WEST VIRGINIA CODE: §48-7-104

§48-7-104. Determination of worth of marital property.

After considering the factors set forth in section 7-103, the court shall:

(1) Determine the net value of all marital property of the parties as of the date of the separation of the parties or as of such later date determined by the court to be more appropriate for attaining an equitable result. Where the value of the marital property portion of a spouse's entitlement to future payments can be determined at the time of entering a final order in a domestic relations action, the court may include it in reckoning the worth of the marital property assigned to each spouse. In the absence of an agreement between the parties, when the value of the future payments is not known at the time of entering a final order in a domestic relations action, if their receipt is contingent on future events or not reasonably assured, or if for other reasons it is not equitable under the circumstances to include their value in the property assigned at the time of dissolution, the court may decline to do so; and

(A) Fix the spouses' respective shares in such future payments if and when received; or

(B) If it is not possible and practical to fix their share at the time of entering a final order in a domestic relations action, reserve jurisdiction to make an appropriate order at the earliest practical date;

If a valuation is made after a contingent or other future fee has been earned through the personal services or skills of a spouse, the portion that is marital property shall be in the same proportion to the total fee that the personal services or skills expended before the separation of the parties bears to the total personal skills or services expended. The provisions of this subdivision apply to pending cases when the issues of contingent fees or future earned fees have not been finally adjudicated.

(2) Designate the property which constitutes marital property, and define the interest therein to which each party is entitled and the value of their respective interest therein. In the case of an action wherein there is no agreement between the parties and the relief demanded requires the court to consider such factors as are described in subdivisions (1), (2), (3) and (4), section 7-103, if a consideration of factors only under said subdivisions (1) and (2) would result in an unequal division of marital property, and if an examination of the factors described in said subdivisions (3) and (4) produce a finding that a party: (A) Expended his or her efforts during the marriage in a manner which limited or decreased such party's income-earning ability or increased the income-earning ability of the other party; or (B) conducted himself or herself so as to dissipate or depreciate the value of the marital property of the parties, then the court may, in the absence of a fair and just spousal support award under the provisions of section 5-602 which adequately takes into account the facts which underlie the factors described in subdivisions (3) and (4), section 7-103,

WV Legislature

equitably adjust the definition of the parties' interest in marital property, increasing the interest in marital property of a party adversely affected by the factors considered under said subdivisions who would otherwise be awarded less than one half of the marital property, to an interest not to exceed one half of the marital property;

(3) Designate the property which constitutes separate property of the respective parties or the separate property of their children;

(4) Determine the extent to which marital property is susceptible to division in accordance with the findings of the court as to the respective interests of the parties therein;

(5) In the case of any property which is not susceptible to division, ascertain the projected results of a sale of such property;

(6) Ascertain the projected effect of a division or transfer of ownership of income-producing property, in terms of the possible pecuniary loss to the parties or other persons which may result from an impairment of the property's capacity to generate earnings; and

(7) Transfer title to such component parts of the marital property as may be necessary to achieve an equitable distribution of the marital property. To make such equitable distribution, the court may:

(A) Direct either party to transfer their interest in specific property to the other party;

(B) Permit either party to purchase from the other party their interest in specific property;

(C) Direct either party to pay a sum of money to the other party in lieu of transferring specific property or an interest therein, if necessary to adjust the equities and rights of the parties, which sum may be paid in installments or otherwise, as the court may direct;

(D) Direct a party to transfer his or her property to the other party in substitution for property of the other party of equal value which the transferor is permitted to retain and assume ownership of; or

(E) Order a sale of specific property and an appropriate division of the net proceeds of such sale: Provided, That such sale may be by private sale, or through an agent or by judicial sale, whichever would facilitate a sale within a reasonable time at a fair price.

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