

# WEST VIRGINIA CODE: §48-6-201

## PART II. RELIEF BASED ON AGREEMENT.

### **§48-6-201. Effect of separation agreement.**

(a) In cases where the parties to an action commenced under the provisions of this chapter have executed a separation agreement, if the court finds that the agreement is fair and reasonable, and not obtained by fraud, duress or other unconscionable conduct by one of the parties, and further finds that the parties, through the separation agreement, have expressed themselves in terms which, if incorporated into a judicial order, would be enforceable by a court in future proceedings, then the court shall conform the relief which it is authorized to order under the provisions of parts 5 and 6, article 5 of this chapter to the separation agreement of the parties. The separation agreement may contractually fix the division of property between the parties and may determine whether spousal support shall be awarded, whether an award of spousal support, other than an award of rehabilitative spousal support or spousal support in gross, may be reduced or terminated because a de facto marriage exists between the spousal support payee and another person, whether a court shall have continuing jurisdiction over the amount of a spousal support award so as to increase or decrease the amount of spousal support to be paid, whether spousal support shall be awarded as a lump sum settlement in lieu of periodic payments, whether spousal support shall continue beyond the death of the payor party or the remarriage of the payee party, or whether the spousal support award shall be enforceable by contempt proceedings or other judicial remedies aside from contractual remedies.

(b) Any award of periodic payments of spousal support shall be deemed to be judicially decreed and subject to subsequent modification unless there is some explicit, well expressed, clear, plain and unambiguous provision to the contrary set forth in the court-approved separation agreement or the order granting the divorce. Child support shall, under all circumstances, always be subject to continuing judicial modification.