WEST VIRGINIA CODE: §48-19-103

§48-19-103. Duties of the bureau for support enforcement attorneys.

Subject to the control and supervision of the commissioner:

(a) The Bureau for Child Support enforcement attorney shall supervise and direct the secretarial, clerical and other employees in his or her office in the performance of their duties as such performance affects the delivery of legal services. The Bureau for Child Support enforcement attorney will provide appropriate instruction and supervision to employees of his or her office who are nonlawyers, concerning matters of legal ethics and matters of law, in accordance with applicable state and federal statutes, rules and regulations.

(b) In accordance with the requirements of rule 5.4(c) of the rules of professional conduct as promulgated and adopted by the Supreme Court of Appeals, the Bureau for Child Support enforcement attorney shall not permit a nonlawyer who is employed by the Department of Human Services in a supervisory position over the Bureau for Child Support enforcement attorney to direct or regulate the attorney's professional judgment in rendering legal services to recipients of services in accordance with the provisions of this chapter; nor shall any nonlawyer employee of the department attempt to direct or regulate the attorney's professional judgment.

(c) The Bureau for Child Support enforcement attorney shall make available to the public an informational pamphlet, designed in consultation with the commissioner. The informational pamphlet shall explain the procedures of the court and the Bureau for Child Support enforcement attorney; the duties of the Bureau for Child Support enforcement attorney; the rights and responsibilities of the parties; and the availability of human services in the community. The informational pamphlet shall be provided as soon as possible after the filing of a complaint or other initiating pleading. Upon request, a party to a domestic relations proceeding shall receive an oral explanation of the informational pamphlet from the office of the Bureau for Child Support enforcement attorney.

(d) The Bureau for Child Support enforcement shall act to establish the paternity of every child born out of wedlock for whom paternity has not been established, when the child's caretaker is an applicant for or recipient of temporary assistance for needy families, and when the caretaker has assigned to the division of human services any rights to support for the child which might be forthcoming from the putative father: *Provided*, That if the Bureau for Child Support enforcement attorney is informed by the Secretary of the Department of Human Services or his or her authorized employee that it has been determined that it is against the best interest of the child to establish paternity, the Bureau for Child Support enforcement attorney shall decline to so act. The Bureau for Child Support enforcement attorney, upon the request of the mother, alleged father or the caretaker of a child born out of wedlock, regardless of whether the mother, alleged father or the caretaker is an applicant

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or recipient of temporary assistance for needy families, shall undertake to establish the paternity of such child.

(e) The Bureau for Child Support enforcement attorney shall undertake to secure support for any individual who is receiving temporary assistance for needy families when such individual has assigned to the division of human services any rights to support from any other person such individual may have: *Provided*, That if the Bureau for Child Support enforcement attorney is informed by the Secretary of the Department of Human Services or his or her authorized employee that it has been determined that it is against the best interests of a child to secure support on the child's behalf, the Bureau for Child Support enforcement attorney shall decline to so act. The Bureau for Child Support enforcement attorney, upon the request of any individual, regardless of whether such individual is an applicant or recipient of temporary assistance for needy families, shall undertake to secure support for the individual. If circumstances require, the Bureau for Child Support enforcement attorney shall utilize the provisions of article 16-101, *et seq*., of this code and any other reciprocal arrangements which may be adopted with other states for the establishment and enforcement of support obligations, and if such arrangements and other means have proven ineffective, the Bureau for Child Support enforcement attorney may utilize the federal courts to obtain and enforce court orders for support.

(f) The Bureau for Child Support enforcement attorney shall pursue the enforcement of support orders through the withholding from income of amounts payable as support:

(1) Without the necessity of an application from the obligee in the case of a support obligation owed to an obligee to whom services are already being provided under the provisions of this chapter; and

(2) On the basis of an application for services in the case of any other support obligation arising from a support order entered by a court of competent jurisdiction.

(g) The Bureau for Child Support enforcement attorney may decline to commence an action to obtain an order of support under the provisions of article 14-101, *et seq*., if an action for divorce, annulment or separate maintenance is pending, or the filing of such action is imminent, and such action will determine the issue of support for the child: *Provided*, That such action shall be deemed to be imminent if it is proposed by the obligee to be commenced within the twenty-eight days next following a decision by the Bureau for Child Support enforcement attorney that an action should properly be brought to obtain an order for support.

(h) If the Bureau for Child Support enforcement office, through the Bureau for Child Support enforcement attorney, shall undertake paternity determination services, child support collection or support collection services upon the written request of an individual who is not an applicant or recipient of assistance from the division of human services, the office may impose an application fee for furnishing such services. Such application fee shall be in a reasonable amount, not to exceed $25, as determined by the commissioner: *Provided*, That

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the commissioner may fix such amount at a higher or lower rate which is uniform for this state and all other states if the secretary of the federal department of health and human services determines that a uniform rate is appropriate for any fiscal year to reflect increases or decreases in administrative costs. Any cost in excess of the application fee so imposed may be collected from the obligor who owes the child or spousal support obligation involved.

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