WEST VIRGINIA CODE: §37-5-3

§37-5-3. Prosecution under preceding sections.

A justice of the county in which such mine is, before whom complaint of such refusal is made, may issue a summons to such owner, tenant, occupant or agent to answer such complaint. On the return of the summons executed, and proof that the complainant has right of entry, and that he has been refused without sufficient cause, the justice shall designate an early and convenient time of such entry to be made, and issue his warrant commanding the sheriff of the county to attend and prevent obstructions and impediments to such entry, exploration and survey. The cost of such summons, and a fee of $3 to the sheriff executing the warrant, shall be paid by the person whose refusal caused the complaint. But if the justice dismiss the complaint, the costs shall be paid by the party making it.

WV Legislature