WEST VIRGINIA CODE: §48-18-108

§48-18-108. Fees.

(a) When the Bureau for Child Support Enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the Bureau for Child Support Enforcement shall, upon written notice to the obligor, charge a monthly collection fee equivalent to the full monthly cost of the services, in addition to the amount of child support which was ordered by the court. The fee shall be deposited in the Child Support Enforcement Fund. The service fee assessed may not exceed ten percent of the monthly court-ordered child support and may not be assessed against any obligor who is current in payment of the monthly court-ordered child support payments: Provided, That this fee may not be assessed when the obligor is also a recipient of public assistance.

(b) Except for those persons applying for services provided by the Bureau for Child Support Enforcement who are applying for or receiving public assistance from the Division of Human Services or persons for whom fees are waived pursuant to a legislative rule promulgated pursuant to this section, all applicants shall pay an application fee of $25.

(c) Fees imposed by state and federal tax agencies for collection of overdue support shall be imposed on the person for whom these services are provided. Upon written notice to the obligee, the Bureau for Child Support Enforcement shall assess a fee of $25 to any person not receiving public assistance for each successful federal tax interception. The fee shall be withheld prior to the assistance for each successful federal tax interception. The fee shall be withheld prior to the release of the funds received from each interception and deposited in the Child Support Enforcement Fund established pursuant to section 18-107.

(d) In any action brought by the Bureau for Child Support Enforcement, the court shall order that the obligor shall pay attorney fees for the services of the attorney representing the Bureau for Child Support Enforcement in an amount calculated at a rate similar to the rate paid to court-appointed attorneys paid pursuant to section thirteen-a, article twenty-one, chapter twenty-nine of this code and all court costs associated with the action: Provided, That no such award shall be made when the court finds that the award of attorney's fees would create a substantial financial hardship on the obligor or when the obligor is a recipient of public assistance. Further, the Bureau for Child Support Enforcement may not collect such fees until the obligor is current in the payment of child support. No court may order the Bureau for Child Support Enforcement to pay attorney's fees to any party in any action brought pursuant to this chapter.

(e) This section shall not apply to the extent it is inconsistent with the requirements of federal law for receiving funds for the program under Title IV-A and Title IV-D of the Social Security Act, United States Code, article three, Title 42, Sections 601 to 613 and United States Code, Title 42, Sections 651 to 662.

WV Legislature