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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SIXTH EXTRAORDINARY SESSION, 2001

ENROLLED

SENATE BILL NO. 6024

(By Senators ~~TOMBLIN, MR. PRESIDENT, AND~~ ~~SPROUSE, BY REQUEST OF THE EXECUTIVE~~)

PASSED DECEMBER 11, 2001

In Effect FROM Passage

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Senate Bill No. 6024

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
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[Passed December 11, 2001; in effect from passage.]

AN ACT to repeal sections nine hundred one and nine hundred two, article thirteen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, as contained in chapter five, acts of the Legislature, fifth extraordinary session, two thousand one; to amend and reenact sections eight hundred one and eight hundred two of said article; to amend article fourteen of said chapter by adding thereto a new section, designated section one hundred six; and to amend and reenact section six, article two-a, chapter fifty-one of said code as contained in said acts, all relating to making technical revisions to the law creating a family court system; repealing misnumbered sections; revising archaic terminology in miscellaneous provisions relating to child support orders; declaring that section one hundred six, article fourteen, chapter forty-eight, as enacted by chapter five, acts of the Legislature, fifth extraordinary session, two thousand one, shall be deemed and constituted

as a new section; and adjusting the salary levels of secretary-clerks and family case coordinators of family court judges consistent with current levels based on annual adjustments.

Be it enacted by the Legislature of West Virginia:

That sections nine hundred one and nine hundred two, article thirteen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, as contained in chapter five, acts of the Legislature, fifth extraordinary session, two thousand one, be repealed; that sections eight hundred one and eight hundred two of said article be amended and reenacted; that article fourteen of said chapter be amended by adding thereto a new section, designated section one hundred six; and that section six, article two-a, chapter fifty-one of said code as contained in said acts be amended and reenacted, all to read as follows:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 13. GUIDELINES FOR CHILD SUPPORT AWARDS.

PART VIII. MISCELLANEOUS PROVISIONS RELATING TO CHILD SUPPORT ORDERS.

§48-13-801. Tax exemption for child due support.

1 Unless otherwise agreed to by the parties, the court shall
2 allocate the right to claim dependent children for income
3 tax purposes to the payee parent except in cases of ex-
4 tended shared parenting. In extended shared parenting
5 cases, these rights shall be allocated between the parties in
6 proportion to their adjusted gross incomes for child
7 support calculations. In a situation where allocation
8 would be of no tax benefit to a party, the court need make
9 no allocation to that party. However, the tax exemptions
10 for the minor child or children should be granted to the
11 payor parent only if the total of the payee parent's income
12 and child support is greater when the exemption is
13 awarded to the payor parent.

§48-13-802. Investment of child support.

1 (a) The court has the discretion, in appropriate cases, to
 2 direct that a portion of child support be placed in trust
 3 and invested for future educational or other needs of the
 4 child. The court may order such investment when all of
 5 the child's day-to-day needs are being met such that, with
 6 due consideration of the age of the child, the child is living
 7 as well as his or her parents.

8 (b) If the amount of child support ordered per child
 9 exceeds the sum of two thousand dollars per month, the
 10 court is required to make a finding, in writing, as to
 11 whether investments shall be made as provided for in
 12 subsection (a) of this section.

13 (c) A trustee named by the court shall use the judgment
 14 and care under the circumstances then prevailing that
 15 persons of prudence, discretion and intelligence exercise in
 16 the management of their own affairs, not in regard to
 17 speculation but in regard to the permanent disposition of
 18 their funds, considering the probable income as well as the
 19 probable safety of their capital. A trustee shall be gov-
 20 erned by the provisions of the uniform prudent investor
 21 act as set forth in article six-c, chapter forty-four of this
 22 code. The court may prescribe the powers of the trustee
 23 and provide for the management and control of the trust.
 24 Upon petition of a party or the child's guardian or next
 25 friend and upon a showing of good cause, the court may
 26 order the release of funds in the trust from time to time.

ARTICLE 14. REMEDIES FOR THE ENFORCEMENT OF SUPPORT OBLIGATIONS.**PART I. ACTION TO OBTAIN AN ORDER FOR SUPPORT OF MINOR CHILD.****§48-14-106. Modification of support order.**

1 (a) At any time after the entry of an order for support,
 2 the court may, upon the verified petition of an obligee or
 3 the obligor, revise or alter such order and make a new

4 order as the altered circumstances or needs of a child, an
5 obligee or the obligor may render necessary to meet the
6 ends of justice.

7 (b) The supreme court of appeals shall make available to
8 the family courts a standard form for a petition for
9 modification of an order for support, which form will
10 allege that the existing order should be altered or revised
11 because of a loss or change of employment or other
12 substantial change affecting income or that the amount of
13 support required to be paid is not within fifteen percent of
14 the child support guidelines. The clerk of the circuit court
15 and the secretary-clerk of the family court shall make such
16 forms available to persons desiring to petition the court
17 pro se for a modification of the support award.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. Compensation and expenses of family court judges and their staffs.

1 (a) Until the thirty-first day of December, two thousand
2 two, a family court judge is entitled to receive as compen-
3 sation for his or her services an annual salary of sixty
4 thousand dollars. Beginning the first day of January, two
5 thousand three, a family court judge is entitled to receive
6 as compensation for his or her services an annual salary of
7 sixty-two thousand five hundred dollars.

8 (b) The secretary-clerk of the family court judge is
9 appointed by the family court judge and serves at his or
10 her will and pleasure. The secretary-clerk of the family
11 court judge is entitled to receive an annual salary of
12 twenty-five thousand three hundred thirty-two dollars. In
13 addition, any person employed as a secretary-clerk to a
14 family law master on the effective date of the enactment
15 of this section during the sixth extraordinary session of the
16 Legislature in the year two thousand one who is receiving
17 an additional five hundred dollars per year up to ten years

18 of a certain period of prior employment under the provi-
19 sions of the prior enactment of section eight of this article
20 during the second extraordinary session of the Legislature
21 in the year one thousand nine hundred ninety-nine shall
22 continue to receive such additional amount. Further, the
23 secretary-clerk will receive such percentage or propor-
24 tional salary increases as may be provided for by general
25 law for other public employees and is entitled to receive
26 the annual incremental salary increase as provided for in
27 article five, chapter five of this code.

28 (c) The family court judge may employ not more than
29 one family case coordinator who serves at his or her will
30 and pleasure. The annual salary of the family case coordi-
31 nator of the family court judge shall be established by the
32 administrative director of the supreme court of appeals
33 but may not exceed thirty-six thousand sixty dollars. The
34 family case coordinator will receive such percentage or
35 proportional salary increases as may be provided for by
36 general law for other public employees and is entitled to
37 receive the annual incremental salary increase as provided
38 for in article five, chapter five of this code.

39 (d) The sheriff or his or her designated deputy shall serve
40 as a bailiff for a family court judge. The sheriff of each
41 county shall serve or designate persons to serve so as to
42 assure that a bailiff is available when a family court judge
43 determines the same is necessary for the orderly and
44 efficient conduct of the business of the family court.

45 (e) Disbursement of salaries for family court judges and
46 members of their staffs are made by or pursuant to the
47 order of the director of the administrative office of the
48 supreme court of appeals.

49 (f) Family court judges and members of their staffs are
50 allowed their actual and necessary expenses incurred in
51 the performance of their duties. The expenses and com-
52 pensation will be determined and paid by the director of
53 the administrative office of the supreme court of appeals

54 under such guidelines as he or she may prescribe, as
55 approved by the supreme court of appeals.

56 (g) Notwithstanding any other provision of law, family
57 court judges are not eligible to participate in the retire-
58 ment system for judges under the provisions of article nine
59 of this chapter.

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

Carly M. Murr
.....
Chairman Senate Committee

John J. Tompkins
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Daniel G. Hebeles
.....
Clerk of the Senate

Gregory W. Sisk
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert J. Witt
.....
Speaker House of Delegates

The within *was approved* this the *27th*
Day of *December*, 2001.

Rob Witt
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 12/17/01

Time 2:15 pm