WEST VIRGINIA CODE: §44D-5-504

§44D-5-504. Discretionary trusts; effect of standard.

(a) In this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) Except as otherwise provided in subsection (c) of this section, whether or not a trust instrument contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) The discretion is expressed in the form of a standard of distribution; or

(2) The trustee has abused the discretion.

(c) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

(1) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for child support of the beneficiary's child; and

(2) The court shall direct the trustee to pay to the child, spouse or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

(d) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

(e) A creditor may not reach the interest of a beneficiary who is also a trustee or cotrustee or otherwise compel a distribution, if the trustee's discretion to make distributions for the trustee's own benefit is limited by an ascertainable standard.

WV Legislature