

1 **ENGROSSED**

2 **H. B. 4453**

3
4 (By Delegates Manchin, Longstreth, Ferro,
5 Pino, Sponaugle and Manypenny)
6

7 [Introduced February 10, 2014; referred to the
8 Committee on the Judiciary.]
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11 A BILL to amend and reenact §48-13-302 of the Code of West
12 Virginia, 1931, as amended; to amend and reenact §48-18-126 of
13 said code, all relating to the calculation of child support
14 obligations and the review and adjustment of child support
15 orders.

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

17 That §48-13-302 of the Code of West Virginia, 1931, as
18 amended, be amended and reenacted; and that §48-18-126 of said code
19 be amended and reenacted, all to read as follows:

20 **ARTICLE 13. GUIDELINES FOR CHILD SUPPORT AWARDS.**

21 **§48-13-302. Incomes below the table for determining basic child**
22 **support obligations.**

23 If combined adjusted gross income is below \$550 per month,
24 which is the lowest amount of income considered in the table of

1 monthly basic child support obligations set forth in ~~subsection (a)~~
2 ~~of this section,~~ section three hundred one of this article, the
3 basic child support obligation shall be set at \$50 per month or a
4 discretionary amount determined by the court based on the resources
5 and living expenses of the parents and the number of children due
6 support.

7 **ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.**

8 **§48-18-126. Review and adjustment of child support orders.**

9 (a) Either parent or, if there has been an assignment of
10 support to the Department of Health and Human Resources, the Bureau
11 for Child Support Enforcement ~~shall have the right to~~ may request
12 an administrative review of the child support award in the
13 following circumstances:

14 (1) Where the request for review is received thirty-six months
15 or more after the date of the entry of the order or from the
16 completion of the previous administrative review, whichever is
17 later, the Bureau for Child Support Enforcement shall conduct a
18 review to determine whether the amount of the child support award
19 in ~~such~~ the order varies from the amount of child support that
20 would be awarded at the time of the review pursuant to the
21 guidelines for child support awards contained in article ~~13-101, et~~
22 ~~seq.~~ thirteen of this chapter. If the amount of the child support
23 award under the existing order differs by ~~ten~~ fifteen percent or
24 more from the amount that would be awarded in accordance with the

1 child support guidelines, the Bureau for Child Support Enforcement
2 shall file with the family court a motion for modification of the
3 child support order. If the amount of the child support award
4 under the existing order differs by less than ~~ten~~ fifteen percent
5 from the amount that would be awarded in accordance with the child
6 support guidelines, the Bureau for Child Support Enforcement may,
7 if it determines that ~~such~~ the action is in the best interest of
8 the child or otherwise appropriate, file with the family court a
9 motion for modification of the child support order.

10 (2) Where the request for review of a child support award is
11 received less than thirty-six months after the date of the entry of
12 the order or from the completion of the previous administrative
13 review, the Bureau for Child Support Enforcement shall undertake a
14 review of the case only where it is alleged that there has been a
15 substantial change in circumstances. If the Bureau for Child
16 Support Enforcement determines that there has been a substantial
17 change in circumstances and if it is in the best interests of the
18 child, the bureau shall file with the family court a motion for
19 modification of the child support order in accordance with the
20 guidelines for child support awards contained in article ~~13-101, et~~
21 ~~seq. 7~~ thirteen of this chapter.

22 (b) The Bureau for Child Support Enforcement shall notify both
23 parents at least once every three years of their right to request
24 a review of a child support order. The notice may be included in

1 any order granting or modifying a child support award. The Bureau
2 for Child Support Enforcement shall give each parent at least
3 thirty days' notice before commencing any review and shall further
4 notify each parent, upon completion of a review, of the results of
5 the review, whether of a proposal to move for modification or of a
6 proposal that there should be no change.

7 (c) When the result of the review is a proposal to move for
8 modification of the child support order, each parent shall be given
9 thirty days' notice of the hearing on the motion, the notice to be
10 directed to the last known address of each party by first-class
11 mail. When the result of the review is a proposal that there be no
12 change, any parent disagreeing with that proposal may, within
13 thirty days of the notice of the results of the review, file with
14 the court a motion for modification setting forth in full the
15 grounds ~~therefor~~ for the modification.

16 (d) For the purposes of this section, a "substantial change in
17 circumstances" includes, but is not limited to, a changed financial
18 condition, a temporary or permanent change in physical custody of
19 the child which the court has not ordered, increased need of the
20 child or other financial conditions. "Changed financial
21 conditions" means increases or decreases in the resources available
22 to either party from any source. Changed financial conditions
23 includes, but is not limited to, the application for or receipt of
24 any form of public assistance payments, unemployment compensation

1 and workers' compensation or a fifteen percent or more variance
2 from the amount of the existing order and the amount of child
3 support that would be awarded according to the child support
4 guidelines.

NOTE: The purpose of this bill is to:

(1) Exempt Supplemental Security Income (SSI) from being considered income for purposes of child support awards pursuant to the child support guidelines; and

(2) Make provisions relating to the review and adjustment of child support orders consistent with each other.

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