

Senate Bill No. 636

(By Senators Snyder and Palumbo)

[Introduced February 17, 2012; referred to the Committee on the
Judiciary.]

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10 A BILL to amend and reenact §48-14-204 of the Code of West
11 Virginia, 1931, as amended, relating to providing procedures
12 for issuing a writ of execution, suggestion or suggestee
13 execution because of overdue child support or spousal support
14 obligations; providing procedure for contesting an affidavit
15 and requesting a hearing; authorizing a court, in its
16 discretion, to require obligor to give security or post bond
17 or order the bureau to hold collected amounts in escrow;
18 issuing an abstract by the clerk; and increasing the statute
19 of limitations on child and spousal support orders from ten to
20 fifteen years.

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

22 That §48-14-204 of the Code of West Virginia, 1931, as
23 amended, be amended and reenacted to read as follows:

24 **ARTICLE 14. REMEDIES FOR THE ENFORCEMENT OF SUPPORT OBLIGATIONS.**

1 PART 2. LIENS AGAINST PERSONAL PROPERTY FOR OVERDUE SUPPORT.

2 **§48-14-204. Execution, notice and limitation on enforcement of**
3 **judgments.**

4 Notwithstanding any other provisions of this code to the
5 contrary, executions on an overdue obligation arising from an order
6 for child support or spousal support shall conform to the following
7 procedure:

8 (1) Upon receipt of an affidavit of accrued support, the
9 clerk shall issue a writ of execution, suggestion or suggestee
10 execution.

11 (2) The clerk shall mail a copy of the affidavit and notice
12 of the filing of the affidavit by first-class mail to the obligor
13 at his or her last address known to the clerk. Service is complete
14 upon mailing. If applicable, the clerk shall provide a copy of the
15 affidavit and notice of the filing to the Bureau for Child Support
16 Enforcement.

17 (3) The notice required in subdivision (2) of this section
18 must inform the obligor that if he or she desires to contest the
19 affidavit on the grounds that the amount claimed to be in arrears
20 is incorrect or that a writ of execution, suggestion or suggestee
21 execution is not proper because of mistakes of fact, he or she
22 must, within ten days of the date of the notice:

23 (A) File a written objection with the Bureau for Child Support
24 Enforcement; and

1 (B) Where a court of this state has jurisdiction over the
2 parties obtain a date for a hearing before the court and mail
3 written notice of the hearing to the obligee and, if applicable, to
4 the Bureau for Child Support Enforcement.

5 (4) The court shall schedule the written objection for a
6 hearing within fourteen days of the request for a hearing being
7 filed. Pending the hearing the court may require the obligor to
8 give security, post a bond or give some other guarantee to secure
9 payment of overdue support. If a suggestee execution has been
10 issued and the Bureau for Child Support Enforcement is involved in
11 its collection, the court may order the bureau to hold any or all
12 of the collected amounts in escrow.

13 (5) Prior to the issuance of a suggestee execution it is not
14 necessary for the clerk to prepare or issue an abstract of order if
15 one has been issued within the previous ten years or to prepare or
16 issue a writ of execution or writ of suggestion.

17 (6) For any order of child support, an execution may be issued
18 within fifteen years after the youngest child who is the subject of
19 the order reaches the age of eighteen or is otherwise legally
20 emancipated.

21 (7) For any order of spousal support, an execution may be
22 issued within fifteen years after the date of the order.

23 (8) For any order of child support or spousal support, an
24 action for judgment or an execution may issue at any time within

1 fifteen years next after the date of the order or within fifteen
2 years from the return day of the last execution or within fifteen
3 years from the date of issuance of an administrative notice to
4 withhold income or the date of issuance of an attempted intercept
5 of a state or federal income tax refund.

NOTE: The purpose of this bill is to rewrite the section relating to procedures for writs of execution, suggestions and suggestee executions relating to child support and spousal support obligations. The bill also increases the statute of limitations on child support and spousal support orders.

This section has been completely rewritten; therefore, strike-throughs and underscoring have been omitted.