order the payment of costs and reasonable attorneys' fees if it
24 determines that a hearing was requested primarily for delay. In a proceeding under Article 6 of
25 this Chapter, a hearing is presumed to have been requested primarily for delay if a registered
26 support order is confirmed or enforced without change. (1995, c. 538, s. 7(c).)
27

28 **§ 52C-3-313. Limited immunity of petitioner.**

29 (a) Participation by a petitioner in a proceeding before a responding tribunal, whether in
30 person, by private attorney, or through services provided by the support enforcement agency,
31 does not confer personal jurisdiction over the petitioner in another proceeding.

32 (b) A petitioner is not amenable to service of civil process while physically present in
33 this State to participate in a proceeding under this Chapter.

34 (c) The immunity granted by this section does not extend to civil litigation based on
35 acts unrelated to a proceeding under this Chapter committed by a party while present in this
36 State to participate in the proceeding. (1995, c. 538, s. 7(c).)
37

38 **§ 52C-3-314. Nonparentage as defense.**

39 A party whose parentage of a child has been previously determined by or pursuant to law
40 may not plead nonparentage as a defense to a proceeding under this Chapter. (1995, c. 538, s.
41 7(c).)
42

43 **§ 52C-3-315. Special rules of evidence and procedure.**

44 (a) The physical presence of the petitioner in a responding tribunal of this State is not
45 required for the establishment, enforcement, or modification of a support order or the rendition
46 of a judgment determining parentage.

47 (b) A verified petition, affidavit, document substantially complying with federally
48 mandated forms, and a document incorporated by reference in any of them, not excluded under
49 the hearsay rule if given in person, is admissible in evidence if given under oath by a party or
50 witness residing in another state.

1 (c) A copy of the record of child support payments certified as a true copy of the
2 original by the custodian of the record may be forwarded to a responding tribunal. The copy is
3 evidence of facts asserted in it and is admissible to show whether payments were made.

4 (d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of
5 the mother and child, furnished to the adverse party at least 10 days before trial, are admissible
6 in evidence to prove the amount of the charges billed and that the charges were reasonable,
7 necessary, and customary.

8 (e) Documentary evidence transmitted from another state to a tribunal of this State by
9 telephone, telecopier, or other means that do not provide an original writing may not be
10 excluded from evidence on an objection based on the means of transmission.

11 (f) In a proceeding under this Chapter, a tribunal of this State may permit a party or
12 witness residing in another state to be deposed or to testify by telephone, audiovisual means, or
13 other electronic means at a designated tribunal or other location in that state. A tribunal of this
14 State shall cooperate with tribunals of other states in designating an appropriate location for the
15 deposition or testimony.

16 (g) If a party called to testify at a civil hearing refuses to answer on the ground that the
17 testimony may be self-incriminating, the trier of fact may draw an adverse inference from the
18 refusal.

19 (h) A privilege against disclosure of communication between spouses does not apply in
20 a proceeding under this Chapter.

21 (i) The defense of immunity based on the relationship of husband and wife or parent
22 and child does not apply in a proceeding under this Chapter. (1995, c. 538, s. 7(c).)

23
24 **§ 52C-3-316. Communications between tribunals.**

25 A tribunal of this State may communicate with a tribunal of another state in writing, or by
26 telephone or other means, to obtain information concerning the laws of that state, the legal
27 effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other
28 state. A tribunal of this State may furnish similar information by similar means to a tribunal of
29 another state. (1995, c. 538, s. 7(c).)

30
31 **§ 52C-3-317. Assistance with discovery.**

32 A tribunal of this State may request a tribunal of another state to assist in obtaining
33 discovery, and upon request, may compel a person over whom it has jurisdiction to respond to a
34 discovery order issued by a tribunal of another state. (1995, c. 538, s. 7(c).)

35
36 **§ 52C-3-318. Receipt and disbursement of payments.**

37 A support enforcement agency or tribunal of this State shall disburse promptly any amounts
38 received pursuant to a support order, as directed by the order. The agency or tribunal shall
39 furnish to a requesting party or tribunal of another state a certified statement by the custodian of
40 the record of the amounts and dates of all payments received. (1995, c. 538, s. 7(c).)