WEST VIRGINIA CODE: §48-9-207

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decisionmaking on behalf of the child, and the existence of any criteria as set forth in §48-9-209 of this code.

(1) The level of each parent's participation in past decision making on behalf of the child;

(2) The wishes of the parents; and

(3) The level of ability and cooperation the parents have demonstrated in decisionmaking on behalf of the child.

(b) If each of the child's parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

WV Legislature