WEST VIRGINIA CODE: §48-20-310

§48-20-310. Hearing and order.

(a) Unless the court issues a temporary emergency order pursuant to section 20-204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) The child custody determination has not been registered and confirmed under section 20-305 and that:

(A) The issuing court did not have jurisdiction under part 20-201, et seq., of this chapter;

(B) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under part 20-201, et seq.; or

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 20-108, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under section 20-305, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under part 20-201, et seq.; or

(3) There is credible evidence of abuse or neglect of the child or children who are the subject of the petition and the credible evidence has been reported to a child welfare agency, a law-enforcement officer, a licensed physician, a licensed social worker, or a licensed mental health professional and an investigation or other proceeding has not been concluded: Provided, That the court may continue the hearing to a day certain to monitor the investigation or proceedings or take any further action as the circumstances and the best interest of the child may warrant.

(b) The court shall award the fees, costs and expenses authorized under section 20-312 and may grant additional relief, including a request for the assistance of law-enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article.

WV Legislature