

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 716

By Senator Trump

[Introduced February 7, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §48-13-302 of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §48-17-102 of said code; and to amend and reenact §49-4-801 of said
 3 code, all relating to child support generally; reconfiguring the West Virginia Child Support
 4 Enforcement Commission; authorizing temporary stay of child support obligation under
 5 certain circumstances; clarifying circuit judge's authority to limit child support obligation
 6 under certain limited circumstances; and establishing a protocol to assist circuit courts in
 7 determining the appropriate child support obligation in child abuse and neglect matters.

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

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 13. GUIDELINES FOR CHILD SUPPORT AWARDS.

Part III. Basic Child Support Order.

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

1 If combined adjusted gross income is below ~~five hundred fifty dollars~~ \$550 per month,
 2 which is the lowest amount of income considered in the table of monthly basic child support
 3 obligations set forth in subsection (a) of this section §48-13-301 of this code the basic child support
 4 obligation shall be set at ~~fifty~~ zero dollars per month or a discretionary amount determined by the
 5 court based on the resources and living expenses of the parents and the number of children due
 6 support.

ARTICLE 17. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION.

§48-17-102. ~~Appointment of members of Support Enforcement Commission; qualifications and eligibility.~~ Support Enforcement Commission; Make up; Qualifications.

1 ~~(a) Of the nine members of the commission, seven members are to be appointed by the~~
 2 ~~Governor: *Provided*, That no more than five members of the commission may belong to the same~~
 3 ~~political party.~~

4 ~~(1) One member is to be a lawyer licensed by, and in good standing with, the West Virginia~~

5 ~~State Bar, with at least five years of professional experience in domestic relations law and the~~
6 ~~establishment and enforcement of support obligations;~~

7 ~~(2) One member is to be a person experienced as a public administrator in the supervision~~
8 ~~and regulation of a governmental agency;~~

9 ~~(3) One member is to be an employer experienced in withholding support payments from~~
10 ~~the earnings of obligors;~~

11 ~~(4) One member is to be a practicing family court judge, as an ex officio member, who will~~
12 ~~serve in an advisory capacity, without compensation or voting rights; and~~

13 ~~(5) Three members are to be representatives of the public at large, with at least one being~~
14 ~~an obligor and one being an obligee.~~

15 ~~(b) One member is to be the Commissioner of the Bureau for Children and Families, or his~~
16 ~~or her designee.~~

17 ~~(c) The Commissioner of the Bureau for Child Support Enforcement, or his or her~~
18 ~~designee, is an ex officio nonvoting member of the commission.~~

19 ~~(d) Each member of the commission is to be a citizen of the United States, a resident of the~~
20 ~~State of West Virginia and at least twenty-one years of age.~~

21 (a) The commission created by the provisions of §48-17-101 of this code shall be
22 comprised of eight members. Four of the members shall be appointed by the governor of which no
23 more than two members may be of the same political party. The gubernatorial appointees shall
24 consist of:

25 (1) A lawyer licensed to practice in the State of West Virginia with at least five years of
26 professional experience in West Virginia domestic relations law, determination of child support
27 obligations and the enforcement thereof.

28 (2) Three members of the public, at least one of whom is or has been a child support
29 obligor and one of who is or has been a child support obligee.

30 (b) The remaining members of the commission shall consist of:

31 (1) A sitting family court judge named by the Supreme Court of Appeals of West Virginia
32 who will serve in an advisory capacity, without compensation or voting rights.

33 (2) The Commissioner of the Bureau for Family Assistance, or his or her designee.

34 (3) The Commissioner of the Bureau for Social Services, or his or her designee.

35 (4) The Commissioner of the Bureau for Child Support Enforcement, or his or her designee
36 who shall serve as an ex officio, nonvoting member.

37 (c) Each member of the commission shall be a citizen of the United States, a resident of
38 West Virginia and at least 21 years of age.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

Part VIII. Support and Support Orders.

§49-4-801. Support of a child removed from home pursuant to this chapter; order requirements.

1 (a) It is the intent of the Legislature that to the extent practicable, this article should
2 encourage and require a child’s parents to meet the obligation of providing that child with adequate
3 food, shelter, clothing, education, and health and child care.

4 (b) This article shall be construed ~~to be consistent~~ consistently with §48-1-1 *et seq.*, §48-
5 11-1 *et seq.*, §48-12-1 *et seq.*, §48-13-1 *et seq.*, §48-14-1 *et seq.*, §48-15-1 *et seq.*, §48-16-1 *et*
6 *seq.*, §48-18-1 *et seq.*, §48-19-1 *et seq.*, and §48-24-1 *et seq.* of this code. ~~and those~~ The
7 provisions of the articles set forth in this subsection shall apply to actions brought pursuant to §49-
8 1-101 *et seq.* to this chapter of this code unless expressly stated otherwise.

9 ~~(c) When a child is removed from his or her home pursuant to this chapter, the court shall~~
10 ~~issue a support order payable by the child’s mother. If the child’s legal father has been~~
11 ~~determined, the court shall issue a child support order payable by the legal father. If no legal father~~
12 ~~has been determined, the court shall issue an order establishing paternity prior to or~~

13 ~~simultaneously with establishing a support order payable by the child's legal father. Copies of the~~
14 ~~orders shall be provided to the Department of Health and Human Resources, Bureau of Child~~
15 ~~Support Enforcement.~~

16 (d) ~~(c)~~ When a child is removed from his or her home pursuant to §49-1-101 et seq. of this
17 code this chapter, The an order establishing a child support obligation shall set child support at
18 zero dollars per month, unless the court determines that the parent currently has income
19 exceeding 150% of the Federal poverty level. Copies of all child support ~~the orders~~ shall be
20 provided to the Department of Health and Human Resources Services, Bureau for Child Support
21 Enforcement.

22 (d) If the court determines that the parent has income exceeding 150% of the Federal
23 poverty level or assets available for payment of support, the court must shall use the Guidelines for
24 Child Support Awards that are set forth in ~~article thirteen~~ §§48-13-1, et seq. chapter forty-eight of
25 this code.

26 (e) In addition to the reasons for deviation listed in ~~section seven hundred two~~ §48-13-
27 702], article thirteen, chapter forty-eight of this code, the court may either disregard or adjust the
28 guidelines-based award. ~~Deviation from the child support guidelines is appropriate when the court~~
29 if it finds that:

30 (1) A deviation may will assist the parent in successful completion of an improvement
31 period; or

32 (2) A deviation is may be in the best interest of the minor child ~~to issue a zero child support~~
33 ~~order; and/or.~~

34 (3) ~~The parent temporarily or permanently has no gross income as defined in section two~~
35 ~~hundred twenty eight~~ §48-1-228], article one, chapter forty-eight of this code.

36 (f) Upon the request of a circuit judge presiding in a matter brought under this article, the
37 Bureau for Child Support Enforcement may calculate the appropriate child support obligation, if
38 any, to assist the court. Any child support calculation made pursuant to this subsection shall be in

- 39 the form of a sworn affidavit provided to the court of which the court may take judicial notice.
- 40 Nothing in this subsection may be construed to require the presence of bureau employees at
- 41 hearings held in child abuse and neglect proceedings.

NOTE: The purpose of this bill generally relates to child support. The bill reconfigures the West Virginia Child Support Enforcement Commission. The bill authorizes a temporary stay of child support obligation under certain circumstances. The bill clarifies that circuit judge's authority to limit child support obligation under certain limited circumstances. Finally, the bill establishes a protocol to assist circuit courts in determining the appropriate child support obligation in child abuse and neglect matters.

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