WEST VIRGINIA CODE: §41-5-14

§41-5-14. When depositions admissible.

The deposition of an attesting witness or other person may be read on the hearing of any proceeding to probate a will, when under the facts and circumstances the deposition of the witness would have been admissible on the trial of an action at law in the circuit court. In any proceeding in which there is no contest, the deposition may be taken at any time after the will is offered for probate, and without notice to any person. Any such deposition may be in the form of an affidavit. In any case in which there is a contest, depositions may be taken at any time after the service of process upon the notice of contest, and after notice to all parties adversely interested as prescribed for the taking of depositions in actions at law, and the depositions shall be taken and certified and returned as required in other cases. In any case in which the deposition of an attesting witness is required, the clerk of the county court shall transmit the original will by some safe method of conveyance to an officer authorized to take depositions at the place where the deposition is to be taken. A copy of the will shall be made and filed by the clerk in his office before the original is sent out for the purpose of taking depositions. In any case, with the consent of all parties appearing, or of their counsel, a photostatic copy of the original will may be used in taking the deposition of an attesting witness instead of the original document. Any party may have compulsory process to compel the attendance of a witness as in any suit in the circuit court. In any proceeding to probate or record an authenticated copy of a will that has been probated in another jurisdiction, depositions may be taken as in an original proceeding to probate.

WV Legislature