

Senate Bill No. 549

(By Senators Tucker, Palumbo, Plymale and Sypolt)

[Introduced February 12, 2014; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §48-13-302 of the Code of West
Virginia, 1931, as amended; and to amend and reenact
§48-18-126 of said code, all relating to the calculation of
child support obligations; and the review and adjustment of
child support orders.

Be it enacted by the Legislature of West Virginia:

That §48-13-302 of the Code of West Virginia, 1931, as
amended, be amended and reenacted; and that §48-18-126 of said code
be amended and reenacted, all to read as follows:

ARTICLE 13. GUIDELINES FOR CHILD SUPPORT AWARDS.

**§48-13-302. Incomes below the table for determining basic child
support obligations.**

If combined adjusted gross income is below \$550 per month,
which is the lowest amount of income considered in the table of

1 monthly basic child support obligations set forth in ~~subsection (a)~~
 2 ~~of this section,~~ section three hundred one of this article, the
 3 basic child support obligation shall be set at \$50 per month or
 4 zero if the obligor's only income is Supplemental Security Income
 5 (SSI), or a discretionary amount determined by the court based on
 6 the resources and living expenses of the parents and the number of
 7 children due support.

8 **ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.**

9 **§48-18-126. Review and adjustment of child support orders.**

10 (a) Either parent or, if there has been an assignment of
 11 support to the Department of Health and Human Resources, the Bureau
 12 for Child Support Enforcement ~~shall have the right to~~ may request
 13 an administrative review of the child support award in the
 14 following circumstances:

15 (1) Where the request for review is received thirty-six months
 16 or more after the date of the entry of the order or from the
 17 completion of the previous administrative review, whichever is
 18 later, the Bureau for Child Support Enforcement shall conduct a
 19 review to determine whether the amount of the child support award
 20 in ~~such~~ the order varies from the amount of child support that
 21 would be awarded at the time of the review pursuant to the
 22 guidelines for child support awards contained in article ~~13-101, et~~
 23 ~~seq.~~ thirteen of this chapter. If the amount of the child support
 24 award under the existing order differs by ~~ten~~ fifteen percent or

1 more from the amount that would be awarded in accordance with the
2 child support guidelines, the Bureau for Child Support Enforcement
3 shall file with the family court a motion for modification of the
4 child support order. If the amount of the child support award
5 under the existing order differs by less than ~~ten~~ fifteen percent
6 from the amount that would be awarded in accordance with the child
7 support guidelines, the Bureau for Child Support Enforcement may,
8 if it determines that ~~such~~ the action is in the best interest of
9 the child or otherwise appropriate, file with the family court a
10 motion for modification of the child support order.

11 (2) Where the request for review of a child support award is
12 received less than thirty-six months after the date of the entry of
13 the order or from the completion of the previous administrative
14 review, the Bureau for Child Support Enforcement shall undertake a
15 review of the case only where it is alleged that there has been a
16 substantial change in circumstances. If the Bureau for Child
17 Support Enforcement determines that there has been a substantial
18 change in circumstances and if it is in the best interests of the
19 child, the bureau shall file with the family court a motion for
20 modification of the child support order in accordance with the
21 guidelines for child support awards contained in article ~~13-101, et~~
22 ~~seq.~~ thirteen of this chapter.

23 (b) The Bureau for Child Support Enforcement shall notify both
24 parents at least once every three years of their right to request

1 a review of a child support order. The notice may be included in
2 any order granting or modifying a child support award. The Bureau
3 for Child Support Enforcement shall give each parent at least
4 thirty days' notice before commencing any review and shall further
5 notify each parent, upon completion of a review, of the results of
6 the review, whether of a proposal to move for modification or of a
7 proposal that there should be no change.

8 (c) When the result of the review is a proposal to move for
9 modification of the child support order, each parent shall be given
10 thirty days' notice of the hearing on the motion, the notice to be
11 directed to the last known address of each party by first-class
12 mail. When the result of the review is a proposal that there be no
13 change, any parent disagreeing with that proposal may, within
14 thirty days of the notice of the results of the review, file with
15 the court a motion for modification setting forth in full the
16 grounds ~~therefor~~ for the modification.

17 (d) For the purposes of this section, a "substantial change in
18 circumstances" includes, but is not limited to, a changed financial
19 condition, a temporary or permanent change in physical custody of
20 the child which the court has not ordered, increased need of the
21 child or other financial conditions. "Changed financial
22 conditions" means increases or decreases in the resources available
23 to either party from any source. Changed financial conditions
24 includes, but is not limited to, the application for or receipt of

1 any form of public assistance payments, unemployment compensation
2 and workers' compensation or a fifteen percent or more variance
3 from the amount of the existing order and the amount of child
4 support that would be awarded according to the child support
5 guidelines.

NOTE: The purpose of this bill is to:

(1) Exempt Supplemental Security Income (SSI) from being considered income for purposes of child support awards pursuant to the child support guidelines; and

(2) Make provisions relating to the review and adjustment of child support orders consistent with each other.

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