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2003 MAR 27 P 4: 08

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

House Bill No. 3084

(By Delegates Staton, Mahan, Brown, and Amores)



Passed March 8, 2003

In Effect Ninety Days from Passage

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H. B. 3084

(BY DELEGATES STATON, MAHAN, BROWN AND AMORES)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to repeal sections one hundred ten and one hundred eleven, article seventeen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one hundred one, one hundred two, one hundred seven and one hundred nine, article seventeen of said chapter; and to amend and reenact section one hundred five, article eighteen of said chapter, all relating to child support enforcement; providing for the membership, duties and powers of the support enforcement commission; and providing for the general duties and powers of the bureau for child support enforcement.

Be it enacted by the Legislature of West Virginia:

That sections one hundred ten and one hundred eleven, article seventeen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one hundred one, one hundred two, one hundred seven and one hundred nine, article seventeen of said chapter, be amended and reenacted; and that section one hundred five, article eighteen of said chapter be amended and reenacted, all to read as follows:

ARTICLE 17. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION.

§48-17-101. Creation of support enforcement commission; number of members.

1 The West Virginia support enforcement commission,
2 consisting of eight members, is hereby created in the depart-
3 ment of health and human resources and may use the adminis-
4 trative support and services of that department. The commission
5 is not subject to control, supervision or direction by the
6 department of health and human resources, but is an independ-
7 ent, self-sustaining commission that shall have the powers and
8 duties specified in this chapter.

9 The commission is a part-time commission whose members
10 perform such duties as specified in this chapter. The ministerial
11 duties of the commission shall be administered and carried out
12 by the commissioner of the bureau for child support enforce-
13 ment, with the assistance of such staff of the department of
14 health and human resources as the secretary may assign.

15 Each member of the commission shall devote the time
16 necessary to carry out the duties and obligations of the office
17 and the six members appointed by the governor may pursue and
18 engage in another business, occupation or gainful employment
19 that is not in conflict with the duties of the commission.

20 While the commission is self-sustaining and independent,
21 it, its members, its employees and the commissioner are subject
22 to article nine-a of chapter six, chapter six-b, chapter twenty-
23 nine-a and chapter twenty-nine-b [§§ 6-9A-1 et seq., §§ 6B-1-1
24 et seq., §§ 29A-1-1 et seq. and §§ 29B-1-1 et seq.] of this code.

§48-17-102. Appointment of members of support enforcement commission; qualifications and eligibility.

1 (a) Of the eight members of the commission, seven
2 members are to be appointed by the governor: *Provided*, That

3 no more than five members of the commission may belong to
4 the same political party.

5 (1) One member is to be a lawyer licensed by, and in good
6 standing with, the West Virginia state bar, with at least five
7 years of professional experience in domestic relations law and
8 the establishment and enforcement of support obligations;

9 (2) One member is to be a person experienced as a public
10 administrator in the supervision and regulation of a governmen-
11 tal agency;

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

14 (4) One member is to be a practicing family court judge, as
15 an exofficio member, who will serve in an advisory capacity,
16 without compensation or voting rights; and

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

20 (b) One member is to be the commissioner of the bureau
21 for children and families, department of health and human
22 resources, or his or her designee.

23 (c) Each member of the commission is to be a citizen of the
24 United States, a resident of the state of West Virginia and at
25 least twenty-one years of age.

§48-17-107. Meeting requirements.

1 (a) The commission shall meet within the state at least
2 twice per calendar year and at such other times as the chairman
3 may decide. The commission shall also meet upon a call of four
4 or more members upon seventy-two hours written notice to
5 each member.

6 (b) Four members of the commission are a quorum for the
7 transaction of any business and for the performance of any
8 duty.

9 (c) A majority vote of the members present is required for
10 any final determination by the commission.

11 (d) The commission may elect to meet in executive session
12 after an affirmative vote of a majority of its members present
13 according to section four [§ 6-9A-4], article nine-a, chapter six
14 of this code;

15 (e) The commission shall keep a complete and accurate
16 record of all its meetings according to section five [§ 6-9A-5],
17 article nine-a, chapter six of this code.

§48-17-109. General duties of support enforcement commission.

1 The support enforcement commission shall have general
2 responsibility to review and provide comment to the bureau for
3 child support enforcement on its policies and procedures for
4 obtaining and enforcing support orders and establishing
5 paternity according to this chapter, as hereinafter provided,
6 including, without limitation, the responsibility for the follow-
7 ing:

8 (a) To serve as a clearinghouse for information;

9 (b) To keep a record of all commission proceedings
10 available for public inspection;

11 (c) To file a written annual report to the governor, the
12 president of the Senate and the speaker of the House of Dele-
13 gates on or before the thirtieth day of January of each year, and
14 such additional reports as the governor or Legislature may
15 request.

16 (d) To apply for grants;

17 (e) To form partnerships with state institutions of higher
18 learning.

19 (f) The commission shall conduct the federally required
20 review [45 C.F.R. 302.56(C)(3)(e)] of the child support formula
21 every four years and make a report to the Legislature of their
22 findings.

ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.

**§48-18-105. General duties and powers of the bureau for child
support enforcement.**

1 In carrying out the policies and procedures for enforcing the
2 provisions of this chapter, the bureau shall have the following
3 power and authority:

4 (1) To establish policies and procedures for obtaining and
5 enforcing support orders and establishing paternity according
6 to this chapter;

7 (2) To undertake directly, or by contract, activities to obtain
8 and enforce support orders and establish paternity;

9 (3) To undertake directly, or by contract, activities to
10 establish paternity for minors for whom paternity has not been
11 acknowledged by the father or otherwise established by law;

12 (4) To undertake directly, or by contract, activities to
13 collect and disburse support payments;

14 (5) To contract for professional services with any person,
15 firm, partnership, professional corporation, association or other
16 legal entity to provide representation for the bureau and the
17 state in administrative or judicial proceedings brought to obtain
18 and enforce support orders and establish paternity;

19 (6) To ensure that activities of a contractor under a contract
20 for professional services are carried out in a manner consistent
21 with attorneys' professional responsibilities as established in
22 the rules of professional conduct as promulgated by the
23 supreme court of appeals;

24 (7) To contract for collection services with any person,
25 firm, partnership, corporation, association or other legal entity
26 to collect and disburse amounts payable as support;

27 (8) To ensure the compliance of contractors and their
28 employees with the provisions of this chapter, and to terminate,
29 after notice and hearing, the contractual relationship between
30 the bureau and a contractor who fails to comply;

31 (9) To require a contractor to take appropriate remedial or
32 disciplinary action against any employee who has violated or
33 caused the contractor to violate the provisions of this chapter,
34 in accordance with procedures prescribed in legislative rules
35 promulgated by the commission;

36 (10) To locate parents who owe a duty to pay child
37 support;

38 (11) To cooperate with other agencies of this state and other
39 states to search their records to help locate parents;

40 (12) To cooperate with other states in establishing and
41 enforcing support obligations;

42 (13) To exercise such other powers as may be necessary to
43 effectuate the provisions of this chapter.

44 (14) To establish and maintain procedures under which
45 expedited processes, administrative or judicial are in effect for
46 obtaining and enforcing support orders and establishing
47 paternity according to this chapter;

48 (15) To promulgate all emergency and legislative rules
49 pursuant to chapter twenty-nine-a [§§ 29A-1-1 et seq.] of this
50 code as are required by this chapter: Provided, That all rules
51 which are in effect at the time of the implementation of this
52 section shall continue in full force and effect until the commis-
53 sioner of the bureau for child support enforcement promulgates
54 a rule or rules regarding the same subject matter.

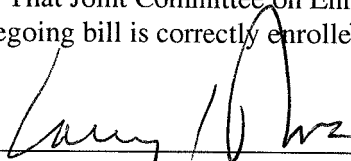
55 (16) To adopt standards for staffing, record-keeping,
56 reporting, intergovernmental cooperation, training, physical
57 structures and time frames for case processing;

58 (17) To review the state plan for child and spousal
59 support to determine its conformance or nonconformance with
60 the provisions of 42 U.S.C. § 654;

61 (18) To cooperate with judicial organizations and the
62 private bar to provide training to persons involved in the
63 establishment and enforcement of child support orders; and

64 (19) To promulgate legislative rules pursuant to chapter
65 twenty-nine-a [§§29A-1-1] of this code which may aid the
66 bureau for child support enforcement in the establishment and
67 enforcement of child support orders. In addition to the specific
68 designation of such rules that constitute emergency rules within
69 the meaning of section fifteen [§29A-3-15], article three,
70 chapter twenty-nine-a of this code, the commissioner may
71 promulgate other rules as emergency rules when such rule is
72 necessary to ensure that the state is awarded federal funds for
73 the actions described in the rule or when the promulgation of
74 such rule is necessary to prevent substantial harm to the public
75 interest by ensuring that child support is timely collected and
76 disbursed.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



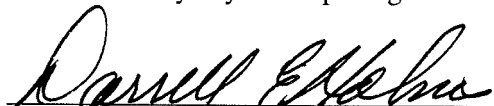
Chairman Senate Committee



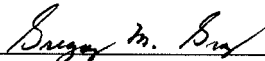
Chairman House Committee

Originating in the House.

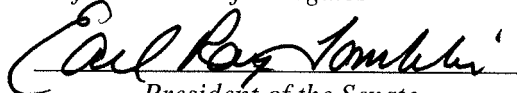
In effect ninety days from passage



Clerk of the Senate



Clerk of the House of Delegates

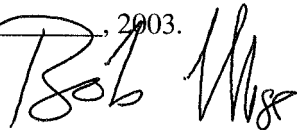


President of the Senate



Speaker of the House of Delegates

The within is approved this the 27th
day of March, 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/03

Time 4:55 pm