

# Parent's Guide to Child Support



WEST VIRGINIA  
DEPARTMENT OF  
**HUMAN  
SERVICES**

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

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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.**

# 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)

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## The Other Parent's Information:

Address: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Employer: \_\_\_\_\_

Parents' Names: \_\_\_\_\_

Dates of Birth: \_\_\_\_\_

Notes: \_\_\_\_\_

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## 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 the BCSE Website for local office information: <https://dhhr.wv.gov/bcse/Pages/Find-Local-Office.aspx>*
- **How can you get current information about your case 24 hours a day, seven days a week?**  
*[See Pages 4 Question 4.](#)*
- **What is the easiest way to solve a problem with the BCSE?**  
*[See Page 5 Question 5.](#)*
- **Who is responsible for deciding custody and visitation?**  
*[See Page 8.](#)*
- **What should you bring to a paternity hearing?**  
*[See Pages 10 & 11 Question 9.](#)*
- **How is your child support calculated?**  
*[See Pages 11 & 12 Question 2.](#)*
- \$ **How do you make child support payments?**  
*[See Page 12 Question 4.](#)*
- \$ **How will you receive your child support payments?**  
*[See Pages 17 & 18.](#)*
- \$ **How long do you have to pay child support?**  
*[See Pages 12 & 13 Question 6.](#)*
- \$ **Does extra money you give the other parent count toward child support?**  
*[See Page 13 Question 8.](#)*
- \$ **What if you lose your job?**  
*[See Page 13 Question 1.](#)*
- \$ **What should you do if you think there is a mistake in your child support case?**  
*[See Pages 15 & 16.](#)*
- \$ **What will happen if you do not pay child support as ordered?**  
*[See Pages 16 & 17.](#)*

## WHAT IS THE WEST VIRGINIA BUREAU FOR CHILD SUPPORT ENFORCEMENT?

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**.

The mission of the West Virginia Bureau for Child Support Enforcement (BCSE) is to promote and enhance the social, emotional, and financial bonds between children and their parents. The BCSE fulfills this mission by:

- Establishing and enforcing paternity, child support and medical support orders;
- Educating parents and prospective parents;
- Having accurate case management;
- Facilitating parent responsibility to minimize taxpayer burden; and,
- Performing these activities in a customer - friendly atmosphere.

When we receive an application for the BCSE services, our goals are to:

- ensure that children receive financial support from both parents,
- foster responsible behavior towards their children, and
- emphasize that children need both parents involved in their lives.

Both parents are financially, legally, and emotionally obligated to their child. The BCSE is the State agency that helps the person caring for a child collect child support from the child's parent(s). The BCSE also helps divorced individuals collect spousal support (also called alimony).

When you receive child support services from the State of West Virginia, you have the right to:

**Full and Fair Treatment.** You have the right to receive all the services necessary and appropriate in your case and to pay or receive the correct amount of child support per the child support guidelines. You have the right to receive our services regardless of your sex, color, race, national origin, or any handicap or disability.

**Confidentiality.** You have the right to confidential treatment of all the private information that you give us or that we find in our investigation into your case. This means that the State agencies involved will not tell any outside agency or individual what we know about you or your family unless we must do so in order to collect child

support for your child. Even then, we will tell only what is absolutely necessary in your case.

**Notification.** You have the right to be told about all important actions concerning your case. We will tell you about the progress of your case whenever you ask us. We will also tell you whenever there is going to be a court hearing in your case, and whenever we get an order or determine that we cannot get an order in your case. If you receive TANF, we will continue to provide child support services when your TANF payments stop, unless you ask us to no longer provide services. We will tell you upon request how much money we have collected in your case and how we have distributed it. Finally, we will tell you when we plan to close your case.

**Participation.** You have the right to participate in any court actions involving your case. You have the right to ask for and participate in the review of your support order.

## **Authority for the West Virginia Bureau for Child Support Services (BCSE)**

The BCSE and its role are defined by [West Virginia Code § 48-18-101](#), the BCSE's responsibilities pursuant to State law have been set forth to comply with Federal mandates under [Title IV-D of the Social Security Act](#) established in 1975 with the passage of [Public Law 93-647](#). The [amendments of 1984](#) (P.L. 98-378) strengthened the existing IV-D program by requiring states to use proven enforcement methods and to provide equal services to all families who apply for child support services. The [Family Support Act of 1988](#) (P.L. 100-485) established additional requirements for child support programs in an effort to further strengthen and enhance the existing laws and services to families. [The Personal Responsibility Work Opportunity Reconciliation Act](#) (PRWORA, P.L. 104-193), passed in 1996, revised the procedures available to States to advance the goal of family self-sufficiency. The [2005 Deficit Reduction Act \(DRA, P.L. 109-171\)](#) made significant changes to the child support and TANF programs. Specifically, it increased opportunities for enforcement of cases and changed the distribution of support collections.

## **Limitations on the West Virginia Bureau for Child Support Services' Authority**

The authority of the BCSE is established by State and Federal law. The BCSE is only permitted to perform those duties set forth in State and Federal law. Some services which may seem related to the establishment of paternity, or the establishment and enforcement of child support, are not within the BCSE's authority. The following services may not be provided:

1. Advice or representation on matters of custody and visitation;
2. Representation to any party (other than the State) in a divorce, paternity, child support or custody proceeding. Although the BCSE is directed by statute to pursue the best interest of the child in a paternity action, the BCSE does not

represent the child, but rather the State's interest in the child's well-being. The "State" may be West Virginia, or another State involved in a child support case in accordance with the laws of West Virginia, the other State, and applicable Federal law.

**All programs of the Department of Human Services are administered in accordance with the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, and all other Federal and State Civil Rights Laws.**



## DEFINITIONS OF CHILD SUPPORT TERMS

<b>Administrative (Fair) Hearing</b>	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.
<b>Administrative Modification of Child Support</b>	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.
<b>Affidavit</b>	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.
<b>Arrearage</b>	Unpaid child support, including interest, for past payment periods owed by a parent who is obligated to pay.
<b>Caretaker</b>	Person with legal custody and with whom the child lives. This may be a parent, other relative, or someone else. See Custodial Parent and Obligee.
<b>Child Support Guidelines</b>	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.
<b>Criminal Non-Support</b>	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.
<b>Custodial Parent</b>	Person with legal custody and with whom the child lives. This may be a parent, other relative, or someone else. See Caretaker and Obligee.
<b>Custody</b>	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.
<b>Default Judgment</b>	Judgment rendered when a party to a legal action fails to appear in court after proper notification of a scheduled proceeding.
<b>Delinquent Support</b>	See <b>arrearage</b> .
<b>Emancipation</b>	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.
<b>Enforcement</b>	Efforts taken to see that court ordered support is paid.



<b>Financial Institution Withholding</b>	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.
<b>Genetic Testing</b>	Analysis of blood, tissue, or DNA of the mother, child, and alleged father to determine a child's biological father.
<b>Income Withholding</b>	Legal procedure by which an employer or other source of income automatically deducts support payments from the obligor's income.
<b>Interest</b>	Additional charge you must pay on court ordered child support which has not been paid when due.
<b>Jurisdiction</b>	Legal authority a court has over particular persons or certain types of cases in a defined geographical area.
<b>Legal Father</b>	Man recognized by law as a child's male parent.
<b>Lien</b>	Legal claim placed upon property to prevent sale or transfer until a debt is satisfied.
<b>Medical Support</b>	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.
<b>Modification Review</b>	A review conducted by BCSE to determine whether a change in the amount of child support is warranted.
<b>Non-Custodial Parent</b>	Parent who does not have primary custody of a child but who is responsible for a share of the financial support. See Obligor.
<b>Obligee</b>	Parent receiving child support payments. See Caretaker and Custodial Parent.
<b>Obligor</b>	Parent obligated to pay child support. See Non-Custodial Parent.
<b>Paternity Establishment</b>	Process to determine a child's legal father.
<b>Pro se</b>	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.
<b>Support Order</b>	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).
<b>TANF (Temporary Assistance to Needy Families)</b>	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)
<b>UIFSA (Uniform Interstate Family Support Act)</b>	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 1: *What services are available through the BCSE?***

Please call your [local office](#) to discuss the services available.

- 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.

**Question 2: *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 the [Bureau for Social Services](#), the Hotline number is 1-800-352-6513.)

**Question 3: *Who can apply for BCSE services?***

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

**Question 4: *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 5: *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 write to the Customer Service Unit at 350 Capitol Street, Room 147, Charleston, WV 25301-3703.

**Question 6: *Can I send my change of address in with my child support payment:***

**Answer:** No. You need to call or write to 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-BCSEcustomerserviceunit@wv.gov](mailto:DHHR-BCSEcustomerserviceunit@wv.gov)  
**Please include your case Identification number and the obligee's name.**

**Question 7: *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 8: *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 1: *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 Human Services 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 Human Services or the Bureau for Child Support Enforcement.*

### Question 2: *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 provide your employer's name, complete address, and phone number.

### Question 3: *What changes should I report to the BCSE?*

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 whether support should be changed or stopped in your case.

- Answer:**
- 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.

**Question 4: *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 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 5: *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 6: *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.)

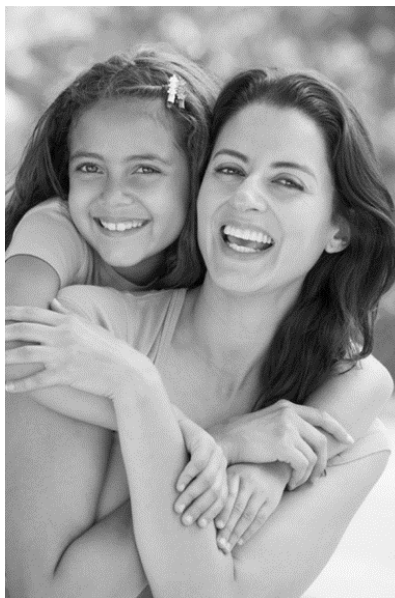
# THE WEST VIRGINIA COURT SYSTEM

## 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 1: *What is paternity?***

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

**Question 2: *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.

§ **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.

§ **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 3: *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 4: *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 5: *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 6: *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 7: *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 8: *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 9: *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 are responsible for paying your private attorney.

**Question 10: *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 11: *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 12: *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 13: *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 1: *Who determines the amount of support I am ordered to pay?***

**Answer:** The Court.

**Question 2: *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 3: *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 4: *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](#) at <https://dhhr.wv.gov/bcse/makeapayment/> to pay by credit card or e-check.

**Question 5: *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 6: *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 18<sup>th</sup> 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 7: *If neither of the circumstances described above exist (to extend child support), will the income withholding stop on my child's 18<sup>th</sup> 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 8: *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 9: *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 10: *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 1: *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 a 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 2: *If I am unemployed, do I still have to pay support?***

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

**Question 3: *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 4: *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 5: *If I marry someone else, will it affect my child support payments?***

**Answer:** **No.**

**Question 6: *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 7: *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 8: *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 child support payments.

**Question 9: *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 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 the child is living with you.

**Question 10:** *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 11:** *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 12:** *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 13:** *The other parent is receiving public assistance. Does this affect my support?*

**Answer:** No, it will not affect your duty to pay support.

**Question 14:** *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 1:** *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 21 through 27 of this Handbook.

**Question 2:** *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 3:** *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 1:** *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 2:** *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 3:** *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 4: *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 5: *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 your name and 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](https://apps.wv.gov/DHHR/SPI/login.aspx?ReturnUrl=/dhhr/spi/default.aspx) at <https://apps.wv.gov/DHHR/SPI/login.aspx?ReturnUrl=/dhhr/spi/default.aspx>.

## **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 [local BCSE 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:** <https://dhhr.wv.gov/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 (see information below) to make an appointment. If you do not know which local office is handling your case, please call the Customer Service Unit at 1-800-249-3778 or 304-558-4665 in Kanawha County.

**Local Office Information:** <https://dhhr.wv.gov/bcse/Pages/Find-Local-Office.aspx>





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