WEST VIRGINIA CODE: §48-5-107

§48-5-107. Parties to a divorce action.

(a) Either or both of the parties to a marriage may initiate an action for divorce.

(b) A spouse who is under the age of majority has standing in a divorce action to sue, answer or plead by a next friend.

(c) An incompetent or insane person shall sue, answer or plead by his or her committee. If a person has not been adjudicated incompetent or insane and has not been divested of the power to act on his or her own behalf, it is presumed that the person has the capacity to bring the action or be made a party respondent. This presumption may be rebutted by evidence which shows that the person cannot reasonably understand the nature and purpose of the action and the effect of his or her acts with reference to the action.

(d) The appointment of a guardian ad litem for a minor, an incompetent or an insane party is not required unless specifically ordered by the judge hearing the action.

(e) Anyone charged as a particeps criminis shall be made a party to a divorce action, upon his or her application to the court, subject to such terms and conditions as the court may prescribe.

(f) In a divorce action where the interests of the minor children of the parties are or may be substantially different from those of either or both of the parents and the best interests of the children may be in conflict with the desires of either or both parents, the court may make the children parties respondent and appoint a guardian ad litem to advocate and protect their rights and welfare.

WV Legislature