

**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR CHILD SUPPORT ENFORCEMENT**

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

MEMORANDUM

TO: The Office of the Secretary of State
Administrative Law Division

FROM: Heidi L. Talmage, Esquire
General Counsel

DATE:

SUBJECT: Brief Summary of Proposed Legislative Rule 97-4

Pursuant to West Virginia Code §48-18-105 (19), the Bureau for Child Support Enforcement is authorized to file rules to address issues related to the establishment of paternity, the establishment, modification, and enforcement of support obligations, and other issues required to maintain compliance with Federal IV-D requirements. The repeal of this Legislative Rule is due to the change from Uniform Reciprocal Enforcement of Support Act to Uniform Interstate Family Support Act.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Interstate Income Withholding

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: The Bureau for Child Support Enforcement

Address: 350 Capitol Street, Room 147
Charleston, WV 25301-3703

Phone Number: 304-356-4730 Email: kim.s.rider@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

The contents of the proposed legislative rule do not change the type of services provided by the Bureau. The proposed rule also does not change the method of delivery of services. The proposed rule simply places the pertinent contents of the Bureau's existing policy manual into legislative rule format in order to bring the Bureau into compliance with State law. There will be no effect on either the costs of the services or the revenue of the Bureau.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Interstate Income Withholding

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

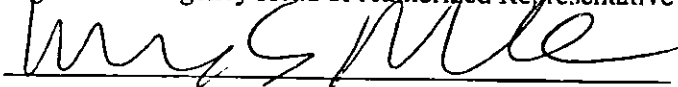
None anticipated, as this is merely placing the current Policy Manual into Legislative Rule format in order to bring the Bureau into compliance.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: 6/4/13

Signature of Agency Head or Authorized Representative



QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: June 25, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) The Bureau for Child Support Enforcement

350 Capitol Street, Room 147

Charleston, WV 25301-3703

LEGISLATIVE RULE TITLE: Interstate Income Withholding

1. Authorizing statute(s) citation §48-18-105(19)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) or Public Comment Period ended:

July 25, 2013

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____

No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Kim Rider, Assistant to General Counsel

Bureau for Child Support Enforcement

350 Capitol Street, Room 147

Charleston, WV 25301-3703

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- g. **IF DIFFERENT FROM ITEM 'f',** please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Heidi L. Talmage, General Counsel

Bureau for Child Support Enforcement

350 Capitol Street, Room 147

Charleston, WV 25301-3703

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

July 25, 2013

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

TITLE 97
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

2013 JUN 25 PM 3: 55

SERIES 4
INTERSTATE INCOME WITHHOLDING

'97-4-1. General.

~~1.1. Scope. -- This legislative rule establishes procedures to extend the Department of Health and Human Resources, Child Support Enforcement Division system of income withholding to income derived within this State where applicable support orders were issued in other states. The purpose is to assure that child support owed by obligors in this state, or any other state, will be collected regardless of the residence of the child or its custodial parent. This rule is proposed to bring the Child Support Enforcement Division in compliance with 42 U. S. C. '666(b)(9), 45 C. F. R. '303.100.~~

~~1.2. Authority. -- W. Va. Code "48A-2-23, 48A-2-10, 48A-2-9 and 48A-2-11.~~

~~1.3. Filing Date. -- August 30, 1996.~~

~~1.4. Effective Date. July 1, 1997.~~

~~1.5. Definitions:~~

~~Absent Parent (AP): Any individual who is absent from the home and is legally responsible for providing financial support for a dependent child. This term is used interchangeably with non-custodial parent.~~

~~Arrearage Trigger: An amount that may be required by court order prior to institution of a wage withholding.~~

~~IV-D Agency: A single and separate organizational unit in a State that has the responsibility for administering the State Plan under Title IV-D of the Act. The Child Support Enforcement Division.~~

~~IV-D of the Social Security Act: This section of federal law requires states to have a Child Support Enforcement program if a state participates in the Aid to Families with Dependent Children Program. Child Support Enforcement programs are referred to as IV-D programs.~~

~~Non-Public Assistance (NPA): Child support cases where the custodial parent is not receiving public assistance.~~

~~Obligor: The person or the estate of the decedent who owes or is alleged to owe a duty of support; who is alleged, but has not been adjudicated, to be a parent of a~~

child, or who is liable under a support order; also known as the absent parent, non-custodial parent or payor.

~~RURESA: Revised Uniform Reciprocal Enforcement of Support Act. (See URESA)~~

~~UIFSA: Uniform Interstate Family Support Act. An interstate child support enforcement Act designed to replace the original URESA Act. Under UIFSA, only one order is in effect and enforceable at a time.~~

~~URESAs: Uniform Reciprocal Enforcement of Support Act. A law which was enacted at the State level and which provides a mechanism for establishing and enforcing support obligations when the non-custodial parent lives in one state and the custodial parent and child(ren) live in another. The URESA model was an early attempt to provide the states with a universal child support tool that worked across state lines. URESA was developed before the passage of Title IV-D of the Social Security Act and before IV-D Agencies existed.~~

~~'97-4-2. Interstate Income Withholding:~~

~~2.1. Interstate wage withholding is available to enforce an existing order for support cases without proceeding through the URESA or UIFSA process.~~

~~2.2. The Child Support Enforcement Division will be involved in interstate withholding in three (3) types of situations:~~

~~1. An obligee resides in the State of West Virginia and the obligor is in another state.~~

~~2. An obligor resides in West Virginia and the obligee resides in another state.~~

~~3. Both parties reside outside of West Virginia but the obligor's employment or source of income is located in West Virginia.~~

~~2.3. Procedures for interstate income withholding when the obligee resides in West Virginia.~~

~~If the obligee is not currently receiving IV-D NPA services, an application for IV-D NPA or income withholding only services is required prior to processing the withholding. During the interview with the caretaker/obligee, the legal assistant must determine the following:~~

~~1. The obligor's name, address and social security number;~~

~~2. The name and address of the obligor's employer or source of income;~~

~~3. Where the support order originated;~~

~~4. The legal assistant will determine from the Interstate Withholding Directory the information that the other state requires to process the withholding;~~

~~5. The legal assistant will obtain and assemble the required documentation.~~

~~This may involve obtaining certified copies of documents from other states if the support order was not issued in West Virginia, and complete the Interstate Transmittal form, from the automated system to send to the other state.~~

~~6. The legal assistant will send the original package to the state in which the obligor resides, a copy to the Child Support Enforcement Division Central Registry. The Legal Assistant will also place a copy in the Child Support Enforcement Division record.~~

~~2.4. Procedures to implement an income withholding request from another state.~~

~~The following documentation from the other state IV-D agency to initiate withholding for an obligor residing in this state is required:~~

- ~~1. A certified copy of the support order with all modifications;~~
- ~~2. A certified copy of an income withholding order/notice, if any, still in effect;~~
- ~~3. A copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;~~
- ~~4. A sworn statement of the caretaker or certified statement of a court or governmental entity of the arrearages and the assignment of support rights, if any;~~
- ~~5. A statement of:~~
 - ~~a. The name, address, and Social Security Number of the absent parent, if known;~~
 - ~~b. The name and address of the absent parent's employer or of any other source of income of the absent parent earned in this state against which income withholding is sought;~~
 - ~~c. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.~~

~~2.5. The income withholding request will be sent by the other state to the Central Registry of the Child Support Enforcement Division and then forwarded to the appropriate regional Child Support Enforcement Division office.~~

~~2.6. The Child Support Enforcement Division Central Registry shall examine the documentation from the requesting state to determine whether or not it conforms to West Virginia requirements.~~

~~2.7. The Child Support Enforcement Division Central Registry will remedy any defect it can without the assistance of the requesting state. If the Central Registry is unable to make such correction, the requesting state shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The Child Support Enforcement Division Central Registry will forward the documentation to the Child Support Enforcement Division regional office and the regional office is to proceed with any other action that may be necessary while awaiting the necessary information from the other state.~~

~~West Virginia immediate income withholding extends to out of state cases as well, therefore, once all of the information is obtained, within 15 calendar days of locating the absent parent's employer or source of income, the withholding is to begin using the same timeframes as are requires for State cases.~~

~~If an arrearage trigger is required on the case, the meeting with the Child Support Enforcement Division and a hearing before the Family Law Master will be scheduled at the regional office of the Child Support Enforcement Division and before the Family Law Master in the county where the absent parent lives or where the absent parent's source of income is located.~~

~~If an arrearage trigger is required on the case, within 15 calendar days of location of the obligor and his or her employer or source of income, the notice of withholding must be sent to the absent parent.~~

~~The same timeframes required in in-state cases for notice to the employer/source of income applies in these cases:~~

~~If the requesting state does not forward a certified copy of the support order with all modifications because the order is a West Virginia order, the Legal Assistant shall obtain a copy of the appropriate order and any modifications from the proper court clerk.~~

~~2.8. The regional Office of the Child Support Enforcement Division will:~~

~~1. If only an income support order or support order with a conditional order of withholding (i.e., the arrearage trigger must be met in the future) is received from another state, determine if the trigger amount for income withholding has been reached under the law of the state which entered the order, not the law of West Virginia. If the individual is behind in an amount to trigger income withholding under the other state's law, the legal assistant is to send the notice to Withholding Request from Another State to the absent parent and then proceed exactly as in the Child Support Enforcement Division Policy Manual section on withholding procedures for in-state cases, or;~~

~~2. If an active income withholding order is received (i.e., the trigger was met in the other state and income withholding begun), the legal assistant will immediately send the notice to the obligor and then proceed exactly as in the Child Support Enforcement Division Policy Manual section on withholding procedures for in-state cases.~~