

# WEST VIRGINIA CODE: §48-18-205

## **§48-18-205. Bureau action on request of recalculation and presentation of proposed order.**

(a) If the bureau determines that no credible information exists to establish finding of a substantial change in circumstances as required by section one hundred five, article eleven of this chapter or section one hundred six, article fourteen of this chapter, the Bureau for Child Support Enforcement shall notify the parties of that fact and notify the parties that the Bureau for Child Support Enforcement will not be preparing a petition of proposed order seeking modification of the parties' child support obligation. Under those circumstances, if the parties disagree with the Bureau for Child Support Enforcement's assessment and wish to independently file a petition for modification, the parties may still seek modification of child support by filing a petition for modification of an order for support with the family court under the provisions of section one hundred five or one hundred six, article eleven of this chapter or under the provisions of section one hundred six, article fourteen of this chapter.

(b) If the Bureau for Child Support Enforcement determines that there has been a substantial change of circumstances as required by section one hundred five, article eleven of this chapter or by section one hundred six, article fourteen of this chapter, then the Bureau for Child Support Enforcement shall prepare a petition and proposed order modifying the child support order to be filed with the clerk of the family court.

(c) Any such petition filed by the Bureau for Child Support Enforcement filed pursuant to this article shall include the following:

- (1) A copy of the proposed order;
- (2) A print-out of the child support guidelines calculations;
- (3) A notice of the bureau's action;
- (4) The documents and statements relied upon;
- (5) Any statement of findings or justification the bureau is required or determines to include; and
- (6) A form and instructions for filing an objection to the proposed order, should a party wish to do so, which form shall require a statement of the ground or grounds for filing the objection.

(d) The Bureau for Child Support Enforcement's proposed order shall be based on the child support guidelines: Provided, That the bureau may disregard the child support guidelines or adjust the amount as allowed by section seven hundred two, article thirteen of this chapter

in the following instances:

- (1) When the previous child support order disregarded the child support guidelines, the grounds for the disregarding or adjusting the guidelines are stated in the worksheet or previous order or are agreed upon by the parties, or are otherwise clear, and those grounds continue to exist and can be applied to the current circumstances; or
  - (2) If new grounds for the disregard or adjustment are fully explained in the proposed order.
- (e) Within six months of the time that a child support obligation becomes \$1,000 in arrears the Bureau for Child Support Enforcement shall notify the obligor that he or she may be in violation of section twenty-nine, article five, chapter sixty-one of this code, felony nonsupport, should the arrearage increase to \$8,000. The notice shall also advise the obligor of the availability of child support modification, the amnesty program established in section three hundred two, article one of this chapter and the possibility of establishing a payment plan with the bureau: Provided, That where the monthly child support obligation is greater than \$1,000, the notice shall be sent when the arrearage equals to or greater than three months child support obligation.
- (1) If the obligor fails to respond within thirty days, the Bureau for Child Support Enforcement shall file a petition for contempt pursuant to section five hundred three, article fourteen of this chapter.
  - (2) If the obligor responds within thirty days, the Bureau for Child Support Enforcement shall review the response and file appropriate pleadings which may include a motion for modification of child support.
  - (3) The Bureau for Child Support Enforcement will have one year from the amendment and reenactment of this section during the two thousand eight legislative session to notify obligors who currently owe \$1,000 or more in child support arrearages or, where the monthly child support obligation is greater than \$1,000, the arrearage is equal to or greater than three months child support obligation, of the child support modification options available to them.