

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2259

By Delegate C. Pritt

[Introduced January 11, 2023; Referred to the Committee
on the Judiciary]

1 A BILL to amend and reenact §48-5-701 and §48-5-704 of the Code of West Virginia, 1931, as
 2 amended, all relating to modifications to child support or alimony shall be made retroactive
 3 to the date of a change of income or circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. DIVORCE.

PART 7. MODIFICATION OF FINAL DIVORCE ORDER.

§48-5-701. Revision of order concerning spousal support.

1 After the entry of a final divorce order, the court may revise the order concerning spousal
 2 support or the maintenance of the parties and enter a new order concerning the same, as the
 3 circumstances of the parties may require: Provided, That notwithstanding any provision of this
 4 section, chapter, code, or law to the contrary, any modification ordered shall be made retroactive to
 5 the date of a change of income or circumstances.

§48-5-704. Revision of order establishing child support.

1 (a) After entering an order establishing child support in accordance with §48-5-603 of this
 2 code, the court may from time to time afterward, upon the motion of either of the parties or other
 3 proper person having actual or legal custody of the minor child or children of the parties, revise or
 4 alter the order concerning the support of the children, and make a new order concerning the same,
 5 issuing it forthwith, as the circumstances of the parents or other proper person or persons and the
 6 benefit of the children may require.

7 (b) All orders modifying an award of child support must conform to the provisions regarding
 8 child support guidelines that are set forth in §48-13-1 *et seq.* of this code.

9 (c) An order providing for child support payments may be revised or altered for the reason,
 10 inter alia, that the existing order provides for child support payments in an amount that is less than
 11 85 percent or more than 115 percent of the amount that would be required to be paid under the
 12 provisions of the child support guidelines that are set forth in §48-13-1 *et seq.* of this code.

- 1 (d) Notwithstanding any provision of this section, chapter, code, or law to the contrary, any
2 modification ordered shall be made retroactive to the date of a change of income or
3 circumstances.

NOTE: The purpose of this bill is to provide that modifications to child support or alimony shall be made retroactive to the date of a change of income or circumstances.

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