

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4459

BY DELEGATES HAMRICK, HARDY, BIBBY AND

HIGGINBOTHAM

[Introduced January 22, 2020; Referred to the
Committee on Health and Human Resources then
Finance]

1 A BILL to amend and reenact §11-21-16 of the Code of West Virginia, 1931, as amended, relating
2 to allowing a personal income tax deduction for a foster care child.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-16. West Virginia personal exemptions of resident individual.

1 (a) *General.* – For any tax imposed under the provisions of this article with respect to any
2 taxable year prior to January 1, 1983, a resident individual shall be allowed a West Virginia
3 exemption of \$600 for each exemption for which he or she is entitled to a deduction for the taxable
4 year for federal income tax purposes. With respect to any taxable year beginning on or after
5 January 1, 1983, and prior to January 1, 1984, said exemption shall be \$700; with respect to any
6 taxable year beginning on or after January 1, 1984, said exemption shall be \$800; and with
7 respect to any taxable year beginning on or after January 1, 1987, said exemption shall be \$2,000.

8 (b) *Husband and wife.* – If the West Virginia income taxes of a husband and wife are
9 separately determined but their federal income tax is determined on a joint return, each of them
10 shall be separately entitled, with respect to any taxable year prior to January 1, 1983, to a West
11 Virginia exemption of \$600 for each federal exemption to which he or she would be separately
12 entitled for the taxable year if their federal income taxes had been determined on separate returns.
13 With respect to any taxable year beginning on or after January 1, 1983, and prior to January 1,
14 1984, said exemption shall be \$700; with respect to any taxable year beginning on or after January
15 1, 1984, said exemption shall be \$800; and with respect to any taxable year beginning on or after
16 January 1, 1987, said exemption shall be \$2,000.

17 (c) *Surviving spouse.* – For taxable years beginning after December 31, 1986, a surviving
18 spouse shall be allowed one additional exemption of \$2,000 for the two taxable years beginning
19 after the year of death of the deceased spouse.

20 For purposes of this section and section 12 of this article, a surviving spouse means a
21 taxpayer whose spouse died during the taxable year prior to the taxable year for which the annual

22 return is being filed and who has not remarried at any time before the end of the taxable year for
23 which the annual return is being filed.

24 (d) *Certain dependents.* – Notwithstanding any provisions in this section, for taxable years
25 beginning after December 31, 1986, a resident individual whose exemption amount for federal
26 tax purposes is zero by virtue of section 151(d)(2) of the Internal Revenue Code of 1986, shall be
27 allowed a single West Virginia exemption in the amount of \$500.

28 (e) *Personal exemption deduction for foster childcare children.*

29 (1) In general. – §11-21-16(d) of this code of 1986 (defining certain dependents) shall be
30 considered for purposes of state taxes to include:

31 (2) A foster care child shall be treated as a dependent for the taxable year in which the
32 child is placed in a foster home.

33 (3) This subparagraph may not apply to a foster care child unless there is certification of
34 the foster care relationship certified under §49-4-101, et seq. of this code.

NOTE: The purpose of this bill is to allow a personal income tax deduction for a foster care child.

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