

H. B. 4524

(By Delegates Poore, Moore, Mahan, Guthrie,
Wells, Michael, Frazier, White, Miley and Skaff)

[Introduced February 14, 2012; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-4B-1, §33-4B-2, §33-4B-3 and §33-4B-4, all relating to requiring 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; requiring certain insurance companies to pay the Bureau of Child Support Enforcement for past-due child support instead of the insured; requiring medical insurance reporting; defining terms; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §33-4B-1, §33-4B-2, §33-4B-3 and §33-4B-4, all to read as follows:

ARTICLE 4B. CHILD SUPPORT INSURANCE MATCH.

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

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

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

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

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

15 **§33-4B-2. General provisions.**

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

21 (b) Any insurance company that participates in the Federal
22 Office of Child Support Enforcement Case Registry Insurance Match
23 Program is deemed to have met the reporting requirements of this
24 section.

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

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

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

18 (f) The income withholding notice for past-due support shall
19 have priority over all other liens or levies upon the payment, with
20 the exception of: (1) Legal services and medical services
21 guaranteed pursuant to the representation provided by a third party
22 in relation to the claim; and (2) security interests in lost or
23 damaged property covered by the claim, to the extent that the
24 security interest would otherwise have precedence over the income

1 withholding.

2 (g) If no income withholding notice is received from the
3 Bureau within thirty days of the insurance company notification of
4 intent to disburse funds, the insurance company shall disburse the
5 payment to the claimant in accordance with the contract of
6 insurance.

7 **§33-4B-3. Medical insurance reporting.**

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

13 (2) As a condition of conducting business in the state, health
14 insurers, defined as any insurance company or other entity who is
15 authorized to transact and is currently transacting health
16 insurance business in this state, including self-insured plans,
17 group health plans as defined in Section 607(1) of the Employee
18 Retirement Income Security Act of 1974, service benefit plans,
19 managed care organizations, pharmacy benefit managers, third party
20 administrators and any other parties that are, by statute, contract
21 or agreement, legally responsible for payment of a claim for a
22 health care item or service, shall permit and participate in data
23 matching with the Bureau for Child Support Enforcement to assist in
24 determining the availability of sources of health care insurance or

1 coverage for beneficiaries of the child support program. All
2 health insurers shall provide to the bureau or its designee an
3 electronic listing of all individuals who may be covered by a
4 health insurer and the nature of coverage that is provided, their
5 social security numbers, addresses, dates of birth, policyholder,
6 policy identification number, group number and effective dates for
7 purposes of identifying coverage for establishing, modifying and
8 enforcing medical child support orders administered by the bureau.
9 The information shall be provided in a format suitable for
10 electronic data matches, conducted under the direction of the
11 bureau, no less than monthly or as prescribed by the commissioner
12 of the bureau. The health insurer must respond within thirty
13 working days after receipt of a written request for enrollment data
14 from the bureau or its designee.

15 (3) Subdivisions (1) and (2) of this subsection do not apply
16 to the following types of insurance: Limited benefit health and
17 accident, fixed indemnity, long-term care, Medicare supplement and
18 Medicare Advantage.

19 (b) The Bureau for Child Support Enforcement, after obtaining
20 information from a health insurer, may disclose the health
21 insurance policy information only for the purpose of, and to the
22 extent necessary, to establish, modify or enforce a medical support
23 obligation for a minor child.

24 **§33-4B-4. Liability.**

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

4 (1) Disclosing any insurance record of an individual to the
5 Bureau for Child Support Enforcement, or the Federal Office of Child
6 Support Enforcement Case Registry Insurance Match as required by
7 this article;

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

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

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

14 (b) Any insurance company that fails or refuses to provide
15 information as required by this article may have a civil penalty
16 assessed of \$500 per violation by the Bureau for Child Support
17 Enforcement. The Bureau for Child Support Enforcement may invoke
18 the aid of any circuit court in this state to enforce the civil
19 penalty.

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

24 (d) Information provided by the bureau to an insurance company

1 under this article may only be used for the purpose of assisting
2 the bureau in collecting past-due support and in establishing,
3 modifying or enforcing a medical support order. Any individual or
4 company who uses the information for any other purpose is subject
5 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, it has been completely underscored.