

SB 639

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

SENATE BILL NO. 639

(By Senator Kessler, et al)



PASSED March 11, 2000

In Effect ninety days from Passage

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2000-03-27

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Senate Bill No. 639

(BY SENATORS KESSLER, MITCHELL, OLIVERIO, REDD, DEEM,
WOOTON, BALL, DAWSON, DITTMAR, FANNING, HUNTER,
McCABE, MINARD, ROSS AND MCKENZIE)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to repeal section seventeen, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four, article three, chapter nine of said code; to amend and reenact section twelve, article five, chapter sixteen of said code; to amend and reenact sections fifteen-a and fifteen-b, article two, chapter forty-eight of said code; to amend and reenact section six, article two-a of said chapter; to amend and reenact section three, article one, chapter forty-eight-a of said code; to amend article one-a of said chapter by adding thereto a new section, designated section thirty-three; to amend and reenact section eleven, article one-b of said chapter; to amend and reenact sections twenty-four, twenty-four-a, twenty-eight, thirty-three-a and forty-one, article two of said chapter; to amend and reenact section three, article three of said chapter; to amend and reenact

sections two and three, article five of said chapter; to further amend said article by adding thereto a new section, designated section ten; to amend and reenact section four, article five-a of said chapter; and to amend and reenact sections one, three, four and six, article six of said chapter, all relating to the establishment and enforcement of support obligations generally; providing for the assignment of support and maintenance to the department of health and human resources; providing for the registration of births and acknowledgment of paternity; establishing procedure for rescission of acknowledgment of paternity; authorizing income withholding for purposes of medical support enforcement; requiring protective order to prohibit possessing a firearm or ammunition; establishing liens against personal and real property for child support arrearages pursuant to a protective order; authorizing payment plan for interest on child support arrearages in certain instances; defining "arrearages" and "past due support"; providing for service of notice of filing in procedure for expedited modification; authorizing income withholding for overpayment of child support and establishing limitations thereon; providing for the disbursement of support; permitting redirection of support based upon custodial parent's death certificate; providing for the distribution of state income tax interceptions; requiring payment to financial institutions for data matching services; precluding need for court order for release of certain information to the division; authorizing division to provide additional services for purposes of establishing paternity; making certain technical revisions; authorizing judgment liens against property owned by nonresidents; authorizing the division to institute income withholding without necessity of additional legal proceedings; providing for a review and contest of withholding; reducing percentages of disposable income which may be withheld from obligors; establishing effective date; establishing administrative enforcement of child support; clarifying the use of the word "application" with regard to licenses; clarifying

terminology for purposes of paternity establishment; establishing right of father to request blood test; limiting reimbursement support under certain conditions; and providing for the establishment of child support based upon the execution of a voluntary paternity acknowledgment.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 9. HUMAN SERVICES.

ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.

§9-3-4. Assignment of support obligations.

1 Any recipient of financial assistance under the program
2 of state and federal assistance established by Title IV of
3 the federal Social Security Act of 1965, as amended, or any
4 successor act thereto, shall, as a condition of receiving
5 such assistance, assign to the department of health and
6 human resources all rights, title and interest the family
7 member may have (on behalf of the family member or of
8 any other person for whom the family member has applied
9 for or is receiving such assistance) to the receipt of support
10 and maintenance moneys from any other person, not
11 exceeding the total amount of assistance provided to the
12 family, which accrue (or have accrued) before the date the
13 family ceases to receive assistance under the program. The
14 assignment, on and after the date the family ceases to
15 receive assistance under the program, does not apply with
16 respect to any support (other than support collected
17 pursuant to 42 U.S.C. §664) which accrued before the
18 family received such assistance and which the state has
19 not collected by the date the family ceases to receive
20 assistance under the program.

21 Persons responsible for support and maintenance shall
22 include all persons who under the laws of the state of West
23 Virginia owe obligations of support or maintenance to a
24 child or to the caretaker of a child. The assignment
25 contemplated herein shall include all amounts of support
26 and maintenance which accrued to the recipient of assis-
27 tance and was not received prior to the recipient's receipt
28 of assistance, and all amounts of support and maintenance
29 which accrue during recipient's receipt of assistance:
30 *Provided*, That subject to applicable federal and state
31 laws, the assignment may not exceed the total amount of
32 assistance provided to the family.

33 Each applicant for assistance subject to the assignment
34 established herein shall (during the application process) be
35 informed in writing of the nature of the assignment.

36 Any payment of federal and state assistance made to or
37 for the benefit of any child or children or the caretaker of
38 a child or children creates a debt due and owing to the
39 department of health and human resources by the person
40 or persons responsible for the support and maintenance of
41 such child, children or caretaker in an amount equal to the
42 amount of assistance money paid: *Provided* , That the
43 debt shall be limited by the amount established in any
44 court order or final decree of divorce if the amount in such
45 order or decrec is less than the amount of assistance paid.

46 The assignment hereunder shall subrogate the depart-
47 ment of health and human resources to the rights of the
48 child, children or caretaker to the prosecution or mainte-
49 nance of any action or procedure existing under law
50 providing a remedy whereby the department of health and
51 human resources may be reimbursed for moneys expended
52 on behalf of the child, children or caretaker. The dcpart-
53 ment of health and human resources shall further be
54 subrogated to the debt created by any order or decree
55 awarding support and maintenance to or for the benefit of
56 any child, children or caretaker included within the
57 assignment hereunder and shall be empowered to receive
58 such money judgments and endorse any check, draft, note
59 or other negotiable document in payment thereof.

60 The assignment created hereunder shall be released upon
61 closure of the assistance case and the termination of
62 assistance payments except for such support and mainte-
63 nance obligations accrued and owing at the time of closure
64 which shall be necessary to reimburse the department for
65 any balance of assistance payments made.

66 The department of health and human resources may, at
67 the election of the recipient, continue to receive support
68 and maintenance moneys on behalf of the recipient
69 following closure of the assistance case and shall distrib-
70 ute such moneys to the caretaker, child or children. The

71 department of health and human resources shall notify in
72 writing all appropriate persons of the terms of the release
73 of assignment hereunder.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

§16-5-12. Birth registration generally; acknowledgment of paternity.

1 (a) A certificate of birth for each live birth which occurs
2 in this state shall be filed with the local registrar of the
3 district in which the birth occurs within seven days after
4 such birth and shall be registered by such registrar if it has
5 been completed and filed in accordance with this section.
6 When a birth occurs in a moving conveyance, a birth
7 certificate shall be filed in the district in which the child
8 is first removed from the conveyance. When a birth occurs
9 in a district other than where the mother resides, a birth
10 certificate shall be filed in the district in which the child
11 is born and in the district in which the mother resides.

12 (b) When a birth occurs in an institution, the person in
13 charge of the institution or his designated representative
14 shall obtain the personal data, prepare the certificate,
15 secure the signatures required for the certificate and file
16 it with the local registrar. The physician in attendance
17 shall certify to the facts of birth and provide the medical
18 information required for the certificate within five days
19 after the birth.

20 (c) When a birth occurs outside an institution, the
21 certificate shall be prepared and filed by one of the
22 following in the indicated order of priority:

23 (1) The physician in attendance at or immediately after
24 the birth, or in the absence of such a person;

25 (2) Any other person in attendance at or immediately
26 after the birth, or in the absence of such a person; or

27 (3) The father, the mother, or, in the absence of the father
28 and the inability of the mother, the person in charge of the
29 premises where the birth occurred.

30 (d) Either of the parents of the child shall sign the
31 certificate of live birth to attest to the accuracy of the
32 personal data entered thereon, in time to permit its filing
33 within the seven days prescribed above.

34 (e) In order that each county may have a complete record
35 of the births occurring in said county, the local registrar
36 shall transmit each month to the county clerk of his or her
37 county the copies of the certificates of all births occurring
38 in said county, from which copies the clerk shall compile
39 a record of such births and shall enter the same in a
40 systematic and orderly way in a well-bound register of
41 births, which said register shall be a public record:
42 *Provided*, That such copies and register shall not state that
43 any child was either legitimate or illegitimate. The form
44 of said register of births shall be prescribed by the state
45 registrar of vital statistics.

46 (f) On and after the first day of November, one thousand
47 nine hundred ninety, in addition to the personal data
48 furnished for the certificate of birth issued for a live birth
49 in accordance with the provisions of this section, a person
50 whose name is to appear on such certificate of birth as a
51 parent shall contemporaneously furnish to the person
52 preparing and filing the certificate of birth the social
53 security account number (or numbers, if the parent has
54 more than one such number) issued to the parent. A record
55 of the social security number or numbers shall be filed
56 with the local registrar of the district in which the birth
57 occurs within seven days after such birth, and the local
58 registrar shall transmit such number or numbers to the

59 state registrar of vital statistics in the same manner as
60 other personal data is transmitted to the state registrar.

61 (g) If the mother was married either at the time of
62 conception or birth, the name of the husband shall be
63 entered on the certificate as the father of the child unless
64 paternity has been determined otherwise by a court of
65 competent jurisdiction pursuant to the provisions of article
66 six, chapter forty-eight-a of this code or other applicable
67 law, in which case the name of the father as determined by
68 the court shall be entered.

69 (h) If the mother was not married either at the time of
70 conception or birth, the name of the father shall not be
71 entered on the certificate of birth without the written
72 consent of the mother and of the person to be named as the
73 father unless a determination of paternity has been made
74 by a court of competent jurisdiction pursuant to the
75 provisions of article six, chapter forty-eight-a of this code
76 or other applicable law, in which case the name of the
77 father as determined by the court shall be entered.

78 (i) A written, notarized acknowledgment of both the man
79 and the woman that the man is the father of a named child
80 legally establishes the man as the father of the child for all
81 purposes, and child support may be established pursuant
82 to the provisions of chapter forty-eight-a of this code.

83 (1) The written acknowledgment shall include filing
84 instructions, the parties' social security number and
85 addresses and a statement, given orally and in writing, of
86 the alternatives to, the legal consequences of, and the
87 rights and obligations of acknowledging paternity, includ-
88 ing, but not limited to, the duty to support a child. If
89 either of the parents is a minor, the statement shall include
90 an explanation of any rights that may be afforded due to
91 the minority status.

92 (2) The failure or refusal to include all information
93 required by subdivision (1) of this subsection shall not
94 affect the validity of the written acknowledgment, in the
95 absence of a finding by a court of competent jurisdiction
96 that the acknowledgment was obtained by fraud, duress or
97 material mistake of fact, as provided in subdivision (4) of
98 this subsection.

99 (3) The original written acknowledgment should be filed
100 with the state registrar of vital statistics. Upon receipt of
101 any acknowledgment executed pursuant to this section,
102 the registrar shall forward the copy of the acknowledgment
103 to the child support enforcement division and the
104 parents, if the address of the parents is known to the
105 registrar. If a birth certificate for the child has been
106 previously issued which is incorrect or incomplete, a new
107 birth certificate shall be issued.

108 (4) An acknowledgment executed under the provisions of
109 this subsection may be rescinded as follows:

110 (A) The parent wishing to rescind the acknowledgment
111 shall file with the clerk of the circuit court of the county in
112 which the child resides a verified complaint stating the
113 name of the child, the name of the other parent, the date of
114 the birth of the child, the date of the signing of the affidavit,
115 and a statement that he or she wishes to rescind the
116 acknowledgment of the paternity. If the complaint is filed
117 more than sixty days from the date of execution or the
118 date of an administrative or judicial proceeding relating to
119 the child in which the signatory is a party, the complaint
120 shall include specific allegations concerning the elements
121 of fraud, duress or material mistake of fact.

122 (B) The complaint shall be served upon the other parent
123 as provided in rule 4 of the West Virginia rules of civil
124 procedure.

125 (C) The family law master shall hold a hearing within
126 sixty days of the service of process upon the other parent.
127 If the complaint was filed within sixty days of the date the
128 acknowledgment of paternity was executed, the court shall
129 order the acknowledgment to be rescinded without any
130 requirement of a showing of fraud, duress, or material
131 mistake of fact. If the complaint was filed more than sixty
132 days from the date of execution or the date of an adminis-
133 trative or judicial proceeding relating to the child in which
134 the signatory is a party, the court may only set aside the
135 acknowledgment upon a finding, by clear and convincing
136 evidence, that the acknowledgment was executed under
137 circumstances of fraud, duress or material mistake of fact.
138 The circuit clerk shall forward a copy of any order entered
139 pursuant to this proceeding to the state registrar of vital
140 statistics by certified mail.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 2. DIVORCE, ANNULMENT AND SEPARATE MAINTENANCE.

§48-2-15a. Medical support enforcement.

1 (a) For the purposes of this section:

2 (1) "Custodian for the children" means a parent, legal
3 guardian, committee or other third party appointed by
4 court order as custodian of a child or children for whom
5 child support is ordered.

6 (2) "Obligated parent" means a natural or adoptive
7 parent who is required by agreement or order to pay for
8 insurance coverage and medical care, or some portion
9 thereof, for his or her child.

10 (3) "Insurance coverage" means coverage for medical,
11 dental, including orthodontic, optical, psychological,
12 psychiatric or other health care service.

13 (4) "Child" means a child to whom a duty of child
14 support is owed.

15 (5) "Medical care" means medical, dental, optical,
16 psychological, psychiatric or other health care service for
17 children in need of child support.

18 (6) "Insurer" means any company, health maintenance
19 organization, self-funded group, multiple employer
20 welfare arrangement, hospital or medical services corpora-
21 tion, trust, group health plan, as defined in 29 U.S.C.
22 §1167, Section 607(1) of the Employee Retirement Income
23 Security Act of 1974 or other entity which provides
24 insurance coverage or offers a service benefit plan.

25 (b) In every action to establish or modify an order which
26 requires the payment of child support, the court shall
27 ascertain the ability of each parent to provide medical care
28 for the children of the parties. In any temporary or final
29 order establishing an award of child support or any
30 temporary or final order modifying a prior order establish-
31 ing an award of child support, the court shall order one or
32 more of the following:

33 (1) The court shall order either parent or both parents to
34 provide insurance coverage for a child, if such insurance
35 coverage is available to that parent on a group basis
36 through an employer or through an employee's union. If
37 similar insurance coverage is available to both parents, the
38 court shall order the child to be insured under the insur-
39 ance coverage which provides more comprehensive
40 benefits. If such insurance coverage is not available at the
41 time of the entry of the order, the order shall require that
42 if such coverage thereafter becomes available to either
43 party, that party shall promptly notify the other party of
44 the availability of insurance coverage for the child.

45 (2) If the court finds that insurance coverage is not
46 available to either parent on a group basis through an

47 employer, multiemployer trust or employees' union, or that
48 the group insurer is not accessible to the parties, the court
49 may order either parent or both parents to obtain insurance
50 coverage which is otherwise available at a reasonable
51 cost.

52 (3) Based upon the respective ability of the parents to
53 pay, the court may order either parent or both parents to
54 be liable for reasonable and necessary medical care for a
55 child. The court shall specify the proportion of the
56 medical care for which each party shall be responsible.

57 (4) If insurance coverage is available, the court shall also
58 determine the amount of the annual deductible on insurance
59 coverage which is attributable to the children and
60 designate the proportion of the deductible which each
61 party shall pay.

62 (5) The order shall require the obligor to continue to
63 provide the child support enforcement division created by
64 article two, chapter forty-eight-a of this code with information
65 as to his or her employer's name and address and
66 information as to the availability of employer-related
67 insurance programs providing medical care coverage so
68 long as the child continues to be eligible to receive support.
69

70 (c) The cost of insurance coverage shall be considered by
71 the court in applying the child support guidelines provided
72 for in article one-b, chapter forty-eight-a of this code.

73 (d) Within thirty days after the entry of an order requiring
74 the obligated parent to provide insurance coverage for
75 the children, that parent shall submit to the custodian for
76 the child written proof that the insurance has been obtained
77 or that an application for insurance has been made.
78 Such proof of insurance coverage shall consist of, at a
79 minimum:

- 80 (1) The name of the insurer;
- 81 (2) The policy number;
- 82 (3) An insurance card;
- 83 (4) The address to which all claims should be mailed;
- 84 (5) A description of any restrictions on usage, such as
- 85 prior approval for hospital admission, and the manner in
- 86 which to obtain such approval;
- 87 (6) A description of all deductibles; and
- 88 (7) Five copies of claim forms.
- 89 (e) The custodian for the child shall send the insurer or
- 90 the obligated parent's employer the children's address and
- 91 notice that the custodian will be submitting claims on
- 92 behalf of the children. Upon receipt of such notice, or an
- 93 order for insurance coverage under this section, the
- 94 obligated parent's employer, multiemployer trust or union
- 95 shall, upon the request of the custodian for the child,
- 96 release information on the coverage for the children,
- 97 including the name of the insurer.
- 98 (f) A copy of the court order for insurance coverage shall
- 99 not be provided to the obligated parent's employer or
- 100 union or the insurer unless ordered by the court, or unless:
- 101 (1) The obligated parent, within thirty days of receiving
- 102 effective notice of the court order, fails to provide to the
- 103 custodian for the child written proof that the insurance
- 104 has been obtained or that an application for insurance has
- 105 been made;
- 106 (2) The custodian for the child serves written notice by
- 107 mail at the obligated parent's last known address of
- 108 intention to enforce the order requiring insurance coverage
- 109 for the child; and

110 (3) The obligated parent fails within fifteen days after
111 the mailing of the notice to provide written proof to the
112 custodian for the child that the child has insurance
113 coverage.

114 (g) (1) Upon service of the order requiring insurance
115 coverage for the children, the employer, multiemployer
116 trust or union shall enroll the child as a beneficiary in the
117 group insurance plan and withhold any required premium
118 from the obligated parent's income or wages.

119 (2) If more than one plan is offered by the employer,
120 multiemployer trust or union, the child shall be enrolled in
121 the same plan as the obligated parent at a reasonable cost.

122 (3) Insurance coverage for the child which is ordered
123 pursuant to the provisions of this section shall not be
124 terminated except as provided in subsection (k) of this
125 section.

126 (h) Where a parent is required by a court or administra-
127 tive order to provide health coverage, which is available
128 through an employer doing business in this state, the
129 employer is required:

130 (1) To permit the parent to enroll under family coverage
131 any child who is otherwise eligible for coverage without
132 regard to any enrollment season restrictions;

133 (2) If the parent is enrolled but fails to make application
134 to obtain coverage of the child, to enroll the child under
135 family coverage upon application by the child's other
136 parent, by the state agency administering the medicaid
137 program or by the child support enforcement division;

138 (3) Not to disenroll or eliminate coverage of any such
139 child unless the employer is provided satisfactory written
140 evidence that:

141 (A) The court or administrative order is no longer in
142 effect; or

143 (B) The child is or will be enrolled in comparable cover-
144 age which will take effect no later than the effective date
145 of disenrollment; or

146 (C) The employer has eliminated family health coverage
147 for all of its employees;

148 (4) To withhold from the employee's compensation the
149 employee's share, if any, of premiums for health coverage
150 and to pay this amount to the insurer: *Provided*, That the
151 amount so withheld may not exceed the maximum amount
152 permitted to be withheld under 15 U.S.C. §1673, Section
153 303(b) of the Consumer Credit Protection Act.

154 (i) (1) The signature of the custodian for the child shall
155 constitute a valid authorization to the insurer for the
156 purposes of processing an insurance payment to the
157 provider of medical care for the child.

158 (2) No insurer, employer or multiemployer trust in this
159 state may refuse to honor a claim for a covered service
160 when the custodian for the child or the obligated parent
161 submits proof of payment for medical bills for the child.

162 (3) The insurer shall reimburse the custodian for the
163 child or the obligated parent who submits copies of
164 medical bills for the child with proof of payment.

165 (4) All insurers in this state shall comply with the
166 provisions of section sixteen, article fifteen, chapter thirty-
167 three of this code and section eleven, article sixteen of said
168 chapter and shall provide insurance coverage for the child
169 of a covered employee notwithstanding the amount of
170 support otherwise ordered by the court and regardless of
171 the fact that the child may not be living in the home of the
172 covered employee.

173 (j) Where an obligated parent changes employment, and
174 the new employer provides the obligated parent's health
175 care coverage, the child support enforcement division shall
176 transfer to the new employer notice of the obligated
177 parent's duty to provide health care coverage. Unless
178 contested by the obligated parent in writing and in
179 accordance with section eight, article five, chapter forty-
180 eight-a of this code, the notice shall operate to enroll the
181 child in the new employer's health care plan.

182 (k) When an order for insurance coverage for a child
183 pursuant to this section is in effect and the obligated
184 parent's employment is terminated, or the insurance
185 coverage for the child is denied, modified or terminated,
186 the insurer shall in addition to complying with the re-
187 quirements of article sixteen-a, chapter thirty-three of this
188 code, within ten days after the notice of change in cover-
189 age is sent to the covered employee, notify the custodian
190 for the child and provide an explanation of any conversion
191 privileges available from the insurer.

192 (l) A child of an obligated parent shall remain eligible for
193 insurance coverage until the child is emancipated or until
194 the insurer under the terms of the applicable insurance
195 policy terminates said child from coverage, whichever is
196 later in time, or until further order of the court.

197 (m) If the obligated parent fails to comply with the order
198 to provide insurance coverage for the child, the court shall:

199 (1) Hold the obligated parent in contempt for failing or
200 refusing to provide the insurance coverage or for failing or
201 refusing to provide the information required in subsection
202 (d) of this section;

203 (2) Enter an order for a sum certain against the obligated
204 parent for the cost of medical care for the child and any
205 insurance premiums paid or provided for the child by the
206 child support enforcement division during any period in

207 which the obligated parent failed to provide the required
208 coverage, and directing that such judgment be collected
209 through income withholding;

210 (3) In the alternative, other enforcement remedies
211 available under sections two and three, article five,
212 chapter forty-eight-a of this code, or otherwise available
213 under law, may be used to recover from the obligated
214 parent the cost of medical care or insurance coverage for
215 the child;

216 (4) In addition to other remedies available under law, the
217 child support enforcement division may initiate an income
218 withholding against the wages, salary or other employ-
219 ment income of, and withhold amounts from state tax
220 refunds to any person who:

221 (A) Is required by court or administrative order to
222 provide coverage of the cost of health services to a child;
223 and

224 (B) Has received payment from a third party for the costs
225 of such services but has not used the payments to reim-
226 burse either the other parent or guardian of the child or
227 the provider of the services, to the extent necessary to
228 reimburse the state medicaid agency for its costs: *Pro-*
229 *vided*, That claims for current and past due child support
230 shall take priority over these claims.

231 (n) Proof of failure to maintain court ordered insurance
232 coverage for the child constitutes a showing of substantial
233 change in circumstances or increased need pursuant to
234 section fifteen of this article, and provides a basis for
235 modification of the child support order.

§48-2-15b. Withholding from income.

1 (a) Every order entered or modified under the provisions
2 of this article, not described in subsection (d) of this

3 section, which requires the payment of child support or
4 spousal support shall include a provision for automatic
5 withholding from income of the obligor, in order to
6 facilitate income withholding as a means of collecting
7 support.

8 (b) Every such order as described in subsection (a) of this
9 section shall contain language authorizing income with-
10 holding for both current support and for any arrearages to
11 commence without further court action as follows:

12 (1) The order shall provide that income withholding will
13 begin immediately, without regard to whether there is an
14 arrearage:

15 (A) When a child for whom support is ordered is included
16 or becomes included in a grant of assistance from the
17 division of human services or a similar agency of a sister
18 state for temporary assistance for needy families benefits,
19 medical assistance only benefits or foster care benefits; or

20 (B) When the support obligee has applied for services
21 from the child support enforcement division created
22 pursuant to article two, chapter forty-eight-a of this code,
23 or the support enforcement agency of another state or is
24 otherwise receiving services from the child support
25 enforcement division as provided for in said chapter. In
26 any case where one of the parties demonstrates, and the
27 court finds, that there is good cause not to require immedi-
28 ate income withholding, or in any case where there is filed
29 with the court a written agreement between the parties
30 which provides for an alternative arrangement, such order
31 shall not provide for income withholding to begin immedi-
32 ately.

33 (2) The order shall also provide that income withholding
34 will begin immediately upon the occurrence of any of the
35 following:

36 (A) When the payments which the obligor has failed to
37 make under the order are at least equal to the support
38 payable for one month, if the order requires support to be
39 paid in monthly installments;

40 (B) When the payments which the obligor has failed to
41 make under the order are at least equal to the support
42 payable for four weeks, if the order requires support to be
43 paid in weekly or bi-weekly installments;

44 (C) When the obligor requests the child support enforce-
45 ment division to commence income withholding; or

46 (D) When the obligee requests that such withholding
47 begin, if the request is approved by the court in accor-
48 dance with procedures and standards established by rules
49 promulgated by the commission pursuant to this section
50 and to chapter twenty-nine-a of this code.

51 (c) On and after the first day of January, one thousand
52 nine hundred ninety-four, the wages of an obligor shall be
53 subject to withholding, regardless of whether child
54 support payments are in arrears, on the date the order for
55 child support is entered: *Provided*, That where one of the
56 parties demonstrates, and the court finds, that there is
57 good cause not to require immediate income withholding,
58 or in any case where there is filed with the court a written
59 agreement between the parties which provides for an
60 alternative arrangement, such order shall not provide for
61 income withholding to begin immediately.

62 (d) The supreme court of appeals shall make available to
63 the circuit courts standard language to be included in all
64 such orders, so as to conform such orders to the applicable
65 requirements of state and federal law regarding the
66 withholding from income of amounts payable as support.

67 (e) Every support order entered by a circuit court of this
68 state prior to the effective date of this section shall be

69 considered to provide for an order of income withholding,
70 by operation of law, which complies with the provisions of
71 this section, notwithstanding the fact that such support
72 order does not in fact provide for such order of withhold-
73 ing.

74 (f) The court shall consider the best interests of the child
75 in determining whether "good cause" exists under this
76 section. The court may also consider the obligor's payment
77 record in determining whether "good cause" has been
78 demonstrated.

79 (g) The West Virginia support enforcement commission
80 shall promulgate legislative rules pursuant to chapter
81 twenty-nine-a of this code further defining the duties of
82 the child support enforcement division and the employer
83 in wage withholding.

**ARTICLE 2A. PREVENTION AND TREATMENT OF DOMESTIC AND
FAMILY VIOLENCE.**

§48-2A-6. Protective orders.

1 (a) At the conclusion of the hearing, if the petitioner has
2 proven the allegations of domestic or family violence, or
3 that he or she reported or witnessed domestic or family
4 violence against another and has, as a result, been abused,
5 threatened, harassed or has been the subject of other
6 actions to attempt to intimidate him or her, by a prepon-
7 derance of the evidence, the court shall issue a protective
8 order directing the respondent to refrain from abusing,
9 harassing, stalking, threatening or otherwise intimidating
10 the petitioner, the person who reported or witnessed
11 family or domestic violence or the minor children, or
12 engaging in other conduct that would place the petitioner,
13 the person who reported or witnessed family or domestic
14 violence or the minor children in reasonable fear of bodily
15 injury. The court's order shall inform the respondent that
16 he or she is prohibited from possessing any firearm or

17 ammunition, notwithstanding the fact that the respondent
18 may have a valid license to possess a firearm, and that
19 possession of a firearm or ammunition while subject to the
20 court's protective order is a criminal offense under federal
21 law. Where the respondent is present at the hearing
22 and elects not to contest the allegations of domestic
23 or family violence or does not contest the relief sought,
24 the petitioner is not required to adduce evidence and prove
25 the allegations of domestic or family violence and the
26 court may directly address the issues of the relief re-
27 quested.

28 (b) Where the petitioner is the victim of domestic or
29 family violence, the terms of a protective order may
30 include:

31 (1) Granting possession to the petitioner of the residence
32 or household jointly resided in at the time the abuse
33 occurred;

34 (2) Awarding temporary custody of or establishing
35 temporary visitation rights with regard to minor children
36 named in the order;

37 (3) Establishing terms of temporary visitation with
38 regard to the minor children named in the order including,
39 but not limited to, requiring third party supervision of
40 visitations if necessary to protect the petitioner and/or the
41 minor children;

42 (4) Ordering the noncustodial parent to pay to the
43 caretaker parent a sum for temporary support and mainte-
44 nance of the petitioner and children, if any;

45 (5) Ordering the respondent to pay to the petitioner a
46 sum for temporary support and maintenance of the
47 petitioner, where appropriate;

48 (6) Ordering the respondent to refrain from entering the
49 school, business or place of employment of the petitioner
50 or household or family members for the purpose of violat-
51 ing the protective order;

52 (7) Ordering the respondent to participate in an inter-
53 vention program for perpetrators;

54 (8) Ordering the respondent to refrain from contacting,
55 telephoning, communicating, harassing or verbally
56 abusing the petitioner.

57 (9) Providing for either party to obtain personal property
58 or other items from a location, including granting tempo-
59 rary possession of motor vehicles owned by either or both
60 of the parties, and providing for the safety of the parties
61 while this occurs, including ordering a law-enforcement
62 officer to accompany one or both of the parties.

63 (10) Ordering the respondent to reimburse the petitioner
64 or other person for any expenses incurred as a result of the
65 domestic or family violence, including, but not limited to,
66 medical expenses, transportation and shelter; and

67 (11) Ordering the petitioner and respondent to refrain
68 from transferring, conveying, alienating, encumbering, or
69 otherwise dealing with property which could otherwise be
70 subject to the jurisdiction of the court or another court in
71 an action for divorce or support, partition or in any other
72 action affecting their interests in property.

73 (c) Where the petitioner or other person to be protected
74 reported or was a witness to the family or domestic
75 violence, the terms of a protective order may include:

76 (1) Ordering the respondent to refrain from abusing,
77 contacting, telephoning, communicating, harassing,
78 verbally abusing or otherwise intimidating the petitioner
79 or other person to be protected; and

80 (2) Ordering the respondent to refrain from entering the
81 school, business or place of employment of the petitioner
82 or other person to be protected, for the purpose of violat-
83 ing the protective order.

84 (d) Except as otherwise provided by subsection (d),
85 section three-a of this article, a protective order issued by
86 a magistrate, family law master or circuit judge pursuant
87 to this article or subdivision (13), subsection (a), article
88 two of this chapter, is effective for either ninety days or
89 one hundred eighty days, in the discretion of the court. If
90 the court enters an order for a period of ninety days, upon
91 receipt of a written request from the petitioner prior to the
92 expiration of the ninety day period, the court shall extend
93 its order for an additional ninety-day period.

94 (e) To be effective, a written request to extend an order
95 from ninety days to one hundred eighty days must be
96 submitted to the court prior to the expiration of the
97 original ninety-day period. A notice of the extension shall
98 be sent by the clerk of the court to the respondent by first
99 class mail, addressed to the last known address of the
100 respondent as indicated by the court's case filings. The
101 extension of time is effective upon mailing of the notice.

102 (f) The court may amend the terms of a protective order
103 at any time upon subsequent petition filed by either party.
104 The protective order shall be in full force and effect in
105 every county of this state and shall so state.

106 (g) No order entered pursuant to this article may in any
107 manner affect title to any real property, except as provided
108 in section four, article five, chapter forty-eight-a of this
109 code for past due child support. The personal property of
110 any person ordered to pay child support pursuant to the
111 provisions of this article is subject to a lien for past due
112 child support as provided in section two, article five,
113 chapter forty-eight-a of this code.

114 (h) Certified copies of any order or extension notice
115 made under the provisions of this section shall be issued to
116 the petitioner, the respondent and any law-enforcement
117 agency having jurisdiction to enforce the order, including
118 the city police, the county sheriff's office or local office of
119 the West Virginia state police within twenty-four hours of
120 the entry of the order.

121 (i) Mutual protective orders are prohibited unless both
122 parties have filed a petition under section four of this
123 article and have proven the allegations of domestic or
124 family violence by a preponderance of the evidence. This
125 shall not prevent other persons, including the respondent,
126 from filing a separate petition. The court may consolidate
127 two or more petitions if he or she determines that consoli-
128 dation will further the interest of justice and judicial
129 economy. The court shall enter a separate order for each
130 petition filed.

131 (j) Any protective order issued pursuant to this article
132 shall contain on its face the following statement, printed
133 in bold-faced type or in capital letters:

134 "VIOLATION OF THIS ORDER MAY BE PUNISHED
135 BY CONFINEMENT IN A REGIONAL OR COUNTY JAIL
136 FOR AS LONG AS ONE YEAR AND BY A FINE OF AS
137 MUCH AS TWO THOUSAND DOLLARS".

138 (k) Any person against whom a protective order is issued
139 after a full hearing pursuant to this section shall be
140 assessed a fee of twenty-five dollars. Such fee shall be
141 paid to the family court fund established pursuant to
142 section twenty-three, article four, chapter forty-eight-a of
143 this code.

144 (l) The supreme court of appeals shall promulgate a
145 procedural rule to establish time-keeping requirements for
146 magistrates, magistrate court clerks, and magistrate
147 assistants so as to assure the maximum funding of incen-

148 tive payments, grants and other funding sources available
149 to the state for the processing of cases filed for the estab-
150 lishment of temporary orders of child support pursuant to
151 the provisions of this section.

CHAPTER 48A. ENFORCEMENT OF FAMILY OBLIGATIONS.

ARTICLE I. GENERAL PROVISIONS.

§48A-1-3. Calculation of interest.

1 (a) If an obligation to pay interest arises under this
2 chapter, the rate of interest is that specified in section
3 thirty-one, article six, chapter fifty-six of this code.
4 Interest shall accrue only upon the outstanding principal
5 of such obligation. On and after the ninth day of June, one
6 thousand nine hundred ninety-five, this section shall be
7 construed to permit the accumulation of simple interest,
8 and may not be construed to permit the compounding of
9 interest. Interest which accrued on unpaid installments
10 accruing before the ninth day of June, one thousand nine
11 hundred ninety-five, may not be modified by any court,
12 irrespective of whether such installment accrued simple or
13 compound interest: *Provided*, That unpaid installments
14 upon which interest was compounded before the effective
15 date of this section shall accrue only simple interest
16 thereon on and after the ninth day of June, one thousand
17 nine hundred ninety-five.

18 (b) Except as otherwise provided in this subsection,
19 prejudgment interest shall not be awarded in a domestic
20 relations action. The circuit court may only award
21 prejudgment interest in a domestic relations action against
22 a party if the court finds, in writing, that the party en-
23 gaged in conduct that would violate subsection (b), rule
24 eleven of the West Virginia rules of civil procedure. If
25 prejudgment interest is awarded, the court shall calculate

26 prejudgment interest from the date the offending represen-
27 tation was presented to the court.

28 (c) Upon written agreement by both parties, an obligor
29 may petition the court to enter an order conditionally
30 suspending the collection of all or part of the interest that
31 has accrued on past due child support prior to the date of
32 the agreement: *Provided*, That said agreement shall also
33 establish a reasonable payment plan which is calculated to
34 fully discharge all arrearages within twenty-four months.
35 Upon successful completion of the payment plan, the court
36 shall enter an order which permanently relieves the
37 obligor of the obligation to pay the accrued interest. If the
38 obligor fails to comply with the terms of the written
39 agreement, then the court shall enter an order which
40 reinstates the accrued interest. Any proceeding com-
41 menced pursuant to the provisions of this subsection may
42 only be filed after the first day of January, two thousand
43 one and before the thirty-first day of December, two
44 thousand one.

ARTICLE 1A. DEFINITIONS.

§48A-1A-33. Arrearages and past due support.

1 "Arrearages" or "past due support" means the total of
2 any matured, unpaid installments of child support re-
3 quired to be paid by an order entered or modified by a
4 court of competent jurisdiction, or by the order of a
5 magistrate court of this state, and shall stand, by operation
6 of law, as a decretal judgment against the obligor owing
7 such support. The amount of unpaid support shall bear
8 interest from the date it accrued, at a rate of ten dollars
9 upon one hundred dollars per annum, and proportionately
10 for a greater or lesser sum, or for a longer or shorter time.
11 Except as provided in rule 19 of rules of practice and
12 procedure for family law and as provided in subsection (c),
13 section three, article one of this chapter, a child support

14 order may not be retroactively modified so as to cancel or
15 alter accrued installments of support.

ARTICLE 1B. GUIDELINES FOR CHILD SUPPORT AWARDS.

§48A-1B-11. Modification.

1 (a) The provisions of a child support order may be
2 modified if there is a substantial change of circumstances.
3 For purposes of this section, if application of the guideline
4 would result in a new order that is more than fifteen
5 percent different, then the circumstances are considered to
6 be a substantial change.

7 (b) An expedited process for modification of a child
8 support order may be utilized if either parent experiences
9 a substantial change of circumstances resulting in a
10 decrease in income due to loss of employment or other
11 involuntary cause or an increase in income due to promo-
12 tion, change in employment, reemployment, or other such
13 change in employment status. The party seeking the
14 recalculation of support and modification of the support
15 order shall file a description of the decrease or increase in
16 income and an explanation of the cause of the decrease or
17 increase on a standardized form to be provided by the
18 secretary-clerk or other employee of the family court. The
19 standardized form shall be verified by the filing party.
20 Any available documentary evidence shall be filed with
21 the standardized form. Based upon the filing and informa-
22 tion available in the case record, the amount of support
23 shall be tentatively recalculated. The secretary-clerk shall
24 serve a notice of the filing, a copy of the standardized
25 form, and the support calculations upon the other party by
26 certified mail, return receipt requested, with delivery
27 restricted to the addressee, in accordance with rule
28 4(d)(1)(D) of the West Virginia rules of civil procedure.
29 The secretary-clerk shall also mail a copy, by first class
30 mail, to the local office of the child support enforcement
31 division for the county in which the circuit court is located

32 in the same manner as original process under rule 4(d) of
33 the rules of civil procedure. The notice shall fix a date
34 fourteen days from the date of mailing, and inform the
35 party that unless the recalculation is contested and a
36 hearing request is made on or before the date fixed, the
37 proposed modification will be made effective. If the filing
38 is contested, the proposed modification shall be set for
39 hearing; otherwise, the family law master shall prepare a
40 recommended default order for entry by the circuit judge.
41 Either party may move to set aside a default entered by
42 the circuit clerk or a judgment by default entered by the
43 clerk or the court, pursuant to the provisions of rule 55 or
44 rule 60(b) of the rules of civil procedure. If an obligor uses
45 the provisions of this section to expeditiously reduce his or
46 her child support obligation, the order that effected the
47 reduction shall also require the obligor to notify the
48 obligee of reemployment, new employment or other such
49 change in employment status that results in an increase in
50 income. If an obligee uses the provisions of this section to
51 expeditiously increase his or her child support obligation,
52 the order that effected the increase shall also require the
53 obligee to notify the obligor of reemployment, new em-
54 ployment or other such change in employment status that
55 results in an increase in income of the obligee.

56 (c) The supreme court of appeals shall develop the
57 standardized form required by subsection (b) of this
58 section.

59 (d) In any proceeding filed after the first day of January
60 two thousand one, where a petition to modify child
61 support is granted which results in a reduction of child
62 support owed so that the obligor has overpaid child
63 support, the court shall grant a decretal judgment to the
64 obligor for the amount of the overpayment. The court
65 shall inquire as to whether a support arrearage was owed
66 by the obligor for support due prior to the filing of the

67 petition for modification. If an arrearage exists, the court
68 shall order an offset of the overpayment against the child
69 support arrearages. If no prior arrearage exists or if the
70 arrearage is not sufficient to offset the overpayment, then
71 the court may direct the child support enforcement
72 division to collect the overpayment through income
73 withholding, if the person has, in the court's opinion,
74 sufficient income other than the child support received.
75 The income withholding shall be in all respects as pro-
76 vided for in section three, article five of this chapter,
77 except that in no circumstances may the amount withheld
78 exceed thirty-five percent of the disposable earnings for
79 the period, regardless of the length of time that the
80 overpayment has been owed.

**ARTICLE 2. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION;
CHILD SUPPORT ENFORCEMENT DIVISION; ESTAB-
LISHMENT AND ORGANIZATION.**

§48A-2-24. Disbursements of amounts collected as support.

1 (a) Amounts collected as child or spousal support by the
2 child support enforcement division shall be distributed
3 within two business days after receipt from the employer
4 or other source of periodic income. The amounts collected
5 as child support shall be distributed by the child support
6 enforcement division in accordance with the provisions for
7 distribution set forth in 42 U.S.C. §657. The commission
8 shall promulgate a legislative rule to establish the appro-
9 priate distribution as may be required by the federal law.

10 (b) Any payment required to be made under the provi-
11 sions of this section to a family shall be made to the
12 resident parent, legal guardian or caretaker relative
13 having custody of or responsibility for the child or chil-
14 dren.

15 (c) The commission shall establish bonding requirements
16 for employees of the child support enforcement division
17 who receive, disburse, handle or have access to cash.

18 (d) The director shall maintain methods of administra-
19 tion which are designed to assure that employees of the
20 child support enforcement division or any persons em-
21 ployed pursuant to a contract who are responsible for
22 handling cash receipts do not participate in accounting or
23 operating functions which would permit them to conceal
24 in the accounting records the misuse of cash receipts:
25 *Provided*, That the director may provide for exceptions to
26 this requirement in the case of sparsely populated areas in
27 this state where the hiring of unreasonable additional staff
28 in the local office would otherwise be necessary.

29 (e) No penalty or fee may be collected by or distributed
30 to a recipient of child support enforcement division
31 services from the state treasury or from the child support
32 enforcement fund when child support is not distributed to
33 the recipient in accordance with the time frames estab-
34 lished herein.

35 (f) For purposes of this section, "business day" means a
36 day on which state offices are open for regular business.

**§48A-2-24a. Amounts collected as support to be disbursed to
person having custody; procedure for redirect-
ing disbursement of payments where physical
custody transferred to a person other than the
custodial parent.**

1 (a) Any payment required to be made under the provi-
2 sions of section twenty-four of this article to a family shall
3 be made to the resident parent, legal guardian or caretaker
4 relative having custody of or responsibility for the child or
5 children.

6 (b) Where physical custody of the child has been trans-
7 ferred from the custodial parent to another person, the
8 child support enforcement division may redirect disburse-
9 ment of support payments to such other person, on behalf
10 of the child, in the following circumstances:

11 (1) Where the noncustodial parent has physical custody
12 of the child, excluding visitation, upon filing with the
13 child support enforcement division:

14 (A) An affidavit attesting that the noncustodial parent
15 has obtained physical custody of the child, describing the
16 circumstances under which the transfer of physical
17 custody took place, and stating that he or she anticipates
18 that his or her physical custody of the child will continue
19 for the foreseeable future; and

20 (B) Documentary proof that the noncustodial parent has
21 instituted proceedings in the circuit court for a modifica-
22 tion of legal custody or a certified copy of the custodial
23 parent's death certificate.

24 (2) Where a person other than the custodial or
25 noncustodial parent has physical custody of the child,
26 excluding visitation, filing with the child support enforce-
27 ment division:

28 (A) An affidavit attesting that the person has obtained
29 physical custody of the child, describing the circumstances
30 under which the transfer of physical custody took place,
31 and stating that he or she anticipates that his or her
32 physical custody of the child will continue for the foresee-
33 able future; and

34 (B) Documentary proof that the person claiming physical
35 custody is currently the person responsible for the child by
36 producing at least one of the following:

37 (i) School records demonstrating that school authorities
38 consider the person claiming physical custody the adult
39 responsible for the child;

40 (ii) Medical records demonstrating that the person
41 claiming physical custody is empowered to make medical
42 decisions on behalf of the child;

43 (iii) Documents from another public assistance agency
44 showing that the person claiming physical custody is
45 currently receiving other public assistance on behalf of the
46 child;

47 (iv) A notarized statement from the custodial parent
48 attesting to the fact that he or she has transferred physical
49 custody to the person;

50 (v) A verifiable order of a court of competent jurisdiction
51 transferring physical or legal custody to the person;

52 (vi) Documentation that the person claiming physical
53 custody has filed a petition in circuit court to be appointed
54 the child's guardian;

55 (vii) Documentation that the child, if over the age of
56 fourteen, has instituted proceedings in circuit court to
57 have the person claiming physical custody nominated as
58 his or her guardian; or

59 (viii) Any other official documents of a federal, state or
60 local agency or governing body demonstrating that the
61 person currently has physical custody of the child and has
62 taken action indicating that he or she anticipates such
63 physical custody to continue in the foreseeable future.

64 (c) The child support enforcement division shall mail, by
65 first class mail, a copy of the affidavit and supporting
66 documentary evidence required under subsection (b) of
67 this section, to the circuit court which issued the support
68 order being enforced by child support enforcement divi-

69 sion and to the parties to the order, at their last known
70 addresses, together with a written notice stating that any
71 party has ten days to object to the redirection of support
72 payments by filing an affidavit and evidence showing that
73 the person seeking redirection of the payments does not
74 have physical custody of the child. If no objection is
75 received by the child support enforcement division by the
76 end of the ten-day period, the division may order pay-
77 ments redirected to the person claiming physical custody
78 for the benefit of the child. If a responsive affidavit and
79 supporting evidence is filed within the ten-day period and,
80 in the opinion of the child support enforcement division,
81 either disproves the claim of the person seeking redirection
82 of support payments or raises a genuine issue of fact as to
83 whether the person has actual physical custody of the
84 child, the child support enforcement division shall con-
85 tinue to forward support payments to the custodial parent.
86 Any person who disagrees with the determination of the
87 child support enforcement division may petition the circuit
88 court for modification of the child support order.

89 (d) Any person who files a false affidavit pursuant to this
90 section shall be guilty of false swearing and, upon convic-
91 tion thereof, shall be punished as provided by law for such
92 offense.

§48A-2-28. Obtaining support from state income tax refunds.

1 (a) The tax commissioner shall establish procedures
2 necessary for the child support enforcement division to
3 obtain payment of past due support from state income tax
4 refunds from overpayment made to the tax commissioner
5 pursuant to the provisions of article twenty-one, chapter
6 eleven of this code.

7 (b) The commission shall, by legislative rule promulgated
8 pursuant to chapter twenty-nine-a of this code, establish
9 procedures necessary for the child support enforcement

10 division to enforce a support order through a notice to the
11 tax commissioner which will cause any refund of state
12 income tax which would otherwise be payable to an
13 obligor to be reduced by the amount of overdue support
14 owed by such obligor.

15 (1) Such legislative rule shall, at a minimum, prescribe:

16 (A) The time or times at which the child support enforce-
17 ment division shall serve on the obligor or submit to the
18 tax commissioner notices of past due support;

19 (B) The manner in which such notices shall be served on
20 the obligor or submitted to the tax commissioner;

21 (C) The necessary information which shall be contained
22 in or accompany the notices;

23 (D) The amount of the fee to be paid to the tax commis-
24 sioner for the full cost of applying the procedure whereby
25 past due support is obtained from state income tax re-
26 funds; and

27 (E) Circumstances when the child support enforcement
28 division may deduct a twenty-five dollar fee from the
29 obligor's state income tax refund. Such rule may not
30 require that an applicant who is a recipient of assistance
31 from the department of human services in the form of
32 temporary assistance for needy families.

33 (2) Withholding from state income tax refunds may not
34 be pursued unless the child support enforcement division
35 has examined the obligor's pattern of payment of support
36 and the obligee's likelihood of successfully pursuing other
37 enforcement actions, and has determined that the amount
38 of past due support which will be owed, at the time the
39 withholding is to be made, will be one hundred dollars or
40 more. In determining whether the amount of past due
41 support will be one hundred dollars or more, the child

42 support enforcement division shall consider the amount of
43 all unpaid past due support, including that which may
44 have accrued prior to the time that the child support
45 enforcement division first agreed to enforce the support
46 order.

47 (c) The director of the child support enforcement division
48 shall enter into agreements with the secretary of the
49 treasury and the tax commissioner, and other appropriate
50 governmental agencies, to secure information relating to
51 the social security number or numbers and the address or
52 addresses of any obligor, in order to provide notice be-
53 tween such agencies to aid the child support enforcement
54 division in requesting state income tax deductions, and to
55 aid the tax commissioner in enforcing such deductions. In
56 each such case, the tax commissioner, in processing the
57 state income tax deduction, shall notify the child support
58 enforcement division of the obligor's home address and
59 social security number or numbers. The child support
60 enforcement division shall provide this information to any
61 other state involved in processing the support order.

62 (d) For the purposes of this section, "past due support"
63 means the amount of unpaid past due support owed under
64 the terms of a support order to or on behalf of a child, or
65 to or on behalf of a minor child and the parent with whom
66 the child is living, regardless of whether the amount has
67 been reduced to a judgment or not.

68 (e) The child support enforcement division may, under
69 the provisions of this section, enforce the collection of past
70 due support on behalf of a child who has reached the age
71 of majority.

72 (f) The legislative rule promulgated by the commission
73 pursuant to the provisions of this section and pursuant to
74 chapter twenty-nine-a of this code, shall, at a minimum,
75 provide that prior to notifying the tax commissioner of

76 past due support, a notice to the obligor as prescribed
77 under subsection (a) of this section shall;

78 (1) Notify the obligor that a withholding will be made
79 from any refund otherwise payable to such obligor;

80 (2) Instruct the obligor of the steps which may be taken
81 to contest the determination of the child support enforce-
82 ment division that past due support is owed or the amount
83 of the past due support; and

84 (3) Provide information with respect to the procedures to
85 be followed, in the case of a joint return, to protect the
86 share of the refund which may be payable to another
87 person.

88 (g) If the child support enforcement division is notified
89 by the tax commissioner that the refund from which
90 withholding is proposed to be made is based upon a joint
91 return, and if the past due support which is involved has
92 not been assigned to the department of human services, the
93 child support enforcement division may delay distribution
94 of the amount withheld until such time as the tax commis-
95 sioner notifies the child support enforcement division that
96 the other person filing the joint return has received his or
97 her proper share of the refund, but such delay shall not
98 exceed six months.

99 (h) In any case in which an amount is withheld by the tax
100 commissioner under the provisions of this section and paid
101 to the child support enforcement division, if the child
102 support enforcement division subsequently determines
103 that the amount certified as past due was in excess of the
104 amount actually owed at the time the amount withheld is
105 to be distributed, the agency shall pay the excess amount
106 withheld to the obligor thought to have owed the past due
107 support, or, in the case of amounts withheld on the basis of
108 a joint return, jointly to the parties filing such return.

109 (i) The amounts received by the child support enforce-
110 ment division shall be distributed in accordance with the
111 provisions for distribution set forth in 42 U.S.C. §657. The
112 commission shall promulgate a legislative rule to establish
113 the appropriate distribution as may be required by the
114 federal law.

**§48A-2-33a. Liability for financial institutions providing finan-
cial records to the child support enforcement
division; agreements for data match system;
encumbrance or surrender of assets.**

1 (a) Notwithstanding any other provision of this code, a
2 financial institution shall not be liable under the law of
3 this state to any person for:

4 (1) Disclosing any financial record of an individual to the
5 child support enforcement division in response to a
6 subpoena issued by the division pursuant to section thirty-
7 three of this article;

8 (2) Disclosing any financial record of an individual to the
9 child support enforcement division pursuant to the terms
10 of an agreement with such financial institution pursuant
11 to subsection (f) of this section;

12 (3) Encumbering or surrendering assets held by such
13 financial institution in response to a notice of lien or levy
14 issued by the child support enforcement division as
15 provided in subsection (g) of this section; or

16 (4) For any other action taken in good faith to comply
17 with the requirements of this section.

18 (b) The child support enforcement division, after obtain-
19 ing a financial record of an individual from a financial
20 institution, may disclose such financial record only for the
21 purpose of, and to the extent necessary in, establishing,

22 modifying or enforcing a child support obligation of such
23 individual.

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

29 (d) For purposes of this section, the term "financial
30 institution" means:

31 (1) Any bank or savings association;

32 (2) A person who is an institution-affiliated party, as
33 that term is defined in the Federal Deposit Insurance Act,
34 12 U.S.C. §1813(u);

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

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

41 (e) For purposes of this section, the term "financial
42 record" means an original of, a copy of, or information
43 known to have been derived from, any record held by a
44 financial institution pertaining to a customer's relation-
45 ship with the financial institution.

46 (f) Notwithstanding any provision of this code to the
47 contrary, the child support enforcement division shall
48 enter into agreements with financial institutions doing
49 business in the state to develop and operate, in coordina-
50 tion with such financial institutions, a data match system,
51 using automated data exchanges, to the maximum extent
52 feasible, in which each financial institution is required to
53 provide for each calendar quarter the name, record

54 address, social security number or other taxpayer identifi-
55 cation number, and other identifying information for each
56 obligor, as defined in section twenty-three, article one-a of
57 this chapter, who maintains an account at such institution
58 and who owes past due support. The child support en-
59 forcement division will identify to the financial institution
60 an obligor who owes past due support by his or her name
61 and social security number or other taxpayer identifica-
62 tion number. The child support enforcement division,
63 upon written request and proof of actual costs incurred,
64 shall pay a reasonable fee to a financial institution for
65 conducting the data matching services not to exceed the
66 actual costs incurred by such financial institution or one
67 hundred dollars per institution per quarter, whichever is
68 less.

69 (g) The financial institution, in response to a notice of a
70 lien or levy, shall encumber or surrender, as the case may
71 be, assets held by such institution on behalf of any
72 noncustodial parent who is subject to a lien for child
73 support.

§48A-2-41. Access to information.

1 (a) All state, county and municipal agencies offices and
2 employers, including profit, non-profit and governmental
3 employers, receiving a request for information and assis-
4 tance from the child support enforcement division or any
5 out-of-state agency administering a program under Title
6 IV-D of the Social Security Act, shall cooperate with the
7 division or with the out-of-state agency in the location of
8 parents who have abandoned and deserted children and
9 shall provide the division or the out-of-state agency with
10 all available pertinent information concerning the loca-
11 tion, income and property of those parents.

12 (b) Notwithstanding any other provision of law to the
13 contrary, any entity conducting business in this state or

14 incorporated under the laws of this state shall, upon
15 certification by the division or any out-of-state agency
16 administering a program under Title IV-D of the Social
17 Security Act that the information is needed to locate a
18 parent for the purpose of collecting or distributing child
19 support, provide the division or the out-of-state agency
20 with the following information about the parent: Full
21 name, social security number, date of birth, home address,
22 wages and number of dependents listed for income tax
23 purposes: *Provided, That no entity may provide any*
24 *information obtained in the course of providing legal*
25 *services, medical treatment or medical services.*

26 (c) (1) The child support enforcement division shall have
27 access, subject to safeguards on privacy and information
28 security, and to the nonliability of entities that afford such
29 access under this subdivision, to information contained in
30 the following records, including automated access, in the
31 case of records maintained in automated data bases:

32 (A) Records of other state and local government agencies
33 including, but not limited to:

34 (i) Vital statistics, including records of marriage, birth
35 and divorce;

36 (ii) State and local tax and revenue records, including
37 information on residence address, employer, income and
38 assets;

39 (iii) Records concerning real and titled personal prop-
40 erty;

41 (iv) Records of occupational and professional licenses,
42 and records concerning the ownership and control of
43 corporations, partnerships, and other business entities;

44 (v) Employment security records;

45 (vi) Records of agencies administering public assistance
46 programs;

47 (vii) Records of the division of motor vehicles; and

48 (viii) Corrections records.

49 (B) Certain records held by private entities with respect
50 to individuals who owe or are owed support or certain
51 individuals against, or with respect to, whom a support
52 obligation is sought, consisting of:

53 (i) The names and addresses of such individuals and the
54 names and addresses of the employers of such individuals,
55 as appearing in the customer records of public utilities and
56 cable television companies, pursuant to an administrative
57 subpoena authorized by section thirty-three, article two of
58 this chapter; and

59 (ii) Information, including information on assets and
60 liabilities, on such individuals held by financial institu-
61 tions.

62 (2) Out-of-state agencies administering programs under
63 Title IV-D of the Social Security Act shall, without the
64 need for any court order, have the authority to access
65 records in this state by making a request through the child
66 support enforcement division.

67 (d) All federal and state agencies conducting activities
68 under Title IV-D of the Social Security Act shall have
69 access to any system used by this state to locate an indi-
70 vidual for purposes relating to motor vehicles or law
71 enforcement.

72 (e) Out-of-state agencies administering programs under
73 Title IV-D of the Social Security Act shall have the
74 authority and right to access and use, for the purpose of
75 establishing or enforcing a support order, the state law
76 enforcement and motor vehicle data bases.

77 (f) The child support enforcement division and out-of-
78 state agencies administering programs under Title IV-D of
79 the Social Security Act shall have the authority and right
80 to access and use, for the purpose of establishing or
81 enforcing a support order, interstate networks that state
82 law-enforcement agencies and motor vehicle agencies
83 subscribe to or participate in, such as the national law-
84 enforcement telecommunications system (NLETS) and the
85 American association of motor vehicle administrators
86 (AAMVA) networks.

87 (g) No state, county or municipal agency or licensing
88 board required to release information pursuant to the
89 provisions of this section to the child support enforcement
90 division or to any out-of-state agency administering
91 programs under Title IV-D of the Social Security Act may
92 require the child support enforcement division or any out-
93 of-state agency to obtain a court order prior to the release
94 of the information.

95 (h) Any information received pursuant to the provisions
96 of this section is subject to the confidentiality provisions
97 set forth in section forty, article two of this chapter.

ARTICLE 3. CHILDREN'S ADVOCATE.

§48A-3-3. Duties of the children's advocate.

1 Subject to the control and supervision of the director:

2 (a) The children's advocate shall supervise and direct the
3 secretarial, clerical and other employees in his or her office
4 in the performance of their duties as such performance
5 affects the delivery of legal services. The children's
6 advocate will provide appropriate instruction and supervi-
7 sion to employees of his or her office who are nonlawyers,
8 concerning matters of legal ethics and matters of law, in
9 accordance with applicable state and federal statutes,
10 rules and regulations.

11 (b) In accordance with the requirements of rule 5.4(c) of
12 the rules of professional conduct as promulgated and
13 adopted by the supreme court of appeals, the children's
14 advocate shall not permit a nonlawyer who is employed by
15 the department of health and human resources in a
16 supervisory position over the children's advocate to direct
17 or regulate the advocate's professional judgment in
18 rendering legal services to recipients of services in accor-
19 dance with the provisions of this chapter; nor shall any
20 nonlawyer employee of the department attempt to direct
21 or regulate the advocate's professional judgment.

22 (c) The children's advocate shall make available to the
23 public an informational pamphlet, designed in consulta-
24 tion with the director. The informational pamphlet shall
25 explain the procedures of the court and the children's
26 advocate; the duties of the children's advocate; the rights
27 and responsibilities of the parties; and the availability of
28 human services in the community. The informational
29 pamphlet shall be provided as soon as possible after the
30 filing of a complaint or other initiating pleading. Upon
31 request, a party to a domestic relations proceeding shall
32 receive an oral explanation of the informational pamphlet
33 from the office of the children's advocate.

34 (d) The children's advocate shall act to establish the
35 paternity of every child born out of wedlock for whom
36 paternity has not been established, when such child's
37 primary caretaker is an applicant for or recipient of
38 temporary assistance for needy families, and when such
39 primary caretaker has assigned to the division of human
40 services any rights to support for the child which might be
41 forthcoming from the putative father: *Provided*, That if
42 the children's advocate is informed by the secretary of the
43 department of health and human resources or his or her
44 authorized employee that it has been determined that it is
45 against the best interest of the child to establish paternity,

46 the children's advocate shall decline to so act. The chil-
47 dren's advocate, upon the request of the mother, alleged
48 father or the primary caretaker of a child born out of
49 wedlock, regardless of whether the mother, alleged father
50 or the primary caretaker is an applicant or recipient of
51 temporary assistance for needy families, shall undertake
52 to establish the paternity of such child.

53 (e) The children's advocate shall undertake to secure
54 support for any individual who is receiving temporary
55 assistance for needy families when such individual has
56 assigned to the division of human services any rights to
57 support from any other person such individual may have:
58 *Provided*, That if the children's advocate is informed by
59 the secretary of the department of health and human
60 resources or his or her authorized employee that it has
61 been determined that it is against the best interests of a
62 child to secure support on the child's behalf, the children's
63 advocate shall decline to so act. The children's advocate,
64 upon the request of any individual, regardless of whether
65 such individual is an applicant or recipient of temporary
66 assistance for needy families, shall undertake to secure
67 support for the individual. If circumstances require, the
68 children's advocate shall utilize the provisions of chapter
69 forty-eight-b of this code and any other reciprocal ar-
70 rangements which may be adopted with other states for
71 the establishment and enforcement of support obligations,
72 and if such arrangements and other means have proven
73 ineffective, the children's advocate may utilize the federal
74 courts to obtain and enforce court orders for support.

75 (f) The children's advocate shall pursue the enforcement
76 of support orders through the withholding from income of
77 amounts payable as support:

78 (1) Without the necessity of an application from the
79 obligee in the case of a support obligation owed to an

80 obligee to whom services are already being provided under
81 the provisions of this chapter; and

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

85 (g) The children's advocate may decline to commence an
86 action to obtain an order of support under the provisions
87 of section one, article five of this chapter if an action for
88 divorce, annulment or separate maintenance is pending, or
89 the filing of such action is imminent, and such action will
90 determine the issue of support for the child: *Provided*,
91 That such action shall be deemed to be imminent if it is
92 proposed by the obligee to be commenced within the
93 twenty-eight days next following a decision by the chil-
94 dren's advocate that an action should properly be brought
95 to obtain an order for support.

96 (h) If the child advocate office, through the children's
97 advocate, shall undertake paternity determination ser-
98 vices, child support collection or support collection
99 services for a spouse or former spouse upon the written
100 request of an individual who is not an applicant or recipi-
101 ent of assistance from the division of human services, the
102 office may impose an application fee for furnishing such
103 services. Such application fee shall be in a reasonable
104 amount, not to exceed twenty-five dollars, as determined
105 by the director: *Provided*, That the director may fix such
106 amount at a higher or lower rate which is uniform for this
107 state and all other states if the secretary of the federal
108 department of health and human services determines that
109 a uniform rate is appropriate for any fiscal year to reflect
110 increases or decreases in administrative costs. Any cost in
111 excess of the application fee so imposed may be collected
112 from the obligor who owes the child or spousal support
113 obligation involved.

ARTICLE 5. REMEDIES FOR THE ENFORCEMENT OF SUPPORT OBLIGATIONS AND VISITATION.

§48A-5-2. Arrearages; liens on personal property; enforcement through writ of execution, suggestion or suggestee execution.

1 (a) When an obligor is in arrears in the payment of
2 support which is required to be paid by the terms of an
3 order for support of a child, an obligee or the child support
4 enforcement division may file an abstract of the order
5 giving rise to the support obligation and an "Affidavit of
6 Accrued Support", setting forth the particulars of such
7 arrearage and requesting a writ of execution, suggestion or
8 suggestee execution. The filing of the abstract and affida-
9 vit shall give rise, by operation of law, to a lien against
10 personal property of an obligor who resides within this
11 state or who owns property within this state for overdue
12 support.

13 (b) If the duty of support is based upon an order from
14 another jurisdiction, the obligee shall first register the
15 order in accordance with the provisions of chapter
16 forty-eight-b of this code: *Provided*, That nothing in this
17 subsection shall prevent the child support enforcement
18 division from enforcing foreign orders for support without
19 registration of the order in accordance with the provisions
20 of section five hundred seven, article five, chapter
21 forty-eight-b of this code.

22 (c) The affidavit may be filed with the clerk of the circuit
23 court in the county wherein the obligee or the obligor
24 resides, or where the obligor's source of income is located.

25 (d) The affidavit may be filed when a payment required
26 by such order has been delinquent, in whole or in part, for
27 a period of fourteen days.

28 (e) The affidavit shall:

29 (1) Identify the obligee and obligor by name and address,
30 and shall list the obligor's social security number or
31 numbers, if known;

32 (2) Name the court which entered the support order and
33 set forth the date of such entry;

34 (3) State the total amount of accrued support which has
35 not been paid by the obligor;

36 (4) List the date or dates when support payments should
37 have been paid but were not, and the amount of each such
38 delinquent payment; and

39 (5) If known, the name and address of the obligor's
40 source of income.

41 (f) Upon receipt of the affidavit, the clerk shall issue a
42 writ of execution, suggestion or suggestee execution, and
43 shall mail a copy of the affidavit and a notice of the filing
44 of the affidavit to the obligor, at his last known address.
45 If the child support enforcement division is not acting on
46 behalf of the obligee in filing the affidavit, the clerk shall
47 forward a copy of the affidavit and the notice of the filing
48 to the child support enforcement division.

49 (g) The notice provided for in subsection (f) of this
50 section shall inform the obligor that if he or she desires to
51 contest the affidavit on the grounds that the amount
52 claimed to be in arrears is incorrect or that a writ of
53 execution, suggestion or suggestee execution is not proper
54 because of mistakes of fact, he or she must, within four-
55 teen days of the date of the notice: (1) Inform the child
56 support enforcement division in writing of the reasons why
57 the affidavit is contested and request a meeting with the
58 child support enforcement division; or (2) where a court of
59 this state has jurisdiction over the parties, obtain a date
60 for a hearing before the circuit court or the family law
61 master and mail written notice of such hearing to the

62 obligee and to the child support enforcement division on
63 a form prescribed by the administrative office of the
64 supreme court of appeals and made available through the
65 office of the clerk of the circuit court.

66 (h) Upon being informed by an obligor that he or she
67 desires to contest the affidavit, the child support enforce-
68 ment division shall inform the circuit court of such fact,
69 and the circuit court shall require the obligor to give
70 security, post a bond, or give some other guarantee to
71 secure payment of overdue support.

72 (i) The clerk of the circuit court shall make available
73 form affidavits for use under the provisions of this section.
74 Such form affidavits shall be provided to the clerk by the
75 child support enforcement division. The notice of the
76 filing of an affidavit shall be in a form prescribed by the
77 child support enforcement division.

78 (j) Writs of execution, suggestions or suggestee execu-
79 tions issued pursuant to the provisions of this section shall
80 have priority over any other legal process under the laws
81 of this state against the same income, except for withhold-
82 ing from income of amounts payable as support in accor-
83 dance with the provisions of section three of this article,
84 and shall be effective notwithstanding any exemption that
85 might otherwise be applicable to the same income.

86 (k) Notwithstanding any other provision of this code to
87 the contrary, the amount to be withheld from the dispos-
88 able earnings of an obligor pursuant to a suggestee execu-
89 tion in accordance with the provisions of this section shall
90 be the same amount which could properly be withheld in
91 the case of a withholding order under the provisions of
92 subsection (e), section three of this article.

93 (l) Any person who files a false affidavit shall be guilty
94 of false swearing and, upon conviction thereof, shall be
95 punished as provided by law for such offense.

96 (m) The provisions of this section apply to support orders
97 issued by an out-of-state court or tribunal, as defined in
98 section one hundred one, article one, chapter forty-eight-b
99 of this code, of any other state.

100 (n) The provisions of this section do not apply to income
101 withholding, as provided in section three of this article.

§48A-5-3. Withholding from income of amounts payable as support.

1 (a) The withholding from an obligor's income of amounts
2 payable as spousal or child support shall be enforced by
3 the child support enforcement division in accordance with
4 the provisions of section fifteen-a or fifteen-b, article two,
5 chapter forty-eight of this code. Every support order
6 heretofore or hereafter entered by a circuit court or a
7 magistrate of this state and every support order entered by
8 a court of competent jurisdiction of another state shall be
9 considered to provide for an order of income withholding
10 in accordance with the provisions of said sections, not-
11 withstanding the fact that such support order does not in
12 fact provide for such an order of withholding. A withhold-
13 ing may be instituted under this section for any arrearage
14 without the necessity of additional judicial or legal action.

15 (b) When immediate income withholding is not required
16 due to the findings required by subsection (c), section
17 fifteen-b, article two, chapter forty-eight of this code, the
18 child support enforcement division shall mail a notice to
19 the obligor pursuant to this section when the support
20 payments required by the order are in arrears in an
21 amount equal to:

22 (1) One month's support, if the order requires support to
23 be paid in monthly installments;

24 (2) Four weeks' support, if the order requires support to
25 be paid in weekly or biweekly installments; or

26 (3) Two biweekly installments, if biweekly payments are
27 provided.

28 (c) When withholding is required by either subsection (a)
29 or (b) of this section, the child support enforcement
30 division shall send by first class mail or electronic means
31 to the obligor notice that withholding has commenced. The
32 notice shall inform the obligor of the following:

33 (1) The amount owed;

34 (2) That a withholding from the obligor's income of
35 amounts payable as support has commenced;

36 (3) That the amount withheld will be equal to the
37 amount required under the terms of the current support
38 order, plus amounts for any outstanding arrearage;

39 (4) The definition of "gross income" as defined in section
40 nineteen, article one-a of this chapter;

41 (5) That the withholding will apply to the obligor's
42 present source of income, and to any future source of
43 income and, therefore, no other notice of withholding will
44 be sent to the obligor. A copy of any new or modified
45 withholding notice will be sent to the obligor at approxi-
46 mately the same time the original is sent to the source of
47 income;

48 (6) That any action by the obligor to purposefully
49 minimize his or her income will result in the enforcement
50 of support being based upon potential and not just actual
51 earnings;

52 (7) That payment of the arrearage after the date of the
53 notice is not a bar to such withholding;

54 (8) That the obligor may request a review of the with-
55 holding by written request to the child support enforce-
56 ment division when the obligor has information showing

57 an error in the current or overdue support amount or a
58 mistake as to the identity of the obligor;

59 (9) That a mistake of fact exists only when there is an
60 error in the amount of current or overdue support claimed
61 in the notice, or there is a mistake as to the identity of the
62 obligor;

63 (10) That matters such as lack of visitation, inappropri-
64 ateness of the support award, or changed financial circum-
65 stances of the obligee or the obligor will not be considered
66 at any hearing held pursuant to the withholding, but may
67 be raised by the filing of a separate petition in circuit
68 court;

69 (11) That if the obligor desires to contest the
70 withholding, the obligor may petition the circuit court for
71 a resolution; and

72 (12) That while the withholding is being contested
73 through the court, the income withholding may not be
74 stayed, but may be modified.

75 (d) Withholding shall occur and the notice to withhold
76 shall be sent to the source of income when the support
77 order provides for immediate income withholding, or if
78 immediate income withholding is not so provided, when
79 the support payments are in arrears in the amount speci-
80 fied in subsection (b) of this section. The source of income
81 shall withhold so much of the obligor's income as is
82 necessary to comply with the order authorizing such
83 withholding, up to the maximum amount permitted under
84 applicable law for both current support and for any
85 arrearages which are due. Such withholding, unless
86 otherwise terminated under the provisions of this section,
87 shall apply to any subsequent source of income or any
88 subsequent period of time during which income is received
89 by the obligor.

90 (e) Notwithstanding any other provision of this code to
91 the contrary which provides for a limitation upon the
92 amount which may be withheld from earnings through
93 legal process, the amount of an obligor's aggregate dispos-
94 able earnings for any given workweek which may be
95 withheld as support payments is to be determined in
96 accordance with the provisions of this subsection, as
97 follows:

98 (1) After ascertaining the status of the payment record of
99 the obligor under the terms of the support order, the
100 payment record shall be examined to determine whether
101 any arrearage is due for amounts which should have been
102 paid prior to a twelve-week period which ends with the
103 workweek for which withholding is sought to be enforced.

104 (2) Prior to the first day of January, two thousand one,
105 when none of the withholding is for amounts which came
106 due prior to such twelve-week period, then:

107 (A) When the obligor is supporting another spouse or
108 dependent child other than the spouse or child for whom
109 the proposed withholding is being sought, the amount
110 withheld may not exceed fifty percent of the obligor's
111 disposable earnings for that week; and

112 (B) When the obligor is not supporting another spouse or
113 dependent child as described in paragraph (A) of this
114 subdivision, the amount withheld may not exceed sixty
115 percent of the obligor's disposable earnings for that week.

116 (3) Prior to the first day of January, two thousand one,
117 when a part of the withholding is for amounts which came
118 due prior to such twelve-week period, then:

119 (A) Where the obligor is supporting another spouse or
120 dependent child other than the spouse or child for whom
121 the proposed withholding is being sought, the amount

122 withheld may not exceed fifty-five percent of the obligor's
123 disposable earnings for that week; and

124 (B) Where the obligor is not supporting another spouse
125 or dependent child as described in paragraph (A) of this
126 subdivision, the amount withheld may not exceed
127 sixty-five percent of the obligor's disposable earnings for
128 that week.

129 (4) Beginning the first day of January, two thousand one,
130 when none of the withholding is for amounts which came
131 due prior to such twelve-week period, then:

132 (A) When the obligor is supporting another spouse or
133 dependent child other than the spouse or child for whom
134 the proposed withholding is being sought, the amount
135 withheld may not exceed forty percent of the obligor's
136 disposable earnings for that week; and

137 (B) When the obligor is not supporting another spouse or
138 dependent child as described in paragraph (A) of this
139 subdivision, the amount withheld may not exceed fifty
140 percent of the obligor's disposable earnings for that week.

141 (5) Beginning the first day of January, two thousand one,
142 when a part of the withholding is for amounts which came
143 due prior to such twelve-week period, then:

144 (A) When the obligor is supporting another spouse or
145 dependent child other than the spouse or child for whom
146 the proposed withholding is being sought, the amount
147 withheld may not exceed forty-five percent of the obligor's
148 disposable earnings for that week; and

149 (B) Where the obligor is not supporting another spouse
150 or dependent child as described in paragraph (A) of this
151 subdivision, the amount withheld may not exceed fifty-
152 five percent of the obligor's disposable earnings for that
153 week.

154 (6) In addition to the percentage limitations set forth in
155 subdivisions (2) and (3) of this subsection, it shall be a
156 further limitation that when the current month's obliga-
157 tion plus arrearages are being withheld from salaries or
158 wages in no case shall the total amounts withheld for the
159 current month's obligation plus arrearage exceed the
160 amounts withheld for the current obligation by an amount
161 greater than twenty-five percent of the current monthly
162 support obligation.

163 (7) The provisions of this subsection shall apply directly
164 to the withholding of disposable earnings of an obligor
165 regardless of whether the obligor is paid on a weekly,
166 biweekly, monthly or other basis.

167 (8) The child support enforcement division has the
168 authority to prorate the current support obligation in
169 accordance with the pay cycle of the source of income.
170 This prorated current support obligation shall be known as
171 the "adjusted support obligation". The current support
172 obligation or the adjusted support obligation is the
173 amount, if unpaid, on which interest will be charged.

174 (9) When an obligor acts so as to purposefully minimize
175 his or her income and to thereby circumvent the provisions
176 of this section which provide for withholding from income
177 of amounts payable as support, the amount to be withheld
178 as support payments may be based upon the obligor's
179 potential earnings rather than his or her actual earnings,
180 and such obligor may not rely upon the percentage limita-
181 tions set forth in this subsection which limit the amount to
182 be withheld from disposable earnings.

183 (f) The source of income of any obligor who is subject to
184 withholding, upon being given notice of withholding, shall
185 withhold from such obligor's income the amount specified
186 by the notice and pay such amount to the child support
187 enforcement division for distribution. The notice given to

188 the source of income shall contain only such information
189 as may be necessary for the source of income to comply
190 with the withholding order and no source of income may
191 require additional information or documentation. Such
192 notice to the source of income shall include, at a minimum,
193 the following:

194 (1) The amount to be withheld from the obligor's dispos-
195 able earnings, and a statement that the amount to be
196 withheld for support and other purposes, including the fee
197 specified under subdivision (3) of this subsection, may not
198 be in excess of the maximum amounts permitted under
199 Section 303(b) of the federal Consumer Credit Protection
200 Act or limitations imposed under the provisions of this
201 code;

202 (2) That the source of income shall send the amount to be
203 withheld from the obligor's income to the child support
204 enforcement division, along with such identifying informa-
205 tion as may be required by the division, the same day that
206 the obligor is paid;

207 (3) That, in addition to the amount withheld under the
208 provisions of subdivision (1) of this subsection, the source
209 of income may deduct a fee, not to exceed one dollar, for
210 administrative costs incurred by the source of income, for
211 each withholding;

212 (4) That withholding is binding on the source of income
213 until further notice by the child support enforcement
214 division or until the source of income notifies the child
215 support enforcement division of a termination of the
216 obligor's employment in accordance with the provisions of
217 subsection (1) of this section;

218 (5) That the source of income is subject to a fine for
219 discharging an obligor from employment, refusing to
220 employ, or taking disciplinary action against any obligor
221 because of the withholding;

222 (6) That when the source of income fails to withhold
223 income in accordance with the provisions of the notice, the
224 source of income is liable for the accumulated amount the
225 source of income should have withheld from the obligor's
226 income;

227 (7) That the withholding under the provisions of this
228 section shall have priority over any other legal process
229 under the laws of this state against the same income, and
230 shall be effective despite any exemption that might
231 otherwise be applicable to the same income;

232 (8) That when an employer has more than one employee
233 who is an obligor who is subject to wage withholding from
234 income under the provisions of this code, the employer
235 may combine all withheld payments to the child support
236 enforcement division when the employer properly identi-
237 fies each payment with the information listed in this
238 section. A source of income is liable to an obligee, includ-
239 ing the state of West Virginia or the department of health
240 and human resources where appropriate, for any amount
241 which the source of income fails to identify with the
242 information required by this section and is therefore not
243 received by the obligee;

244 (9) That the source of income shall implement withhold-
245 ing no later than the first pay period or first date for
246 payment of income that occurs after fourteen days follow-
247 ing the date the notice to the source of income was mailed;
248 and

249 (10) That the source of income shall notify the child
250 support enforcement division promptly when the obligor
251 terminates his or her employment or otherwise ceases
252 receiving income from the source of income, and shall
253 provide the obligor's last known address and the name and
254 address of the obligor's new source of income, if known.

255 (g) The commission shall, by administrative rule, estab-
256 lish procedures for promptly refunding to obligors
257 amounts which have been improperly withheld under the
258 provisions of this section.

259 (h) After implementation in accordance with the provi-
260 sions of subsection (k) of this section, a source of income
261 shall send the amount to be withheld from the obligor's
262 income to the child support enforcement division and shall
263 notify the child support enforcement division of the date
264 of withholding, the same date that the obligor is paid.

265 (i) In addition to any amounts payable as support
266 withheld from the obligor's income, the source of income
267 may deduct a fee, not to exceed one dollar, for administra-
268 tive costs incurred by the source of income, for each
269 withholding.

270 (j) Withholding of amounts payable as support under the
271 provisions of this section is binding on the source of
272 income until further notice by the child support enforce-
273 ment division or until the source of income notifies the
274 child support enforcement division of a termination of the
275 obligor's employment in accordance with the provisions of
276 subsection (l) of this section.

277 (k) Every source of income who receives a notice of
278 withholding under the provisions of this section shall
279 implement withholding no later than the first pay period
280 or first date for the payment of income which occurs after
281 fourteen days following the date the notice to the source of
282 income was mailed.

283 (l) A source of income who employs or otherwise pays
284 income to an obligor who is subject to withholding under
285 the provisions of this section shall notify the child support
286 enforcement division promptly when the obligor termi-
287 nates employment or otherwise ceases receiving income
288 from the source of income, and shall provide the child

289 support enforcement division with the obligor's last known
290 address and the name and address of the obligor's new
291 source of income, if known.

292 (m) When an employer has more than one employee who
293 is an obligor who is subject to wage withholding from
294 income for amounts payable as support, the employer may
295 combine all withheld payments to the child support
296 enforcement division when the employer properly identi-
297 fies each payment with the information listed in this
298 section. A source of income is liable to an obligee, includ-
299 ing the state of West Virginia or the department of health
300 and human resources where appropriate, for any amount
301 which the source of income fails to identify in accordance
302 with this section and is therefore not received by the
303 obligee.

304 (n) A source of income is liable to an obligee, including
305 the state of West Virginia or the department of health and
306 human resources where appropriate, for any amount
307 which the source of income fails to withhold from income
308 due an obligor following receipt by such source of income
309 of proper notice under subsection (f) of this section:
310 *Provided, That a source of income shall not be required to*
311 *vary the normal pay and disbursement cycles in order to*
312 *comply with the provisions of this section.*

313 (o) Any source of income who knowingly and willfully
314 conceals the fact that the source of income is paying
315 income to an obligor, with the intent to avoid withholding
316 from the obligor's income of amounts payable as support,
317 is guilty of a misdemeanor and, upon conviction thereof,
318 shall be fined not more than one hundred dollars.

319 (p) When the child support enforcement division makes
320 a written request to a source of income to provide informa-
321 tion as to whether the source of income has paid income to
322 a specific obligor, within the preceding sixty-day period,

323 the source of income shall, within fourteen days thereafter,
324 respond to such request, itemizing all such income, if any,
325 paid to the obligor during such sixty-day period. A source
326 of income shall not be liable, civilly or criminally, for
327 providing such information in good faith.

328 (q) Support collection under the provisions of this
329 section shall have priority over any other legal process
330 under the laws of this state against the same income, and
331 shall be effective despite any exemption that might
332 otherwise be applicable to the same income.

333 (r) Any source of income who discharges from employ-
334 ment, refuses to employ, or takes disciplinary action
335 against any obligor subject to income withholding re-
336 quired by this section because of the existence of such
337 withholding and the obligations or additional obligations
338 which it imposes on the source of income, shall be guilty of
339 a misdemeanor and, upon conviction thereof, shall be fined
340 not less than five hundred dollars nor more than one
341 thousand dollars.

**§48A-5-10. High-Volume automated administrative enforce-
ment of child support in interstate cases.**

1 (a) As used in this chapter:

2 (1) "High-volume automated administrative enforce-
3 ment" in interstate cases shall mean at the request of
4 another state, the identification by a state, through
5 automated data matches with financial institutions and
6 other entities where assets may be found, of assets owned
7 by persons who owe child support in other states, and the
8 seizure of such assets by the state, through levy or other
9 appropriate processes.

10 (2) "Assisting state" shall mean a state which matches
11 the requesting state's delinquent obligors against the
12 databases of financial institutions and other entities

13 within its own state boundaries where assets may be
14 found, and, if appropriate, seizes assets on behalf of the
15 requesting state.

16 (3) "Requesting state" shall mean a state transmitting a
17 request for administrative enforcement to another state.

18 (4) "State" shall mean a state of the United States, or the
19 District of Columbia, Puerto Rico, the United States
20 Virgin Islands, or any territory or insular possession
21 subject to the jurisdiction of the United States. The term
22 "state" shall also include Indian tribes and a foreign
23 jurisdiction that has enacted a law or established proce-
24 dures for issuance and enforcement of support which are
25 substantially similar to the procedures under this chapter
26 or under the uniform reciprocal enforcement of support
27 act, the revised uniform reciprocal enforcement of support
28 act, or the uniform interstate family support act.

29 (b) The child support enforcement division shall use
30 automated administrative enforcement to the same extent
31 as used for intrastate cases in response to a request made
32 by another state to enforce support orders, and shall
33 promptly report the results of such enforcement proce-
34 dures to the requesting state.

35 (c) The child support enforcement division may, by
36 electronic or other means, transmit to, or receive from,
37 another state a request for assistance in enforcing support
38 orders through automated administrative enforcement.
39 Such request shall include:

40 (1) Information as will enable the assisting state to
41 compare the information about the cases to the informa-
42 tion in the databases of the state;

43 (2) All supporting documentation necessary under the
44 laws of this state to support an attachment of the asset or
45 assets, should such assets be located; and

46 (3) Said transmittal shall constitute a certification by the
47 requesting state;

48 (A) Of the amount of past-due support owed; and

49 (B) That the requesting state has complied with all
50 procedural due process requirements applicable to each
51 case.

52 (d) A requesting state may transmit to an assisting state
53 either:

54 (1) A request to locate and seize assets; or

55 (2) A request to seize an asset already identified by the
56 requesting state.

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

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

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

4 (1) All appropriate enforcement methods have been
5 exhausted or are not available;

6 (2) The person is the holder of a license or has an appli-
7 cation pending for a license;

8 (3) The requisite amount of child support or medical
9 support arrearage exists or health insurance for the child
10 has not been provided as ordered, or the person has failed
11 to comply with a subpoena or warrant relating to a
12 paternity or child support proceeding.

13 (4) No motion to modify the child support order, filed
14 prior to the date that the notice was sent by the child

15 support enforcement division, is pending before the court;
16 and

17 (5) There is no equitable reason, such as involuntary
18 unemployment, disability, or compliance with a court-
19 ordered plan for the periodic payment of the child support
20 arrearage amount, for the person's noncompliance with the
21 child support order.

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

28 (c) If the court finds that a license suspension will result
29 in a significant hardship to the person, to the person's
30 legal dependents under eighteen years of age living in the
31 person's household, to the person's employees, or to
32 persons, businesses or entities to whom the person pro-
33 vides goods or services, the court may allow the person to
34 pay a percentage of the past-due child support amount as
35 an initial payment, and establish a payment schedule to
36 satisfy the remainder of the arrearage within one year, and
37 require that the person comply with any current child
38 support obligation. If the person agrees to this arrange-
39 ment, no suspension or restriction of any licenses shall be
40 ordered. Compliance with the payment agreement shall be
41 monitored by the child support enforcement division.

42 (d) If a person has good cause for not complying with the
43 payment agreement within the time permitted, the person
44 shall immediately file a motion with the court and the
45 child support enforcement division requesting an exten-
46 sion of the payment plan. The court may extend the
47 payment plan if it is satisfied that the person has made a
48 good faith effort to comply with the plan and is unable to

49 satisfy the full amount of past-due support within the time
50 permitted due to circumstances beyond the person's
51 control. If the person fails to comply with the court-
52 ordered payment schedule, the court shall, upon receipt of
53 a certification of noncompliance from the child support
54 enforcement division, and without further hearing, order
55 the immediate suspension or restriction of all licenses held
56 by the person.

57 (e) For purposes of this section, the term "application"
58 means a request to have a license issued, a request for
59 renewal of an existing license or a request to change the
60 status of an existing license.

ARTICLE 6. ESTABLISHMENT OF PATERNITY.

§48A-6-1. Paternity proceedings.

1 (a) A civil action to establish the paternity of a child and
2 to obtain an order of support for the child may be insti-
3 tuted, by verified complaint, in the circuit court of the
4 county where the child resides: *Provided*, That if such
5 venue creates a hardship for the parties, or either of them,
6 or if judicial economy requires, the court may transfer the
7 action to the county where either of the parties resides.

8 (b) A "paternity proceeding" is a summary proceeding,
9 equitable in nature and within the domestic relations
10 jurisdiction of the courts, wherein a circuit court upon the
11 petition of the state or another proper party may intervene
12 to determine and protect the respective personal rights of
13 a child for whom paternity has not been lawfully estab-
14 lished, of the mother of the child and of the putative father
15 of the child. The parties to a paternity proceeding are not
16 entitled to a trial by jury.

17 (c) The sufficiency of the statement of the material
18 allegations in the complaint set forth as grounds for relief
19 and the grant or denial of the relief prayed for in a

20 particular case shall rest in the sound discretion of the
21 court, to be exercised by the court according to the cir-
22 cumstances and exigencies of the case, having due regard
23 for precedent and the provisions of the statutory law of
24 this state.

25 (d) A decree or order made and entered by a court in a
26 paternity proceeding shall include a determination of the
27 filial relationship, if any, which exists between a child and
28 his or her putative father, and, if such relationship is
29 established, shall resolve dependent claims arising from
30 family rights and obligations attendant to such filial
31 relationship.

32 (e) A paternity proceeding may be brought by any of the
33 following persons:

34 (1) An unmarried woman with physical or legal custody
35 of a child to whom she gave birth;

36 (2) A married woman with physical or legal custody of a
37 child to whom she gave birth, if the complaint alleges that:

38 (A) The married woman lived separate and apart from
39 her husband preceding the birth of the child;

40 (B) The married woman did not cohabit with her hus-
41 band at any time during such separation and that such
42 separation has continued without interruption; and

43 (C) The defendant, rather than her husband, is the father
44 of the child.

45 (3) The state of West Virginia, including the child
46 support enforcement division defined in article two of this
47 chapter;

48 (4) Any person who is not the mother of the child, but
49 who has physical or legal custody of the child;

50 (5) The guardian or committee of the child;

51 (6) The next friend of the child when the child is a minor;

52 (7) By the child in his own right at any time after the
53 child's eighteenth birthday but prior to the child's twenty-
54 first birthday; or

55 (8) A man who believes he is the father of a child born
56 out of wedlock, when there has been no prior judicial
57 determination of paternity.

58 (f) Blood or tissue samples taken pursuant to the provi-
59 sions of this article may be ordered to be taken in such
60 locations as may be convenient for the parties so long as
61 the integrity of the chain of custody of the samples can be
62 preserved.

63 (g) A person who has sexual intercourse in this state
64 submits to the jurisdiction of the courts of this state for a
65 proceeding brought under this article with respect to a
66 child who may have been conceived by that act of inter-
67 course. Service of process may be perfected according to
68 the rules of civil procedure.

69 (h) When the person against whom the proceeding is
70 brought has failed to plead or otherwise defend the action
71 after proper service has been obtained, judgment by
72 default shall be issued by the court as provided by the
73 rules of civil procedure.

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

1 (a) Prior to the commencement of an action for the
2 establishment of paternity, the child support enforcement
3 division may order the mother, her child and the man to
4 submit to genetic tests to aid in proving or disproving
5 paternity. The division may order the tests upon the
6 request, supported by a sworn statement, of any person
7 entitled to petition the court for a determination of

8 paternity as provided in section one of this article. If the
9 request is made by a party alleging paternity, the state-
10 ment shall set forth facts establishing a reasonable possi-
11 bility or requisite sexual contact between the parties. If
12 the request is made by a party denying paternity, the
13 statement may set forth facts establishing a reasonable
14 possibility of the nonexistence of sexual contact between
15 the parties or other facts supporting a denial of paternity.
16 If genetic testing is not performed pursuant to an order of
17 the child support enforcement division, the court may, on
18 its own motion, or shall upon the motion of any party,
19 order such tests. A request or motion may be made upon
20 ten days' written notice to the mother and alleged father,
21 without the necessity of filing a complaint. When the tests
22 are ordered, the court or the division shall direct that the
23 inherited characteristics, including, but not limited to,
24 blood types be determined by appropriate testing proc-
25 edures at a hospital, independent medical institution or
26 independent medical laboratory duly licensed under the
27 laws of this state, or any other state, and an expert qual-
28 ified as an examiner of genetic markers shall analyze,
29 interpret and report on the results to the court or to the
30 division of child support enforcement. The results shall be
31 considered as follows:

32 (1) Blood or tissue test results which exclude the man as
33 the father of the child are admissible and shall be clear
34 and convincing evidence of nonpaternity and, if a com-
35 plaint has been filed, the court shall, upon considering
36 such evidence, dismiss the action.

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

41 (3) Undisputed blood or tissue test results which show a
42 statistical probability of paternity of more than ninety-

43 eight percent shall, when filed, legally establish the man as
44 the father of the child for all purposes and child support
45 may be established pursuant to the provisions of this
46 chapter.

47 (4) When a party desires to challenge the results of the
48 blood or tissue tests or the expert's analysis of inherited
49 characteristics, he or she shall file a written protest with
50 the family law master or circuit court or with the division
51 of child support enforcement, if appropriate, within thirty
52 days of the filing of such test results, and serve a copy of
53 such protest upon the other party. The written protest
54 shall be filed at least thirty days prior to any hearing
55 involving the test results. The court or the child support
56 enforcement division, upon reasonable request of a party,
57 shall order that additional tests be made by the same
58 laboratory or another laboratory within thirty days of the
59 entry of the order, at the expense of the party requesting
60 additional testing. Costs shall be paid in advance of the
61 testing. When the results of the blood or tissue tests or the
62 expert's analysis which show a statistical probability of
63 paternity of more than ninety-eight percent are confirmed
64 by the additional testing, then the results are admissible
65 evidence which is clear and convincing evidence of pater-
66 nity. The admission of the evidence creates a presumption
67 that the man tested is the father.

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

76 (c) Except as provided in subsection (d) of this section,
77 when a blood test is ordered pursuant to this section, the

78 moving party shall initially bear all costs associated with
79 the blood test unless that party is determined by the court
80 to be financially unable to pay those costs. This determi-
81 nation shall be made following the filing of an affidavit
82 pursuant to section one, article two, chapter fifty-nine of
83 this code. When the court finds that the moving party is
84 unable to bear that cost, the cost shall be borne by the
85 state of West Virginia. Following the finding that a person
86 is the father based on the results of a blood test ordered
87 pursuant to this section, the court shall order that the
88 father be ordered to reimburse the moving party for the
89 costs of the blood tests unless the court determines, based
90 upon the factors set forth in this section, that the father is
91 financially unable to pay those costs.

92 (d) When a blood test is ordered by the child support
93 enforcement division, the division shall initially bear all
94 costs subject to recoupment from the alleged father if
95 paternity is established.

§48A-6-4. Establishment of paternity and duty of support.

1 (a) When the defendant, by verified responsive pleading,
2 admits that the man is the father of the child and owes a
3 duty of support, or if after a hearing on the merits, the
4 court shall find, by clear and convincing evidence that the
5 man is the father of the child, the court shall, subject to
6 the provisions of subsection (c) of this section, order
7 support in accordance with the provisions of article one-b
8 of this chapter and the payment of incurred expenses as
9 provided in subsection (e) of this section.

10 (b) Upon motion by a party, the court shall issue a
11 temporary order for child support pending a judicial
12 determination of parentage if there is clear and convincing
13 evidence of paternity on the basis of genetic tests or other
14 scientifically recognized evidence.

15 (c) Reimbursement support ordered pursuant to this
16 section shall be limited to a period not to exceed thirty-six
17 months prior to the service of notice of the commencement
18 of paternity or support establishment, unless the court
19 finds, by clear and convincing evidence:

20 (1) That the defendant had actual knowledge that he was
21 believed to be the father of the child;

22 (2) That the defendant deliberately concealed his where-
23 abouts or deliberately evaded attempts to serve process
24 upon him; or

25 (3) That the defendant deliberately misrepresented
26 relevant information which would have enabled the
27 plaintiff to proceed with the cause of action.

28 If the court finds by clear and convincing evidence that
29 the circumstances in subsection (1), (2) or (3) exist, then
30 the court shall order reimbursement support to the date of
31 birth of the child, subject to the equitable defense of
32 laches.

33 (d) The court shall give full faith and credit to a determi-
34 nation of paternity made by any other state, based on the
35 laws of that state, whether established through voluntary
36 acknowledgment or through administrative or judicial
37 process.

38 (e) Bills for pregnancy, childbirth, and genetic testing are
39 admissible and constitute prima facie evidence of medical
40 expenses incurred.

41 (f) The thirty-six month limitation on reimbursement
42 support does not apply to the award of medical expenses
43 incurred.

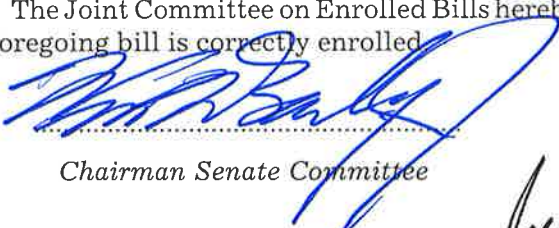
44 (g) For purposes of this section, "reimbursement sup-
45 port" means the amount of money awarded as child


46 support for a period of time prior to the entry of the order
47 which establishes the support obligation.

**§48A-6-6. Establishing paternity by acknowledgment of natural
father.**

1 A written, notarized acknowledgment executed pursuant
2 to the provisions of article twelve, section five, chapter
3 sixteen of this code legally establishes the man as the
4 father of the child for all purposes and child support may
5 be established in accordance with the provisions of article
6 one-b of this chapter.

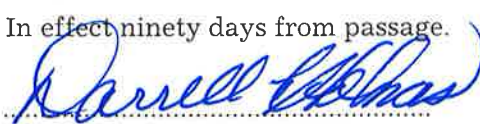
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee


Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 4th
Day of April, 2000


Governor

PRESENTED TO THE

GOVERNOR

Date 3/3/10

Time 4:15pm