WEST VIRGINIA CODE: §48-11-107

§48-11-107. Modification resulting in reduction and overpayment of support.

In any proceeding filed after January 1, 2001, where a petition to modify child support is granted which results in a reduction of child support owed so that the obligor has overpaid child support, the court shall grant a decretal judgment to the obligor for the amount of the overpayment. The court shall inquire as to whether a support arrearage was owed by the obligor for support due prior to the filing of the petition for modification. If an arrearage exists, the court shall order an offset of the overpayment against the child support arrearages. If no prior arrearage exists or if the arrearage is not sufficient to offset the overpayment, then the court may direct the Bureau for Child Support enforcement to collect the overpayment through income withholding, if the person has, in the court's opinion, sufficient income other than the child support received. The income withholding shall be in all respects as provided for in part 14-401, et seq., except that in no circumstances may the amount withheld exceed thirty-five percent of the disposable earnings for the period, regardless of the length of time that the overpayment has been owed.

WV Legislature