

Parent's Guide to Child Support



*Bureau for Child Support Enforcement
350 Capitol Street, Room 147
Charleston, WV 25301-3703*

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IMPORTANT INFORMATION FOR YOUR RECORDS

Fill in the blanks below in pencil and keep the information up-to-date for the life of your case with the Bureau for Child Support Enforcement.

Your BCSE Case #: _____

Your BCSE Personal Identification Number (PIN): _____

(Telephone Information System)

The Other Parent's Information:

Address: _____

Social Security Number: _____

Place of Birth: _____

Employer: _____

Parents' Names: _____

Dates of Birth: _____

Notes:

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NOTICE: Laws governing child support and paternity may be changed by the Legislature or may be interpreted in different ways by the Court. This booklet provides the most current information available and can help you to identify issues that may exist in your case. It is not possible to predict all of the events in any individual case, so the information here should be viewed as general information.

THIS BOOKLET IS NOT INTENDED TO BE LEGAL ADVICE. YOU SHOULD NOT RELY SOLELY UPON THIS BOOKLET IN MAKING DECISIONS WHICH WILL AFFECT YOUR LEGAL RIGHTS. THE BUREAU FOR CHILD SUPPORT ENFORCEMENT DOES NOT REPRESENT YOU OR THE OTHER PARTY(IES) IN YOUR CASE. YOU MAY CONTACT YOUR OWN ATTORNEY OR OTHER SOURCES OF INFORMATION IN MAKING DECISIONS REGARDING YOUR OWN CASE. YOU MAY EXAMINE STATE AND FEDERAL LAWS AND LEGISLATIVE RULES AND OTHER SOURCES OF LEGAL INFORMATION GOVERNING CHILD SUPPORT AND PATERNITY.

DO YOU HAVE ALL THE FACTS ABOUT CHILD SUPPORT?

- **Where is the Bureau for Child Support Enforcement (BCSE) located and how can it be contacted?**
See Pages 25 through 30 of this handbook for local office listings.
- **How can you get current information about your case 24 hours a day, seven days a week?**
See Pages 5 & 6.
- **What is the easiest way to solve a problem with the BCSE?**
See Page 6.
- **Who is responsible for deciding custody and visitation?**
See Page 9.
- **What should you bring to a paternity hearing?**
See Page 12.
- **How is your child support calculated?**
See Page 13.
- **How do you make child support payments?**
See Pages 13 & 14.
- **How will you receive your child support payments?**
See Page 21.
- **How long do you have to pay child support?**
See Page 14.
- **Does extra money you give the other parent count toward child support?**
See Page 15.
- **What if you lose your job?**
See Page 15.
- **What should you do if you think there is a mistake in your child support case?**
See Pages 18 & 19.
- **What will happen if you do not pay child support as ordered?**
See Pages 19 & 20.

WHY YOU NEED THIS HANDBOOK

You are reading this handbook because a marriage in which you had children ended, you are separated, or you had a child out-of-wedlock. Even if you are not a spouse nor have ever been one, **if you have a child, you will always be a parent.** Children have a legal right to financial support from both parents. They do not lose this right if their parents divorce, separate, or were never married.

The child support system protects a child's right to financial support from both parents. Several groups with different duties make up this system: Federal and State government, courts, law enforcement agencies, child support enforcement agencies, employers, hospitals, and **YOU.**

It is the duty of the West Virginia Bureau for Child Support Enforcement (BCSE) to make sure that child support orders are obeyed. The BCSE's job is to ensure that children receive all the financial support to which they are entitled.

As an obligor, you play a big role in the child support system. This handbook is your guide to becoming an active and informed parent. It explains BCSE services, steps that must be followed in working your case, and what you can do to correct problems when they do arise.

Regular financial support is important to children. One of the BCSE's goals is to work with you. It is much easier for everyone if you pay your support as ordered and tell the BCSE when you change jobs and your address.

Please read this handbook and keep it with your important papers. Call or write your local BCSE office for information about your case. These offices and telephone numbers are listed at the end of this booklet.



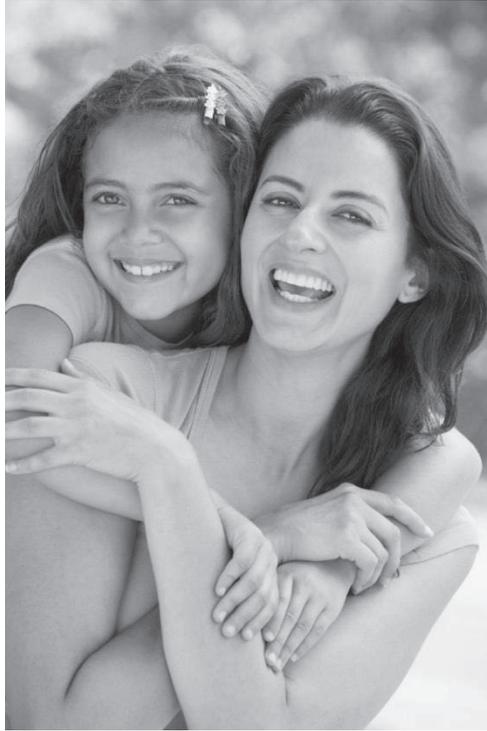
DEFINITIONS OF CHILD SUPPORT TERMS

Administrative (Fair) Hearing	A formal meeting at the local DHHR office to determine if the BCSE has applied proper procedures in dealing with a case. A special hearing officer will make the decision.
Administrative Modification of Child Support	Any party seeking modification of a child support order due to a substantial change in circumstances may request the help of the BCSE. The BCSE will assess, prepare, and present an appropriate Petition for Modification and Proposed Order to the Family Court if the case qualifies for a modification.
Affidavit	A written statement of facts which is sworn to be the truth. The statement may be prepared in advance, but you must sign it in front of a notary public. The notary will also sign to show that you swore that the statement was true and that the notary witnessed your signature.
Arrearage	Unpaid child support, including interest, for past payment periods owed by a parent who is obligated to pay.
Caretaker	Person with legal custody and with whom the child lives. This may be a parent, other relative, or someone else. See Custodial Parent and Oblige.
Child Support Guidelines	A standard method for setting the amount of child support obligation based on the income of both parents and other factors as determined by State law.
Criminal Non-Support	Non-custodial parents who willfully refuse to pay court-ordered child support can be charged with a felony and prosecuted. The case must meet established criteria, and the decision to prosecute is made by the County Prosecutor or the U.S. Attorney.
Custodial Parent	Person with legal custody and with whom the child lives. This may be a parent, other relative, or someone else. See Caretaker and Oblige.
Custody	Legal decision by a court that establishes with whom the child will live (allocation of parental rights and responsibilities); the decision is put in writing in a court order.
Default Judgment	Judgment rendered when a party to a legal action fails to appear in court after proper notification of a scheduled proceeding.
Delinquent Support	See arrearage .
Emancipation	Independent status granted a child who is no longer a minor, is married, or has otherwise been determined to be independent of his or her parents.
Enforcement	Efforts taken to see that court ordered support is paid.

Financial Institution Withholding	Procedure a non-custodial parent can use to have child support payments deducted directly from his/her bank account, This is often used in cases where the non-custodial parent is self-employed.
Genetic Testing	Analysis of blood, tissue, or DNA of the mother, child, and alleged father to determine a child's biological father.
Income Withholding	Legal procedure by which an employer or other source of income automatically deducts support payments from the obligor's income.
Interest	Additional charge you must pay on court ordered child support which has not been paid when due.
Jurisdiction	Legal authority a court has over particular persons or certain types of cases in a defined geographical area.
Legal Father	Man recognized by law as a child's male parent.
Lien	Legal claim placed upon property to prevent sale or transfer until a debt is satisfied.
Medical Support	Money paid in accordance with a court order to provide medical insurance for a child or as payment(s) toward the child's unpaid medical bills.
Modification Review	A review conducted by BCSE to determine whether a change in the amount of child support is warranted.
Non-Custodial Parent	Parent who does not have primary custody of a child but who is responsible for a share of the financial support. See Obligor.
Obligee	Parent receiving child support payments. See Caretaker and Custodial Parent.
Obligor	Parent obligated to pay child support. See Non-Custodial Parent.
Paternity Establishment	Process to determine a child's legal father.
Pro se	An action by a party on his or her own behalf without the assistance of a licensed attorney; it may involve filing papers with the court or appearing at a hearing.
Support Order	An order for a parent to pay a specific amount of money on a specific schedule to the BCSE in support of minor child(ren).
TANF (Temporary Assistance to Needy Families)	Public assistance payments for children deprived of the financial support of one (or both) parent(s) due to death, disability, or continued absence from the home. (Previously called Aid to Families with Dependent Children - AFDC)

UIFSA (Uniform Interstate Family Support Act)

A Federal law that provides a mechanism for establishing, enforcing, and modifying support orders, in addition to establishing paternity, when parents live in different states or countries.



QUESTIONS AND ANSWERS

Information About The Bureau for Child Support Enforcement (BCSE)

Question: *What services are available through the BCSE?*

Answer:

- Establishment of paternity in cases of out-of-wedlock birth;
- Establishment of child support and medical support orders;
- Collection and distribution of child support;
- Enforcement of child support orders;
- Location of the obligors and their assets;
- Review and modification of child support orders;
- Collection and distribution of alimony.

Please call your local office to discuss the services available.

Question: *What services are NOT available through the BCSE?*

Answer:

- Enforcement of custody or visitation.
- Retrieval of papers for your case such as birth certificates, divorce decrees, tax returns, or other documents. **(THIS IS YOUR RESPONSIBILITY.)**
- Abuse or neglect issues. (These are handled by DHHR's Child Protective Services.)

Question: *Who can apply for BCSE services?*

Answer: Either parent or the person with whom the child is living.

Question: *Whom do I contact if I have a question about my case?*

Answer:

- **Write or call your local BCSE office.** Be sure to put your name, address, and case number on any letters or notes. Have your case number ready if you decide to call instead of writing.

- **You may also call the central BCSE Customer Service Unit's** toll-free number, 1-800-249-3778 or 304-558-4665 in Kanawha County. This will connect you with the BCSE's 24-hour Automated Telephone Information System. This system gives you general information about child support services and lets you get specific payment information about your case. To get your payment information, you must use your Personal Identification Number (PIN) number. If you do not have a PIN number or if you have lost it, you may request one by contacting the Customer Service Unit Hotline at the numbers listed above Monday through Friday between 8:30 a.m. and 5:00 p.m.

Question: *What should I do if I am having a problem with the BCSE?*

Answer: **Please try to resolve the issue with your local BCSE office** first by writing or talking to the Supervisor or Regional Administrative Manager. If this does not resolve your problem, call the BCSE Customer Service Unit at 1-800-249-3778 (304-558-4665 in Kanawha County) or to the Customer Service Unit at 350 Capitol Street, Room 147, Charleston, WV 25301-3703.

Question: **Can I send my change of address in with my child support payment:**

Answer: **No.** You need to call or write your local BCSE Office, or contact the Customer Service Unit Hotline at 1-800-249-3778 (558-4665 in Kanawha County) or write to the Customer Service Unit, 350 Capitol Street, Room 147, Charleston, West Virginia 25301-3703. You may also email the Customer Service Unit at DHHR-BCSEcsu@wv.gov.

Please include your case Identification number and the obligee's name.

Question: *Is my case information confidential?*

Answer: **Yes.** We cannot release your information to the other parent or to anyone else without a signed release from you. Your local BCSE office has forms for this purpose. If you submit a signed form to release information, you must specifically name the person or organization to whom BCSE may release the information. The Release of Information Authorization Form remains valid. Information may also be requested through the court. The court will decide whether the requested information should be released or withheld. In cases involving domestic violence, additional confidentiality laws will apply. Confidentiality laws protect your right to privacy.

Question: *If I do not know the location of my child or the obligee of my child refuses to let me know the location of my child, will the BCSE let me have the address?*

Answer: **No.** The BCSE cannot release this information unless the person who has the child gives written permission allowing his/her address to be released to you, your attorney, or any person you designate. However, the court can order the BCSE to release this information or to keep it confidential. Again, in cases involving domestic violence additional confidentiality laws apply.

YOUR RIGHTS AND RESPONSIBILITIES

Question: *As the obligor, what are my rights?*

Answer:

- The right to be notified of any formal action being taken against you;
- The right to privacy of all information about your case, unless you agree in writing to allow the BCSE to release information to a specific person or unless a court orders the release of information;
- The right to a review of your child support order for a possible change in the child support amount;
- The right to request a child support payment history;
- The right to fair, impartial, and courteous treatment;
- The right to request an administrative fair hearing.

Fair Hearings: *If you are receiving services from the BCSE and are not satisfied with the way your case is being handled, you have the right to request a fair hearing. An administrative fair hearing is a proceeding held by the WV Department of Health and Human Resources to appeal actions taken or not taken in your case. This proceeding allows you to ask for an impartial review of the way the BCSE has handled your case. To request a Fair Hearing, contact your county office of the WV Department of Health and Human Resources or the Bureau for Child Support Enforcement.*

Question: *As the obligor, what are my duties?*

Answer:

- To pay your child support regularly as ordered by the court;
- To maintain health insurance for your child if ordered by the court;
- To maintain a current address and telephone number with the BCSE. (The BCSE cannot notify you of actions on your case unless it has your current address.);

- To inform the BCSE when you change employers and give your employer's name and complete address.

It is in your best interest to notify the BCSE of changes such as these:

- Your child reaches 18 years of age;
- Your child is adopted;
- Your child graduates from (or no longer attends) high school;
- Your child marries before reaching 18 years of age;
- Your child no longer lives with the other parent;
- Your child is incarcerated;
- Your child moves in with you;
- Your child dies;
- You and the other parent begin or resume living together;
- The other parent is incarcerated;
- The other parent dies;
- The child moves in with someone other than his/her biological or adoptive parents.

The BCSE uses a computer system to track child support. Without information from you and the obligee, the BCSE and the courts have no way of knowing that support should be changed or stopped in your case.

Question: *If I go to court and my support is lowered but it takes several months for the court order to be entered, will the BCSE refund the overpayment to me?*

Answer: **If the money was owed to the State, it will be sent back to you.** If the BCSE still has the money in its possession, it will be refunded to you. However, if the money was owed to the person who had the child and it was already sent to him/her, you will have to get the money back yourself. To keep this from happening, you can ask the court for a temporary order. This order would immediately change the amount of the money you owe. The BCSE could then tell your employer to reduce the amount of money being sent to the BCSE. This would keep you from paying too much money.

Question: *Do I have to have an attorney to get my court order changed?*

Answer: **No.** You have the right to file a motion with the court and to represent yourself. This is known as a *pro se* motion. Before filing, check your local court's policies and procedures regarding *pro se* motions. You may hire an attorney to represent you. You may also ask the BCSE to review your case to determine if it qualifies for an administrative modification.

Question: *If my order has already been entered, can I take/mail a copy to the BCSE?*

Answer: **Yes.** (Note: Always be sure to keep copies of any documents sent to the BCSE.)

THE WEST VIRGINIA COURT SYSTEM

Family Court Judges

In West Virginia, the court system decides what is in the best interest of the child and applies the laws regarding child support. Family Court Judges are located throughout West Virginia and are elected to eight-year terms. Family Court Judges hear the following types of domestic cases:

- Divorce proceedings;
- Actions to establish child support, including medical support;
- Actions to establish paternity;
- Motions for child support, spousal support, child custody, and visitation;
- Motions to modify an order for child custody or visitation, child support, spousal support, or support for children over the age of 18;
- Objections to income withholding;
- Actions to establish and enforce interstate support;
- Actions to enforce support, custody, or visitation orders;
- Civil contempt actions.
- Domestic violence actions.

The BCSE or a private attorney may file a petition seeking an order to establish or collect child support. A Family Court Judge will conduct a hearing in the case and will send a copy of the order to each parent. The order will inform the parties how to file an appeal if they object to the Family Court Judge's ruling.

PATERNITY ESTABLISHMENT

Question: *What is paternity?*

Answer: **Paternity means legal fatherhood.** It means a man has been determined to be the legal father of a child.

Question: *How can paternity be legally established?*

Answer: **Paternity can be established for a child in one of three ways:**

- **Marriage** - If the couple is legally married when the wife becomes pregnant or if they are married at the time that the child is born, the husband's name will be placed on the birth certificate as the legal father unless a court rules otherwise.
- **By a Voluntary Acknowledgment of Paternity** - A Declaration of Paternity Affidavit is a notarized form signed by both a man and a woman, stating the man is the father of the child. Signing the Declaration of Paternity Affidavit legally establishes a man as the father of the child for all purposes. If the mother was married to another man at the time the child was conceived or born, this method of establishing paternity can only be used if the mother, her husband, and the alleged father sign the Declaration of Paternity Affidavit acknowledging that the husband is not the biological father and that the alleged father is the true biological father of the child. Furthermore, paternity can only be established in this way when the husband's name does not appear on the child's birth certificate and all three parties have signed the Declaration of Paternity Affidavit within one year of the child's birth. Otherwise, in such instances only a court can establish another man as the legal father of the child.
- **By Court Order** - The court will decide if the alleged father is the legal father. If the alleged father denies paternity, the court will usually order genetic testing.

Question: *What if one parent does not want to sign the voluntary Declaration of Paternity Affidavit?*

Answer: If one of the parents does not want to sign the Declaration of Paternity Affidavit, paternity will have to be established by court order. Either the mother or the father can petition the court to legally establish paternity. The

BCSE can assist with the establishment of paternity based on a request by the mother, the father, or anyone else who is a legal custodian of the child.

Question: ***If a West Virginia Declaration of Paternity Affidavit is signed, can paternity later be contested or disputed?***

Answer: **Within sixty (60) days** after a Declaration of Paternity Affidavit is signed, either the mother or the father can file a written Complaint asking the court to set aside the Affidavit. However, if a hearing is scheduled in a case where paternity is an issue, the parties have sixty (60) days or until the date of the hearing, whichever comes first, to ask the court to set aside the Affidavit. At any later time, the court can only set aside the Affidavit for reasons such as fraud, duress, or material mistake of fact. In instances when the accuracy of the Affidavit is questioned, a court may order genetic testing or accept other evidence to determine whether the man whose name is on the Affidavit is the child's father.

Question: ***Can a mother in another state allege that I am the father of a child?***

Answer: **Yes.** States have cooperative agreements which allow the mother to establish paternity even if the man that is identified as the father lives in a different state.

Question: ***Does signing a Declaration of Paternity Affidavit give the father visitation rights or custody of the child?***

Answer: **No.** The signing of a Declaration of Paternity Affidavit does not determine custody or visitation, nor does it establish a child support payment. However, signing the Affidavit does provide a basis to establish both custody and support through a later court proceeding.

Question: ***Will completing the Affidavit give the child the father's last name?***

Answer: The Declaration of Paternity Affidavit allows the child's last name to be changed when the birth certificate is filed only if both the mother and father agree to change the child's last name.

Question: ***What if I do not understand the Declaration of Paternity Affidavit?***

Answer: If there is any part of the Declaration of Paternity Affidavit that you do not understand, including your rights and responsibilities, please ask for help. You may write, telephone, or visit the West Virginia Bureau for Child Support Enforcement Office nearest you. The BCSE is not your attorney and does not represent you; therefore, you may prefer to seek legal advice from an

attorney. You may call the West Virginia State Bar at (304) 558-2456 to be referred to a lawyer in your area.

Question: ***You have been served with a Paternity Complaint, and you have filed your Answer with the court. What should you do when you receive a Notice of Hearing?***

Answer: **You should attend the hearing.** The Notice of Hearing tells you when and where the paternity hearing will be held. Attendance is required even if you do not believe you are the father. If you have denied paternity, you may request genetic testing in your written Answer to the court or at the time of your hearing. If you admit you are the father of the child or children, you should bring the information listed below to the hearing:

- Federal Income Tax Returns for the past two years including all schedules. If you are self-employed, you must also bring all supporting documentation for your tax returns;
- W-2 Forms for the past two years;
- The last three pay-check stubs from your job;
- Your parent or guardian if you are under 18 years of age.

You are not required to hire a private attorney, but you may do so if you wish. You will be responsible for paying your private attorney.

Question: ***What if I do not show up for the hearing?***

Answer: If you fail to appear after being legally notified, the court can enter a default judgment. This could establish you as the legal father even if you are not the child's biological father.

Question: ***What if there are doubts about who the father is?***

Answer: **The Declaration of Paternity Affidavit should not be completed and signed** unless both parties who sign it believe the man is the biological father of the child. If there is any doubt, genetic tests should be requested.

Question: ***What is genetic testing?***

Answer: Genetic testing happens when the mother, child, and the alleged father have cells from inside their cheeks collected on swabs and sent to a lab for testing. The test compares the genetic markers (DNA) of the child, mother, and alleged father to determine whether the man is the biological father. These tests are very accurate. They can determine with a high degree of certainty whether the alleged father is the child's biological father.

Question: *Who pays for the genetic tests?*

Answer: The BCSE pays for the testing. If you are found to be the child's father, you may be required to reimburse the BCSE for the genetic tests. The court will determine which party will pay for genetic testing.

PAYING CHILD SUPPORT

Important Basic Information

Question: *Who determines the amount of support I am ordered to pay?*

Answer: The Court.

Question: *How is the amount of child support calculated?*

Answer: Using a formula, established by law, the Court calculates the amount based on information about your income, the other parent's income, certain expenses, and the number of dependents. You will receive a copy of the formula with support calculations after the hearing. The formula can be found in the West Virginia Code, Sections 48-13-301 through 48-13-603.

Question: *Am I responsible for my child's medical expenses?*

Answer: The Court will determine the ability of each parent to provide medical care. If you have medical insurance available at a reasonable cost, the Court may order you to place the child on your insurance. The Court may also order you to pay a percentage of the cost for medical services not covered by the insurance.

Question: *How do I pay my child support?*

Answer: You can make your child support payments in one of three ways:

1. If you have an employer, the BCSE will issue an income withholding notice to your employer. Your employer will deduct support directly from your income and send it to the BCSE.
2. The BCSE can issue a withholding to a variety of other sources of income such as Workers' Compensation, Unemployment Compensation, pensions or annuities, and to Social Security for certain benefits.

3. If the court orders the BCSE not to issue an income withholding, you must pay by mail or in person directly to the BCSE. The BCSE will accept money orders and personal checks through the mail. When paying by mail, please be sure to include on the check or money order your case identification number, and the obligee's name. All payments made by mail are to be addressed to:

Bureau for Child Support Enforcement
Post Office Box 247
Charleston, West Virginia 25321

You may also access [Make a Support Payment](http://www.wvdhhr.org/bcse) at www.wvdhhr.org/bcse, to pay by credit card or e-check.

Question: *What is an arrearage?*

Answer: An arrearage is the amount of support which is not paid. Interest accumulates each month on outstanding amount of unpaid support.

Question: *How long do I have to pay child support?*

Answer: In many cases, child support ends when your child reaches age 18, but it can continue past the age of 18 under the following circumstances:

- The court may continue support if the child is still attending high school on his or her 18th birthday, particularly if the child shows substantial progress toward graduation;
- If the child is disabled and still dependent, regardless of age, the court may continue child support until the child is able to fully support himself or herself;
- If your order was entered in another state, there may be different laws for determining the age when child support ends.

Question: *If neither of the circumstances described above exist (to extend child support), will the income withholding stop on my child's 18th birthday?*

Answer: If you do not have any other children under the age of 18 and no arrearages are due, the BCSE will stop the income withholding. You should contact the BCSE to ensure that this takes place. If an arrearage remains unpaid, the BCSE will continue to collect support until it has been paid in full.

Question: *What if I do things for my kids over and above what the court ordered?*

Answer: Child support is basic financial support. You may provide as much additional support as you wish for your children. Anything you give directly to the other parent may not count as child support. You must still make your regular payments to the BCSE for the full amount of child support as ordered. You cannot deduct money or the value of gifts you give the other parent or your children from your child support payment.

Question: *Can my current spouse call the BCSE regarding my case?*

Answer: **Yes, but your case information is confidential.** The BCSE can only release information to your current wife or husband if you have signed a release. Your local BCSE office has forms for this purpose.

Question: *The other parent is bothering me or my employer. What can I do?*

Answer: **The BCSE has no authority in this matter.** Talk to your own attorney or to the police.

EVENTS OR CIRCUMSTANCES THAT MAY AFFECT CHILD SUPPORT

Question: *What if I lose my job or make less money than when support was ordered?*

Answer: **You have the right to ask the BCSE to review your case** for possible modification if a big change in your income has occurred. You may also file a *pro se* motion for modification directly with the court or contact a private attorney to file a modification for you. The court will apply the child support formula to determine whether an increase or decrease is needed. The formula is located in the West Virginia Code, Sections 48-13-301 through 48-13-603.

Question: *If I am unemployed, do I still have to pay support?*

Answer: **Yes.** Child support can be taken from your Unemployment Compensation. You do have the right to ask for a review of your order if you became unemployed after the court set the amount of your support. Only the court can change the amount of support.

Question: *I was injured on the job. Do I still have to pay support?*

Answer: **Yes.** If you are under a court order, you must pay the court-ordered amount of support. If you are receiving Workers' Compensation or Unemployment Compensation, your support can be taken from that income. You may ask the BCSE to review your case if this has caused a significant change in your income. You may also file a modification on your own or hire a private attorney to file one for you.

Question: *What if I change jobs?*

Answer: **The law requires that you inform the BCSE of your new employer's name and address immediately.** The BCSE will issue a new income withholding notice. You will be responsible for making support payments directly to the BCSE until your new employer begins withholding support from your wages. See pages 13 and 14 for information on making direct payments.

Question: *If I marry someone else, will it affect my child support payments?*

Answer: **No.**

Question: *If the other parent marries someone else, will that affect my child support?*

Answer: **No.** Not unless you agree that the new spouse may adopt your child and an adoption takes place. If your child is adopted, this will end your current child support obligation but will not eliminate any arrears that accumulated up to the date of the adoption.

Question: *If my children stay with me part of the time, do I still have to pay support?*

Answer: **Yes.** If you are under a court order, you must pay the court-ordered amount of support. The child support formula takes this situation into account. Custody and child support are separate issues.

Question: *If the child no longer lives with the custodial parent, do I still have to pay the court ordered child support?*

Answer: **Yes.** If you do not pay the support, you will be violating the court order. If you want to have the child support paid to a different person who has custody of the child, contact the BCSE immediately. The only way to have the amount of the child support payment changed or stopped is to have the order changed. In the meantime, you must continue to make the child support payments.

Question: *If the child comes to live with me and I am paying child support, how can I have the child support money sent to me so I can use it for the child?*

Answer: First, if you want to have the money from the support payments redirected because the child is (and will be) living with you, you must take the following steps:

1. File a Petition for modification of legal custody. This is a request to have the court enter an order changing the legal custody of the child. You would be asking the court to make you the legal custodian. You can do this on your own (*pro se*), or with the help of a private attorney. You can get a form (*pro se* packet) for doing this in the Circuit Clerk's office.
2. Contact the BCSE. You will need to fill out an affidavit stating that you have and will continue to have the child living with you, including a description of how the child came to live with you instead of the custodial parent; AND you will need to provide proof that you have filed a Petition for modification of legal custody in Family Court.
3. The BCSE will then take steps to redirect payments to you, the non-custodial parent with whom the child is living.

Question: *What if I move to another state?*

Answer: **Inform your local BCSE office** as soon as you know you are moving. Provide your new address and telephone number along with your new employer's name and address.

Question: *What if the other parent and my children move to another state?*

Answer: **You must still continue to pay child support.** The money will be forwarded to them.

Question: *What if I am in jail? Do I still have to pay support?*

Answer: **Yes.** Your obligation to pay child support does not stop until the order is modified by a court. Until the order is changed, support will continue to accrue. An incarcerated parent should consider asking the Family Court to modify the child support order. Your local BCSE office may be able to assist in this filing. You may also request a packet of administrative modification forms and instructions from the case manager or counselor at your facility.

Question: *The other parent is receiving public assistance. Does this affect my support?*

Answer: No. It will not affect your duty to pay support.

Question: *Does the other parent have to let me see my child if I am paying support?*

Answer: **Visitation and child support are separate issues.** If you wish to establish visitation or if the other parent is not allowing you court-ordered visitation, you will need to file a motion with the court. **Do not stop paying your support.** This will only hurt your children and add to your debt. You must go through the court to establish or enforce visitation.

MISTAKES IN YOUR CASE

Question: *How do I make sure that all my support payments have been credited to my account by the BCSE?*

Answer: **You can ask for a payment history of your account.** It shows a record of your payments. To ask for a payment history, write to your local BCSE office. You must include your full name, address, employer, and case number. Please allow at least two weeks for processing. Addresses for local BCSE offices can be found on pages 27 through 32 of this Handbook.

Question: *If I believe there is a mistake in the payment history in my case with the BCSE, what can I do?*

Answer: **Call and schedule an appointment with your local BCSE office** to review your case. You must bring proof to support your claim such as receipts for support, a statement from the other parent that support was paid, adoption records, a death certificate, or any **certified** document you feel supports your claim. Most mistakes can be corrected in this manner. If the mistake cannot be corrected to your satisfaction by the BCSE, you may file an action with the court to seek correction.

Question: *If I believe there is a mistake in my case and I am scheduled for a hearing, do I have to pay support in the meantime?*

Answer: **Yes.** You must pay support until your issue is resolved by the court.

CONSEQUENCES OF FAILING TO PAY CHILD SUPPORT AS ORDERED

Question: *What happens if I miss a payment?*

Answer: The amount of your child support will become an arrearage and will be subject to interest.

Question: *Will the BCSE accept a partial payment?*

Answer: **Yes**, but the portion you do not pay will become an arrearage which is a child support debt you will eventually have to pay. The arrearage is subject to an interest charge. Making partial child support payments as a regular practice is not in your children's best interest—or yours, but it is much better than making no payment at all.

Question: *What will happen if I just do not pay?*

Answer: **Failure to provide financial support harms your children** and builds up a debt for you that will not go away until you pay it. Additional problems for you may include the following:

- The BCSE may report you to the Credit Bureau;
- The BCSE may ask the Internal Revenue Service (IRS) and State Treasurer to seize your Federal and State income tax refunds;
- The BCSE may file a contempt motion with the court for failure to pay child support, and you may be sent to jail for contempt of the court's order;
- If arrears exceed \$2500, you will be denied a passport for entry into another country;
- You may be subject to suspension or denial of your driver's license in addition to all professional and recreational licenses, which include hunting and fishing licenses, contractor's licenses, and real estate broker's licenses;
- If you have property, the BCSE and the obligee may jointly place a lien on your real and personal property and have your assets attached so that you cannot sell the property without paying the child support;
- If you willfully avoid paying court-ordered child support, **you may be prosecuted for criminal non-support**. If convicted, you may be ordered to pay a fine, or sentenced to prison, or both. You will still owe child support plus interest, in addition to any fines, following your release.

Question: *If I owe back child support, can the BCSE take my tax refund?*

Answer: **Yes.** Under tax offset laws, if you owe more than \$500.00 in unpaid child support on behalf of a child not receiving cash assistance from the State or more than \$150.00 on behalf of a child who has received cash assistance, your Federal tax refund can be taken. If you owe more than \$100.00 in unpaid child support, your State tax refund can be taken. If the BCSE has identified you for tax offset, you will receive a notification letter. When you file your taxes, the IRS and/or State Treasurer will take your refunds unless you pay the back child support.

Question: *I have not paid support in the past, but I want to now. What should I do?*

Answer: **Begin making support payments.** Contact your local BCSE office to update your case and arrange to pay on the unpaid child support. You may send payments directly to:

Bureau for Child Support Enforcement
Post Office Box 247
Charleston, West Virginia 25321

Be sure to include name and your case identification number on the check.

RECEIVING CHILD SUPPORT

Question: *How will I receive my child support payments?*

Answer: You will receive your child support payments in one of two ways:

- **DIRECT DEPOSIT**--Your support payments can be deposited directly into your bank account. You will get your money faster because mailing is eliminated, and you will save time by not having to make a trip to the bank. Most importantly, your child support cannot be lost or stolen. You must contact the BCSE and fill out a form to authorize direct deposit services.
- **DEBIT CARD**--If you are not enrolled in direct deposit, you will receive your child support on a Debit Card. There are many advantages to receiving a Debit Card. You can use the Debit Card for purchases anywhere and you can withdraw cash at ATM machines. You also avoid the risks of carrying large amounts of cash or of having your child support being lost or stolen in the mail.

- You may receive automatic notification of payments deposited to your account by signing up for Support Payment Information at www.wvdhhr.org/BCSE.

THE AMNESTY PROGRAM

The Amnesty Program was created by the West Virginia Legislature to help obligors who have accumulated large child support arrearages to pay these debts. If both parties agree, all the interest or a portion of the interest can be forgiven. In exchange for erasing the interest, the obligor must agree to pay off the principal amount owed within a 60-month (5-year) period. The obligor must also continue to pay the current support due, if any, during the payment plan.

Where to Start?

1. The obligor and obligee must reach a voluntary agreement as to what percentage of interest is to be waived.
2. Contact your local office and schedule a meeting with your case worker. Your case worker will have an updated arrearage calculation and a sample agreement for you at the time of the meeting.
3. Draft and sign a payment plan which includes the agreed upon amount being waived and the payment plan for the remaining arrearage.
4. Petition the court. The court must approve the plan before it can become effective.

Please note that it may be possible to waive the interest owed to the State under the Amnesty Program. Please check with your local BCSE office to see if the rules regarding waiving interest owed to the State apply to your case.

If you need more information about any topic in this handbook, contact your BCSE Local Office.

TIPS TO HELP THE BCSE HELP YOU

To help the BCSE with your case, remember the following:

1. Keep appointments with the BCSE or take the time to cancel and reschedule the appointment.
2. Come to the BCSE office prepared. Bring with you any court orders, birth certificates, income or tax records, documents to establish the ownership of property, payment records, and any other documents which show the whereabouts, income, and assets of either parent.
3. Attend all scheduled hearings to protect your own interest.
4. Notify the BCSE, in writing, of changes in:
 - a. Address and telephone numbers;
 - b. Pay or income;
 - c. How or where you get your money or income;
 - d. Custody arrangements (when your child is no longer living in your home); and
 - e. Your child support order.
5. If there is an order for support, follow the written order exactly. Do not make other arrangements with the other parent without getting the court order changed. Agreements outside of court are not considered valid without the court's approval.
6. Remember, gifts to a child from the obligor cannot be counted as support payments.
7. If the BCSE is helping your family, any payment sent directly from the obligor to the obligee should be forwarded to the BCSE for proper processing.
8. Keep good, complete records of all payments made or received.
9. If you are unable to pay your full child support obligation, the BCSE will accept a partial payment. In this way, your child(ren) will receive at least some of the support to which it is entitled.
10. Always provide accurate, up-to-date information to the BCSE about your case.

TELEPHONE NUMBERS AND GENERAL INFORMATION

Location/Mailing Address: BCSE Customer Service Unit
350 Capitol Street, Room 147
Charleston, West Virginia 25301-3703
Toll-free Number: 1-800-249-3778
Charleston Area: 304-558-4665

Website: www.wvdhhr.org/bcse

Main Telephone Number: BCSE State Office
Telephone: (304) 558-3780
Fax: (304) 558-4092

Office Hours: Monday through Friday, 8:30 a.m. - 5:00 p.m.

Appointments: Call the BCSE local office (refer to last section of the Handbook) to make an appointment. If you do not know which local office is handling your case, please call the Customer Service Unit Hotline at 1-800-249-3778 (304-558-4665 in Kanawha County).

County	Address	Telephone #	Fax #
Barbour	271 Mattaliano Dr Philippi, WV 26416 (Covered by Marion County)	(304) 367-2771 (Tuesdays and Thursdays Only)	(304) 367-2785
Berkeley	P. O. Box 1247 1700 Mid-Atlantic Center Martinsburg, WV 25401	(304) 267-0110	(304) 267-0122
Boone	Post Office Box 970 Danville, WV 25053 Physical Address: 156 Resource Rd Rt 3 Foster, WV 25081	(304) 369-7817	(304) 369-7816
Braxton	3734 Sutton Lane Sutton, WV 26601	(304) 765-0430	(304) 765-0436
Brooke	(Covered by Hancock County)	(304) 794-3070	(304) 794-4169
Cabell	2699 Park Avenue, Suite 100 Huntington, WV 25704	(304) 528-5818 (304) 528-5819	(304) 528-5512
Calhoun	Post Office Box 280 350 Main Street Grantsville, WV 26147 (Covered by Roane County)	(304) 269-6820 (Tuesdays Only)	(304) 269-0533
Clay	Post Office Box 969 Clay, WV 25043 Physical Address: 131 Main Street Clay, WV 25043 (Covered by Braxton County)	(304) 765-0430 (Tuesdays Only)	(304) 765-0430
Doddridge	115 West Main Street West Union, WV 26456 (Covered by Harrison County)	(304) 627-2295 (Mondays Only Until Noon)	(304) 627-2172
Fayette	1400 Virginia Street Oak Hill, WV 25901	(304) 465-9613	(304) 465-0392
Gilmer	1493 WV Hwy 5 East Glennville, WV 26351 (Covered by Lewis County)	(304) 269-6820 (Thursdays Only)	(304) 269-0533

County	Address	Telephone #	Fax #
Grant	15 Grant Street, Suite 1 Petersburg, WV 26847 (Covered by Pendleton County)	(304) 538-2391 (Thursdays Only)	(304) 538-2470
Greenbrier	150 Maplewood Avenue Lewisburg, WV 24901	(304) 647-7476	(304) 647-7424
Hampshire	PO Box 1736 24954 Northwestern Pike Romney, WV 26757	(304) 822-6900	(304) 822-7578
Hancock	100 Municipal Plaza Suite 600 Weirton, WV 26062	(304) 794-3070	(304) 794-4169
Hardy	149 Robert C Byrd Industrial Park Rd Moorefield, WV 26836	(304) 538-2391	(304) 530-5361
Harrison	Post Office Box 1877 Clarksburg, WV 26302 Physical Address: 633 West Pike Street Clarksburg, WV 26301	(304) 627-2295	(304) 627-2172
Jackson	4285 Cedar Lakes Road Ripley, WV 25271	(304) 373-2560	(304) 372-7928
Jefferson	239 Willow Spring Drive Charles Town, WV 25414	(304) 724-2600	(304) 728-0529
Kanawha	231 Capitol Street Suite 111 Charleston, WV 25301	(304) 347-8688 Toll Free: (800) 571-4864	(304) 720-9666
Lewis	Post Office Box 1268 Weston, WV 26452 Physical Address: 91 Arnold Ave Weston, WV 26452	(304) 269-6820	(304) 269-0533
Lincoln	Post Office Box 468 8209 Court Avenue Hamlin, WV 25523	(304) 824-5811	(304) 824-7811

County	Address	Telephone #	Fax #
Logan	130 Stratton Street Logan, WV 25601	(304) 792-7079	(304) 792-7217
Marion	9349 Middleton Mall Fairmont, WV 26554	(304) 367-2771	(304) 367-2785
Marshall	400 Teletech Drive, Suite 2 Moundsville, WV 26041	(304) 843-4120	(304) 843-4127
Mason	710 Viand Street Pt. Pleasant, WV 25550 (Covered by Jackson County)	(304) 372-2560 (Tuesdays and Thursdays Only)	(304) 372-7928
McDowell	840 Virginia Avenue Welch, WV 24801	(304) 436-8302	(304) 436-2508
Mercer	200 Davis Street Princeton, WV 24740	(304) 425-8738	(304) 425-2097
Mineral	18 N Tornado Way Keyser, WV 26726	(304) 788-4150	(304) 788-5363
Mingo	203 East 3 rd Ave Williamson, WV 25661	(304) 235-4680	(304) 235-4667
Monongalia	118 South High Street Morgantown, WV 26501-3579	(304) 285-3218	(304) 285-3225
Monroe	Post Office Box 678 Union, WV 24983 (Covered by Greenbrier County)	(304) 647-7476 (Thursdays Only)	(304) 647-7424
Morgan	Post Office Box 597 64 Regal Court Berkeley Springs, WV 25411 (Covered by Berkeley County)	(304) 267-0110 (Tuesdays and Thursdays Only)	(304) 267-0122
Nicholas	1073 Arbuckle Road Summersville, WV 26651 (Covered by Braxton County)	(304) 765-0430 (Wednesday, Thursday, and Friday only)	(304) 765-0436

County	Address	Telephone #	Fax #
Ohio	Post Office Box 6165 Wheeling, WV 26003 Physical Address: 69 16 th Street Wheeling, WV 26003	(304) 232-4417	(304) 233-0299
Pendleton	100 Throne Creek Rd Suite 199 Franklin, WV 26807	(304) 358-2305	(304) 358-7163
Pleasants	201 Second Street St. Mary's, WV 26170 (Covered by Wood County)	(304) 420-4980 (Fridays Only)	(304) 420-4639
Pocahontas	2 Edray Business Park Marlinton, WV 24954 (Covered by Greenbrier County)	(304) 647-7476 (Tuesdays Only)	(304) 647-7424
Preston	Post Office Box 100 18351 Veteran's Mem Hwy Kingwood, WV 26537 (Covered by Monongalia County)	(304) 285-3218 (Monday, Tuesday, Thursday and Friday)	(304) 285-3225
Putnam	3405 Winfield Rd Winfield, WV 25213	(304) 586-1520	(304) 586-0300
Raleigh	407 Neville Street Beckley, WV 25801	(304) 256-6973	(304) 256-6762
Randolph	1027 N Randolph St Elkins, WV 26241	(304) 637-5560	(304) 637-0392
Ritchie	220 West Main Street Harrisville, WV 26362 (Covered by Wood County)	(304) 420-4980 (Tuesdays & Thursdays Only)	(304) 420-4639
Roane	677 Ripley Road, Suite 3 Spencer, WV 25276	(304) 927-0956	(304) 927-0970
Summers	221 Temple St Hinton, WV 25961	(304) 466-2807	(304) 466-2814

County	Address	Telephone #	Fax #
Taylor	Post Office Box 29 Grafton, WV 26354 Physical Address: 235 Barrett Street Grafton, WV 26354 (Covered by Marion County)	(304) 367-2771 (Tuesdays and Thursdays Only)	(304) 367-2785
Tucker	9346 Seneca Trail Parsons, WV 26287 (Covered by Randolph County)	(304) 637-5560 (Thursdays Only)	(304) 637-0392
Tyler	1236 N State Rte 2 Middlebourne, WV 26149 (Covered by Wetzel County)	(304) 455-0920 (No BCSE staff at this Office)	(304) 455-0928
Upshur	Rt 3 Box 376a Buckhannon, WV 26201 (Covered by Lewis County)	(304) 269-6820 (Monday, Tuesday, Thursday, and Friday)	(304) 269-0533
Wayne	26542 E Lynn Rd Wayne, WV 25570	(304) 272-6311	(304) 272-5183
Webster	110 N. Main Street Suite 201 Webster Springs, WV 26628 (Covered by Braxton County)	(304) 765-0430 (Tuesday and Thursday Only)	(304) 765-0436
Wetzel	1236 North State Route 2 New Martinsville, WV 26155	(304) 455-0920	(304) 455-0928
Wirt	Post Office Box 310 Court Street Elizabeth, WV 26143 (Covered by Wood County)	(304) 420-4980 (Every other Tuesday)	(304) 420-4639
Wood	Post Office Box 1547 Parkersburg, WV 26102 Physical Address: 400 5 th Street Parkersburg, WV 26102	(304) 420-4980	(304) 420-4987 (304) 420-4639

County	Address	Telephone #	Fax #
Wyoming	HCR 72, Box 300 Pineville, WV 24874	(304) 732-6900	(304) 732-8223



