

Senate Bill No. 574

(By Senators Snyder and Klempa)

[Introduced February 13, 2012; referred to the Committee on
Banking and Insurance; and then to the Committee on the
Judiciary.]

**FISCAL
NOTE**

10
11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new article, designated §33-4B-1, §33-4B-2,
13 §33-4B-3 and §33-4B-4, all relating to requiring certain
14 insurance companies to participate in information data matches
15 with the Bureau for Child Support Enforcement for the purpose
16 of establishing, modifying and enforcing child support,
17 spousal support and medical support; requiring certain
18 insurance companies to pay the Bureau for Child Support
19 Enforcement for past-due child support instead of the insured;
20 requiring medical insurance reporting; defining terms; and
21 providing penalties.

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

23 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §33-4B-1, §33-4B-2,
2 §33-4B-3 and §33-4B-4, all to read as follows:

3 **ARTICLE 4B. CHILD SUPPORT INSURANCE MATCH.**

4 **§33-4B-1. Applicability and definitions.**

5 (a) This section applies to every insurance company authorized
6 to issue policies in this state for liability insurance coverage,
7 life insurance coverage or workers' compensation coverage.

8 (b) As used in this article, "claimant" means a beneficiary
9 under any one or more of these types of policies who resides in the
10 State of West Virginia or whose accident or loss occurred in the
11 State of West Virginia.

12 (c) As used in this article, "Bureau" means the Bureau for
13 Child Support Enforcement created by article eighteen, chapter
14 forty-eight of this code.

15 (d) As used in this article, "past-due support" or
16 "arrearages" have the meaning as ascribed to them in section two
17 hundred four, article one, chapter forty-eight of this code.

18 **§33-4B-2. General provisions.**

19 (a) Every insurance company licensed to do business in the
20 State of West Virginia that is authorized to issue liability
21 insurance coverage, life insurance coverage or workers'
22 compensation coverage is required to participate in an information
23 data match with the Bureau for Child Support Enforcement.

1 (b) Any insurance company that participates in the Federal
2 Office of Child Support Enforcement Case Registry Insurance Match
3 Program is deemed to have met the reporting requirements of this
4 section.

5 (c) Any insurance company which is required by subsection (a)
6 of this section to participate in the information data match and is
7 not participating in either option set forth in subsection (b) of
8 this section shall participate in the following manner: At least
9 thirty days, or as soon as the payment is authorized, whichever is
10 sooner, prior to making any nonrecurring payment equal to or in
11 excess of \$500 to a claimant, the insurance company shall notify
12 the bureau, in a manner prescribed by the bureau, of the claimant's
13 name, address, social security number and date of birth in a manner
14 and format specified by the bureau.

15 (d) The bureau shall notify the insurance company if the
16 payment is subject to withholding pursuant to part IV, article
17 fourteen, chapter forty-eight of this code for unpaid child support
18 or spousal support.

19 (e) Upon notice from the bureau, the insurance company shall
20 remit to the bureau the funds otherwise payable to the claimant, up
21 to the amount of the past-due support.

22 (f) The income withholding notice for past-due support shall
23 have priority over all other liens or levies upon the payment, with

1 the exception of: (1) Legal services and medical services
2 guaranteed pursuant to the representation provided by a third party
3 in relation to the claim; and (2) security interests in lost or
4 damaged property covered by the claim, to the extent that the
5 security interest would otherwise have precedence over the income
6 withholding.

7 (g) If no income withholding notice is received from the
8 bureau within thirty days of the insurance company notification of
9 intent to disburse funds, the insurance company shall disburse the
10 payment to the claimant in accordance with the contract of
11 insurance.

12 **§33-4B-3. Medical insurance reporting.**

13 (a) (1) In order to fulfill the state's obligations imposed by
14 state and federal legislation in regard to the establishment and
15 enforcement of medical support, it is necessary that health
16 insurance policy information be released to the Bureau for Child
17 Support Enforcement.

18 (2) As a condition of conducting business in the state, health
19 insurers, defined as any insurance company or other entity who is
20 authorized to transact and is currently transacting health
21 insurance business in this state, including self-insured plans,
22 group health plans as defined in Section 607(1) of the Employee
23 Retirement Income Security Act of 1974, service benefit plans,

1 managed care organizations, pharmacy benefit managers, third-party
2 administrators and any other parties that are, by statute, contract
3 or agreement, legally responsible for payment of a claim for a
4 health care item or service, shall permit and participate in data
5 matching with the Bureau for Child Support Enforcement to assist in
6 determining the availability of sources of health care insurance or
7 coverage for beneficiaries of the child support program. All
8 health insurers shall provide to the bureau or its designee an
9 electronic listing of all individuals who may be covered by a
10 health insurer and the nature of coverage that is provided, their
11 social security numbers, addresses, dates of birth, policyholder,
12 policy identification number, group number and effective dates for
13 purposes of identifying coverage for establishing, modifying and
14 enforcing medical child support orders administered by the bureau.
15 The information shall be provided in a format suitable for
16 electronic data matches, conducted under the direction of the
17 bureau, no less than monthly or as prescribed by the commissioner
18 of the bureau. The health insurer must respond within thirty
19 working days after receipt of a written request for enrollment data
20 from the bureau or its designee.

21 (3) Subdivisions (1) and (2) of this subsection do not apply
22 to the following types of insurance: Limited benefit health and
23 accident, fixed indemnity, long-term care, Medicare supplement and

1 Medicare Advantage.

2 (b) The Bureau for Child Support Enforcement, after obtaining
3 information from a health insurer, may disclose the health
4 insurance policy information only for the purpose of, and to the
5 extent necessary, to establish, modify or enforce a medical support
6 obligation for a minor child.

7 **§33-4B-4. Liability.**

8 (a) Notwithstanding any provision of this code to the
9 contrary, an insurance company is not liable under the laws of this
10 state to any claimant or other interested party for:

11 (1) Disclosing any insurance record of an individual to the
12 Bureau for Child Support Enforcement, or the Federal Office of
13 Child Support Enforcement Case Registry Insurance Match as required
14 by this article;

15 (2) Disclosing health insurance policy information to the
16 Bureau for Child Support Enforcement or its designee;

17 (3) Encumbering or surrendering assets held by the insurance
18 company as required by this article;

19 (4) Any other action taken in good faith to comply with the
20 requirements of this article.

21 (b) Any insurance company that fails or refuses to provide
22 information as required by this article may have a civil penalty
23 assessed of \$500 per violation by the Bureau for Child Support

1 Enforcement. The Bureau for Child Support Enforcement may invoke
2 the aid of any circuit court in this state to enforce the civil
3 penalty.

4 (c) Any insurance company that, having received notice of an
5 income withholding from the bureau, fails or refuses to surrender
6 property subject to the income withholding is liable to the bureau
7 and/or the support obligee in the amount thereby noticed.

8 (d) Information provided by the bureau to an insurance company
9 under this article may only be used for the purpose of assisting
10 the bureau in collecting past-due support and in establishing,
11 modifying or enforcing a medical support order. Any individual or
12 company who uses the information for any other purpose is subject
13 to a penalty of up to \$1,000 per violation.

NOTE: The purpose of this bill is to require certain insurance companies to participate in information data matches with the Bureau of Child Support Enforcement for the purpose of establishing, modifying and enforcing child support, spousal support and medical support. The bill requires certain insurance companies to pay the Bureau of Child Support Enforcement for past-due child support instead of the insured. The bill requires medical insurance reporting. The bill also defines terms and provides penalties.

This article is new; therefore, strike-throughs and underscoring have been omitted.