

RECEIVED

99 MAR 20 PM 1:37

STATE OF WEST VIRGINIA
SENATE CLERK'S OFFICE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2678

(By Delegates Amores, Doyle, Jenkins and Yeager)



Passed March 13, 1999

In Effect Ninety Days from Passage

HB 2678
VETO

RECEIVED
\$9 112 00 21 1:37
OFFICE OF THE CLERK
OF THE HOUSE OF DELEGATES
MARTINSBURG, WEST VIRGINIA

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2678

(BY DELEGATES AMORES, DOYLE, JENKINS AND YEAGER)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven; and that sections three and six, article one-b, chapter forty-eight-a of said code, be amended and reenacted, all relating to providing for the allocation of custodial and decision-making responsibility for children; and revising child support guidelines.

Be it enacted by the Legislature of West Virginia:

That chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eleven; and that sections three and six, article one-b chapter forty-eight-a of said code, be amended and reenacted, all to read as follows:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 11. ALLOCATION OF CUSTODIAL AND DECISION-MAKING RESPONSIBILITY FOR CHILDREN.

PART 1. SCOPE, OBJECTIVES, DEFINITIONS, AND PARTIES.

§48-11-101. Scope of article.

1 This article sets forth principles governing the allocation of
2 custodial and decision-making responsibility for a minor child
3 when the parents do not live together. The provisions of this
4 article shall govern with respect to all domestic relations
5 matters, notwithstanding any conflicting statutory enacted prior
6 to regular session of the Legislature, one thousand nine hundred
7 ninety-nine.

§48-11-102. Objectives; best interests of the child defined.

1 (a) The primary objective of this article is to serve the
2 child's best interests, by facilitating:

3 (1) Stability of the child;

4 (2) Parental planning and agreement about the child's
5 custodial arrangements and upbringing;

6 (3) Continuity of existing parent-child attachments;

7 (4) Meaningful contact between a child and each parent;

8 (5) Caretaking relationships by adults who love the child,
9 know how to provide for the child's needs, and who place a high
10 priority on doing so;

11 (6) Security from exposure to physical or emotional harm;
12 and

13 (7) Expedient, predictable decision-making and avoidance
14 of prolonged uncertainty respecting arrangements for the
15 child's care and control.

16 (b) A secondary objective of article is to achieve fairness
17 between the parents.

18 §48-11-103. Parties to an action under this article.

19 (1) Persons who have a right to be notified of and partici-
20 pate as a party in an action filed by another are:

21 (a) A legal parent of the child, as defined in section one
22 hundred thirty-one, article two of this chapter; or

23 (b) An adult allocated custodial responsibility or decision-
24 making responsibility under a parenting plan regarding the child
25 that is then in effect.

26 (2) In exceptional cases the court may, in its discretion,
27 grant permission to intervene to other persons or public
28 agencies whose participation in the proceedings under this
29 article it determines is likely to serve the child's best interests.
30 The court may place limitations on participation by the inter-
31 vening party as the court determines to be appropriate. Such
32 persons or public agencies do not have standing to initiate an
33 action under this article.

PART 2. PARENTING PLANS.

§48-11-201. Parental agreements.

1 (a) If the parents agree to one or more provisions of a
2 parenting plan, the court should so order, unless it makes
3 specific findings that:

4 (1) The agreement is not knowing or voluntary, or

5 (2) The plan would be harmful to the child.

6 (b) The court, at its discretion and on any basis it deems
7 sufficient, may conduct an evidentiary hearing to determine
8 whether there is a factual basis for a findings under subdivision
9 (1) or (2), subsection (a) of this section. When there is credible
10 information that child abuse as defined by section three, article
11 one, chapter forty-nine of this code or domestic abuse as
12 defined by section one hundred twenty-one, article two of this
13 chapter has occurred, a hearing is mandatory and if the court
14 determines that abuse has occurred, appropriate protective
15 measures should be ordered.

16 (c) If an agreement, in whole or in part, is not accepted by
17 the court under the standards set forth in subsection (a) of this
18 section, the court should allow the parents the opportunity to
19 negotiate another agreement.

§48-11-202. Court ordered services. [2.08]

1 (a) (1) The court shall inform the parents, or require them
2 to be informed, about:

3 (A) How to prepare a parenting plan;

4 (B) The impact of family dissolution on children and how
5 the needs of children facing family dissolution can best be
6 addressed;

7 (C) The impact of domestic abuse on children, and re-
8 sources for addressing domestic abuse; and

9 (D) Mediation or other nonjudicial procedures designed to
10 help them achieve an agreement.

11 (2) The court shall require the parents to attend parental
12 education classes.

13 (3) If parents are unable to resolve issues and agree to a
14 parenting plan, the court shall require mediation.

15 (b) The court should not order services under subsection (a)
16 of this section that require a parent to have face-to-face
17 meetings with the other parent.

18 (c) A mediator should not conduct a mediation, even by
19 parental agreement, without first screening for domestic abuse.
20 If credible evidence thereof exists, the mediator should take
21 steps:

22 (1) To ensure the voluntary consent of the victim of the
23 abuse to participate in the mediation, and to any agreement
24 reached as a result of the mediation; and

25 (2) To protect the safety of the victim.

26 (d) A mediator should not make a recommendation to the
27 court and may not reveal information that either parent has
28 disclosed during mediation under a reasonable expectation of
29 confidentiality except, upon questioning by the court, if relevant
30 to fact-finding under section two hundred one of this article.

31 (e) Services authorized under subsection (a) of this section
32 should be ordered at a cost that is reasonable in light of the
33 financial circumstances of each parent. Where one parent's
34 ability to pay for such services is significantly greater than the
35 other, the court may order that parent to pay some or all of the
36 expenses of the other.

§48-11-203. Proposed temporary parenting plan; temporary order; amendment; vacation of order.

1 (a) A parent seeking a temporary order relating to
2 parenting shall file and serve a proposed temporary parenting
3 plan by motion. The other parent, if contesting the proposed
4 temporary parenting plan, shall file and serve a responsive
5 proposed parenting plan. Either parent may move to have a
6 proposed temporary parenting plan entered as part of a tempo-
7 rary order. The parents may enter an agreed temporary
8 parenting plan at any time as part of a temporary order. The
9 proposed temporary parenting plan may be supported by
10 relevant evidence and shall be accompanied by an affidavit or
11 declaration which shall state at a minimum the following:

12 (1) The name, address, and length of residence with the
13 person or persons with whom the child has lived for the
14 preceding twelve months;

15 (2) The performance by each parent during the last twelve
16 months of the parenting functions relating to the daily needs of
17 the child;

18 (3) The parents' work and child-care schedules for the
19 preceding twelve months;

20 (4) The parents' current work and child-care schedules; and

21 (5) Any of the circumstances set forth in section two
22 hundred nine of this article that are likely to pose a serious risk
23 to the child and that warrant limitation on the award to a parent
24 of temporary residence or time with the child pending entry of
25 a permanent parenting plan.

26 (b) At the hearing, the court shall enter a temporary
27 parenting order incorporating a temporary parenting plan which
28 includes:

29 (1) A schedule for the child's time with each parent when
30 appropriate;

31 (2) Designation of a temporary residence for the child;

32 (3) Allocation of decision-making authority, if any. Absent
33 allocation of decision-making authority consistent with section

34 two hundred seven of this article, neither party shall make any
35 decision for the child other than those relating to day-to-day or
36 emergency care of the child, which shall be made by the party
37 who is present with the child;

38 (4) Provisions for temporary support for the child; and

39 (5) Restraining orders, if applicable.

40 (c) A parent may make a motion for an order to show cause
41 and the court may enter a temporary order, including a tempo-
42 rary parenting plan, upon a showing of necessity.

43 (d) A parent may move for amendment of a temporary
44 parenting plan, and the court may order amendment to the
45 temporary parenting plan, if the amendment conforms to the
46 limitations of section two hundred nine of this article and is in
47 the best interest of the child.

48 (e) If a proceeding for divorce, separate maintenance, or
49 annulment, any temporary order or temporary parenting plan is
50 vacated.

§48-11-204. Criteria for temporary parenting plan.

1 (a) After considering the affidavit required by section two
2 hundred three of this article and other relevant evidence
3 presented, the court shall make a temporary parenting plan that
4 is in the best interest of the child. In making this determination,
5 the court shall give particular consideration to:

6 (1) Which parent has taken greater responsibility during the
7 last twelve months for performing caretaking functions relating
8 to the daily needs of the child; and

9 (2) Which parenting arrangements will cause the least
10 disruption to the child's emotional stability while the action is
11 pending.

12 (b) The court shall also consider the factors used to
13 determine residential provisions in the permanent parenting
14 plan.

§48-11-205. Permanent parenting plan.

1 (a) A party seeking a judicial allocation of custodial
2 responsibility or decision-making responsibility under this
3 article should file a proposed parenting plan with the court.
4 Parties may file a joint plan. A plan should be supported by an
5 affidavit containing, to the extent known or reasonably
6 discoverable by the filing party or parties:

7 (1) The name, address, and length of residence of any adults
8 with whom the child has lived for one year or more, or in the
9 case of a child less than one year old, any adults with whom the
10 child has lived since the child's birth;

11 (2) The name and address of each of the child's parents and
12 any other individuals with standing to participate in the action
13 under section one hundred three of this article;

14 (3) A description of the allocation of caretaking and other
15 parenting responsibilities performed by each person named in
16 subdivisions (1) and (2) of this subsection during the twenty-
17 four months preceding the filing of an action under this article;

18 (4) A description of the work and child-care schedules of
19 any person seeking an allocation of custodial responsibility, and
20 any expected changes to these schedules in the near future;

21 (5) A description of the child's school and extracurricular
22 activities;

23 (6) A description of any of the limiting factors as described
24 in two hundred nine of this article that are present, including
25 any restraining orders against either parent to prevent domestic
26 or family violence, by case number and jurisdiction;

27 (7) Required financial information; and

28 (8) A description of the known areas of agreement and
29 disagreement with any other parenting plan submitted in the
30 case.

31 The court should maintain the confidentiality of any
32 information required to be filed under this section when the
33 person giving that information has a reasonable fear of domes-
34 tic abuse and disclosure of the information would increase that
35 fear.

36 (b) The court should develop a process to identify cases in
37 which there is credible information that child abuse or neglect,
38 as defined in section three, article one, chapter forty-nine of this
39 code, or domestic or family violence as defined in section one
40 hundred twenty-one, article two of this chapter has occurred.
41 The process should include assistance for possible victims of
42 domestic abuse in complying with subdivision (6), subsection
43 (a) of this section, and referral to appropriate resources for safe
44 shelter, counseling, safety planning, information regarding the
45 potential impact of domestic abuse on children, and information
46 regarding civil and criminal remedies for domestic abuse. The
47 process should also include a system for ensuring that jointly
48 submitted parenting plans that are filed in cases in which there
49 is credible information that child abuse or domestic abuse has
50 occurred receive the court review that is mandated by subdivi-
51 sion (b), section two hundred one of this article.

52 (c) Upon motion of a party and after consideration of the
53 evidence, the court should order a parenting plan consistent
54 with the provisions of section two hundred six through two
55 hundred nine of this article, containing:

56 (1) A provision for the child's living arrangements and each
57 parent's custodial responsibility, which should include either:

58 (A) A custodial schedule that designates in which parent's
59 home each minor child will reside on given days of the year; or

60 (B) A formula or method for determining such a schedule
61 in sufficient detail that, if necessary, the schedule can be
62 enforced in subsequent proceedings by the court;

63 (2) An allocation of decision-making responsibility as to
64 significant matters reasonably likely to arise with respect to the
65 child; and

66 (3) A provision consistent with section two hundred two of
67 this article for resolution of disputes that arise under the plan,
68 and for remedies of violations of the plan.

69 (d) A parenting plan may, at the court's discretion, contain
70 provisions that address matters that are expected to arise in the

71 event of a party's relocation, or provide for future modifications
72 in the parenting plan if specified contingencies occur.

73 (e) The court may order a temporary allocation of custodial
74 responsibility or decisionmaking responsibility as the court
75 determines is in the child's best interests, considering the
76 factors in section two hundred six and two hundred seven of
77 this article. Such an order ordinarily should not preclude access
78 to the child by a parent who has been exercising a reasonable
79 share of parenting functions. Upon credible evidence of one or
80 more of the circumstances set forth in subsection (a) section
81 two hundred nine of this article, the court shall issue a tempo-
82 rary order limiting or denying access to the child as required by
83 that section, in order to protect the child or the other party,
84 pending adjudication of the underlying facts.

85 (f) Expedited procedures should be instituted to facilitate
86 the prompt issuance of a parenting plan.

§48-11-206. Allocation of custodial responsibility.

1 (a) Unless otherwise resolved by agreement of the parents
2 under section two hundred one of this article or unless mani-
3 festly harmful to the child, the court should allocate custodial
4 responsibility so that the proportion of custodial time the child
5 spends with each parent approximates the proportion of time
6 each parent spent performing caretaking functions for the child
7 prior to the parents' separation or, if the parents never lived
8 together, before the filing of the action, except to the extent
9 required under section two hundred nine of this article or
10 necessary to achieve any of the following objectives:

11 (1) To permit the child to have a relationship with each
12 parent who has performed a reasonable share of parenting
13 functions;

14 (2) To accommodate the firm and reasonable preferences of
15 a child who is fourteen years of age or older, and with regard to
16 a child under fourteen years of age, but sufficiently matured
17 that he or she can intelligently express a voluntary preference
18 for one parent, to give that preference such weight as circum-
19 stances warrant;

20 (3) To keep siblings together when the court finds that
21 doing so is necessary to their welfare;

22 (4) To protect the child's welfare when, under an otherwise
23 appropriate allocation, the child would be harmed because of a
24 gross disparity in the quality of the emotional attachments
25 between each parent and the child or in each parent's demon-
26 strated ability or availability to meet a child's needs;

27 (5) To take into account any prior agreement of the parents
28 that, under the circumstances as a whole including the reason-
29 able expectations of the parents in the interest of the child,
30 would be appropriate to consider;

31 (6) To avoid an allocation of custodial responsibility that
32 would be extremely impractical or that would interfere substan-
33 tially with the child's need for stability in light of economic,
34 physical, or other circumstances, including the distance
35 between the parents' residences, the cost and difficulty of
36 transporting the child, the parents' and child's daily schedules,
37 and the ability of the parents to cooperate in the arrangement;
38 and

39 (7) To apply the principles set forth in subsection (d),
40 section four hundred three of this article(d) if one parent
41 relocates or proposes to relocate at a distance that will impair
42 the ability of a parent to exercise the amount of custodial
43 responsibility that would otherwise be ordered under this
44 section.

45 (b) In determining the proportion of care taking functions
46 each parent previously performed for the child under subsection
47 (a) of this section, the court should not consider the divisions of
48 functions arising from temporary arrangements after separation,
49 whether those arrangements are consensual or by court order.
50 The court may take into account information relating to the
51 temporary arrangements in determining other issues under this
52 section.

53 (c) If the court is unable to allocate custodial responsibility
54 under subsection (a) of this section because the allocation under
55 that subsection would be manifestly harmful to the child, or

56 because there is no history of past performance of caretaking
57 functions, as in the case of a newborn, or because the history
58 does not establish a pattern of caretaking sufficiently
59 dispositive of the issues of the case, the court should allocate
60 custodial responsibility based on the child's best interest, taking
61 into account the factors in considerations that are set forth in
62 this section and in section two hundred nine and subsection (d),
63 section four hundred three and preserving to the extent possible
64 this section's priority on the share of past caretaking functions
65 each parent performed.

66 (d) In determining how to schedule the custodial time
67 allocated to each parent, the court should take account of the
68 economic, physical, and other practical circumstances such as
69 those listed in subdivision six, subsection (a) of this section.

§48-11-207. Allocation of significant decision-making responsibility.

1 (a) Unless otherwise resolved by agreement of the parents
2 under section two hundred one of this article, the court should
3 allocate responsibility for making significant life decisions on
4 behalf of the child, including the child's education and health
5 care, to one parent or to two parents jointly, in accordance with
6 the child's best interest, in light of:

7 (1) The allocation of custodial responsibility under section
8 two hundred six of this article;

9 (2) The level of each parent's participation in past decision-
10 making on behalf of the child;

11 (3) The wishes of the parents;

12 (4) The level of ability and cooperation the parents have
13 demonstrated in decision-making on behalf of the child;

14 (5) Prior agreements of the parties; and

15 (6) The existence of any limiting factors, as set forth in
16 section two hundred nine of this article.

17 (b) If each of the child's legal parents has been exercising
18 a reasonable share of parenting functions for the child, the court

19 should presume that an allocation of decision-making responsi-
20 bility to both parents jointly is in the child's best interests. The
21 presumption is overcome if there is a history of domestic abuse,
22 or by a showing that joint allocation of decision-making
23 responsibility is not in the child's best interest.

24 (c) Unless otherwise provided or agreed by the parents,
25 each parent who is exercising custodial responsibility should be
26 given sole responsibility for day-to-day decisions for the child,
27 while the child is in that parent's care and control, including
28 emergency decisions affecting the health and safety of the child.

29 (d) Even if a legal parent is not allocated decision-making
30 responsibility under this section, a legal parent should have
31 access to school and health-care records concerning the child to
32 which legal parents have access by other law, except insofar as
33 access is not in the child's best interests or where the provision
34 of such information might endanger a parent who has been the
35 victim of domestic abuse.

§48-11-208. Criteria for parenting plan; dispute resolution.

1 (a) If provisions for resolving parental disputes are not
2 ordered by the court pursuant to parental agreement under
3 section two hundred one of this article, the portion order
4 method of resolving disputes that serves a child's best interest
5 in light of:

6 (1) The parents' wishes and the stability of the child;

7 (2) Circumstances, including but not limited to financial
8 circumstances, that may affect the parents ability to participate
9 in a prescribed dispute resolution process; and

10 (3) The existence of any limiting factor, as set forth in
11 section two hundred nine of this article.

12 (b) The court may order a non-judicial process of dispute
13 resolution, by designating with particularity the person or
14 agency to conduct the process or the method for selecting such
15 a person or agency. The disposition of a dispute through a non-
16 judicial method of dispute resolution that has been ordered by
17 the court without prior parental agreement is subject to de novo

18 judicial review. If the parents have agreed in a parenting plan
19 or by agreement thereafter to a binding resolution of their
20 dispute by non-judicial means, a decision by such means is
21 binding upon the parents and must be enforced by the court,
22 unless it is shown to be manifestly harmful to the child's
23 interests, beyond the scope of the parents' agreement, or the
24 result of fraud, misconduct, corruption, or other serious
25 irregularity.

26 (c) This section is subject to the limitations imposed by
27 section two hundred two of this article.

§48-11-209. Parenting plan; limiting factors.

1 (a) If either of the parents so requests, or upon receipt of
2 credible information thereof, the court should determine
3 whether a parent who would otherwise be allocated responsibil-
4 ity under a parenting plan:

5 (1) Has abused, neglected, or abandoned a child, as defined
6 by state law;

7 (2) Has inflicted domestic violence, as defined in section
8 one hundred twenty-one, article two of this chapter;

9 (3) Has interfered persistently with the other parent's access
10 to the child, except in the case of actions taken for the purpose
11 of protecting the safety of the child or the interfering parent or
12 another family member, pending adjudication of the facts
13 underlying that belief.

14 (b) If a parent is found to have engaged in any activity
15 specified by subsection (a) of this section, the court should
16 impose limits that are reasonably calculated to protect the child
17 or child's parent from harm. The limitations that the court
18 should consider include but are not limited to:

19 (1) An adjustment of the custodial responsibility of the
20 parents, including the allocation of exclusive custodial respon-
21 sibility to one of them;

22 (2) Supervision of the custodial time between a parent and
23 the child;

24 (3) Exchange of the child between parents through an
25 intermediary, or in a protected setting;

26 (4) Restraints on the parent from communication with or
27 proximity to the other parent or the child;

28 (5) A requirement that the parent abstain from possession
29 or consumption of alcohol or non-prescribed drugs while
30 exercising custodial responsibility and in the twenty-four hour
31 period immediately preceding such exercise;

32 (6) Denial of overnight custodial responsibility;

33 (7) Restrictions on the presence of specific persons while
34 the parent is with the child;

35 (8) A requirement that the parent post a bond to secure
36 return of the child following a period in which the parent is
37 exercising custodial responsibility or to secure other perfor-
38 mance required by the court;

39 (9) A requirement that the parent complete a program of
40 intervention for perpetrators of domestic violence, for drug or
41 alcohol abuse, or program designed to correct another factor; or

42 (10) Any other constraints or conditions that the court
43 deems necessary to provide for the safety of the child, a child's
44 parent, or any person whose safety immediately affects the
45 child's welfare.

46 (c) If a parent is found to have engaged in any activity
47 specified in subsection (a) of this section, the court may not
48 allocate custodial responsibility or decision-making responsibil-
49 ity to that parent without making special written findings that
50 the child and other parent can be adequately protected from
51 harm by such limits as it may impose under subsection (b) of
52 this section. The parent found to have engaged in the behavior
53 specified in subsection (a) of this section has the burden of
54 proving that an allocation of custodial responsibility or
55 decision-making responsibility to that parent will not endanger
56 the child or the other parent.

PART 3. FACT FINDING.

§48-11-301. Court-ordered investigation.

1 (a) In its discretion, the court may order a written investiga-
2 tion and report to assist it in determining any issue relevant to
3 proceedings under this article. The investigation and report may
4 be made by the guardian ad litem, the staff of the juvenile court,
5 or other professional social service organization experienced in
6 counseling children and families. The court should specify the
7 scope of the investigation or evaluation and the authority of the
8 investigator.

9 (b) In preparing the report concerning a child, the investiga-
10 tor may consult any person who may have information about
11 the child and the potential parenting or custodian arrangements.
12 Upon order of the court, the investigator may refer the child to
13 professional personnel for diagnosis. The investigator may
14 consult with and obtain information from medical, psychiatric,
15 or other expert persons who have served the child in the past
16 without obtaining the consent of the parent or the child's
17 custodian; but the child's consent must be obtained if the child
18 has reached the age of twelve, unless the court finds that the
19 child lacks mental capacity to consent. If the requirements of
20 subsection (c) of this section are fulfilled, the investigator's
21 report may be received in evidence at the hearing.

22 (c) The investigator shall mail the investigator's report to
23 counsel and to any party not represented by counsel at least ten
24 days prior to the hearing unless a shorter time is ordered by the
25 court for good cause shown. The investigator shall make
26 available to counsel and to any party not represented by counsel
27 the investigator's file of underlying data and reports, complete
28 texts of diagnostic reports made to the investigator pursuant to
29 the provisions of subsection (b) of this section, and the names
30 and addresses of all persons whom the investigator has con-
31 sulted. Any party to the proceeding may call the investigator
32 and any person whom the investigator has consulted for
33 cross-examination. A party may not waive the right of
34 cross-examination prior to the hearing.

§48-11-302. Appointment of guardian.

1 (a) In its discretion, the court may appoint a guardian ad
2 litem to represent the child's best interests. The court should
3 specify the terms of the appointment, including the guardian's
4 role, duties, and scope of authority.

5 (b) In its discretion, the court may appoint a lawyer to
6 represent the child, if the child is competent to direct the terms
7 of the representation and court has a reasonable basis for
8 finding that the appointment would be helpful in resolving the
9 issues of the case. The court should specify the terms of the
10 appointment, including the lawyer's role, duties, and scope of
11 authority.

12 (c) When substantial allegations of domestic abuse have
13 been made, the court should order an investigation under
14 section three hundred one of this article or make an appoint-
15 ment under subsection (a) or (b) of this section, unless the court
16 is satisfied that the information necessary to evaluate the
17 allegations will be adequately presented to the court without
18 such an order or appointment.

19 (d) Subject to whatever restrictions the court may impose
20 or that may be imposed by the attorney-client privilege or by
21 subsection (d), section two hundred two of this article, the court
22 may require the child or parent to provide information to an
23 individual or agency appointed by the court under section three
24 hundred one of this article or subsection (a) or (b) of this
25 section, and it may require any person having information about
26 the child or parent to provide that information, even if the
27 information is otherwise protected by law and even in the
28 absence of consent by parent or by the child.

29 (e) The investigator who submits a report or evidence to the
30 court that has been requested under section three hundred one
31 of this article and a guardian ad litem appointed under subsec-
32 tion (a) of this section who submits information or recommen-
33 dations to the court are subject to cross-examination by the
34 parties. A lawyer appointed under subsection (b) may not be a
35 witness in the proceedings, except as allowed under standards
36 applicable in other civil proceedings.

37 (f) Services and tests ordered under this section should be
38 ordered only if at no cost to the individuals involved, or at a
39 cost that is reasonable in light of the available financial
40 resources.

§48-10-303. Interview of the child by the court.

1 The court, in its discretion, may interview the child in
2 chambers or direct another person to interview the child, in
3 order to obtain information relating to the issues of the case.
4 Counsel for a parent or for the child should be permitted to
5 submit questions to the court that may be asked of the child if
6 the court approves. A transcript, videotape, or other reliable
7 means of recording the complete interview shall be made part
8 of the record of the proceedings, and should be confidential
9 except for purposes of appeal of the court's order.

PART 4. MODIFICATION OF PARENTING PLAN.

**§48-11-401. Modification upon showing of changed circumstances
or harm.**

1 (a) Except as provided in section four hundred two or four
2 hundred three of this article, a court should modify a parenting
3 plan order if it finds, on the basis of facts that were not known
4 or have arisen since the entry of the prior order and were not
5 anticipated therein, that a substantial change has occurred in the
6 circumstances of the child or of one or both parents and a
7 modification is necessary to serve the best interests of the child.

8 (b) In exceptional circumstances, a court may modify a
9 parenting plan if it finds that the plan is not working as contem-
10 plated and in some specific way is manifestly harmful to the
11 child, even if a substantial change of circumstances has not
12 occurred.

13 (c) Unless the parents have agreed otherwise, the following
14 circumstances do not justify a significant modification of a
15 parenting plan except where harm to the child is shown:

16 (1) Circumstances resulting in an involuntary loss of
17 income, by loss of employment or otherwise, affecting the
18 parents economic status;

19 (2) A parent's remarriage or cohabitation; and

20 (3) Choice of reasonable caretaking arrangements for the
21 child by a legal parent, including the child's placement in day
22 care.

23 (d) For purposes of subsection (a) of this section, the
24 occurrence or worsening of a limiting factor, as defined in
25 subsection (a), section two hundred nine of this article, after a
26 parenting plan has been ordered by the court, constitutes a
27 substantial change of circumstances and measures should be
28 ordered pursuant to section two hundred nine of this article to
29 protect the child or the child's parent.

§48-11-402. Modification without showing of changed circumstances.

1 (a) The court should modify a parenting plan in accordance
2 with a parental agreement, unless it finds that the agreement is
3 not knowing and voluntary or that it would be harmful to the
4 child.

5 (b) The court may modify any provisions of the parenting
6 plan without the showing of change circumstances required by
7 subsection (a), section four hundred one of this article if the
8 modification is in the child's best interests, and the modifica-
9 tion:

10 (1) Reflects the de facto arrangements under which the
11 child has been receiving care from the petitioner, without
12 objection, in substantial deviation from the parenting plan, for
13 the preceding six months before the petition for modification is
14 filed, provided the arrangement is not the result of a parent's
15 acquiescence resulting from the other parent's domestic abuse;

16 (2) Constitutes a minor modification in the plan; or

17 (3) Is necessary to accommodate the reasonable and firm
18 preferences of a child who has attained the age of fourteen.

§48-11-403. Relocation of a parent.

1 (a) The relocation of a parent constitutes a substantial
2 change in the circumstances under subsection (a) section four
3 hundred one of this article of the child only when it signifi-

4 cantly impairs either parent's ability to exercise responsibilities
5 that the parent has been exercising.

6 (b) Unless otherwise ordered by the court, a parent who has
7 responsibility under a parenting plan who changes, or intends
8 to change, residences for more than 90 days must give a
9 minimum of 60 days advance notice, or the most notice
10 practicable under the circumstances, to any other parent with
11 responsibility under the same parenting plan, notice should
12 include:

13 (1) The relocation date;

14 (2) The address of the intended new residence;

15 (3) The specific reasons for the proposed relocation, and

16 (4) A proposal for how custodial responsibility should be
17 modified, in light of the intended move.

18 Failure to comply with the notice requirements of this
19 section without good cause may be a factor in the determination
20 of whether the relocation is in good faith under subsection (d)
21 of this section, and is a basis for an award of reasonable
22 expenses and reasonable attorneys fees to another parent that
23 are attributable to such failure.

24 (c) When changed circumstances are shown under subsec-
25 tion (a) of this section, the court should, if practical, revise the
26 parenting plan so as to both accommodate the relocation and
27 maintain the same proportion of custodial responsibility being
28 exercise by each of the parents.

29 (d) When the relocation constituting changed circumstances
30 under subsection (a) renders it impractical to maintain the same
31 proportion of custodial responsibility as that being exercise by
32 each parent, the court should modify the parenting plan in
33 accordance with the child's best interests, as defined in sections
34 two hundred six and two hundred seven, and in accordance with
35 the following principles:

36 (1) A parent who has been exercising a significant majority
37 of the custodial responsibility for the child should be allowed

38 to relocate with the child so long as that parent shows that the
39 relocation is in good faith for legitimate purpose and to a
40 location that is reasonable in light of the purpose. The propor-
41 tion of custodial responsibility that constitutes a significant
42 majority of custodial responsibility should be established to the
43 role of statewide application. A relocation is for a legitimate
44 purpose if it is to the close to significant family or other support
45 networks, for significant health reasons, to protect the safety of
46 the child or another member of the child's house sold from
47 significant risk of harm, to pursue a significant employment or
48 educational opportunity, or to be with one's spouse who is
49 established, or who is pursuing a significant employment or
50 educational opportunity, in another location. The relocating
51 parent has the burden of proving of the legitimacy of any other
52 purpose. A move with illegitimate purpose is reasonable unless
53 his purpose to shown to be substantially achievable without
54 moving, or by moving to location that is substantially less
55 disruptive of the other parent's relationship to the child.

56 (2) If a relocation of the parent is in good faith for legiti-
57 mate purpose and to location that is reasonable in light of the
58 purpose, and if neither has been exercising a significant
59 majority of custodial responsibility for the child, the court
60 should reallocate custodial responsibility based on the best
61 interest of the child, taking into account all relevant factors
62 including the effects of the relocation on the child.

63 (3) If a parent does not establish that the purpose for that
64 parent's relocation is in good faith for a legitimate purpose into
65 a location that is reasonable in light of the purpose, the court
66 may modify the parenting plan in accordance with the child's
67 best interests and the effects of the relocation on the child.
68 Among the modifications the court may consider is a realloca-
69 tion of primary custodial responsibility, effective if and when
70 the relocation occurs, but such a reallocation should not be
71 ordered if the relocating parent demonstrates that the child's
72 best interests would be served by the relocation.

73 (4) The court should attempt to minimize impairment to a
74 parent-child relationship caused by a parent's relocation

75 through alternative arrangements for the exercise of custodial
76 responsibility appropriate to the parents' resources and circum-
77 stances and the developmental level of the child.

§48-11-404. Effect of enactment .

1 The enactment of this article ten through the passage of SB
2 692 during the regular session of the Legislature, one thousand
3 nine hundred ninety-nine, is prospective in operation: Provided,
4 That persons who are parties under an existing child custody
5 order may move for a modification of the order if the motion
6 for modification is made before the thirtieth day of June, two
7 thousand.

PART 5. ENFORCEMENT OF PARENTING PLANS.

§48-11-501. Enforcement of parenting plans.

1 (a) If, upon a parental complaint, the court finds a parent
2 intentionally and without good cause violated a provision of the
3 court-ordered parenting plan, it should enforce the remedy
4 specified in the plan or, if no remedies are specified or they are
5 clearly inadequate, it should find the plan has been violated and
6 order an appropriate remedy, which may include:

7 (1) In the case of interference with the exercise of custodial
8 responsibility for a child by the other parent, substitute time for
9 that parent to make up for time missed with the child;

10 (2) In the case of missed time by a parent, costs in recogni-
11 tion of lost opportunities by the other parent, in child care costs
12 and other reasonable expenses in connection with the missed
13 time;

14 (3) A modification of the plan, if the requirements for a
15 modification are met under sections four hundred one, four
16 hundred two or four hundred three of this article;

17 (4) An order that the parent who violated the plan obtain
18 appropriate counseling;

19 (5) A civil fine, in an amount that increases with each
20 violation as established by a uniform rule of statewide applica-
21 tion, to be paid to the nonviolating parent or, if both parents
22 have violated the parenting plan, to the court;

23 (6) Court costs, reasonable attorney's fees, and any other
24 reasonable expenses in enforcing the plan, and

25 (7) Any other appropriate remedy.

26 (b) Except as provided in a jointly submitted plan that has
27 been ordered by the court, obligations established in a parenting
28 plan are independent obligations, and it is not a defense to an
29 action under this section by one parent that the other parent
30 failed to meet obligations under a parenting plan or child
31 support order.

32 (c) An agreement between the parents to depart from the
33 parenting plan can be a defense to a claim that the plan has been
34 violated, even though the agreement was not made part of a
35 court order, but only as to acts or omissions consistent with the
36 agreement that occur before the agreement is disaffirmed by
37 either parent.

PART 6. MISCELLANEOUS PROVISIONS.

§48-11-601. Access to a child's records.

1 (a) (1) Each parent has full and equal access to a child's
2 educational records absent a court order to the contrary. Neither
3 parent may veto the access requested by the other parent.
4 Educational records are limited to academic, attendance, and
5 disciplinary records of public and private schools in all grades
6 kindergarten through twelve and any form of alternative school.

7 (2) Each parent has a right to arrange appointments for
8 parent-teacher conferences absent a court order to the contrary.
9 Neither parent can be compelled against their will to exercise
10 this right by attending conferences jointly with the other parent.

11 (b) (1) Each parent has full and equal access to a child's
12 medical records absent a court order to the contrary. Neither
13 parent may veto the access requested by the other parent. If
14 necessary, either parent is required to authorize medical
15 providers to release to the other parent copies of any and all
16 information concerning medical care provided to the child
17 which would otherwise be properly released to either parent.

18 (2) If the child is in the actual physical custody of one
19 parent, that parent is required to promptly inform the other
20 parent of any illness of the child which requires medical
21 attention.

22 (3) Each parent is required to consult with the other parent
23 prior to any elective surgery being performed on the child; and
24 in the event emergency medical procedures are undertaken for
25 the child which require the parental consent of either parent, if
26 time permits, the other parent shall be consulted, or if time does
27 not permit such consultation, the other parent shall be promptly
28 informed of the emergency medical procedures: *Provided*, That
29 nothing contained herein alters or amends the law of this state
30 as it otherwise pertains to physicians or health care facilities
31 obtaining parental consent prior to providing medical care or
32 performing medical procedures.

33 (c) Each parent has full and equal access to a child's
34 juvenile court records, process and pleadings, absent a court
35 order to the contrary. Neither parent may veto any access
36 requested by the other parent. Juvenile court records are limited
37 to those records which are normally available to a parent of a
38 child who is a subject of the juvenile justice system.

**§48-11-602. Designation of custody for the purpose of other state
and federal statutes.**

1 Solely for the purposes of all other state and federal statutes
2 which require a designation or determination of custody, a
3 parenting plan shall designate the parent with whom the child
4 is scheduled to reside the majority of the time as the custodian
5 of the child. However, this designation shall not affect either
6 parent's rights and responsibilities under a parenting plan. In
7 the absence of such as designation, the parent with whom the
8 child is scheduled to reside the majority of the time shall be
9 deemed to be the custodian of the child for the purposes of such
10 federal and state statutes.

**CHAPTER 48A. ENFORCEMENT OF
FAMILY OBLIGATIONS.**

ARTICLE 13. CHILD SUPPORT.

PART 1. CHILD SUPPORT GUIDELINES.

§48A-1B-3. Basic child support obligation.

- 1 (a) The basic child support obligation is determined from
- 2 the following table of monthly basic child support obligations:

West Virginia						
Monthly Basic Child Support Obligations						
COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
550	127	185	219	242	263	281
600	137	200	237	262	284	304
650	147	214	253	280	303	325
700	156	227	268	296	321	344
750	163	238	282	311	337	361
800	171	249	295	326	353	378
850	179	261	309	341	370	395
900	188	273	323	357	387	414
950	197	286	338	374	405	433
1000	205	299	353	390	423	452
1050	214	311	368	406	440	471
1100	223	324	382	423	458	490
1150	231	336	397	439	476	509
1200	240	349	412	455	493	528
1250	248	361	426	471	511	547
1300	257	373	441	487	528	565
1350	265	386	456	503	546	584
1400	274	398	470	519	563	602
1450	282	410	484	534	579	620
1500	291	422	498	550	596	638
1550	299	434	512	565	613	656

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
1600	307	446	526	581	630	674
1650	316	458	540	596	646	692
1700	324	470	554	612	663	709
1750	332	482	568	627	680	727
1800	341	494	581	643	697	745
1850	349	506	595	658	713	763
1900	357	517	609	673	730	781
1950	366	529	623	689	747	799
2000	373	540	636	703	762	816
2050	381	551	649	717	778	832
2100	388	562	662	731	793	848
2150	395	573	674	745	808	864
2200	403	583	687	759	823	881
2250	410	594	700	773	838	897
2300	417	605	712	787	853	913
2350	425	616	725	801	869	929
2400	432	626	738	815	884	946
2450	440	637	750	829	899	962
2500	447	648	763	843	914	978
2550	454	658	776	857	929	994
2600	460	667	786	868	941	1007
2650	465	674	794	877	951	1018
2700	471	682	803	887	962	1029
2750	475	688	810	895	970	1038
2800	479	694	816	902	978	1046
2850	484	700	823	909	986	1055
2900	488	705	830	917	994	1063
2950	492	711	836	924	1002	1072
3000	496	717	843	931	1010	1080

Enr. Com. Sub. for H. B. 2678] 26

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
3050	500	723	850	939	1018	1089
3100	504	729	856	946	1026	1097
3150	509	735	863	953	1033	1106
3200	513	740	869	961	1041	1114
3250	517	746	876	968	1049	1123
3300	521	752	882	975	1057	1131
3350	524	757	888	981	1064	1138
3400	527	761	893	987	1070	1145
3450	531	766	899	993	1077	1152
3500	534	771	904	999	1083	1159
3550	537	775	910	1006	1090	1166
3600	541	780	916	1012	1097	1173
3650	544	785	921	1018	1103	1180
3700	547	790	927	1024	1110	1187
3750	550	794	932	1030	1116	1194
3800	554	799	937	1036	1123	1201
3850	557	803	943	1041	1129	1208
3900	560	808	948	1047	1135	1215
3950	563	812	953	1053	1142	1222
4000	566	817	959	1059	1148	1229
4050	570	822	964	1065	1155	1236
4100	574	828	972	1074	1164	1245
4150	579	834	979	1082	1172	1254
4200	583	841	986	1090	1181	1264
4250	588	847	993	1098	1190	1273
4300	592	853	1001	1106	1199	1283
4350	597	860	1008	1114	1207	1292
4400	601	866	1015	1122	1216	1301
4450	606	873	1023	1130	1225	1311

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
4500	610	879	1030	1138	1234	1320
4550	615	885	1037	1146	1242	1329
4600	619	892	1044	1154	1251	1339
4650	624	898	1052	1162	1260	1348
4700	628	904	1059	1170	1269	1357
4750	633	911	1066	1178	1277	1367
4800	637	917	1074	1186	1286	1376
4850	642	924	1082	1195	1296	1386
4900	647	931	1090	1204	1305	1397
4950	651	938	1098	1213	1315	1407
5000	656	945	1106	1222	1325	1418
5050	661	951	1114	1231	1335	1428
5100	666	958	1123	1240	1345	1439
5150	670	965	1131	1249	1354	1449
5200	675	972	1139	1259	1364	1460
5250	680	979	1147	1268	1374	1470
5300	685	986	1155	1277	1384	1481
5350	689	993	1163	1285	1393	1491
5400	694	999	1171	1294	1403	1501
5450	698	1006	1179	1302	1412	1511
5500	703	1012	1186	1311	1421	1521
5550	707	1019	1194	1319	1430	1530
5600	712	1025	1201	1328	1439	1540
5650	716	1031	1208	1335	1447	1548
5700	719	1036	1214	1341	1454	1556
5750	723	1042	1220	1348	1462	1564
5800	727	1047	1226	1355	1469	1572
5850	731	1052	1233	1362	1477	1580
5900	735	1058	1239	1369	1484	1588

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
5950	739	1063	1245	1376	1492	1596
6000	743	1069	1251	1383	1499	1604
6050	747	1074	1258	1390	1506	1612
6100	751	1080	1265	1397	1515	1621
6150	755	1086	1272	1405	1523	1630
6200	760	1093	1279	1413	1531	1639
6250	764	1099	1286	1420	1540	1648
6300	768	1105	1292	1428	1548	1657
6350	773	1111	1299	1436	1556	1665
6400	777	1117	1306	1444	1565	1674
6450	781	1123	1313	1451	1573	1683
6500	785	1129	1320	1459	1582	1692
6550	789	1135	1327	1467	1590	1701
6600	793	1140	1334	1474	1598	1710
6650	797	1146	1341	1482	1607	1719
6700	801	1152	1348	1490	1615	1728
6750	806	1158	1355	1498	1623	1737
6800	810	1164	1362	1505	1632	1746
6850	814	1170	1369	1513	1640	1755
6900	818	1176	1376	1521	1649	1764
6950	822	1182	1383	1529	1657	1773
7000	826	1188	1390	1536	1665	1782
7050	830	1194	1397	1544	1674	1791
7100	834	1200	1404	1552	1682	1800
7150	838	1206	1411	1560	1691	1809
7200	842	1212	1418	1567	1699	1818
7250	847	1218	1425	1575	1707	1827
7300	851	1224	1432	1583	1716	1836
7350	855	1230	1439	1591	1724	1845

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
7400	859	1236	1446	1598	1733	1854
7450	863	1242	1453	1606	1741	1863
7500	867	1248	1460	1614	1749	1872
7550	871	1253	1468	1622	1758	1881
7600	875	1259	1475	1629	1766	1890
7650	879	1265	1482	1637	1775	1899
7700	883	1271	1489	1645	1783	1908
7750	887	1277	1496	1653	1792	1917
7800	891	1283	1503	1661	1800	1926
7850	895	1289	1510	1669	1809	1935
7900	899	1295	1517	1676	1817	1944
7950	903	1300	1524	1684	1826	1954
8000	907	1306	1531	1692	1834	1963
8050	911	1312	1538	1700	1843	1972
8100	915	1318	1545	1708	1851	1981
8150	919	1324	1553	1716	1860	1990
8200	923	1330	1560	1723	1868	1999
8250	927	1336	1567	1731	1877	2008
8300	931	1342	1574	1739	1885	2017
8350	935	1348	1581	1747	1894	2026
8400	939	1353	1588	1755	1902	2035
8450	943	1359	1595	1763	1911	2044
8500	947	1365	1602	1770	1919	2053
8550	951	1371	1609	1778	1928	2062
8600	954	1377	1616	1786	1936	2072
8650	958	1383	1623	1794	1944	2081
8700	962	1389	1630	1802	1953	2090
8750	966	1395	1638	1809	1961	2099
8800	970	1401	1645	1817	1970	2108

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
8850	974	1406	1652	1825	1978	2117
8900	978	1412	1659	1833	1987	2126
8950	982	1418	1666	1840	1995	2135
9000	985	1423	1672	1847	2002	2142
9050	989	1428	1678	1854	2010	2150
9100	992	1433	1684	1861	2017	2158
9150	996	1438	1690	1867	2024	2166
9200	999	1443	1696	1874	2032	2174
9250	1003	1448	1702	1881	2039	2182
9300	1006	1453	1708	1888	2046	2189
9350	1010	1458	1714	1894	2053	2197
9400	1013	1463	1720	1901	2061	2205
9450	1016	1469	1727	1908	2068	2213
9500	1020	1474	1733	1915	2075	2221
9550	1023	1479	1739	1921	2083	2228
9600	1027	1484	1745	1928	2090	2236
9650	1030	1489	1751	1935	2097	2244
9700	1034	1494	1757	1942	2105	2252
9750	1037	1499	1763	1948	2112	2260
9800	1041	1504	1769	1955	2119	2268
9850	1044	1509	1775	1962	2127	2275
9900	1047	1514	1781	1969	2134	2283
9950	1051	1519	1788	1975	2141	2291
10000	1054	1524	1794	1982	2148	2299
10050	1058	1529	1800	1989	2156	2307
10100	1061	1534	1806	1995	2163	2315
10150	1065	1539	1812	2002	2170	2322
10200	1068	1545	1818	2009	2178	2330
10250	1072	1550	1824	2016	2185	2338

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
10300	1075	1555	1830	2022	2192	2346
10350	1078	1560	1836	2029	2200	2354
10400	1082	1565	1842	2036	2207	2361
10450	1086	1570	1849	2043	2215	2370
10500	1089	1576	1855	2050	2222	2378
10550	1093	1581	1861	2057	2230	2386
10600	1097	1586	1868	2064	2237	2394
10650	1101	1592	1874	2071	2245	2402
10700	1104	1597	1880	2078	2252	2410
10750	1108	1602	1887	2085	2260	2418
10800	1112	1608	1893	2092	2268	2426
10850	1115	1613	1899	2099	2275	2434
10900	1119	1619	1906	2106	2283	2443
10950	1123	1624	1912	2113	2290	2451
11000	1127	1629	1918	2120	2298	2459
11050	1130	1635	1925	2127	2306	2467
11100	1134	1640	1931	2134	2313	2475
11150	1138	1645	1937	2141	2321	2483
11200	1142	1651	1944	2148	2328	2491
11250	1145	1656	1950	2155	2336	2499
11300	1149	1662	1956	2162	2343	2507
11350	1153	1667	1963	2169	2351	2516
11400	1156	1672	1969	2176	2359	2524
11450	1160	1678	1975	2183	2366	2532
11500	1163	1682	1981	2189	2373	2539
11550	1167	1687	1987	2196	2380	2547
11600	1170	1692	1993	2202	2387	2554
11650	1174	1697	1999	2208	2394	2561
11700	1177	1702	2004	2215	2401	2569

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
11750	1180	1707	2010	2221	2408	2576
11800	1184	1712	2016	2228	2415	2584
11850	1187	1717	2022	2234	2422	2591
11900	1191	1722	2027	2240	2428	2598
11950	1193	1725	2031	2245	2433	2604
12000	1195	1729	2035	2249	2438	2609
12050	1198	1732	2039	2254	2443	2614
12100	1200	1735	2043	2258	2448	2619
12150	1202	1739	2047	2262	2452	2624
12200	1205	1742	2051	2267	2457	2629
12250	1207	1746	2055	2271	2462	2634
12300	1210	1749	2059	2276	2467	2640
12350	1212	1752	2063	2280	2472	2645
12400	1214	1756	2067	2285	2476	2650
12450	1217	1759	2071	2289	2481	2655
12500	1219	1763	2075	2293	2486	2660
12550	1221	1766	2079	2298	2491	2665
12600	1224	1770	2083	2302	2496	2670
12650	1226	1773	2088	2307	2500	2675
12700	1228	1776	2092	2311	2505	2681
12750	1231	1780	2096	2316	2510	2686
12800	1233	1783	2100	2320	2515	2691
12850	1236	1787	2104	2324	2520	2696
12900	1238	1790	2108	2329	2524	2701
12950	1240	1793	2112	2333	2529	2706
13000	1243	1797	2116	2338	2534	2711
13050	1245	1800	2120	2342	2539	2717
13100	1247	1804	2124	2347	2544	2722
13150	1250	1807	2128	2351	2548	2727

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
13200	1252	1811	2132	2355	2553	2732
13250	1255	1814	2136	2360	2558	2737
13300	1257	1817	2140	2364	2563	2742
13350	1259	1821	2144	2369	2568	2747
13400	1262	1824	2148	2373	2572	2753
13450	1264	1828	2152	2378	2577	2758
13500	1266	1831	2156	2382	2582	2763
13550	1269	1834	2160	2386	2587	2768
13600	1271	1838	2164	2391	2592	2773
13650	1274	1841	2168	2395	2596	2778
13700	1276	1845	2172	2400	2601	2783
13750	1278	1848	2176	2404	2606	2789
13800	1281	1852	2180	2409	2611	2794
13850	1283	1855	2184	2413	2616	2799
13900	1285	1858	2188	2417	2620	2804
13950	1288	1862	2192	2422	2625	2809
14000	1290	1865	2196	2426	2630	2814
14050	1292	1869	2200	2431	2635	2819
14100	1295	1872	2204	2435	2640	2824
14150	1297	1875	2208	2440	2645	2830
14200	1300	1879	2212	2444	2649	2835
14250	1302	1882	2216	2448	2654	2840
14300	1304	1886	2220	2453	2659	2845
14350	1307	1889	2224	2457	2664	2850
14400	1309	1893	2228	2462	2669	2855
14450	1311	1896	2232	2466	2673	2860
14500	1314	1899	2236	2471	2678	2866
14550	1316	1903	2240	2475	2683	2871
14600	1319	1906	2244	2479	2688	2876

COMBINED						
GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
MONTHLY	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
INCOME						
14650	1321	1910	2248	2484	2693	2881
14700	1323	1913	2252	2488	2697	2886
14750	1326	1916	2256	2493	2702	2891
14800	1328	1920	2260	2497	2707	2896
14850	1330	1923	2264	2502	2712	2902
14900	1333	1927	2268	2506	2717	2907
14950	1335	1930	2272	2510	2721	2912
15000	1338	1934	2276	2515	2726	2917

3 (b) This subsection provides for incomes below table. If
4 combined adjusted gross income is below five hundred fifty
5 dollars per month, which is the lowest amount of income
6 considered in the table of monthly basic child support obliga-
7 tions set forth in subsection (a) of this section, the basic child
8 support obligation shall be set at fifty dollars per month or a
9 discretionary amount determined by the court based on the
10 resources and living expenses of the parents and the number of
11 children due support.

12 (c) This subsection provides for incomes above table. If
13 combined adjusted gross income is above fifteen thousand
14 dollars per month, which is the highest amount of income
15 considered in the table of monthly basic child support obliga-
16 tions set forth in subsection (a) of this section, the basic child
17 support obligation shall not be less than it would be based on a
18 combined adjusted gross income of fifteen thousand dollars.
19 The court may also compute the basic child support obligation
20 for combined adjusted gross incomes above fifteen thousand
21 dollars by the following:

22 (1) One child — $\$1,457 + 0.088 \times$ combined adjusted gross
23 income above fifteen thousand dollars per month;

24 (2) Two children — $\$2,108 + 0.129 \times$ combined adjusted
25 gross income above fifteen thousand dollars per month;

26 (3) Three children — $\$2,483 + 0.153 \times$ combined adjusted
27 gross income above fifteen thousand dollars per month;

28 (4) Four children — $\$2,744 + 0.169 \times$ combined adjusted
29 gross income above fifteen thousand dollars per month;

30 (5) Five children — $\$2,974 + 0.183 \times$ combined adjusted
31 gross income above fifteen thousand dollars per month; and

32 (6) Six children — $\$3,182 + 0.196 \times$ combined adjusted
33 gross income above fifteen thousand dollars per month.

§48A-1B-6. Computation of child support order in sole custody cases.

1 (a) For sole custody cases, the total child support obligation
2 consists of the basic child support obligation plus the child's
3 share of any unreimbursed health care expenses, work-related
4 child care expenses and any other extraordinary expenses
5 agreed to by the parents or ordered by the court less any
6 extraordinary credits agreed to by the parents or ordered by the
7 court.

8 (b) In a sole custody case, the total basic child support
9 obligation is divided between the parents in proportion to their
10 income. From this amount is subtracted the obligor's direct
11 expenditures of any items which were added to the basic child
12 support obligation to arrive at the total child support obligation.

13 (c) Child support for sole custody cases shall be calculated
14 using the following worksheet:

WORKSHEET A: SOLE PHYSICAL CUSTODY

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

CASE NO. _____

Mother: _____ SS No.: _____ Custodial parent? Yes No

Father: _____ SS No.: _____ Custodial parent? Yes No

Children	SSN	Date of Birth	Children	SSN	Date of Birth
PART I. CHILD SUPPORT ORDER			Mother	Father	Combined
1. MONTHLY GROSS INCOME			\$	\$	
a. Minus preexisting child support payment			-	-	
b. Minus maintenance paid			-	-	
2. MONTHLY ADJUSTED GROSS INCOME			\$	\$	\$
3. PERCENTAGE SHARE OF INCOME (Each parent's income from line 2 divided by Combined Income)			%	%	100%
4. BASIC OBLIGATION (Use Line 2 combined to find amount from schedule.)					\$
5. ADJUSTMENTS (Expenses paid directly by each parent)					
a. Work-Related Child Care Costs Adjusted for Federal Tax Credit (0.75 x actual work-related child care costs.)			\$	\$	
b. Extraordinary Medical Expenses (Uninsured only) and Children's Portion of Health Insurance Premium Costs.			\$	\$	
c. Extraordinary Expenses (Agreed to by parents or by order of the court.)			\$	\$	
d. Minus Extraordinary Adjustments (Agreed to by parents or by order of court.)					


e. Total Adjustments (For each column, add 5a, 5b, and 5c. Subtract Line 5d. Add the parent's totals together for Combined amount.)	\$	\$	\$
6. TOTAL SUPPORT OBLIGATION (Add line 4 and line 5e Combined.)			\$
7. EACH PARENT'S SHARE OF THE TOTAL CHILD SUPPORT OBLIGATION (Line 3 x line 6 for each parent.)	\$	\$	
8. NONCUSTODIAL PARENT ADJUSTMENT (Enter noncustodial parent's line 5e.)	\$	\$	
9. RECOMMENDED CHILD SUPPORT ORDER (Subtract line 8 from line 7 for the noncustodial parent only. Leave custodial parent column blank.)	\$	\$	
PART II. ABILITY TO PAY CALCULATION (Complete if the noncustodial parent's adjusted monthly gross income is below \$1,400.)			
10. Spendable Income (0.75 x line 2 for noncustodial parent only.)			
11. Self Support Reserve	\$500	\$500	
12. Income Available for Support (Line 10 - line 11. If less than \$50, then \$50)			
13. Adjusted Child Support Order (Lessor of Line 9 and Line 12.)			
Comments, calculations, or rebuttals to schedule or adjustments if noncustodial parent directly pays extraordinary expenses.			
PREPARED BY:		Date:	

15 (d) In cases where the noncustodial parent's adjusted gross
16 income is below one thousand four hundred dollars per month,
17 an additional calculation in Worksheet A, Part II shall be made.
18 This additional calculation sets the child support order at
19 whichever is lower: (i) Child support at the amount determined
20 in Part I; or (ii) the difference between eighty-five percent of
21 the noncustodial parent's adjusted gross income and five
22 hundred dollars, or fifty dollars, whichever is more.

§48A-1B-11. Modification.

1 The provision of a child support order may be modified if
2 the application of the new guideline would result in a new order
3 that is more than fifteen percent different than the amount
4 currently ordered.

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



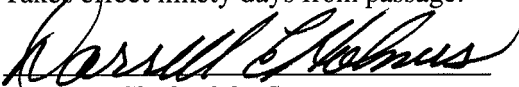
Chairman Senate Committee



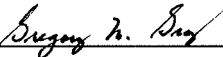
Chairman House Committee

Originating in the House.

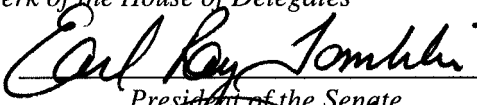
Takes effect ninety days from passage.



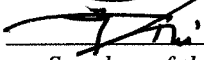
Clerk of the Senate



Clerk of the House of Delegates

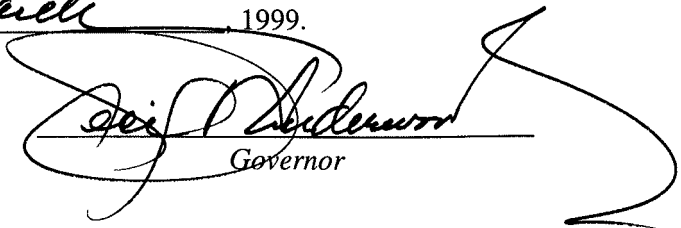


President of the Senate



Speaker of the House of Delegates

The within disapproved this the 20th
day of March, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/99

Time 2:55 pm