

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3262

BY DELEGATE PRITT

[Introduced March 16, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §48-18-205 of the Code of West Virginia, as amended, relating to
2 expressly allowing for child support arrears agreements that a family court must accept.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.

§48-18-205. Bureau action on request of recalculation and presentation of proposed order.

1 (a) If the bureau determines that no credible information exists to establish finding of a
2 substantial change in circumstances as required by ~~section one hundred five, article eleven of~~
3 ~~this chapter §48-11-105 or section one hundred six, article fourteen of this chapter §48-14-106 of~~
4 ~~this code~~, the Bureau for Child Support Enforcement shall notify the parties of that fact and notify
5 the parties that the Bureau for Child Support Enforcement will not be preparing a petition of
6 proposed order seeking modification of the parties' child support obligation. Under those
7 circumstances, if the parties disagree with the Bureau for Child Support Enforcement's
8 assessment and wish to independently file a petition for modification, the parties may still seek
9 modification of child support by filing a petition for modification of an order for support with the
10 family court under the provisions of ~~section one hundred five or one hundred six, article eleven of~~
11 ~~this chapter §48-11-105 or §48-11-106~~ of this code, or under the provisions of ~~section one~~
12 ~~hundred six, article fourteen of this chapter §48-14-106~~ of this code.

13 (b) If the Bureau for Child Support Enforcement determines that there has been a
14 substantial change of circumstances as required by ~~section one hundred five, article eleven of~~
15 ~~this chapter §48-11-105~~ of this code, or by ~~section one hundred six, article fourteen of this chapter~~
16 ~~§48-14-106~~ of this code, then the Bureau for Child Support Enforcement shall prepare a petition
17 and proposed order modifying the child support order to be filed with the clerk of the family court.

18 (c) Any such petition filed by the Bureau for Child Support Enforcement filed pursuant to
19 this article shall include the following:

20 (1) A copy of the proposed order;

21 (2) A print-out of the child support guidelines calculations;

22 (3) A notice of the bureau's action;

23 (4) The documents and statements relied upon;

24 (5) Any statement of findings or justification the bureau is required or determines to
25 include; and

26 (6) A form and instructions for filing an objection to the proposed order, should a party
27 wish to do so, which form shall require a statement of the ground or grounds for filing the objection.

28 (d) The Bureau for Child Support Enforcement's proposed order shall be based on the
29 child support guidelines: *Provided*, That the bureau may disregard the child support guidelines or
30 adjust the amount as allowed by section seven hundred two, article thirteen of this chapter in the
31 following instances:

32 (1) When the previous child support order disregarded the child support guidelines, the
33 grounds for the disregarding or adjusting the guidelines are stated in the worksheet or previous
34 order or are agreed upon by the parties, or are otherwise clear, and those grounds continue to
35 exist and can be applied to the current circumstances; or

36 (2) If new grounds for the disregard or adjustment are fully explained in the proposed
37 order.

38 (e) Within six months of the time that a child support obligation becomes \$1,000 in arrears
39 the Bureau for Child Support Enforcement shall notify the obligor that he or she may be in violation
40 of section twenty-nine, article five, chapter sixty-one of this code, felony nonsupport, should the
41 arrearage increase to \$8,000. The notice shall also advise the obligor of the availability of child
42 support modification, the amnesty program established in section three hundred two, article one
43 of this chapter and the possibility of establishing a payment plan with the bureau: *Provided*, That
44 where the monthly child support obligation is greater than \$1,000, the notice shall be sent when
45 the arrearage equals to or greater than three months child support obligation.

46 (1) If the obligor fails to respond within thirty days, the Bureau for Child Support
47 Enforcement shall file a petition for contempt pursuant to section five hundred three, article

48 fourteen of this chapter.

49 (2) If the obligor responds within thirty days, the Bureau for Child Support Enforcement
50 shall review the response and file appropriate pleadings which may include a motion for
51 modification of child support.

52 (3) The Bureau for Child Support Enforcement will have one year from the amendment
53 and reenactment of this section during the two thousand eight legislative session to notify obligors
54 who currently owe \$1,000 or more in child support arrearages or, where the monthly child support
55 obligation is greater than \$1,000, the arrearage is equal to or greater than three months child
56 support obligation, of the child support modification options available to them.

57 (4) Family courts in West Virginia must accept any valid child support arrears agreements
58 that are entered into by the respective parties.

NOTE: The purpose of this bill is to require that family courts in West Virginia accept child support arrears agreements.

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