WEST VIRGINIA CODE: §48-13-702

§48-13-702. Disregard of formula.

(a) If the court finds that the guidelines are inappropriate in a specific case, the court may either disregard the guidelines or adjust the guidelines-based award to accommodate the needs of the child or children or the circumstances of the parent or parents. In either case, the reason for the deviation and the amount of the calculated guidelines award must be stated on the record (preferably in writing on the worksheet or in the order). Such findings clarify the basis of the order if appealed or modified in the future.

(b) These guidelines do not take into account the economic impact of the following factors that may be possible reasons for deviation:

(1) Special needs of the child or support obligor, including, but not limited to, the special needs of a minor or adult child who is physically or mentally disabled;

(2) Educational expenses for the child or the parent (i.e. those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or costs beyond state and local tax contributions);

(3) Families with more than six children;

(4) Long distance visitation costs;

(5) The child resides with third party;

(6) The needs of another child or children to whom the obligor owes a duty of support;

(7) The extent to which the obligor's income depends on nonrecurring or nonguaranteed income; or

(8) Whether the total of spousal support, child support and child care costs subtracted from an obligor's income reduces that income to less than the federal poverty level and conversely, whether deviation from child support guidelines would reduce the income of the child's household to less than the federal poverty level.

WV Legislature