WEST VIRGINIA CODE: §48-11-108

§48-11-108. Modification of support based on military service.

(a) If a military parent is called to military service, either parent may file a notice of activation of military service and a request for an expedited modification of a support order pursuant to section one hundred six of this article. In the petition, the parent must cite the basis for modifying the support order and the military parent's change in financial circumstances supporting the petition.

(b) The court shall temporarily modify the amount of child support for the duration of the military parent's military service pursuant to the provisions of section fifteen of this article if there is a substantial change in circumstances based upon changes in income and earning capacity of the military parent during military service. An increase or decrease in income or earning capacity of a military parent due to military service may only be used to calculate support during the period of military service and must not be considered a permanent increase or decrease in income or earning capacity. The effective date for a temporary modification must be the date the military parent begins military service.

(c) Upon return from military service, the military parent's child support obligation prior to a temporary modification is automatically reinstated, effective on the date the military parent is released from service. Within ninety days of the military parent's release from service, either parent may make a request for a modification of child support to correspond to a change in the military parent's nonservice related income or earning capacity. A modification of child support must be based solely upon the income or earning capacity the military parent has following his or her period of military service.

WV Legislature