WEST VIRGINIA CODE: §48-5-604

PART 6. JUDGMENT ORDERING DIVORCE.

§48-5-604. Use and occupancy of marital home.

(a) The court may award the exclusive use and occupancy of the marital home to a party. An order granting use and occupancy of the marital home shall include the use of any necessary household goods, furniture and furnishings. The order shall establish a definite period for the use and occupancy, ending at a specific time set forth in the order, subject to modification upon the petition of either party.

(b) Generally, an award of the exclusive use and occupancy of the marital home is appropriate when necessary to accommodate rearing minor children of the parties. Otherwise, the court may award exclusive use and occupancy only in extraordinary cases supported by specific findings set forth in the order that grants relief.

(c) An order awarding the exclusive use and occupancy of the marital home may also require payments to third parties for home loan installments, land contract payments, rent, property taxes and insurance coverage. When requiring third-party payments, the court shall reduce them to a fixed monetary amount set forth in the order. The court shall specify whether third-party payments or portions of payments are spousal support, child support, a partial distribution of marital property or an allocation of marital debt. Unless the court identifies third-party payments as child support payments or as installment payments for the distribution of marital property, then such payments are spousal support. If the court does not identify the payments and the parties have waived any right to receive spousal support, the court may identify the payments upon motion by any party.

(d) This section is not intended to abrogate a contract between either party and a third party or affect the rights and liabilities of either party or a third party under the terms of a contract.

WV Legislature