WEST VIRGINIA CODE: §48-8-103

§48-8-103. Payment of spousal support.

(a) Upon ordering a divorce or granting a decree of separate maintenance, the court may require either party to pay spousal support in the form of periodic installments, or a lump sum, or both, for the maintenance of the other party. Payments of spousal support are to be ordinarily made from a party's income, but when the income is not sufficient to adequately provide for those payments, the court may, upon specific findings set forth in the order, order the party required to make those payments to make them from the corpus of his or her separate estate. An award of spousal support shall not be disproportionate to a party's ability to pay as disclosed by the evidence before the court.

(b) At any time after the entry of an order pursuant to the provisions of this article, the court may, upon motion of either party, revise or alter the order concerning the maintenance of the parties, or either of them, and make a new order concerning the same, issuing it forthwith, as the altered circumstances or needs of the parties may render necessary to meet the ends of justice. (c)(1) For the purposes of subsection (b) of this section, "altered circumstances" includes evidence in the form of genetic testing that establishes that a child conceived during the marriage of the parties is not the child of the former husband, or that a child was born to a woman other than the former wife because of the adultery of the former husband.

(2) Prior to admitting evidence of genetic testing, the court shall preliminarily determine whether genetic testing evidence should be admitted for the purpose of disproving or establishing paternity. The facts that may be considered by the court at this hearing include the following:

(A) The length of time that has elapsed since the party was first placed on notice that a child conceived during the marriage of the parties is not the child of the former husband, or that a child was born to a woman other than the former wife because of the adultery of the former husband;

(B) The length of time during which the individual desiring to challenge paternity assumed the role of parent to the child;

(C) The facts surrounding the party's discovery of nonpaternity;

(D) The nature of the parent/child relationship;

(E) The age of the child;

(F) The harm which may result to the child if paternity were successfully disproved;

(G) The extent to which the passage of time reduced the chances of establishing paternity in

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favor of the child; and

(H) All other factors which may affect the equities involved in the potential disruption of the parent/child relationship or the chances of undeniable harm to the child.

(d) For the purposes of subsection (c), genetic testing must be performed pursuant to the following guidelines:

(1) The tests show that the inherited characteristics including, but not limited to, blood types, have been determined by appropriate testing procedures at a hospital, independent medical institution or independent medical laboratory duly licensed under the laws of this state, or any other state, and an expert qualified as an examiner of genetic markers has analyzed, interpreted and reported on the results; and

(2) The genetic test results exclude the former husband as the father of the child.

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