



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Cecil H. Underwood
Governor

OFFICE OF THE SECRETARY
Capitol Complex
Building 3, Room 206
Charleston, WV 25305
Telephone: 304/558-0684 Fax: 304/558-1130

Joan E. Ohl
Secretary

September 9, 1997

The Honorable Ken Hechler
Secretary of State
State Capitol
Building 1, Suite 157K
Charleston, West Virginia 25305

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SEP 11 8 40 AM '97

FILED

RE: Legislative Rule §97-5

Dear Secretary Hechler:

Please accept this letter as my official request to withdraw Legislative Rule §97-5-1.

Thank you for your attention to this matter. If you should have any questions, please contact Ilene Schnall, Acting In-House Counsel for the Bureau for Child Support Enforcement, at 558-0907.

Sincerely,


Joan E. Ohl
Secretary

Form #2

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: TERMINATION OF A SUPPORT OBLIGATION WHEN A MINOR CHILD IS EMANCIPATED

Type of Rule: X Legislative Interpretive Procedural

Agency DHHR - CHILD SUPPORT ENFORCEMENT DIVISION

Address 1900 KANAWHA BLVD., EAST

BUILDING 6, ROOM 817

CHARLESTON, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

THERE WOULD BE NO FINANCIAL IMPACT IF THIS LEGISLATIVE RULE WERE PASSED

3. Objectives of these rules:

IS TO DETERMINE THE EFFECTIVE ENDING DATE OF A SUPPORT OBLIGATION UPON EMANCIPATION OF A MINOR CHILD

Rule Title: TERMINATION OF A SUPPORT OBLIGATION WHEN A MINOR CHILD IS EMANCIPATED

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

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

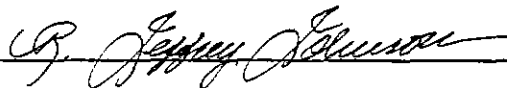
NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: AUGUST 8, 1997

Signature of Agency Head or Authorized Representative



TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

FILED

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SERIES 5
TERMINATION OF A SUPPORT OBLIGATION
WHEN A MINOR CHILD IS EMANCIPATED

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§97-5-1. General.

1.1. Scope. -- This legislative rule establishes procedures by which the Department of Health and Human Resources, Child Support Enforcement Division (CSED) shall determine the effective ending dates of support obligations upon emancipation of a minor child.

1.2. Authority. -- W. Va. Code §49-7-27 and W. Va. Code §48A-2-9(a).

1.3. Filing Date. --

1.4. Effective Date. --

§97-5-2. Definitions.

2.1. Age of Consent for Marriage - for both male and female is eighteen (18) years of age. Any person under the age of eighteen must obtain the consent of the parent or legal guardian in whose custody that person is at the time of application for a marriage license. No person under the age of sixteen (16) may be issued a marriage license except upon order of the circuit judge and with the consent of the parent or guardian. W. Va. Code §48-1-1.

2.2. Arrearages - the total unpaid and overdue support obligation owed by a legally responsible person. Arrearages include interest

which has accrued on the unpaid and overdue obligation.

2.3. Caretaker - a parent or other person having actual physical custody of a child and who is responsible for exercising parental rights and responsibilities with regard to the child.

2.4. Child Support Enforcement Division - the agency intended by the Legislature to be the single and separate organizational unit of state government administering programs of child and spousal support enforcement and meeting the staffing and organizational requirements of the Secretary of the Federal Department of Health and Human Services. W. Va. Code §48A-1A-7.

2.5. Emancipated Minor Child - a child over the age of sixteen (16) who is emancipated by court order. A child over the age of sixteen (16) years who marries is emancipated by operation of law. W. Va. Code §49-7-27

2.6. Income Withholding - the mechanism used for the automatic deduction of support from wages which start as soon as the order for support is established. W. Va. Code §48-2-15(b) and W. Va. Code §48A-5-3.

2.7. Minor Child - any

person under eighteen (18) years of age.

2.8. Noncustodial Parent - a parent of a child with respect to whom custody has been adjudicated with the result that such parent has not been granted custody of the child. W. Va. Code §48A-1A-13.

2.9. Support Order - a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearage, or reimbursements, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief. W. Va. Code §48A-1A-30.

§97-5-3. Emancipated Child Divorces While Still a Minor.

3.1. The parents or custodian shall not have custody and control or the duty to provide care and financial support for an emancipated minor child. The parents of an emancipated minor child cannot collect current and prospective support on his or her behalf.

3.2. Once a child is emancipated, his or her subsequent divorce does not change the status of emancipation even if he or she is under the statutory age of emancipation.

3.3. Arrearages owed by the noncustodial parent under the existing court order for support shall still be owed and shall be collected by the CSED irrespective of emancipation.

3.4. Any income withholding already in place in a case concerning a minor emancipated child shall be modified to collect the arrearages only.

3.5. Arrearages on the existing order accrue to the caretaker having physical custody of the child at the time the arrearages accumulated.



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Joan E. Ohl
Secretary

August 11, 1997

The Honorable Ken Hechler
Secretary of State
State Capitol
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RE: Legislative Rule § 97-5

Dear Secretary Hechler:

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Sincerely,


Joan E. Ohl
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Attachments