

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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1988 SEP 23 PM 2:14  
DEPARTMENT OF HUMAN SERVICES  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Department of Human Services TITLE NUMBER: 78

CITE AUTHORITY 48A-5-3(r)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Termination of Income Withholding

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Sandra K. Gilmore  
SG

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WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF HUMAN SERVICES  
CHAPTER 48A-5-3(r)  
SERIES 11

Title: Termination of Income Withholding

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WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF HUMAN SERVICES  
CHAPTER 48A-5-3(r)  
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Title: Termination of Income Withholding

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Section 1. General

- 1.1 Scope--This legislative rule establishes procedures whereby the Department of Human Services Child Advocate Office will terminate income withholding for support obligors.
- 1.2 Authority and Related Code Citation--West Virginia Code §48A-5-3(r), 42 U.S.C. §666(b)(10), 45 C.F.R. §303.100(a)(9).
- 1.3 Filing Date--
- 1.4 Effective Date--

Section 2. Termination of Income Withholding

- 2.1 The Child Advocate Office may petition the court for an order to terminate income withholding upon the written request of both the obligor and obligee when the following conditions exist:
  1. Both the obligor and obligee agree to the termination,
  2. The obligor has owed no arrearage to the obligee, the State of West Virginia, or any other state for at least eighteen (18) months, and
  3. Both the obligor and obligee can demonstrate to the Child Advocate Office a reliable alternative method by which the obligor will make the ordered support payments.
- 2.12 In the event income withholding is not terminated in accordance with the provisions of subsection 2.1 of this section, the the Child Advocate Office shall not terminate withholding until:
  1. The child has reached the age of 18 or is otherwise emancipated, and all arrearages have been paid.

2. The obligor has legal custody of the child, and all arrearages have been paid.

3. The child has been adopted, and all arrearages have been paid.

2.23 The Child Advocate Office shall adequately document the reason for the termination of the withholding.

2.34 Upon receipt of proper documentation, the Child Advocate Office shall mail a notice of withholding termination to the employer and a copy to the obligor.

