

WEST VIRGINIA CODE: §48-13-202

§48-13-202. Application of expenses and credits in determining child support.

In determining the total child support obligation, the court shall:

(1) Add to the basic child support obligation any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court; and

(2) Subtract any extraordinary credits agreed to by the parents or ordered by the court.

(3) Deduct from a parent's adjusted gross income the reasonable monthly amount of a student loan payment actually being paid to the lending institution that originally issued the loan by a parent for a student loan debt owed in his or her own name and for his or her own educational expenses; provided that the total amount of the student loan payment deducted may not exceed 25 percent of the parent's total gross income determined before the deduction. The family court shall have discretion to exclude all or a portion of the student loan deduction if the parent with the student loan debt is in child support arrears, if the parent is not current or is in arrears on the student loan payment, if the student loan is being paid by a third party and not the parent, or if the child is not receiving or expected to receive a financial benefit from the education associated with the student loan expenses incurred. If the student loan deduction is awarded:

(a) The parent shall have a duty to immediately disclose to the court, the BCSE, and any other party any changes in the monthly amount of the student loan payment, including any payment deferrals or student loan forgiveness.

(b) The court may require a parent to annually disclose to the court, the BCSE, and any other party a statement showing a history of student loan payments for the prior year.

(c) Failure to timely make the disclosures above may be a basis for the court to modify child support to exclude the student loan deduction, including retroactively to the first of the month following any unreported change.

Part III. Basic child support order.