

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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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 48-4 et seq.
WVC 49-3-1; WVC 48A-5-3; WVC 48-2-15(b); 42 USC 651
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: 12

TITLE OF RULE BEING PROPOSED: PROCEDURES FOR ENDING A SUPPORT ORDER WHEN
PARENTAL RIGHTS ARE TERMINATED AND/OR THE CHILD(REN) IS/ARE ADOPTED.

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

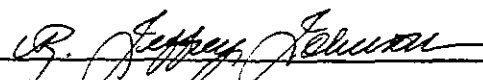
CHILD SUPPORT ENFORCEMENT DIVISION

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: PROCEDURES FOR ENDING A SUPPORT ORDER WHEN PARENTAL RIGHTS ARE TERMINATED AND/OR THE CHILD(REN) IS/ARE ADOPTED

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 WHEN TO TERMINATE A SUPPORT ORDER WHEN THE PARENTAL RIGHTS ARE TERMINATED OR THE CHILD(REN) IN THE CASE ARE LEGALLY ADOPTED.

Rule Title: PROCEDURES FOR ENDING A SUPPORT ORDER WHEN PARENTAL RIGHTS ARE
TERMINATED AND/OR THE CHILD(REN) IS/ARE ADOPTED

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

R. Jeffrey Johnson

TITLE 97
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 12
PROCEDURES FOR ENDING A SUPPORT ORDER
WHEN PARENTAL RIGHTS ARE TERMINATED
AND/OR THE CHILD(REN) IS/ARE ADOPTED

FILE

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§97-12-1. General.

1.1. Scope. -- This legislative rule establishes procedures by which the Department of Health and Human Resources, Child Support Enforcement Division (CSED), shall terminate a support order when the parental rights are terminated or the child(ren) in the case are legally adopted.

1.2. Authority. -- W. Va. Code §48A-2-9(a), W. Va. Code §48-4 et seq.; W. Va. Code §49-3-1, W. Va. Code §48A-5-3, W. Va. Code §48-2-15(b), 42 U.S.C. 651.

1.3. Filing Date. --

1.4. Effective Date. --

§97-12-2. Definitions.

2.1. 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.

2.2. 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.

2.3. 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.

2.4. Effective Date - the date an obligation starts for enforcement purposes.

2.5. 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.

2.6. 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.

§97-12-3. Terminating a Support Order When the Child(ren) in the Case is/are Adopted.

3.1. Title IV-D of the Social Security Act, and Chapter 48A of the West Virginia Code authorizes the Child Support Enforcement Division to collect support on behalf of recipients of services.

3.2. Upon entry of an adoption order, the biological parents' rights and responsibilities, including the duty to support the child(ren), are terminated. W. Va. Code §49-3-1.

3.3. When the adoption order does not expressly state the ending date of the child support obligation, the child support obligation will end on the date the order is entered. The child support obligation may be prorated for the last month the obligation is due.

3.4. If the entry date of the adoption order cannot be determined, the child support

obligation will end on the date the Judge signed the adoption order. The child support obligation may be prorated for the last month the obligation is due.

3.5. When the court enters an adoption order with a specific effective date, the child support obligation shall end on that date and shall be prorated.

§97-12-4. Arrearages.

4.1. After the child or child(ren) is/are adopted, the income withholding notice shall be terminated unless arrearages are owed.

4.2. If arrearages are owed, the income withholding notice shall be modified to collect the arrearages.

§97-12-5. Ending a Support Obligation when Parental Rights are Terminated.

5.1. A court order terminating parental rights is treated by the CSED in the exact same manner as an adoption order.



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

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 12 1 28 PM '97

FILED

RE: Legislative Rule § 97-12

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
Secretary

Attachments