

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4561

By Delegate C. Pritt

[Introduced January 10, 2024; 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 §48-11-105 or §48-14-106 of this code, the
3 Bureau for Child Support Enforcement shall notify the parties of that fact and notify the parties that
4 the Bureau for Child Support Enforcement will not be preparing a petition of proposed order
5 seeking modification of the parties' child support obligation. Under those circumstances, if the
6 parties disagree with the Bureau for Child Support Enforcement's assessment and wish to
7 independently file a petition for modification, the parties may still seek modification of child support
8 by filing a petition for modification of an order for support with the family court under the provisions
9 of §48-11-105 or §48-11-106 of this code, or under the provisions of §48-14-106 of this code.

10 (b) If the Bureau for Child Support Enforcement determines that there has been a
11 substantial change of circumstances as required by §48-11-105 of this code, or by §48-14-106 of
12 this code, then the Bureau for Child Support Enforcement shall prepare a petition and proposed
13 order modifying the child support order to be filed with the clerk of the family court.

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

- 16 (1) A copy of the proposed order;
- 17 (2) A print-out of the child support guidelines calculations;
- 18 (3) A notice of the bureau's action;
- 19 (4) The documents and statements relied upon;
- 20 (5) Any statement of findings or justification the bureau is required or determines to
21 include; and

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

24 (d) The Bureau for Child Support Enforcement's proposed order shall be based on the
25 child support guidelines: *Provided*, That the bureau may disregard the child support guidelines or
26 adjust the amount as allowed by §48-13-702 of this code in the following instances:

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

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

32 (e) Within six months of the time that a child support obligation becomes \$1,000 in arrears
33 the Bureau for Child Support Enforcement shall notify the obligor that he or she may be in violation
34 of §61-5-29 of this code, felony nonsupport, should the arrearage increase to \$8,000. The notice
35 shall also advise the obligor of the availability of child support modification, the amnesty program
36 established in §48-1-302 of this code and the possibility of establishing a payment plan with the
37 bureau: *Provided*, That where the monthly child support obligation is greater than \$1,000, the
38 notice shall be sent when the arrearage equals to or greater than three months child support
39 obligation.

40 (1) If the obligor fails to respond within 30 days, the Bureau for Child Support Enforcement
41 shall file a petition for contempt pursuant to §48-14-503 of this code.

42 (2) If the obligor responds within 30 days, the Bureau for Child Support Enforcement shall
43 review the response and file appropriate pleadings which may include a motion for modification of
44 child support.

45 (3) The Bureau for Child Support Enforcement will have one year from the amendment and
46 reenactment of this section during the 2008 legislative session to notify obligors who currently owe
47 \$1,000 or more in child support arrearages or, where the monthly child support obligation is

48 greater than \$1,000, the arrearage is equal to or greater than three months child support
49 obligation, of the child support modification options available to them.

50 (4) Family courts in West Virginia must accept any valid child support arrears agreements
51 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.