WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

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ENROLLED

House Bill No. 3084
(By Delegates Staton, Mahan, Brown, and Amores)

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Passed March 8, 2003

In Effect Ninety Days from Passage
ENROLLED

H. B. 3084

(BY DELEGATES STATON, MAHAN, BROWN AND AMORES)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to repeal sections one hundred ten and one hundred eleven, article seventeen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one hundred one, one hundred two, one hundred seven and one hundred nine, article seventeen of said chapter; and to amend and reenact section one hundred five, article eighteen of said chapter, all relating to child support enforcement; providing for the membership, duties and powers of the support enforcement commission; and providing for the general duties and powers of the bureau for child support enforcement.

Be it enacted by the Legislature of West Virginia:

That sections one hundred ten and one hundred eleven, article seventeen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one hundred one, one hundred two, one hundred seven and one hundred nine, article seventeen of said chapter, be amended and reenacted; and that section one hundred five, article eighteen of said chapter be amended and reenacted, all to read as follows:
ARTICLE 17. WEST VIRGINIA SUPPORT ENFORCEMENT COMMISSION.

§48-17-101. Creation of support enforcement commission; number of members.

The West Virginia support enforcement commission, consisting of eight members, is hereby created in the department of health and human resources and may use the administrative support and services of that department. The commission is not subject to control, supervision or direction by the department of health and human resources, but is an independent, self-sustaining commission that shall have the powers and duties specified in this chapter.

The commission is a part-time commission whose members perform such duties as specified in this chapter. The ministerial duties of the commission shall be administered and carried out by the commissioner of the bureau for child support enforcement, with the assistance of such staff of the department of health and human resources as the secretary may assign.

Each member of the commission shall devote the time necessary to carry out the duties and obligations of the office and the six members appointed by the governor may pursue and engage in another business, occupation or gainful employment that is not in conflict with the duties of the commission.

While the commission is self-sustaining and independent, it, its members, its employees and the commissioner are subject to article nine-a of chapter six, chapter six-b, chapter twenty-nine-a and chapter twenty-nine-b [§§ 6-9A-1 et seq., §§ 6B-1-1 et seq., §§ 29A-1-1 et seq. and §§ 29B-1-1 et seq.] of this code.

§48-17-102. Appointment of members of support enforcement commission; qualifications and eligibility.

(a) Of the eight members of the commission, seven members are to be appointed by the governor: Provided, That
no more than five members of the commission may belong to
the same political party.

(1) One member is to be a lawyer licensed by, and in good
standing with, the West Virginia state bar, with at least five
years of professional experience in domestic relations law and
the establishment and enforcement of support obligations;

(2) One member is to be a person experienced as a public
administrator in the supervision and regulation of a governmen-
tal agency;

(3) One member is to be an employer experienced in
withholding support payments from the earnings of obligors;

(4) One member is to be a practicing family court judge, as
an exofficio member, who will serve in an advisory capacity, 
without compensation or voting rights; and

(5) Three members are to be representatives of the public
at large, with at least one being an obligor and one being an
obligee.

(b) One member is to be the commissioner of the bureau
for children and families, department of health and human
resources, or his or her designee.

(c) Each member of the commission is to be a citizen of the
United States, a resident of the state of West Virginia and at
least twenty-one years of age.

§48-17-107. Meeting requirements.

(a) The commission shall meet within the state at least
twice per calendar year and at such other times as the chairman
may decide. The commission shall also meet upon a call of four
or more members upon seventy-two hours written notice to
each member.
(b) Four members of the commission are a quorum for the
transaction of any business and for the performance of any
duty.

(c) A majority vote of the members present is required for
any final determination by the commission.

(d) The commission may elect to meet in executive session
after an affirmative vote of a majority of its members present
according to section four [§ 6-9A-4], article nine-a, chapter six
of this code;

(e) The commission shall keep a complete and accurate
record of all its meetings according to section five [§ 6-9A-5],
article nine-a, chapter six of this code.

§48-17-109. General duties of support enforcement commission.

The support enforcement commission shall have general
responsibility to review and provide comment to the bureau for
child support enforcement on its policies and procedures for
obtaining and enforcing support orders and establishing
paternity according to this chapter, as hereinafter provided,
including, without limitation, the responsibility for the follow-
ing:

(a) To serve as a clearinghouse for information;

(b) To keep a record of all commission proceedings
available for public inspection;

(c) To file a written annual report to the governor, the
president of the Senate and the speaker of the House of Dele-
gates on or before the thirtieth day of January of each year, and
such additional reports as the governor or Legislature may
request.
(d) To apply for grants;

(e) To form partnerships with state institutions of higher learning.

(f) The commission shall conduct the federally required review [45 C.F.R. 302.56(C)(3)(e)] of the child support formula every four years and make a report to the Legislature of their findings.

ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.

§48-18-105. General duties and powers of the bureau for child support enforcement.

In carrying out the policies and procedures for enforcing the provisions of this chapter, the bureau shall have the following power and authority:

(1) To establish policies and procedures for obtaining and enforcing support orders and establishing paternity according to this chapter;

(2) To undertake directly, or by contract, activities to obtain and enforce support orders and establish paternity;

(3) To undertake directly, or by contract, activities to establish paternity for minors for whom paternity has not been acknowledged by the father or otherwise established by law;

(4) To undertake directly, or by contract, activities to collect and disburse support payments;

(5) To contract for professional services with any person, firm, partnership, professional corporation, association or other legal entity to provide representation for the bureau and the state in administrative or judicial proceedings brought to obtain and enforce support orders and establish paternity;
(6) To ensure that activities of a contractor under a contract for professional services are carried out in a manner consistent with attorneys’ professional responsibilities as established in the rules of professional conduct as promulgated by the supreme court of appeals;

(7) To contract for collection services with any person, firm, partnership, corporation, association or other legal entity to collect and disburse amounts payable as support;

(8) To ensure the compliance of contractors and their employees with the provisions of this chapter, and to terminate, after notice and hearing, the contractual relationship between the bureau and a contractor who fails to comply;

(9) To require a contractor to take appropriate remedial or disciplinary action against any employee who has violated or caused the contractor to violate the provisions of this chapter, in accordance with procedures prescribed in legislative rules promulgated by the commission;

(10) To locate parents who owe a duty to pay child support;

(11) To cooperate with other agencies of this state and other states to search their records to help locate parents;

(12) To cooperate with other states in establishing and enforcing support obligations;

(13) To exercise such other powers as may be necessary to effectuate the provisions of this chapter.

(14) To establish and maintain procedures under which expedited processes, administrative or judicial are in effect for obtaining and enforcing support orders and establishing paternity according to this chapter;
(15) To promulgate all emergency and legislative rules pursuant to chapter twenty-nine-a (§§ 29A-1-1 et seq.) of this code as are required by this chapter: Provided, That all rules which are in effect at the time of the implementation of this section shall continue in full force and effect until the commissioner of the bureau for child support enforcement promulgates a rule or rules regarding the same subject matter.

(16) To adopt standards for staffing, record-keeping, reporting, intergovernmental cooperation, training, physical structures and time frames for case processing;

(17) To review the state plan for child and spousal support to determine its conformance or nonconformance with the provisions of 42 U.S.C. § 654;

(18) To cooperate with judicial organizations and the private bar to provide training to persons involved in the establishment and enforcement of child support orders; and

(19) To promulgate legislative rules pursuant to chapter twenty-nine-a (§§29A-1-1) of this code which may aid the bureau for child support enforcement in the establishment and enforcement of child support orders. In addition to the specific designation of such rules that constitute emergency rules within the meaning of section fifteen (§29A-3-15), article three, chapter twenty-nine-a of this code, the commissioner may promulgate other rules as emergency rules when such rule is necessary to ensure that the state is awarded federal funds for the actions described in the rule or when the promulgation of such rule is necessary to prevent substantial harm to the public interest by ensuring that child support is timely collected and disbursed.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Greg Bucthey
Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Darrell Effler

Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Paul D. Skaric
Speaker of the House of Delegates

The within is approved this the 27th day of March, 2003.

Bob Wise
Governor