WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

**ENROLLED**

HOUSE BILL No. 101

Mr. Speaker, Mr. Kiss, and Ashley
(By Delegate [By Request of the Executive])

Passed ___________________________ April 20, 1997

In Effect ___________________________ From Passage

(Effective July 1, 1997)
AN ACT to amend article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen-a; to amend and reenact sections eighteen-b and nineteen, article five of said chapter; to amend and reenact section ten, article two, chapter seventeen-b of said code; to amend and reenact section six, article three of said chapter; to amend and reenact sections nine and thirteen, article one, chapter seventeen-e of said code; to amend and reenact sections one and five, article two, chapter eighteen-a of said code; to amend and reenact section one, article seven, chapter eighteen-b of said code; to amend article one, chapter nineteen of said code by adding thereto a new section, designated section ten; to amend and reenact section seven, article two, chapter twenty-one of said code; to amend and reenact section two, article three-c of said chapter; to amend and reenact section five-c, article five of said chapter; to amend and reenact section seven, article eleven of said chapter; to amend and reenact section one, article nine, chapter twenty-two-a of said code; to amend and reenact section three, article seven, chapter twenty-two-c of said code; to amend and reenact section four, article three-b, chapter twenty-nine of said code; to amend and reenact sections six and thirteen, article one, chapter thirty of said code; to amend and reenact section three, article twelve, chapter thirty-three of said code; to amend and reenact section nine, article fourteen, chapter thirty-seven of said code; to amend and reenact section five, article twelve, chapter forty-seven of said code; to amend and
reenact section thirty, article one-a, chapter forty-eight-a of said code; to amend and reenact sections thirty-one, thirty-two, thirty-three, and thirty-four, article two of said chapter; to further amend said article by adding thereto a new section, designated section thirty-three-a; to further amend said chapter by adding thereto a new article, designated article five-a; and to amend and reenact sections three and six, article six of said chapter, all relating generally to enacting legislation to comply with mandates of the federal Personal Responsibility and Work Reconciliation Act of 1996 regarding the establishment, modification or enforcement of child support.

Be it enacted by the Legislature of West Virginia:

That article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen-a; that sections eighteen-b and nineteen, article five of said chapter be amended and reenacted; that section ten, article two, chapter seventeen-b of said code be amended and reenacted; that section six, article three of said chapter be amended and reenacted; that sections nine and thirteen, article one, chapter seventeen-c of said code be amended and reenacted; that sections one and five, article two, chapter eighteen-a of said code be amended and reenacted; that section one, article seven, chapter eighteen-b of said code be amended and reenacted; that article one, chapter nineteen of said code be amended by adding thereto a new section, designated section ten; that section seven, article two, chapter twenty-one of said code be amended and reenacted; that section two, article three-c of said chapter be amended and reenacted; that section five-c, article five of said chapter be amended and reenacted; that section seven, article eleven of said chapter be amended and reenacted; that section one, article nine, chapter twenty-two-a of said code be amended and reenacted; that section three, article seven, chapter twenty-two-c of said code be amended and reenacted; that section four, article three-b, chapter twenty-nine of said code be amended and reenacted; that sections six and thirteen, article one, chapter thirty of said code be amended and reenacted; that section three, article twelve, chapter thirty-three of said code be amended and reenacted; that section nine, article fourteen, chapter thirty-seven of said code be amended and reenacted; that section five, article twelve, chapter forty-seven of said code be amended and reenacted; that section thirty, article one-a, chapter forty-eight-a of said code be amended and reenacted; that sections thirty-one, thirty-two, thirty-three and thirty-four, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, des-
designated section thirty-three-a; that said chapter be further amended by adding thereto a new article, designated article five-a; and that sections three and six, article six of said chapter be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1. STATE BUREAU OF PUBLIC HEALTH.

§16-1-18a. Requirement for social security number on applications.

The director of health shall require every applicant for a license, permit, certificate of registration, or registration under this chapter to place his or her social security number on the application.

ARTICLE 5. VITAL STATISTICS.

§16-5-18b. Limitation on use of social security numbers.

A social security account number obtained in accordance with the provisions of this article with respect to the filing of: (1) A certificate of birth; (2) an application for a delayed registration of birth; (3) a judicial order establishing a record of birth; (4) an adoption order or decree; or (5) a certificate of paternity shall not be transmitted to a clerk of the county commission. Such social security account number shall not appear upon the public record of the register of births or upon any certificate of birth registration issued by the state registrar, local registrar, county clerk or other issuing authority, if any. Such social security account numbers shall be made available by the state registrar to the child support enforcement division created by article forty-eight-a upon the request of the division, to be used solely in connection with the enforcement of child support orders.

§16-5-19. Death registration.

(a) A death certificate for each death which occurs in this state shall be filed with the local registrar of the registration district in which the death occurs within three days after such death, and prior to removal of the body from the state, and shall be registered by such registrar if it has been completed and filed in accordance with this section: Provided, That

(1) If the place of death is unknown, a death certificate shall be filed in the registration district in which a dead body is found within three days after the finding;
(2) If death occurs in a moving conveyance, a death certificate shall be filed in the registration district in which the dead body is first removed from such conveyance; and

(3) If the death occurs in a district other than where the deceased resided, a death certificate shall be filed in the registration district in which the death occurred and in the district in which the deceased resided.

(b) The funeral director or person acting for him who first assumes custody of a dead body shall file the death certificate. He shall obtain the necessary personal data from the next of kin or the best qualified person or source available. The funeral director or person acting for him shall obtain the medical certification of the cause of death from the person responsible for making such certification. The personal data obtained shall include the deceased person's social security number or numbers. The social security account number of an individual who has died shall be placed in the records relating to the death and shall be recorded on the death certificate. A record of the social security number or numbers shall be filed with the local registrar of the district in which the deceased person resided within seven days after the death, and the local registrar shall transmit such number or numbers to the state registrar of vital statistics in the same manner as other personal data is transmitted to the state registrar.

(c) The medical certification shall be completed and signed within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which results in death except when inquiry is required pursuant to chapter sixty-one, article twelve or other applicable provision of this code.

(d) When death occurs without medical attendance and inquiry is not required pursuant to chapter sixty-one, article twelve or other applicable provisions of this code, the local health officer shall investigate the cause of death and complete and sign the medical certification within twenty-four hours after receiving notice of the death.

(e) When death occurs in a manner subject to investigation, the coroner or other officer or official charged with the legal duty of making such investigation shall investigate the cause of death and shall complete and sign the medical certification within twenty-four hours after making determination of the cause of death.
(f) In order that each county may have a complete record of the deaths occurring in said county, the local registrar shall transmit each month to the county clerk of his county a copy of the certificates of all deaths occurring in said county, and if any person shall die in a county other than that county within the state in which such person last resided prior to death, then the state registrar shall, if possible, also furnish a copy of such death certificate to the clerk of the county commission of the county wherein such person last resided, from which copies the clerk shall compile a record of such deaths and shall enter the same in a systematic and orderly way in a well-bound register of deaths for that county, which such register shall be a public record. The form of said death register shall be prescribed by the state registrar of vital statistics.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-10. Restricted licenses.

(a) The division upon issuing a driver's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the division may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The division shall issue a restricted license to a person who has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court orders restrictions of the person's license as provided in article five-a, chapter forty-eight-a of this code.

(c) The division may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(d) The division may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter.
(e) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to such person.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-6. Authority of division to suspend or revoke license; hearing.

(a) The division is hereby authorized to suspend the driver’s license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of a driver’s license is required upon conviction;

2. Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

3. Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

4. Is an habitually reckless or negligent driver of a motor vehicle;

5. Is incompetent to drive a motor vehicle;

6. Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

7. Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures or penalties imposed by a magistrate court or municipal court within ninety days, as required by section two-a, article three, chapter fifty or section two-a, article ten, chapter eight of this code;

8. Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;
(9) Is under the age of eighteen and has withdrawn either voluntarily or involuntarily from a secondary school, as provided in section eleven, article eight, chapter eighteen of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in article five-a, chapter forty-eight-a of this code and the child support enforcement division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section, and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section, and the division has received a court order restoring the license or a certification by the child support enforcement division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his request shall afford him an opportunity for a hearing as
early as practical within not to exceed twenty days after
receipt of such request in the county wherein the licensee
resides unless the division and the licensee agree that such
hearing may be held in some other county. Upon such
hearing the commissioner or his duly authorized agent
may administer oaths and may issue subpoenas for the
attendance of witnesses and the production of relevant
books and papers and may require a reexamination of the
licensee. Upon such hearing the division shall either re-
scind its order of suspension or, good cause appearing
therefor, may extend the suspension of such license or
revoke such license. The provisions of this subsection (d)
providing for notice and hearing are not applicable to a
suspension under subdivision (10), subsection (a) of this
section.

CHAPTER 17E. UNIFORM COMMERCIAL
DRIVER’S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER’S LICENSE.


(a) (1) General. — No person may be issued a com-
mercial driver’s license unless that person is a resident of
this state and has passed a knowledge and skills test for
driving a commercial motor vehicle which complies with
minimum federal standards established by federal regula-
tions enumerated in 49 C.F.R. part 383, sub-parts G and
H, and has satisfied all other requirements of the Federal
Commercial Motor Vehicle Safety Act in addition to other
requirements imposed by state law or federal regulations.
The tests will be administered by the West Virginia state
police according to rules promulgated by the commision-
er.

(2) Third party testing. — The commissioner may
authorize a person, including an agency of this or another
state, an employer, private individual or institution, depart-
ment, agency or instrumentality of local government, to
administer the skills test specified by this section: Provided,
That (i) the test is the same which would otherwise be
administered by the state and (ii) the party has entered
into an agreement with the state which complies with the
requirements of 49 C.F.R. party 383.75.

(3) Indemnification of driver examiners. — No per-
son who has been officially trained and certified by the
state as a driver examiner, who administers any such driv-
ing test, and no other person, firm or corporation by whom or with which such person is employed or is in any way associated, may be criminally liable for the administration of such tests, or civilly liable in damages to the person tested or other persons or property unless for gross negligence or willful or wanton injury.

(4) Monitoring of third party testing will be carried out by the West Virginia state police according to rules promulgated by the commissioner.

(b) Waiver of skills test. — The commissioner may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77 and those requirements specified by the commissioner.

(c) Limitations on issuance of license. — A commercial driver’s license or commercial driver’s instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person’s driver’s license is suspended, revoked or canceled in any state; nor may a commercial driver’s license be issued by any other state unless the person first surrenders all such licenses to the department, which must be returned to the issuing state(s) for cancellation. The division shall issue a restricted commercial driver’s license to a person who has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court orders restrictions of the person’s license as provided in article five-a, chapter forty-eight-a of this code.

(d) Commercial driver’s instruction permit. — (1) A commercial driver’s instruction permit may be issued to an individual who holds a valid operator or Class “D” driver license who has passed the vision and written tests required for issuance of a commercial driver license. (2) The commercial instruction permit may not be issued for a period to exceed six months. Only one renewal or ressuance may be granted within a two-year period. The holder of a commercial driver’s instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction or testing. (3) A commercial driver’s instruction permit
may only be issued to an individual who is at least eighteen years of age and has held an operator's or junior operator's license for at least two years. (4) The applicant for a commercial driver's instruction permit must also be otherwise qualified to hold a commercial driver's license.


(a) Disqualification offenses. — Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(2) Driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is four hundredths or more;

(3) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(4) Using a commercial motor vehicle in the commission of any felony as defined in this article: Provided, That the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance falls under the provisions of subsection (d) of this section.

(5) Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle.

In addition, the conviction of any of the following offenses as an operator of any vehicle is a disqualification offense:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle as defined under the provisions of section five, article three, chapter seventeen-b, and section one, article five, chapter seventeen-c of this code;

(2) Driving while license is suspended or revoked, as defined under the provisions of section three, article four, chapter seventeen-b of this code;

(3) Perjury or making a false affidavit or statement under oath to the department of motor vehicles, as defined under the provisions of subsection (4), section five, article
three, and section two, article four, chapter seventeen-b of this code.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(b) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection (a) of this section, or any combination of those offenses, arising from two or more separate incidents.

(c) The commissioner may issue rules establishing guidelines, including conditions, under which a disqualification for life under subsection (b) of this section may be reduced to a period of not less than ten years.

(d) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(f) A person is disqualified from driving a commercial motor vehicle if he or she has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the commercial driver’s license as provided in article five-a, chapter forty-eight-a of this code and the child support enforcement division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

A disqualification under this section shall continue until the division has received a court order restoring the license or a certification by the child support enforcement division that the licensee is complying with the original sup-
port order or a new or modified order that provides for
the payment of current support and any arrearage due.

(g) After suspending, revoking or canceling a com-
mercial driver's license, the department shall update its
records to reflect that action within ten days.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-1. Employment in general.

The employment of professional personnel shall be
made by the board only upon nomination and recommen-
dation of the superintendent. In case the board refuses to
employ any or all of the persons nominated, the superin-
tendent shall nominate others and submit the same to the
board at such time as the board may direct. All personnel
so nominated and recommended for employment and for
subsequent assignment shall meet the certification, licens-
ing, training, and other eligibility classifications as may be
required by provisions of this chapter and by state board
regulation. In addition to any other information required,
the application for any certification or licensing shall
include the applicant’s social security number. Profession-
al personnel employed as deputy, associate or assistant
superintendents by the board in offices, departments or
divisions at locations other than a school and who are
directly answerable to the superintendent shall serve at the
will and pleasure of the superintendent and may be re-
moved by the superintendent upon approval of the board.
Such professional personnel shall retain seniority rights
only in the area or areas in which they hold valid certifica-
tion or licensure.

§18A-2-5. Employment of service personnel; limitation.

The board is authorized to employ such service per-
sonnel, including substitutes, as is deemed necessary for
meeting the needs of the county school system: Provided,
that the board may not employ a number of such person-
nel whose minimum monthly salary under section eight-a,
article four, of this chapter is specified as pay grade “H”,
which number exceeds the number employed by the
board on the first day of March, one thousand nine hun-
dred eighty-eight.

Effective the first day of July, one thousand nine
hundred eighty-eight, a county board shall not employ for
the first time any person who has not obtained a high school diploma or general educational development certificate (GED) or who is not enrolled in an approved adult education course by the date of employment in preparation for obtaining a GED: Provided, however, That such employment is contingent upon continued enrollment or successful completion of the GED program.

Before entering upon their duties service personnel shall execute with the board a written contract which shall be in the following form:

"COUNTY BOARD OF EDUCATION
SERVICE PERSONNEL CONTRACT

OF EMPLOYMENT

THIS (Probationary or Continuing) CONTRACT OF EMPLOYMENT, made and entered into this ______ day of ______, 19____, by and between THE BOARD OF EDUCATION OF THE COUNTY OF __________, a corporation, hereinafter called the ‘Board,’ and (Name and Social Security Number of Employee), of (Mailing Address), hereinafter called the ‘Employee.’

WITNESSETH, that whereas, at a lawful meeting of the Board of Education of the County of __________ held at the offices of said Board, in the City of __________ County, West Virginia, on the ______ day of ______, 19____, the Employee was duly hired and appointed for employment as a (Job Classification) at (Place of Assignment) for the school year commencing ______ for the employment term and at the salary and upon the terms hereinafter set out.

NOW, THEREFORE, pursuant to said employment, Board and Employee mutually agree as follows:

(1) The Employee is employed by the Board as a (Job Classification) at (Place of Assignment) for the school year or remaining part thereof commencing ______, 19____. The period of employment is _____ days at an annual salary of $_______ at the rate of $_______ per month.

(2) The Board hereby certifies that the Employee’s employment has been duly approved by the Board and will be a matter of the Board’s minute records.
(3) The services to be performed by the Employee shall be such services as are prescribed for the job classification set out above in paragraph (1) and as defined in Section 8, Article 4, Chapter 18A of the Code of West Virginia, as amended.

(4) The Employee may be dismissed at any time for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty pursuant to the provisions of Section 8, Article 2, Chapter 18A of the Code of West Virginia, as amended.

(5) The Superintendent of the _________ County Board of Education, subject to the approval of the Board, may transfer and assign the Employee in the manner provided by Section 7, Article 2, Chapter 18A of the code of West Virginia, as amended.

(6) This contract shall at all times be subject to any and all existing laws, or such laws as may hereafter be lawfully enacted, and such laws shall be a part of this contract.

(7) This contract may be terminated or modified at any time by the mutual consent of the Board and the Employee.

(8) This contract must be signed and returned to the Board at its address of ____________ within thirty days after being received by the Employee.

(9) By signing this contract the Employee accepts employment upon the terms herein set out.

WITNESS the following signatures as of the day, month and year first above written:

________________________, (President, ______ County Board of Education) ____________, (Secretary, ____ County Board of Education) ____________, (Employee)

The use of this form shall not be interpreted to authorize boards to discontinue any employee’s contract status with the board or rescind any rights, privileges or benefits held under contract or otherwise by any employee prior to the effective date of this section.

Each contract of employment shall be designated as a probationary or continuing contract. The employment of service personnel shall be made a matter of minute
record. The employee shall return the contract of employment to the county board of education within thirty days after receipt or otherwise he shall forfeit his right to employment.

Under such regulation and policy as may be established by the county board, service personnel selected and trained for teacher-aide classifications, such as monitor aide, clerical aide, classroom aide and general aide, shall work under the direction of the principal and teachers to whom assigned.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-1. Seniority for full-time classified personnel; seniority to be observed in reducing work force; preferred recall list; renewal of listing; notice of vacancies.

(a) Definitions for terms used in this section shall be in accordance with those provided in section two, article nine of this chapter except that the provisions of this section shall apply only to classified employees whose employment, if continued, shall accumulate to a minimum total of one thousand forty hours during a calendar year and extend over at least nine months of a calendar year: Provided, That this section shall also apply for one year to any classified employee who is involuntarily transferred to a position in nonclassified status for which he or she did not apply.

(b) All decisions by the appropriate governing board or their agents at state institutions of higher education concerning reductions in work force of full-time classified personnel, whether by temporary furlough or permanent termination, shall be made in accordance with this section. For layoffs by classification for reason of lack of funds or work, or abolition of position or material changes in duties or organization and for recall of employees so laid off, consideration shall be given to an employee's seniority as measured by permanent employment in the service of the state system of higher education. In the event that the institution wishes to lay off a more senior employee, the institution must demonstrate that the senior employee cannot perform any other job duties held by less senior employees of that institution in the same job class or any other equivalent or lower job class for which the senior employee is qualified: Provided, That if an
employee refuses to accept a position in a lower job class, such employee shall retain all rights of recall hereinafter provided. If two or more employees accumulate identical seniority, the priority shall be determined by a random selection system established by the employees and approved by the institution.

(c) Any employee laid off during a furlough or reduction in work force shall be placed upon a preferred recall list and shall be recalled to employment by the institution on the basis of seniority. An employee's listing with an institution shall remain active for a period of one calendar year from the date of termination or furlough or from the date of the most recent renewal. If an employee fails to renew the listing with the institution, the employee's name may be removed from the list. An employee placed upon the preferred list shall be recalled to any position opening by the institution within the classification(s) in which the employee had previously been employed or to any lateral position for which the employee is qualified. An employee on the preferred recall list shall not forfeit the right to recall by the institution if compelling reasons require such employee to refuse an offer of reemployment by the institution.

The institution shall be required to notify all employees maintaining active listings on the preferred recall list of all position openings that from time to time exist. Such notice shall be sent by certified mail to the last known address of the employee. It shall be the duty of each employee listed to notify the institution of any change in address and to timely renew the listing with the institution. No position openings shall be filled by the institution, whether temporary or permanent, until all employees on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.

(d) A nonexempt classified employee, including a nonexempt employee who has not accumulated a minimum total of one thousand forty hours during the calendar year or whose contract does not extend over at least nine months of a calendar year, who meets the minimum qualifications for a job opening at the institution where the employee is currently employed, whether the job be a lateral transfer or a promotion, and applies for same shall be transferred or promoted before a new person is hired unless such hiring is affected by mandates in affirmative
action plans or the requirements of Public Law 101-336, the Americans with Disabilities Act. If more than one qualified, nonexempt classified employee applies, the best-qualified nonexempt classified employee shall be awarded the position. In instances where such classified employees are equally qualified, the nonexempt classified employee with the greatest amount of continuous seniority at that state institution of higher education shall be awarded the position. A nonexempt classified employee is one to whom the provisions of the federal Fair Labor Standards Act, as amended, apply.

(e) In addition to any other information required, any application for personnel governed by the provisions of this section shall include the applicant’s social security number.

CHAPTER 19. AGRICULTURE.

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-10. Requirement for social security number on applications.

The commissioner shall require every applicant for a license, permit, certificate of registration, or registration under this chapter to place his or her social security number on the application.

CHAPTER 21. LABOR.

ARTICLE 2. EMPLOYMENT AGENCIES.

§21-2-7. License required; displaying license; annual tax.

No employment agent shall engage in the business for profit or receive any fee, charge commission or other compensation, directly or indirectly, for services as employment agent, without first having obtained a license therefor from the state tax commissioner. Such license shall not be issued until the commissioner of labor shall have approved in writing the application therefor, and, when issued, such license shall constitute a license from the state to operate as an employment agent for compensation and shall not be transferable. Such license shall at all times be kept posted in a conspicuous place at the place of business of such employment agent. Every employment agent shall pay the annual license tax provided for in article twelve, chapter eleven of this code.
In addition to any other information required, an application for a license under this section shall include the applicant's social security number.

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-2. Inspectors; certificates of competency; application; examination; reexamination.

No person may serve as an elevator inspector unless he or she successfully completes the examination required by this article and holds a certificate of competency for elevator inspections issued by the division.

Application for examination for elevator inspections shall be in writing, accompanied by a fee of ten dollars, upon a form designed and furnished by the division and shall, at a minimum, state the level of education of the applicant, list his or her employers, his or her period of employment and the position held with each. In addition to any other information required, the application shall include the applicant's social security number. The applicant shall also submit a letter from one or more of his or her previous employers concerning his or her character and experience.

Applications which contain any willfully submitted false or untrue information shall be rejected. After review of the application by the division, the applicant, if deemed appropriate by the division, shall be tested by means of a written examination as prescribed by the division dealing with the construction, installation, operation, maintenance and repair of elevators and their accessories.

The division shall issue a certificate of competency for elevator inspections to any applicant who successfully completes the examination, as determined by standards set in legislative rules promulgated by the division, as authorized by this article. An applicant who fails to successfully complete an initial examination may submit an application for a second examination ninety days or more after the initial examination and upon payment of the ten dollar examination fee. Should an applicant fail to successfully complete the prescribed examination on the second trial, he or she shall not be permitted to submit an application for another examination for a period of one year after the second failure.
Any person hired as an elevator inspector by a county or municipality shall possess a certificate of competency issued by the division.

The division may hire certified inspectors or enter into a contract to hire inspectors who are certified by the division. The division shall hire an inspector supervisor who shall supervise the inspection activities under this article.

ARTICLE 5. WAGE AND PAYMENT COLLECTION.

§21-5-5c. License required for polygraph examiners; qualifications; promulgation of rules governing administration of polygraph tests.

(a) No person, firm or corporation shall administer a polygraph, lie detector or other such similar test utilizing mechanical measures of physiological reactions to evaluate truthfulness to an employee or prospective employee without holding a current valid license to do so as issued by the commissioner of labor. No test shall be administered by a licensed corporation except by an officer or employee thereof who is also licensed.

(b) A person is qualified to receive a license as an examiner if he:

(1) Is at least eighteen years of age;
(2) Is a citizen of the United States;
(3) Has not been convicted of a misdemeanor involving moral turpitude or a felony;
(4) Has not been released or discharged with other than honorable conditions from any of the armed services of the United States or that of any other nation;
(5) Has passed an examination conducted by the commissioner of labor or under his supervision, to determine his competency to obtain a license to practice as an examiner;
(6) Has satisfactorily completed not less than six months of internship training; and
(7) Has met any other qualifications of education or training established by the commissioner of labor in his sole discretion which qualifications are to be at least as stringent as those recommended by the American polygraph association.
(c) The commissioner of labor may design and by procedural rule designate and thereafter administer any test he deems appropriate to those persons applying for a license to administer polygraph, lie detector or such similar test to employees or prospective employees. The test designed by the commissioner of labor shall be so designed as to ensure that the applicant is thoroughly familiar with the code of ethics of the American polygraph association and has been trained in accordance with association rules. The test must also include a rigorous examination of the applicant’s knowledge of a familiarity with all aspects of operating polygraph equipment.

(d) The license to give a polygraph, lie detector or similar test to employees or prospective employees shall be issued for a period of one year. It may be reissued from year to year.

(e) The commissioner of labor shall charge a fee of one hundred dollars for each issuance or reissuance of a license to give a polygraph, lie detector or similar test to employees or prospective employees. Such fee shall be deposited in the general revenue fund of the state. In addition to any other information required, an application for a license shall include the applicant’s social security number.

(f) The commissioner of labor shall promulgate legislative rules pursuant to the provisions of chapter twenty-nine-a, article three, governing the administration of polygraph, lie detector or such similar test to employees. Such legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he may be licensed to give or interpret such polygraph, lie detector or similar test;

(2) Standards of accuracy which shall be met by machines or other devices to be used in polygraph, lie detector or similar tests; and

(3) The conditions under which a polygraph, lie detector or such similar test may be given.

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-7. Application for and issuance of license.

(a) A person desiring to be licensed as a contractor under this article shall submit to the board a written appli-
cation requesting licensure, providing the applicant's social security number and such other information as the board may require, on forms supplied by the board. The applicant shall pay a license fee not to exceed one hundred fifty dollars: Provided, That electrical contractors already licensed under section four, article three-b, chapter twenty-nine of this code, shall pay no more than twenty dollars.

(b) A person holding a business registration certificate to conduct business in this state as a contractor on the thirtieth day of September, one thousand nine hundred ninety-one, may register with the board, certify by affidavit the requirements of subsection (c), section fifteen hereof, and pay such license fee not to exceed one hundred fifty dollars and shall be issued a contractor's license without further examination.

CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.

ARTICLE 9. MINE INSPECTORS' EXAMINING BOARD.

§22A-9-1. Mine inspectors' examining board.

The mine inspectors' examining board is continued. It consists of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the Senate. Members so appointed may be removed only for the same causes and in like manner as elective state officers. One of the members of the board shall be a representative of the public, who shall be the director of the school of mines at West Virginia university. Two members of the board shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine operators and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers.

The director of the office of miners' health, safety and training is an ex officio member of the board and shall serve as secretary of the board, without additional compensation; but the director has no right to vote with respect to any matter before the board.

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for
terms of two, four, six and eight years, respectively. Any
member whose term expires may be reappointed by the
governor. Members serving on the effective date of this
article may continue to serve until their terms expire.

Each member of the board shall be paid the same
compensation, and each member of the board shall be
paid the expense reimbursement, as is paid to members of
the Legislature for their interim duties as recommended
by the citizens legislative compensation commission and
authorized by law for each day or portion thereof en-
gaged in the discharge of official duties. Any such
amounts shall be paid out of the state treasury upon a
requisition upon the state auditor, properly certified by
such members of the board.

The public member is chair of the board. Members
of the board, before performing any duty, shall take and
subscribe to the oath required by section 5, article IV of
the constitution of West Virginia.

The mine inspectors' examining board shall meet at
such times and places as shall be designated by the chair.
It is the duty of the chair to call a meeting of the board on
the written request of three members or the director of the
office of miners' health, safety and training. Notice of
each meeting shall be given in writing to each member by
the secretary at least five days in advance of the meeting.
Three members is a quorum for the transaction of busi-
ness.

In addition to other duties expressly set forth else-
where in this article, the board shall:

(1) Establish, and from time to time revise, forms of
application for employment as mine inspectors, which
shall include the applicant’s social security number, and
forms for written examinations to test the qualifications of
candidates for that position;

(2) Adopt and promulgate reasonable rules relating
to the examination, qualification and certification of can-
didates for appointment as mine inspectors, and hearing
for removal of inspectors, required to be held by section
twelve, article one of this chapter. All of such rules shall
be printed and a copy thereof furnished by the secretary
of the board to any person upon request;

(3) Conduct, after public notice of the time and place
thereof, examinations of candidates for appointment as
mine inspector. By unanimous agreement of all members
of the board, one or more members of the board or an
employee of the office of miners' health, safety and train-
ing may be designated to give a candidate the written
portion of the examination;

(4) Prepare and certify to the director of the office of
miners' health, safety and training a register of qualified
eligible candidates for appointment as mine inspectors.
The register shall list all qualified eligible candidates in the
order of their grades, the candidate with the highest grade
appearing at the top of the list. After each meeting of the
board held to examine such candidates, and at least annu-
ally, the board shall prepare and submit to the director of
the office of miners' health, safety and training a revised
and corrected register of qualified eligible candidates for
appointment as mine inspector, deleting from such revised
register all persons (a) who are no longer residents of West
Virginia, (b) who have allowed a calendar year to expire
without, in writing, indicating their continued availability
for such appointment, (c) who have been passed over for
appointment for three years, (d) who have become ineligi-
ble for appointment since the board originally certified
that such person was qualified and eligible for appoint-
ment as mine inspector, or (e) who, in the judgment of at
least four members of the board, should be removed from
the register for good cause;

(5) Cause the secretary of the board to keep and
preserve the written examination papers, manuscripts,
grading sheets, and other papers of all applicants for ap-
pointment as mine inspector for such period of time as
may be established by the board. Specimens of the exam-
inations given, together with the correct solution of each
question, shall be preserved permanently by the secretary
of the board;

(6) Issue a letter or written notice of qualification to
each successful eligible candidate;

(7) Hear and determine proceedings for the removal
of mine inspectors in accordance with the provisions of
this article;

(8) Hear and determine appeals of mine inspectors
from suspension orders made by the director pursuant to
the provisions of section four, article one of this chapter:
Provided, That an aggrieved inspector, in order to appeal
from any order of suspension, shall file such appeal in
writing with the mine inspectors' examining board not
later than ten days after receipt of notice of suspension.
On such appeal the board shall affirm the act of the direc-
tor unless it be satisfied from a clear preponderance of the
evidence that the director has acted arbitrarily;

(9) Make an annual report to the governor and the
director concerning the administration of mine inspection
personnel in the state service, making such recommenda-
tions as the board considers to be in the public interest.

CHAPTER 22C. ENVIRONMENTAL
RESOURCES; BOARDS,
AUTHORITIES, COMMISSIONS AND COMPACTS.

ARTICLE 7. OIL AND GAS INSPECTORS' EXAMINING BOARD.

§22C-7-3. Oil and gas inspectors' examining board created;
composition; appointment, term and compensa-
tion of members; meetings; powers and duties
generally; continuation following audit.

(a) There is hereby continued an oil and gas inspec-
tors' examining board consisting of five members, two of
whom shall be ex officio members and three of whom
shall be appointed by the governor, by and with the advice
and consent of the Senate. Appointed members may be
removed only for the same causes and like manner as
elective state officers. One member of the board who shall
be the representative of the public at large and shall be a
person who is knowledgeable about the subject matter of
this article and has no direct or indirect financial interest
in oil and gas production other than the receipt of royalty
payments which do not exceed a five year average of six
hundred dollars per year; one member shall be a person
who by reason of previous training and experience may
reasonably be said to represent the viewpoint of indepen-
dent oil and gas operators; and one member shall be a
person who by reason of previous training and experience
may reasonably be said to represent the viewpoint of ma-
jor oil and gas producers.

The chief of the office of oil and gas of the division
of environmental protection and the chief of the office of
water resources of the division of environmental protec-
tion shall be ex officio members.

The appointed members of the board shall be ap-
pointed for overlapping terms of six years, except that the
original appointments shall be for terms of two, four and six years, respectively. Any member whose term expires may be reappointed by the governor.

The board shall pay each member the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties.

The chief of the office of oil and gas shall serve as chair of the board. The board shall elect a secretary from its members.

Members of the board, before performing any duty, shall take and subscribe to the oath required by section 5, article IV of the constitution of West Virginia.

The board shall meet at such times and places as shall be designated by the chair. It is the duty of the chair to call a meeting of the board on the written request of two members. Notice of each meeting shall be given in writing to each member by the secretary at least five days in advance of the meeting. A majority of members is a quorum for the transaction of business.

(b) In addition to other powers and duties expressly set forth elsewhere in this article, the board shall:

(1) Establish, and from time to time revise, forms of application for employment as an oil and gas inspector and supervising inspector, which shall include the applicant's social security number, and forms for written examinations to test the qualifications of candidates, with such distinctions, if any, in the forms for oil and gas inspector and supervising inspector as the board may from time to time deem necessary or advisable;

(2) Adopt and promulgate reasonable rules relating to the examination, qualification and certification of candidates for appointment, and relating to hearings for removal of inspectors or the supervising inspector, required to be held by this article. All of such rules shall be printed and a copy thereof furnished by the secretary of the board to any person upon request;

(3) Conduct, after public notice of the time and place thereof, examinations of candidates for appointment. By unanimous agreement of all members of the board, one or
more members of the board or an employee of the division of environmental protection may be designated to
give to a candidate the written portion of the examination;

(4) Prepare and certify to the director of the division
of environmental protection a register of qualified eligible
candidates for appointment as oil and gas inspectors or as
supervising inspectors, with such differentiation, if any,
between the certification of candidates for oil and gas
inspectors and for supervising inspectors as the board may
from time to time deem necessary or advisable. The regist-
ner shall list all qualified eligible candidates in the order of
their grades, the candidate with the highest grade appear-
ing at the top of the list. After each meeting of the board
held to examine such candidates and at least annually, the
board shall prepare and submit to the director of the divi-
sion of environmental protection a revised and corrected
register of qualified eligible candidates for appointment,
deleting from such revised register all persons: (a) Who
are no longer residents of West Virginia; (b) who have
allowed a calendar year to expire without, in writing, indi-
cating their continued availability for such appointment;
(c) who have been passed over for appointment for three
years; (d) who have become ineligible for appointment
since the board originally certified that such persons were
qualified and eligible for appointment; or (e) who, in the
judgment of at least three members of the board, should
be removed from the register for good cause;

(5) Cause the secretary of the board to keep and
preserve the written examination papers, manuscripts,
grading sheets and other papers of all applicants for ap-
pointment for such period of time as may be established
by the board. Specimens of the examinations given, to-
gether with the correct solution of each question, shall be
preserved permanently by the secretary of the board;

(6) Issue a letter or written notice of qualification to
each successful eligible candidate;

(7) Hear and determine proceedings for the removal
of inspectors or the supervising inspector in accordance
with the provisions of this article;

(8) Hear and determine appeals of inspectors or the
supervising inspector from suspension orders made by
said director pursuant to the provisions of section two,
article six, chapter twenty-two of this code: Provided,
That in order to appeal from any order of suspension, an
aggrieved inspector or supervising inspector shall file such appeal in writing with the oil and gas inspectors’ examining board not later than ten days after receipt of the notice of suspension. On such appeal the board shall affirm the action of said director unless it be satisfied from a clear preponderance of the evidence that said director has acted arbitrarily;

(9) Make an annual report to the governor concerning the administration of oil and gas inspection personnel in the state service; making such recommendations as the board considers to be in the public interest; and

(10) Render such advice and assistance to the director of the division of environmental protection as the director shall from time to time determine necessary or desirable in the performance of such duties.

(c) After having conducted a preliminary performance review through its joint committee on government operations, pursuant to article ten, chapter four of this code, the Legislature hereby finds and declares that the oil and gas inspectors’ examining board within the division of environmental protection should be continued and reestablished. Accordingly, notwithstanding the provisions of said article, the oil and gas inspectors’ examining board within the division of environmental protection shall continue to exist until the first day of July, two thousand.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3B. SUPERVISION OF ELECTRICIANS.

§29-3B-4. Licenses; classes of licenses; issuance of licenses by commissioner; qualifications required for license; nontransferability and nonassignability of licenses; expiration of license; renewal; reciprocity.

(a) The following four classes of license may be issued by the state fire marshal: “Master electrician license,” “journeyman electrician’s license,” “apprentice electrician license” and “temporary electrician license.” Additional classes of specialty electrician license may be issued by the state fire marshal.

(b) The state fire marshal shall issue the appropriate class of license to a person, firm or corporation upon a
finding that such person, firm or corporation possesses the
qualifications for the class of license to be issued.

(c) The qualifications for each class of license to be
issued are as follows:

(1) For a "master electrician license" a person must
have five years of experience in electrical work of such
breadth, independence and quality that such work indi-
cates that the applicant is competent to perform all types
of electrical work and can direct and instruct journeyman
electricians and apprentice electricians in the performance
of electrical work. Such applicant, or a member of a firm
or an officer of a corporation if the applicant be a firm or
corporation, must also pass the master electrician examina-
tion given by the state fire marshal with a grade of eighty
percent correct or better;

(2) For a "journeyman electrician’s license," a per-
son must have at least four years of experience in per-
forming electrical work under the direction or instruction
of a master electrician or must have completed a formal
apprentice program, or an electrical vocational education
program of at least one thousand eighty hours in length
and approved by the state board of education or its suc-
cessor, providing actual electrical work experience and
training conducted by one or more master electricians.
Such applicant must also pass the journeyman electrici-
ian’s examination given by the state fire marshal with a
grade of eighty percent correct or better;

(3) For an “apprentice electrician license,” a person
must pass the apprentice electrician’s examination given
by the state fire marshal with a grade of eighty percent
correct or better or be enrolled in an electrical apprentice
program approved by the state fire marshal;

(4) A one time temporary master or journeyman
electrician license of ninety-days duration may be issued
to an applicant providing the applicant has completed a
United States department of labor/bureau of apprentice-
ship and training registered electrical apprenticeship pro-
gram, or an electrical vocational education program of at
least one thousand eighty hours in length and approved
by the state board of education or its successor, and have
at least four years of experience in performing electrical
work and furnishes the state fire marshal with satisfactory
evidence of electrical work;
(5) Other specialty electrician license may be issued by the state fire marshal which limits the work in a limited area of expertise. Such applicant must pass the specialty electrician's examination given by the state fire marshal with a grade of eighty percent correct or better.

(d) (1) Certificates of license for a master electrician's license issued by the state fire marshal shall specify the name of the person, firm or corporation so qualifying and the name of the person, who in the case of a firm shall be one of its members and in the case of a corporation shall be one of its officers, passing the master electrician examination.

(2) Licenses issued to electricians shall specify the name of the person who is thereby authorized to perform electrical work or, in the case of apprentice electricians, to work with other classes of electricians to perform electrical work.

(e) No license issued under this article is assignable or transferable.

(f) All licenses issued by the state fire marshal shall expire on the thirtieth day of June following the year of issue or renewal.

(g) (1) Each expiring license may be renewed without need for examination and without limit as to the number of times renewed, for the same class of license previously issued and for the same person, firm or corporation to whom it was originally issued upon payment to the state fire marshal of a renewal fee of fifty dollars if such application for renewal and payment of such fee is made before the date of expiration of the license.

(2) In the case of a failure to renew a license on or before the thirtieth day of June the person named in the license may, upon payment of the renewal fee and an additional fee of fifteen dollars, receive from the state fire marshal a deferred renewal of such license which shall expire on the thirtieth day of June in the ensuing year. No person, firm or corporation may perform electrical work upon expiration of such person's, firm's or corporation's license until a deferred renewal for such license is issued by the state fire marshal even if such person, firm or corporation has applied for the deferred renewal of such license.
(h) To the extent that other jurisdictions provide for
the licensing of electricians, the state fire marshal may
grant the same or equivalent classification of license with-
out written examination upon satisfactory proof furnished
to the state fire marshal that the qualifications of such
applicant are equal to the qualifications required by this
article and upon payment of the required fee: Provided,
That as a condition to reciprocity, the other jurisdictions
must extend to licensed electricians of this state, the same
or equivalent classification.

(i) In addition to any other information required, the
applicant's social security number shall be recorded on
any application for a license submitted pursuant to the
provisions of this section.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL
STATE BOARDS OF EXAMINATION OR REGI-
STRATION REFERRED TO IN CHAPTER.

§30-1-6. Application for license or registration; examination
fee.

(a) Every applicant for license or registration under
the provisions of this chapter shall apply for such license
or registration in writing to the proper board and shall
transmit with his or her application an examination fee
which the board is authorized to charge for an examina-
tion or investigation into the applicant's qualifications to
practice.

(b) Each board referred to in this chapter is autho-
ized to establish by rule a deadline for application for
examination which shall be no less than ten nor more than
ninety days prior to the date of the examination.

(c) Boards may set by rule fees relating to the licens-
ing or registering of individuals, which shall be sufficient
to enable the boards to carry out effectively their responsi-
bilities of licensure or registration and discipline of indi-
viduals subject to their authority: Provided, That when
any board proposes to promulgate a rule regarding fees
for licensing or registration, that board shall notify its
membership of the proposed rule by mailing a copy of
the proposed rule to the membership at the time that the
proposed rule is filed with the secretary of state for publi-
cation in the state register in accordance with section five,
article three, chapter twenty-nine-a of this code.
(d) In addition to any other information required, the applicant's social security number shall be recorded on the application.

§30-1-13. Roster of licensed or registered practitioners.

The secretary of every such board shall also prepare and maintain a complete roster of the names, social security numbers and office addresses of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name and also by the counties in which their offices are situated. The board may call for and require a registration whenever it deems it necessary or expedient to secure an accurate roster.

CHAPTER 33. INSURANCE.

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINES.

§33-12-3. Application.

(a) Application for an agent's, broker's or solicitor's license or renewal thereof shall be made to the commissioner upon a form prescribed by him and shall contain the applicant's name, social security number and such information and supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath.

(b) If for an agent's license, the application shall show the kinds of insurance to be transacted, and shall be accompanied by the written appointment of the applicant as agent by at least one licensed insurer for each kind of insurance for which application is made.

(c) If for a solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed agent.

(d) If for a broker's license, the application shall be accompanied by a statement upon a form prescribed by the commissioner as to the trustworthiness and competency of the applicant, signed by at least three licensed resident agents of this state.

(e) Wilful misrepresentation of any fact in any such application or any documents in support thereof is a violation of this chapter.
CHAPTER 37. REAL PROPERTY.
ARTICLE 14. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

An individual who desires to engage in real estate appraisal activity in this state shall make application for a license, in writing, in such form as the board may prescribe. In addition to any other information required, the applicant's social security number shall be recorded on the application.

To assist the board in determining whether grounds exist to deny the issuance of a license to an applicant, the board may require the fingerprinting of every applicant for an original license.

CHAPTER 47. REGULATION OF TRADE.
ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND SALESPERSONS.

§47-12-5. Applications for licenses.

Every applicant for a real estate broker's license shall apply therefor in writing upon blanks prepared by the commission which shall contain the applicant's social security number and such other data and information as the commission shall require.

(a) Such application for broker's license shall be accompanied by the recommendation of at least two citizens who are property owners at the time of signing said application and have been property owners for at least twelve months preceding such application, who have known the applicant for two years and are not related to the applicant, certifying that the applicant bears a good reputation for honesty and trustworthiness, and recommending that a license be granted to the applicant.

(b) Every applicant for a salesperson's license shall apply therefor in writing upon blanks prepared by the commission which shall contain the applicant's social security number such other data and information as the commission may require. The application shall be accompanied by a sworn statement by the broker in whose employ the applicant desires to enter, certifying that, in his or
CHAPTER 48A. ENFORCEMENT OF FAMILY OBLIGATIONS.

ARTICLE 1A. ENFORCEMENT OF FAMILY OBLIGATIONS.


“Support order” means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearage, or reimbursements, and which may include related costs and fees, interest and penalties, income withholding, attorneys’ fees, and other relief.

ARTICLE 2. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION; CHILD SUPPORT ENFORCEMENT DIVISION; ESTABLISHMENT AND ORGANIZATION.

§48A-2-31. Providing information to consumer reporting agencies.

(a) For purposes of this section, the term “consumer reporting agency” means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(b) The commission shall propose and adopt a procedural rule in accordance with the provisions of sections four and eight, article three, chapter twenty-nine-a of this code, establishing procedures whereby information regarding the amount of overdue support owed by an obligor will be reported periodically by the child support enforcement division to any consumer reporting agency, after a request by the consumer reporting agency that it be provided with the periodic reports.

(c) The procedural rule adopted by the commission shall provide that any information with respect to an obligor shall be made available only after notice has been sent
to the obligor of the proposed action, and such the obligor
has been given a reasonable opportunity to contest the
accuracy of the information.

(d) The procedural rule adopted shall afford the
obligor with procedural due process prior to making in-
formation available with respect to the obligor.

(e) The information made available to a consumer
reporting agency regarding overdue support may only be
made available to an entity that has furnished evidence
satisfactory to the division that the entity is a consumer
reporting agency as defined in subsection (a) of this sec-
tion.

(f) The child support enforcement division may
impose a fee for furnishing such information, not to ex-
ceed the actual cost thereof.


(a) The child support enforcement division shall
establish and maintain a central state case registry of child
support orders. All orders in cases when any party re-
ceives any service provided by the child support enforce-
ment division shall be included in the registry. Any other
support order entered or modified in this state on or after
the first day of October, one thousand nine hundred nine-
ty-eight shall be included in the registry. The child sup-
port enforcement division, upon receipt of any informa-
tion regarding a new hire provided pursuant to section
three, article five of this chapter shall compare information
received to determine if the new hire’s income is subject
to wage withholding and notify the employer pursuant to
that section.


In order to obtain financial and medical insurance
information pursuant to the establishment, enforcement
and modification provisions set forth in this chapter or
chapter forty-eight of this code, the child support enforce-
ment division may serve, by certified mail or personal
service, an administrative subpoena on any person, corpo-
rated, partnership, financial institution, labor organization
or state agency, for an appearance or for production of
financial or medical insurance information. In case of
disobedience to the subpoena, the child support enforce-
ment division may invoke the aid of any circuit court in
requiring the appearance or production of records and
financial documents. The child support enforcement division may assess a civil penalty of no more than one hundred dollars for the failure of any person, corporation, financial institution, labor organization or state agency to comply with requirements of this section.

§48A-2-33a. Nonliability for financial institutions providing financial records to the division of child support enforcement.

(a) Notwithstanding any other provision of this code, a financial institution shall not be liable under the law of this state to any person for disclosing any financial record of an individual to the division of child support enforcement in response to a subpoena issued by the division pursuant to section thirty-three of this article.

(b) The division of child support enforcement, after obtaining a financial record of an individual from a financial institution may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) The civil liability of a person who knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b) of this section is governed by the provisions of federal law as set forth in 42 U.S.C. §669A.

(d) For purposes of this section the term “financial institution” means:

(1) Any bank or savings association;

(2) A person who is an institution-affiliated party, as that term is defined in the federal deposit insurance act, 12 U.S.C. 1813(u);

(3) Any federal credit union or state-chartered credit union, including an institution-affiliated party of a credit union; and

(4) Any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in this state.

(e) For purposes of this section, the term “financial record” means an original of, a copy of, or information known to have been derived from, any record held by a
financial institution pertaining to a customer's relationship with the financial institution.

§48A-2-34. Employment and income reporting.

(a) Except as provided in subsections (b) and (c) of this section, all employers doing business in the state of West Virginia shall report to the child support enforcement division:

(1) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(2) The rehiring or return to work of any employee who resides or works in this state.

(b) Employers are not required to report the hiring, rehiring or return to work of any person who:

(1) Is employed for less than one month's duration; or

(2) Is employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(3) Has gross earnings of less than three hundred dollars per month.

(c) The commission may establish additional exemptions to reduce unnecessary or burdensome reporting through promulgation of a legislative rule pursuant to chapter twenty-nine-a of this code.

(d) Employers shall report by mailing to the child support enforcement division a copy of the employee's W-4 form. However, an employer may transmit such information through another means if approved in writing by the child support enforcement division prior to the transmittal.

(e) Employers shall submit a report within fourteen days of the date of the hiring, rehiring or return to work of the employee. The report shall include the employee's name, address, social security number and date of birth and the employer's name and address, any different address of the payroll office and the employer's federal tax identification number.

(f) An employer of an obligor shall provide to the child support enforcement division, upon its written re-
quest, information regarding the obligor’s employment, wages or salary, medical insurance and location of employment.

(g) Any employer who fails to report in accordance with the provisions of this section shall be assessed a civil penalty of no more than twenty dollars. If the failure to report is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report, the employer shall be assessed a civil penalty of no more than three hundred fifty dollars.

(h) Employers required to report under this section may assess each employee so reported one dollar for the administrative costs of reporting.

ARTICLE 5A. ENFORCEMENT OF SUPPORT ORDER THROUGH ACTION AGAINST LICENSE.


For purposes of this article, the words or terms defined in this section have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context.

(1) “Action against a license” means action taken by the child support enforcement division to cause the denial, nonrenewal, suspension or restriction of a license applied for or held by (A) a support obligor owing overdue support, or (B) a person who has failed to comply with subpoenas or warrants relating to paternity or child support proceedings;

(2) “License” means a license, permit, certificate of registration, registration, credential, stamp or other indicia that evidences a personal privilege entitling a person to do an act that he or she would otherwise not be entitled to do, or evidences a special privilege to pursue a profession, trade, occupation, business or vocation.

§48A-5A-2. Licenses subject to action.

The following licenses are subject to an action against a license as provided for in this article:

(1) A permit or license issued under chapter seventeen-b of this code, authorizing a person to drive a motor vehicle;
(2) A commercial driver’s license, issued under chapter seventeen-e of this code, authorizing a person to drive a class of commercial vehicle;

(3) A permit, license or stamp issued under article two or two-b, chapter twenty of this code, regulating a person’s activities for wildlife management purposes, authorizing a person to serve as an outfitter or guide, or authorizing a person to hunt or fish;

(4) A license or registration issued under chapter thirty of this code, authorizing a person to practice or engage in a profession or occupation;

(5) A license issued under article twelve, chapter forty-seven of this code, authorizing a person to transact business as a real estate broker or real estate salesperson;

(6) A license or certification issued under article fourteen, chapter thirty-seven of this code, authorizing a person to transact business as a real estate appraiser;

(7) A license issued under article twelve, chapter thirty-three of this code, authorizing a person to transact insurance business as an agent, broker or solicitor;

(8) A registration made under article two, chapter thirty-two of this code, authorizing a person to transact securities business as a broker-dealer, agent or investment advisor;

(9) A license issued under article twenty-two, chapter twenty-nine of this code, authorizing a person to transact business as a lottery sales agent;

(10) A license issued under articles thirty-two or thirty-four, chapter sixteen of this code, authorizing persons to pursue a trade or vocation in asbestos abatement or radon mitigation;

(11) A license issued under article eleven, chapter twenty-one of this code, authorizing a person to act as a contractor;

(12) A license issued under article two-c, chapter nineteen of this code, authorizing a person to act as an auctioneer; and

(13) A license, permit or certificate issued under chapter nineteen of this code, authorizing a person to sell, market or distribute agricultural products or livestock.
§48A-5A-3. Action against license; notice to licensee.

(a) The child support enforcement division shall send a written notice of an action against a license to a person who:

(1) Owes overdue child support, if the child support arrearage equals or exceeds the amount of child support payable for six months;

(2) Has failed for a period of six months to pay medical support ordered under section fifteen-a, article two, chapter forty-eight of this code; or

(3) Has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(b) In the case of overdue child support or noncompliance with a medical support order, notice of an action against a license shall be served only if other statutory enforcement methods to collect the support arrearage have been exhausted or are not available.

(c) The division shall send a notice of action against a license by regular mail and by certified mail, return receipt requested, to the person's last-known address or place of business or employment. Simultaneous certified and regular mailing of the written notice shall constitute effective service unless the United States Postal Service returns the mail to the child support enforcement division within the thirty-day response period marked "moved, unable to forward," "addressee not known," "no such number/street," "insufficient address," or "forwarding order expired." If the certified mail is returned for any other reason without the return of the regular mail, the regular mail service shall constitute effective service. If the mail is addressed to the person at his or her place of business or employment, with postal instructions to deliver to addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the person. Acceptance of the certified mail notice signed by the person, the person's attorney, or a competent member of the person's household above the age of sixteen shall be deemed effective service.

(d) The notice shall be substantially in the following form:
NOTICE OF ACTION AGAINST LICENSE

<table>
<thead>
<tr>
<th>Name and address</th>
<th>Date:</th>
<th>Case No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security No:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Circuit Court of __________ County, West Virginia</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Section 1.**

- ☐ The child support enforcement division has determined that you have failed to comply with an order to pay child support, and that the amount you owe equals six months child support or more. The amount you owe is calculated to be $_________ as of the ______ day of ________.

- ☐ The child support enforcement division has determined that you have failed to comply with a medical support order for a period of six months. The amount you owe is calculated to be $_________ as of the ______ day of ________.

- ☐ The child support enforcement division has determined that you have failed to comply with a medical support order requiring you to obtain health insurance for your child or children.

- ☐ The child support enforcement division has determined that you have failed to comply with a subpoena or warrant relating to a paternity or child support proceeding.

**Section 2.**

Under West Virginia law, your failure to comply as described in Section 1 may result in an action against certain licenses issued to you by the State of West Virginia. Action may be taken against a driver's license, a recreational license such as a hunting and fishing license, and a professional or occupational license necessary for you to work. An application for a license may be denied. A renewal of a license may be refused. A license which you currently hold may be suspended or restricted in its use.

The Child Support Enforcement Division has determined that you are a current license holder, have applied for, or are likely to apply for the following license or licenses:

To avoid an action against your licenses, check which of the following actions you will take:

- ☐ I want to pay in full the overdue amount I owe as child support. I am enclosing a check or order in the amount of $_________.

- ☐ I want to pay in full the amount I owe as medical support. I am enclosing a check or money order in the amount of $_________.

- ☐ I am requesting a meeting with a representative of the Child Support Enforcement Division to arrange a payment plan that will allow me to make my current payments as they become due and to pay the arrearage I owe or to otherwise bring me into compliance with current support orders.

- ☐ I am requesting a hearing before the family law master or circuit judge to contest an action against my licenses. Please serve me with any petition filed, and provide me with notice of the time and place of the hearing.

Signed X _______ Date: __________

**Section 3.**

You must check the appropriate box or boxes in Section 2, sign your name and mail this form to the Child Support Enforcement Division before the ______ day of ________.

Otherwise, the Child Support Enforcement Division may begin an action against your licenses in the Circuit Court without further notice to you. Mail this form to the following address:
(e) The notice shall advise the person that further failure to comply may result in an action against licenses held by the person, and that any pending application for a license may be denied, renewal of a license may be refused, or an existing license may be suspended or restricted unless, within thirty days of the date of the notice, the person pays the full amount of the child support arrearage or the medical support arrearage, makes a request for a meeting with a representative of the child support enforcement division to arrange a payment plan or to otherwise arrange compliance with existing support orders, or makes a request for a court hearing to the child support enforcement division. An action against a license shall be terminated if the person pays the full amount of the child support arrearage or medical support arrearage, or provides proof that health insurance for the child has been obtained as required by a medical support order or enters into a written plan with the child support enforcement division for the payment of current payments and payment on the arrearage.

(f) If the person fails to take one of the actions described in subsection (e) of this section within thirty days of the date of the notice and there is proof that service on the person was effective, the child support enforcement division shall file a certification with the circuit court setting forth the person's noncompliance with the support order or failure to comply with a subpoena or warrant and the person's failure to respond to the written notice of the potential action against his or her license. If the circuit court is satisfied that service of the notice on the person was effective as set forth in this section, it shall without need for further due process or hearing, enter an order suspending or restricting any licenses held by the person. Upon the entry of the order, the child support enforcement division shall forward a copy to the person and to any appropriate agencies responsible for the issuance of a license.

(g) If the person requests a hearing, the child support enforcement division shall file a petition for a judicial hearing before the family law master. The hearing shall occur within forty-two days of the receipt of the person's request. If, prior to the hearing, the person pays the full amount of the child support arrearage or medical support arrearage or provides health insurance as ordered, the action against a license shall be terminated. No action
against a license shall be initiated if the child support enforcement division has received notice that the person has pending a motion to modify the child support order, if that motion was filed prior to the date that the notice of the action against the license was sent by the child support enforcement division. The court shall consider the child support enforcement division’s petition to deny, refuse to renew, suspend or restrict a license in accordance with section four of this article.

§48A-5A-4. Hearing on denial, nonrenewal, suspension or restriction of license.

(a) The court shall order a licensing authority to deny, refuse to renew, suspend or restrict a license if it finds that:

1. All appropriate enforcement methods have been exhausted or are not available;
2. The person is the holder of a license or has an application pending for a license;
3. The requisite amount of child support or medical support arrearage exists or health insurance for the child has not been provided as ordered, or the person has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding;
4. No motion to modify the child support order, filed prior to the date that the notice was sent by the child support enforcement division, is pending before the court; and
5. There is no equitable reason, such as involuntary unemployment, disability, or compliance with a court-ordered plan for the periodic payment of the child support arrearage amount, for the person’s noncompliance with the child support order.

(b) If the court is satisfied that the conditions described in subsection (a) of this section exist, it shall first consider suspending or restricting a driver’s license prior to professional license. If the person fails to appear at the hearing after being properly served with notice, the court shall order the suspension of all licenses held by the person.

(c) If the court finds that a license suspension will result in a significant hardship to the person, to the per-
son's legal dependents under eighteen years of age living in the person's household, to the person's employees, or to persons, businesses or entities to whom the person provides goods or services, the court may allow the person to pay a percentage of the past-due child support amount as an initial payment, and establish a payment schedule to satisfy the remainder of the arrearage within one year, and require that the person comply with any current child support obligation. If the person agrees to this arrangement, no suspension or restriction of any licenses shall be ordered. Compliance with the payment agreement shall be monitored by the child support enforcement division.

(d) If a person has good cause for not complying with the payment agreement within the time permitted, the person shall immediately file a motion with the court and the child support enforcement division requesting an extension of the payment plan. The court may extend the payment plan if it is satisfied that the person has made a good faith effort to comply with the plan and is unable to satisfy the full amount of past-due support within the time permitted due to circumstances beyond the person's control. If the person fails to comply with the court-ordered payment schedule, the court shall, upon receipt of a certification of noncompliance from the child support enforcement division, and without further hearing, order the immediate suspension or restriction of all licenses held by the person.


(a) The child support enforcement division shall provide the licensing authority with a copy of the order requiring the denial, nonrenewal, suspension or restriction of a license. Upon receipt of an order requiring the suspension or restriction of a license for nonpayment of child support, the licensing authority shall immediately notify the applicant or licensee of the effective date of the denial, nonrenewal, suspension or limitation, which shall be twenty days after the date of the notice, direct any licensee to refrain from engaging in the activity associated with the license, surrender any license as required by law, and inform the applicant or licensee that the license shall not be approved, renewed or reinstated until the court or child support enforcement division certifies compliance with court orders for the payment of current child support and arrearage. The child support enforcement division, in
association with the affected licensing authorities, may
develop electronic or magnetic tape data transfers to notify licensing authorities of denials, nonrenewals, suspensions and reinstatements. No liability shall be imposed on a licensing authority for suspending or restricting a license if the action is in response to a court order issued in accordance with this article. Licensing authorities shall not have jurisdiction to modify, remand, reverse, vacate or stay a court order to deny, not renew, suspend or restrict a license for nonpayment of child support.

(b) The denial, nonrenewal, suspension or restriction of a license ordered by the court shall continue until the child support enforcement division files with the licensing authority either a court order restoring the license or a child support enforcement division certification attesting to compliance with court orders for the payment of current child support and arrearage.

(c) Each licensing authority shall require license applicants to certify on the license application form, under penalty of false swearing, that the applicant does not have a child support obligation, the applicant does have such an obligation but any arrearage amount does not equal or exceed the amount of child support payable for six months, or the applicant is not the subject of a child-support related subpoena or warrant. A license shall not be granted to any person who applies for a license if there is an arrearage equal to or exceeding the amount of child support payable for six months or if it is determined that the applicant has failed to comply with a warrant or subpoena in a paternity or child support proceeding. The application form shall state that making a false statement may subject the license holder to disciplinary action including, but not limited to, immediate revocation or suspension of the license.

(d) The provisions of this article apply to all orders issued before or after the enactment of this article. All child support, medical support and health insurance provisions in existence on or before the effective date of this article shall be included in determining whether a case is eligible for enforcement. This article applies to all child support obligations ordered by any state, territory or district of the United States that are being enforced by the child support enforcement division, that are payable directly to the obligee, or have been registered in this State
§48A-5A-6. Procedure where license to practice law may be subject to denial, suspension or restriction.

If a person who has been admitted to the practice of law in this State by order of the supreme court of appeals is determined to be in default under a support order or has failed to comply with a subpoena or warrant in a paternity or child support proceeding, such that his or her other licenses are subject to suspension or restriction under this article, the child support enforcement division may send a notice listing the name and social security number or other identification number to the lawyer disciplinary board established by the supreme court of appeals. The Legislature hereby requests the supreme court of appeals to promptly adopt rules pursuant to its constitutional authority to govern the practice of law that would include as attorney misconduct for which an attorney may be disciplined, situations in which a person licensed to practice law in West Virginia has been determined to be in default under a support order or has failed to comply with a subpoena or warrant in a paternity or child support proceeding.

§48A-5A-7. Effect of determination as to authority of federal government to require denials, suspensions or restrictions of licenses.

The provisions of this article have been enacted to conform to the mandates of the federal “Personal Responsibility and Work Opportunity Reconciliation Act of 1996”. If a court of competent jurisdiction should determine, or if it is otherwise determined that the federal government lacked authority to mandate the license denials, nonrenewals, suspensions or restrictions contemplated by this article, then the provisions of this article shall be null and void and of no force and effect.

ARTICLE 6. ESTABLISHMENT OF PATERNITY.

§48A-6-3. Medical testing procedures to aid in the determination of paternity.

(a) Prior to the commencement of an action for the establishment of paternity, the child support enforcement division may order the mother, her child and the man to submit to genetic tests to aid in proving or disproving
paternity. The division may order the tests upon the request of a party, supported by a sworn statement. If the request is made by a party alleging paternity, the statement shall set forth facts establishing a reasonable possibility of requisite sexual contact between the parties. If the request is made by a party denying paternity, the statement may set forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties or other facts supporting a denial of paternity. If genetic testing is not performed pursuant to an order of the child support enforcement division, the court may, on its own motion, or shall upon the motion of any party, order such tests. A request or motion may be made upon ten days' written notice to the mother and alleged father, without the necessity of filing a complaint. When the tests are ordered, the court or the division shall direct that the inherited characteristics, including, but not limited to, blood types be determined by appropriate testing procedures at a hospital, independent medical institution or independent medical laboratory duly licensed under the laws of this state, or any other state, and an expert qualified as an examiner of genetic markers shall analyze, interpret and report on the results to the court or to the division of child support enforcement. The results shall be considered as follows:

1) Blood or tissue test results which exclude the man as the father of the child are admissible and shall be clear and convincing evidence of nonpaternity and, if a complaint has been filed, the court shall, upon considering such evidence, dismiss the action.

2) Blood or tissue test results which show a statistical probability of paternity of less than ninety-eight percent are admissible and shall be weighed along with other evidence of the defendant's paternity.

3) Undisputed blood or tissue test results which show a statistical probability of paternity of more than ninety-eight percent shall, when filed, legally establish the man as the father of the child for all purposes and child support may be established pursuant to the provisions of this chapter.

4) When a party desires to challenge the results of the blood or tissue tests or the expert's analysis of inherited characteristics, he or she shall file a written protest with the family law master or circuit court or with the division
of child support enforcement, if appropriate, within thirty
days of the filing of such test results, and serve a copy of
such protest upon the other party. The written protest
shall be filed at least thirty days prior to any hearing in-
volving the test results. The court or the child support
enforcement division, upon reasonable request of a party,
shall order that additional tests be made by the same labo-
rapy or another laboratory within thirty days of the entry
of the order, at the expense of the party requesting addi-
tional testing. When the results of the blood or tissue tests or the
expert’s analysis which show a statistical probability of
paternity of more than ninety-eight percent are confirmed
by the additional testing, then the results are admissible
evidence which is clear and convincing evidence of patern-
ity. The admission of the evidence creates a presumption
that the man tested is the father.

(b) Documentation of the chain of custody of the
blood or tissue specimens is competent evidence to estab-
lish the chain of custody. A verified expert's report shall
be admitted at trial unless a challenge to the testing proce-
dures or a challenge to the results of test analysis has been
made before trial. The costs and expenses of making the
tests shall be paid by the parties in proportions and at
times determined by the court.

(c) Except as provided in subsection (d) of this sec-
tion, when a blood test is ordered pursuant to this section,
the moving party shall initially bear all costs associated
with the blood test unless that party is determined by the
court to be financially unable to pay those costs. This
determination shall be made following the filing of an
affidavit pursuant to section one, article two, chapter fifty-
ine of this code. When the court finds that the moving
party is unable to bear that cost, the cost shall be borne by
the state of West Virginia. Following the finding that a
person is the father based on the results of a blood test
ordered pursuant to this section, the court shall order that
the father be ordered to reimburse the moving party for
the costs of the blood tests unless the court determines,
based upon the factors set forth in this section, that the
father is financially unable to pay those costs.

(d) When a blood test is ordered by the child support
enforcement division, the division shall initially bear all
§48A-6-6. Establishing paternity by acknowledgment of natural father.

(a) A written, notarized acknowledgment by both the man and woman that the man is the father of the named child legally establishes the man as the father of the child for all purposes and child support may be established under the provisions of this chapter.

(b) The written acknowledgment shall include:

(1) Filing instructions;

(2) The parties' social security numbers and addresses; and

(3) A statement, given orally and in writing, of the alternatives to, the legal consequences of, and the rights and obligations of acknowledging paternity, including, but not limited to, the duty to support a child. If either of the parents is a minor, the statement shall include an explanation of any rights that may be afforded due to the minority status.

(c) Failure or refusal to include all information required by subsection (b) of this section shall not affect the validity of the written acknowledgment, in the absence of a finding by a court of competent jurisdiction that the acknowledgment was obtained by fraud, duress or material mistake of fact, as provided in subsection (d) of this section.

(d) An acknowledgment executed under the provisions of this section may be rescinded within the earlier of sixty days from the date of execution or the date of an administrative or judicial proceeding relating to the child in which the signatory is a party. After the sixty day period has expired, the acknowledgment may thereafter be challenged only on the basis of fraud, duress or material mistake of fact, upon a finding of clear and convincing evidence by a court of competent jurisdiction. The legal responsibilities, including child support obligations, of a signatory to the acknowledgment may not be suspended during any challenge, except for good cause shown.
(e) The original written acknowledgment should be filed with the state registrar of vital statistics. Upon receipt of any acknowledgment executed pursuant to this section, the registrar shall forward the copy of the acknowledgment to the child support enforcement division and the parents, if the address of the parents is known to the registrar. If a birth certificate for the child has been previously issued which is incorrect or incomplete, a new birth certificate shall be issued.
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 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 day of , 1997.

Governor