WEST VIRGINIA CODE: §48-5-404

§48-5-404. Advance filing of divorce petition in actions alleging abandonment or voluntary separation.

(a) At any time after the parties to a marriage have lived separate and apart in separate places of abode without any cohabitation or after a party is abandoned or deserted, either party living separate and apart or the party abandoned may apply for temporary relief in accordance with the provisions of part 5 of this article by instituting an action for divorce alleging that the petitioner reasonably believes that the period of living separate and apart or of abandonment will continue for the periods prescribed by the applicable provisions of sections 5-202 and 5-208.

(b) If the period of abandonment or living separate and apart continues for the period prescribed by the applicable provisions of sections 5-202 and 5-208, the divorce action may proceed to a final hearing without a new petition being filed.

(c) The petitioner shall give the respondent at least twenty days' notice of the time, place and purpose of the final hearing, unless the respondent files a verified waiver of notice of further proceedings. If the notice is required to be served, it must be served in the same manner as original process under rule 4(d) of the rules of civil procedure, regardless of whether the respondent has appeared or answered.

WV Legislature