

1 **H. B. 3133**

2
3 (By Delegates Brown, Moore, Frazier, Miley,
4 Poore and Fleischauer)

5
6 [Introduced February 15, 2011; referred to the
7 Committee on the Judiciary.]

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9
10 A BILL to amend and reenact §38-3-18 of the Code of West Virginia,
11 1931, as amended, relating to the statute of limitations in
12 child support cases.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §38-3-18 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 **ARTICLE 3. JUDGMENT LIENS.**

17 **§38-3-18. Limitations on enforcement of judgments.**

18 (a) On a judgment, other than a judgment for child or spousal
19 support, as defined in chapter forty-eight of this code, execution
20 may be issued within ten years after the date thereof. Where
21 execution issues within ten years as aforesaid, other executions
22 may be issued on such judgment within ten years from the return day
23 of the last execution issued thereon, on which there is no return
24 by an officer, or which has been returned unsatisfied.

25 (b) For any order for child support in an action filed on and
26 after the amendment and reenactment of this section during the ~~2008~~
27 2011 legislative session, ~~an execution may be issued upon a~~
28 judgment for child support, as those terms are defined in chapter

1 forty-eight of this code, ~~within ten years after the emancipation~~
2 ~~of the child: Provided, That in cases where the support order is~~
3 ~~for more than one child, the limitations set forth in subsection~~
4 ~~(a) of this section commence when the youngest child who is the~~
5 ~~subject of the order on which the execution is based reaches the~~
6 ~~age of eighteen or is otherwise legally emancipated~~ is exempt from
7 the statute of limitations. The judgment remains in full force and
8 effect until the judgment is paid in full.

9 (c) An action, suit or scire facias may be brought upon a
10 judgment where there has been a change of parties by death or
11 otherwise at any time within ten years next after the date of the
12 judgment; or within ten years from the return day of the last
13 execution issued thereon on which there is no return by an officer
14 or which has been returned unsatisfied. But if such action, suit
15 or scire facias be against the personal representative of a
16 decedent, it shall be brought within five years from the
17 qualification of such representative.

NOTE: The purpose of this bill is to remove the statute of limitations in child and spousal support cases

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.