

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 206

(By Mr. Speaker, Mr. Chambers, & Del. R. Burk)
[By Request of the Executive]

— ● —

Passed June 25, 1990

In Effect 90 Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 206

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE R. BURK)
[By Request of the Executive]

[Passed June 25, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section fifteen-b, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section six, article three, chapter forty-eight-a of said code, all relating to domestic relations; child and spousal support, and conforming state law to the requirements of federal law with regard to the enforcement of support obligations.

Be it enacted by the Legislature of West Virginia:

ok, 5/14/91
That section fifteen-b, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, ~~as amended~~ *be amended and reenacted*; and that section six, article three, chapter forty-eight-a of said code be amended and reenacted, all to read as follows:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 2. DIVORCE, ANNULMENT AND SEPARATE MAINTENANCE.

§48-2-15b. Withholding from income on and after November 1, 1990.

1 (a) On and after the first day of November, one

2 thousand nine hundred ninety, every order entered or
3 modified under the provisions of this article which
4 requires the payment of child support or spousal support
5 shall include a provision for automatic withholding from
6 income of the obligor, in order to facilitate income
7 withholding as a means of collecting support.

8 (b) Every such order as described in subsection (a) of
9 this section shall contain language authorizing income
10 withholding to commence without further court action,
11 as follows:

12 (1) The order shall provide that income withholding
13 will begin immediately, without regard to whether there
14 is an arrearage, (A) when a child for whom support is
15 ordered is included or becomes included in a grant of
16 assistance from the division of human services or a
17 similar agency of a sister state for aid to families with
18 dependent children benefits, medical assistance only
19 benefits, or foster care benefits; or (B) when the support
20 obligee has applied for services from the child advocate
21 office or the support enforcement agency of another
22 state or is otherwise receiving services from the child
23 advocate office as provided for in chapter forty-eight-a
24 of this code. In any case where one of the parties
25 demonstrates, and the court finds, that there is good
26 cause not to require immediate income withholding, or
27 in any case where there is filed with the court a written
28 agreement between the parties which provides for an
29 alternative arrangement, such order shall not provide
30 for income withholding to begin immediately.

31 (2) The order shall also provide that income withhold-
32 ing will begin immediately upon the occurrence of any
33 of the following:

34 (A) When the support payments required by such
35 order are thirty days or more in arrears if the order
36 requires payments to be made in monthly installments;

37 (B) When the support payments required by such
38 order are twenty-eight days or more in arrears if the
39 order requires payments to be paid in weekly or bi-
40 weekly installments;

41 (C) When the obligor requests the child advocate
42 office to commence income withholding; or

43 (D) When the obligee requests that such withholding
44 begin, if the request is approved by the court in
45 accordance with procedures and standards established
46 by rules and regulations promulgated by the director of
47 the child advocate office.

48 (c) For the purposes of this section, the number of
49 days support payments are in arrears shall be consi-
50 dered to be the total cumulative number of days during
51 which payments required by a court order have been
52 delinquent, whether or not such days are consecutive.

53 (d) The supreme court of appeals shall make available
54 to the circuit courts standard language to be included
55 in all such orders, so as to conform such orders to the
56 applicable requirements of state and federal law
57 regarding the withholding from income of amounts
58 payable as support.

59 (e) Every support order entered by a circuit court of
60 this state prior to the first day of November, one
61 thousand nine hundred ninety, shall be considered to
62 provide for an order of income withholding, by operation
63 of law, which complies with the provisions of this
64 section, notwithstanding the fact that such support
65 order does not in fact provide for such order of
66 withholding.

CHAPTER 48A. ENFORCEMENT OF FAMILY OBLIGATIONS.

ARTICLE 3. CHILDREN'S ADVOCATE.

§48A-3-6. Investigations of support orders; notice and hearing upon modifications; petition for change.

1 (a) In every case in which a final judgment containing
2 a child support order has been entered in a domestic
3 relations matter, the children's advocate shall once every
4 three years or upon receipt of a written request from
5 an obligee or an obligor made not more than once by
6 a party each two years, examine the records and conduct

7 any investigation considered necessary to determine
8 whether the child support amount should be increased
9 or decreased in view of a temporary or permanent
10 change in physical custody of the child which the court
11 has not ordered, increased need of the child or changed
12 financial conditions, unless:

13 (1) If a child is being supported, in whole or in part,
14 by assistance payments from the division of human
15 services, the children's advocate has determined that
16 such a review would not be in the best interests of the
17 child and neither parent has requested a review;

18 (2) In the case of any other order, neither parent has
19 requested a review.

20 (b) The office shall notify both parents of their right
21 to request a review of a child support order, and shall
22 give each parent at least thirty days' notice before
23 commencing any review, and shall further notify each
24 parent, upon completion of a review, of the results of the
25 review, whether of a proposal to petition to seek
26 modification or of a proposal that there should be no
27 change.

28 (c) If the result of the review is a proposal to petition
29 to seek modification, then each parent shall be given
30 thirty days' notice of the hearing on the petition, the
31 notice to be directed to the last known address of each
32 party by first class mail.

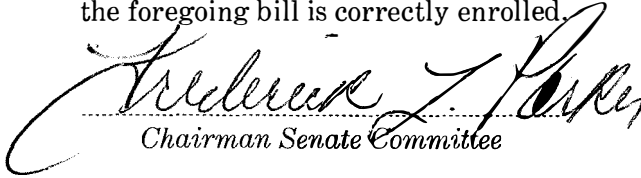
33 If the result of the review is a proposal that there be
34 no change, then any parent disagreeing with that
35 proposal may, within thirty days of the notice of the
36 results of the review, file with the court a petition for
37 modification setting forth in full the grounds therefor.

38 (d) The office shall petition the court for modification
39 of the amount of a child support order if modification
40 is determined to be necessary under subsection (a). A
41 written report and recommendation shall accompany
42 the petition.

43 (e) As used in this section, "changed financial condi-
44 tions" means increases or decreases in the resources
45 available to either party from any source. Changed

46 financial conditions includes, but is not limited to, the
47 application for or receipt of any form of public assist-
48 ance payments, unemployment compensation and
49 workers' compensation.

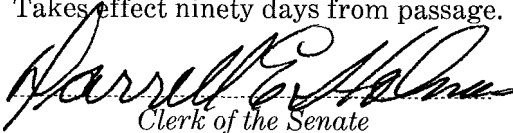
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

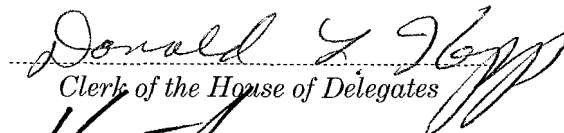

Chairman Senate Committee

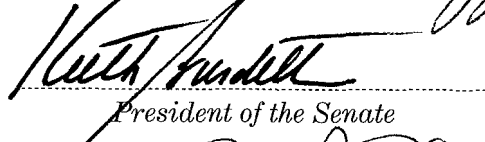

Chairman House Committee

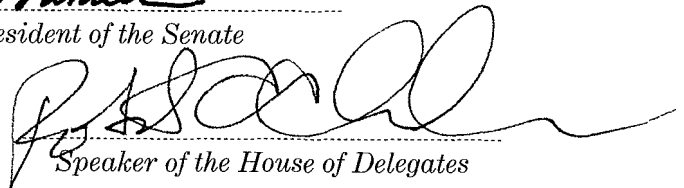
Originating in the House.

Takes effect ninety days from passage.

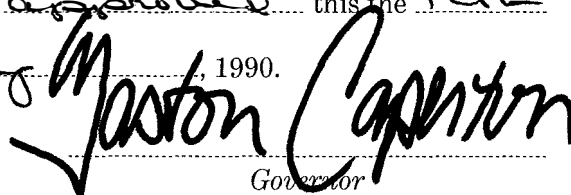

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 13th
day of July, 1990.


Governor

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OFFICE OF THE SECRETARY OF DEFENSE

PRESENTED TO THE

GOVERNMENT

Date 6/28/90

Time 11:35