

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUL 25 11 26 AM '96

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AGENCY: Child Support Enforcement Division TITLE NUMBER: 8 97

RULE TYPE: legislative; CITE AUTHORITY 48A-2-31

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 78-14

TITLE OF RULE BEING AMENDED: providing Information to Credit
Reporting Agencies.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Aug 26, 1996 AT 12:00 NOON. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

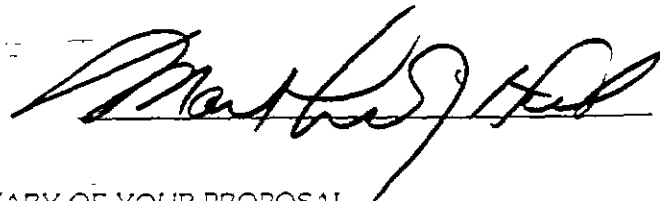
R. Jeffrey Johnson

Building 6, Room 817

State Capitol Complex

Charleston, WV 25304

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR CHILDREN AND FAMILIES
-CHILD SUPPORT ENFORCEMENT DIVISION-

Gaston Caperton
Governor

Gretchen O. Lewis
Secretary

Jeffrey Johnson
8-0908

Sue H. Sergi
Commissioner

Martha J. Hill
Director

M E M O R A N D U M

TO: Judy Cooper, Director
Administrative Law Division
Secretary of State

FROM: Jeff Johnson, In-House Counsel
Child Support Enforcement Division

DATE: July 19, 1996

SUBJECT: Attached Rules

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JUL 25 12 13 PM '96

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Enclosed you will find four (4) proposed or amended legislative rules and one (1) emergency rule for filing. The rules are as follows:

1. Title 78, Series 6. Incorporation by Reference as a Legislative Rule of the Child Support Enforcement Division Policy and Procedural Manual.

This is an amendment to an existing rule. The amendment is technical in nature and provides for an update of the rule to meet current statutory language. More particularly, it provides for a change in the name of the agency which was done by statute in the 1995 session of the legislature.

2. Title 78, Series 11. Application of Statutory Interest Provisions.

This is being offered as an emergency rule pursuant to the emergency rule making authority of the West Virginia Support Enforcement Commission under West Virginia Code §48A-3-11 and §48A-5-3. This rule would repeal the former rule which pertained to Income Withholding. That rule is obsolete as all of its provisions have now been made a part of state code.

The rule provides that interest shall not accrue during the months when despite the legal compliance of an employer, the non-custodial parent's monthly support obligation is not met.

Judy Cooper, Director, Administrative Law Division
Secretary of State
July 19, 1996
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I have also enclosed the necessary paperwork to see that this rule becomes a legislative rule.

3. Title 78, Series 12. Obtaining Support From Federal and State Income Tax Refunds.

This rule is an amendment to the existing rule. However, the changes are so extensive that pursuant to Legislative Rule §153-6-5 I am asking that the former rule be repealed and this be offered as a new rule.

The changes to the rule are to meet current statutory requirements.

4. Title 78, Series 13. Interstate Income Withholding.

This is an amendment to an existing rule. The changes are to bring the rule into statutory compliance. More particularly, it provides for a change in the name of the agency which was done by statute in the 1995 session of the legislature.

5. Title 78, Series 14. Providing Information to Credit Reporting Agencies.

This is an amendment to an existing rule. The changes are to bring the rule into statutory compliance. More particularly, it provides for a change in the name of the agency which was done by statute in the 1995 session of the legislature.

I have provided the necessary cover forms for all rules. In addition, I have included a fiscal note on all of the rules. For the amendments to existing rules, I have provided three (3) copies to The Rule-Making Review Committee and one (1) to the Administrative Law Division of the Secretary of State. For the emergency rule, I have provided fourteen (14) copies to the Administrative Law Division of the Secretary of State and one (1) to Legislative Rule-Making Review Committee. For the rules that are to be repealed, I have included a copy of the current rule.

Please advise if you need anything additional. I look forward to hearing from you.

RJJ/rab

Attachments

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

LEGISLATIVE RULE TITLE: Providing Information to Credit Reporting Agencies

1. Authorizing statute(s) citation W.Va. Code 48A-2-31, 42 U.S.C. 666(a) (7),

45 CFR 105

2. a. Date filed in State Register with Notice of Hearing

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

N/A

c. Date of Hearing(s)

N/A

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 and phone number(s) of agency person(s) to contact for additional information:

R. Jeffrey Johnson

558-0908

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.

N/A

b. Date of hearing: _____

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 _____

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Providing Information to Credit Reporting Agencies

Type of Rule: X Legislative Interpretive Procedural

Agency Child Support Enforcement Division

Address 1900 Kanawha Blvd., East

Bldg. 6, Room 817

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

To bring the rule in compliance with statutory changes, including the name change of the agency.

Rule Title: Providing Information to Credit Reporting Agencies

4. Explanation of Overall Economic Impact of Proposed Rule.

A. - Economic Impact on State Government.

N/A

B. - Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

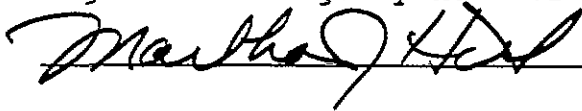
Credit Bureaus may see a slight increase in the number of referrals.

C. - Economic Impact on Citizens/Public at Large.

N/A

Date: 7-23-96

Signature of Agency Head or Authorized Representative



TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 14
PROVIDING INFORMATION TO CREDIT
REPORTING AGENCIES

\$78-14-1. General.

1.1. Scope. - This legislative rule establishes procedures whereby the Department of Health and Human Resources, ~~Child Advocate Office~~ Child Support Enforcement Division ~~regarding~~ may report the amount of overdue support owed by an obligor residing in this state to any consumer reporting agency upon its request.

1.2. Authority. - West Virginia Code §48A-2-31, 42 U.S.C. §666(a) (7), 45 C.F.R. §105.

1.3. Filing Date. -

1.4. Effective Date. -

1.5. Repeal of Former Rule. - This legislative rule repeals the following West Virginia Legislative Rule: "Department of Human Services, Series 14, Providing Information to Credit Reporting Agencies" filed June 3, 1989.

\$78-14-2. Providing Information to Credit Reporting Agencies.

2.1. Past due support owed by an obligor residing in this State will be made available to any consumer reporting agency upon the request of the agency if the amount of ~~overdue support~~ the arrearage once ~~thousand dollars (\$1,000) or~~

~~more.~~

~~2.2. In cases in which the amount of past due support is less than one thousand dollars (\$1,000), the credit information shall not be released.~~

is equal to:

a. one month's support, if the order requires monthly payments

b. four weeks' support, if the order requires weekly or biweekly payments.

~~However, this information will be made available only after proper notice of the proposed action has been sent to the obligor, and the obligor has been given ten days (10) days to contest the accuracy of the information. In such cases, Form CAO-30 must be sent to the obligor prior to releasing the information. After the 10 day time period, if the obligor has not contested, the Central CAO will forward the information to the Consumer Reporting Agency.~~

Notice must be given to the obligor before the information is released to the reporting agency. In all cases, Form ENF-6 must be sent to the obligor prior to the release of the information, following which the obligor has

10 days in which to contest the accuracy of the information.

2.3. In cases in which the obligor contests the accuracy of the information, such obligor shall be afforded due process as required by the laws of this state.

If the obligor contests the information, he is to be given the opportunity to request a hearing.

If a request is made by a consumer reporting agency for information on a single individual, the information can be provided on the form provided by the requesting agency, or in the form specified by the requesting agency. Often, however, the reporting agency will request that we provide them with a list of those in arrears. In that situation, the state office is to provide that information using the tax offset tapes.