WEST VIRGINIA CODE: §44-9-1A

§44-9-1a. When person in military service presumed to be dead; administration of estate; when spouse may remarry.

Presumptive findings of death of any person engaged in any service or activity of, or employment by the United States in connection with or with respect to any hostilities in which the United States is engaged, whether war be formally declared or otherwise by an official or officer of the United States, who is authorized to make such presumptive findings by any act of Congress, shall create a presumption of the death of such person in the State of West Virginia. Proceedings under section three of this article may be commenced at any time after such finding is made.

No administrator, executor or personal representative of any person who is presumed to be dead under this section shall make final distribution of the assets of any such person until the expiration of three years after the date of the making of such presumptive findings by persons authorized to do so by the provisions of this section: Provided, That assets in the estate of any such person, which are exempt from attachment by creditors, including moneys paid by the United States of such nature, and other assets of any such estate which would otherwise be available for support of the wife, children and other dependents of such person, if he were alive, after allowance for debts and costs of administration, may be paid by the personal representative for the support of the wife and children and the dependents of such person upon order of the circuit court of the county which has jurisdiction in probate proceedings until such time as distribution may be made or administration terminated, and such sums shall be treated for all purposes of law as expenditures legally chargeable against such person, as if he were living to the time a final presumption of death becomes effective in this state. In case any such person presumed to be dead as a result of a finding, as aforesaid, is not heard from as provided in section one of this article, for a period of three years after making of such presumption, the presumption provided in section one of this article shall become effective to permit final distribution of his estate.

No surviving spouse of any person who is presumed to be dead under this section shall marry another until after the expiration of two years following the finding aforesaid, unless proceedings for divorce were commenced by such spouse or the missing person prior to the date such presumptive finding was made by an official of the United States; and after such two-year period the surviving spouse shall be free to remarry, or at any time unless the other spouse be heard from prior to the actual date of remarriage.

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