WEST VIRGINIA CODE: §48-22-305

§48-22-305. Revocation of consent or relinquishment for adoption.

(a) Parental consent or relinquishment, whether given by an adult or minor, may be revoked only if:

(1) The person who executed the consent or relinquishment and the prospective adoptive parent named or described in the consent or the lawyer for said adoptive parent, or the agency in case of relinquishment, agree to its revocation prior to the entry of an adoption order; or

(2) The person who executed the consent or relinquishment proves by clear and convincing evidence, in an action filed either within six months of the date of the execution of the consent or relinquishment or prior to the date an adoption order is final, whichever date is later, that the consent or relinquishment was obtained by fraud or duress; or

(3) The person who executed the consent or relinquishment proves by a preponderance of the evidence, prior to the entry of an adoption order, that a condition allowing revocation as expressly set forth in the consent or relinquishment has occurred; or

(4) The person who executed the consent or relinquishment proves by clear and convincing evidence, prior to the entry of an adoption order, that the consent or relinquishment does not comply with the requirements set forth in this article.

(b) If the custody of a child during the pendency of a petition to revoke a consent or relinquishment is in issue, the court shall conduct a hearing, within thirty days of service of notice upon the respondent, to determine the issue of temporary custody. The court shall award such custody based upon the best interests of the child.

WV Legislature