WEST VIRGINIA CODE: §48-24-101

§48-24-101. Paternity proceedings.

(a) A civil action to establish the paternity of a child and to obtain an order of support for the child may be instituted, by verified complaint, in the family court of the county where the child resides: Provided, That if such venue creates a hardship for the parties, or either of them, or if judicial economy requires, the court may transfer the action to the county where either of the parties resides.

(b) A "paternity proceeding" is a summary proceeding, equitable in nature and within the domestic relations jurisdiction of the courts, wherein a family court upon the petition of the state or another proper party may intervene to determine and protect the respective personal rights of a child for whom paternity has not been lawfully established, of the mother of the child and of the putative father of the child. The parties to a paternity proceeding are not entitled to a trial by jury.

(c) The sufficiency of the statement of the material allegations in the complaint set forth as grounds for relief and the grant or denial of the relief prayed for in a particular case shall rest in the sound discretion of the court, to be exercised by the court according to the circumstances and exigencies of the case, having due regard for precedent and the provisions of the statutory law of this state.

(d) A decree or order made and entered by a court in a paternity proceeding shall include a determination of the filial relationship, if any, which exists between a child and his or her putative father and, if such relationship is established, shall resolve dependent claims arising from family rights and obligations attendant to such filial relationship.

(e) A paternity proceeding may be brought by any of the following persons:

(1) An unmarried woman with physical or legal custody of a child to whom she gave birth;

(2) A married woman with physical or legal custody of a child to whom she gave birth, if the complaint alleges that:

(A) The married woman lived separate and apart from her husband preceding the birth of the child;

(B) The married woman did not cohabit with her husband at any time during such separation and that such separation has continued without interruption; and

(C) The respondent, rather than her husband, is the father of the child;

(3) The state of West Virginia, including the Bureau for Child Support enforcement;

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(4) Any person who is not the mother of the child but who has physical or legal custody of the child;

(5) The guardian or committee of the child;

(6) The next friend of the child when the child is a minor;

(7) By the child in his or her own right at any time after the child's eighteenth birthday but prior to the child's twenty-first birthday; or

(8) A man who believes he is the father of a child born out of wedlock when there has been no prior judicial determination of paternity.

(f) If a paternity proceeding is brought that names the father of the child as being someone other than the person whose name appears on the child's birth certificate, then the person bringing the action shall cause a copy of the verified complaint to be served on the person named as the father on the birth certificate. Service must be in accordance with rule 4 of the rules of civil procedure.

(g) Blood or tissue samples taken pursuant to the provisions of this article may be ordered to be taken in such locations as may be convenient for the parties so long as the integrity of the chain of custody of the samples can be preserved.

(h) A person who has sexual intercourse in this state submits to the jurisdiction of the courts of this state for a proceeding brought under this article with respect to a child who may have been conceived by that act of intercourse. Service of process may be perfected according to the rules of civil procedure.

(i) When the person against whom the proceeding is brought has failed to plead or otherwise defend the action after proper service has been obtained, judgment by default shall be issued by the court as provided by the rules of civil procedure.

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