

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark in this Box

FILED

AUG 12 1 14 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

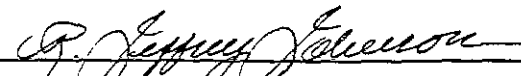
AGENCY: DHHR - CHILD SUPPORT ENFORCEMENT DIVISION TITLE NUMBER: 97
RULE TYPE: LEGISLATIVE; CITE AUTHORITY WVC 48A-2-9(a); WVC 48A-2-16
AMENDMENT TO AN EXISTING RULE: YES NO X
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 7
TITLE OF RULE BEING PROPOSED: EFFECT OF MARRIAGE, REMARRIAGE OR COHABITATION
ON A PREVIOUS SUPPORT ORDER

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 9/15/97 AT 4:30 p.m.
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

ILENE SCHNALL, DEPUTY IN-HOUSE COUNSEL
CHILD SUPPORT ENFORCEMENT DIVISION
1900 KANAWHA BLVD., EAST
BUILDING 6, ROOM 817
CHARLESTON, WV 25305

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: EFFECT OF MARRIAGE, REMARRIAGE OR COHABITATION ON A PREVIOUS SUPPORT ORDER

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 LEGISLATE RULE WERE PASSED.

3. Objectives of these rules:

IS TO DETERMINE PROCEDURES FOR ENFORCING A SUPPORT ORDER WHEN THE PARTIES COHABIT, MARRY OR REMARRY EACH OTHER FOLLOWING A PATERNITY ACTION OR DIVORCE PROCEEDING.

Rule Title: EFFECT OF MARRIAGE, REMARRIAGE OR COHABITATION ON A PREVIOUS SUPPORT ORDER

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

B. Jeffrey Johnson

FILED

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

AUG 12 1 14 PM '97

SERIES 7
EFFECT OF MARRIAGE, REMARRIAGE OR COHABITATION
ON A PREVIOUS SUPPORT ORDER

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§97-7-1. General.

1.1. Scope. -- This legislative rule establishes procedures by which the Department of Health and Human Resources, Child Support Enforcement Division (CSED) shall enforce a support order when parties cohabit, marry or remarry each other following a paternity action or divorce proceeding.

1.2. Authority. -- W. Va. Code § 48A-2-9(a) and W. Va. §48A-2-16.

1.3. Filing Date. --

1.4 Effective Date. --

§97-7-2. Definitions.

2.1. Alimony - See Definition of Support.

2.2. Child Support - See Definition of Support.

2.3. 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.

2.4. Court of Competent Jurisdiction - a circuit court within this state or a court or administrative agency of another state having jurisdiction and due legal authority to deal with the subject matter of the establishment and enforcement of support obligations. Whenever reference is made to an order of a court of competent jurisdiction, or similar wording, such language shall be interpreted so as to include orders of an administrative agency entered in a state where enforceable orders may by law be properly made and entered by such administrative agency. W. Va. Code §48A-1A-12.

2.5. Spousal Support - See Definition of Support.

2.6. Support - the payment of money including interest: (A) for a child or spouse, ordered by a court of competent jurisdiction, whether the payment is ordered in an emergency, temporary, permanent or modified order, decree or judgment of such court, and the amount of unpaid support shall bear simple interest from the date it accrued, at a rate of ten dollars upon one hundred dollars per annum, and proportionately for a greater or lesser sum, or for a longer or shorter time; (B) to third parties on behalf of a child or spouse, including, but not

limited to, payments to medical, dental or educational providers, payments to insurers for health and hospitalization insurance, payments of residential rent or mortgage payments, payments on an automobile or payments for day care; and/or (C) for a mother, ordered by a court of competent jurisdiction, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother. W. Va. Code §48A-1A-29.

2.7. 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.

§97-7-3. Current Support Obligation.

3.1. Marriage or Remarriage - When the parties to a divorce or a paternity action marry or remarry each other, the order for child support, spousal support or alimony is automatically terminated. Further action by the court is not necessary to end the current support

obligation. The marriage or remarriage ends the obligation of the former non-custodial parent or spouse to pay future installments of child support, spousal support, or alimony under a prior order.

3.2. Upon receipt of proof that the parties have married or remarried each other, the CSED shall discontinue collection efforts regarding a current court-ordered support obligation, including income withholding.

3.3 Cohabitation - The cohabitation of the parties to a divorce or a paternity action does not terminate a prior order for child support, spousal support or alimony. When the parties cohabit without marriage or remarriage, the CSED shall continue its collection efforts regarding the support obligation.

§97-7-4. Child Support Arrears

4.1. Neither the cohabitation, marriage or remarriage of the parties to each other nullifies existing child support, spousal support or alimony arrearages.

4.2. Enforcement - The holder of judgment for accrued, unpaid support installments may collect his or her judgment as one may collect any judgment in West Virginia.

4.3. Income Withholding - Any income withholding in effect for the collection of arrears shall remain in effect until the arrearage is paid in full.



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Cecil H. Underwood
Governor

Office of the Secretary
State Capitol Complex
Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 FAX: (304) 558-1130

Joan E. Ohl
Secretary

August 11, 1997

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

FILED
AUG 12 1 14 PM '97
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

RE: Legislative Rule § 97-7

Dear Secretary Hechler:

Please accept the attached proposed rule for filing.

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

Sincerely,

Joan E. Ohl
Joan E. Ohl
Secretary

Attachments