

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **House Bill 4770**

BY DELEGATES LINVILLE AND LOVEJOY

[Introduced February 15, 2022; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §48-7-103 of the Code of West Virginia, 1931, as amended, relating  
2 to domestic violence convictions and the division of marital property without a valid  
3 agreement.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 7. EQUITABLE DISTRIBUTION OF PROPERTY.**

### **§48-7-103. Division of marital property without a valid agreement.**

1 In the absence of a valid agreement, the court shall presume that all marital property is to  
2 be divided equally between the parties, but may alter this distribution, without regard to any  
3 attribution of fault to either party which may be alleged or proved in the course of the action, after  
4 a consideration of the following:

5 (1) The extent to which each party has contributed to the acquisition, preservation and  
6 maintenance, or increase in value of marital property by monetary contributions, including, but  
7 not limited to:

8 (A) Employment income and other earnings; and

9 (B) Funds which are separate property.

10 (2) The extent to which each party has contributed to the acquisition, preservation and  
11 maintenance or increase in value of marital property by nonmonetary contributions, including, but  
12 not limited to:

13 (A) Homemaker services;

14 (B) Child care services;

15 (C) Labor performed without compensation, or for less than adequate compensation, in a  
16 family business or other business entity in which one or both of the parties has an interest;

17 (D) Labor performed in the actual maintenance or improvement of tangible marital  
18 property; and

19 (E) Labor performed in the management or investment of assets which are marital  
20 property.

21 (3) The extent to which each party expended his or her efforts during the marriage in a  
22 manner which limited or decreased such party's income-earning ability or increased the income-  
23 earning ability of the other party, including, but not limited to:

24 (A) Direct or indirect contributions by either party to the education or training of the other  
25 party which has increased the income-earning ability of such other party; and

26 (B) Foregoing by either party of employment or other income-earning activity through an  
27 understanding of the parties or at the insistence of the other party.

28 (4) The extent to which each party, during the marriage, may have conducted himself or  
29 herself so as to dissipate or depreciate the value of the marital property of the parties: Provided,  
30 That except for a consideration of the economic consequences of conduct as provided for in this  
31 subdivision, fault or marital misconduct shall not be considered by the court in determining the  
32 proper distribution of marital property.

33 (5) If either party has been convicted of domestic battery or domestic assault as defined  
34 in West Virginia Code §61-2-28 et seq. of this code.

NOTE: The purpose of this bill is to recognize convictions of domestic battery or domestic assault in the fair and equitable distribution of marital property.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.