WEST VIRGINIA CODE: §49-4-704

§49-4-704. Institution of proceedings by petition; notice to juvenile and parents; preliminary hearings; subpoena.

(a)(1) A petition alleging that a juvenile is a status offender or a juvenile delinquent may be filed by a person who has knowledge of or information concerning the facts alleged. The petition shall be verified by the petitioner, shall set forth the name and address of the juvenile's parents, guardians or custodians, if known to the petitioner, and shall be filed in the circuit court in the county where the alleged status offense or act of delinquency occurred. However, a proceeding under this chapter may be removed, for good cause shown, in accordance with section one, article nine, chapter fifty-six of this code. The petition shall contain specific allegations of the conduct and facts upon which the petition is based, including the approximate time and place of the alleged conduct; a statement of the right to have counsel appointed and consult with counsel at every stage of the proceedings; and the relief sought.

(2) Upon the filing of the petition, the court shall set a time and place for a preliminary hearing and may appoint counsel. A copy of the petition and summons may be served upon the respondent juvenile by first class mail or personal service of process. If a juvenile does not appear in response to a summons served by mail, no further proceeding may be held until the juvenile is served a copy of the petition and summons by personal service of process. If a juvenile fails to appear in response to a summons served in person upon him or her, an order of arrest may be issued by the court for that reason alone.

(b) The parents, guardians or custodians shall be named in the petition as respondents and shall be served with notice of the proceedings in the same manner as provided in subsection (a) of this section for service upon the juvenile and required to appear with the juvenile at the time and place set for the proceedings unless the respondent cannot be found after diligent search. If a respondent cannot be found after diligent search, the court may proceed without further requirement of notice. However, the court may order service by first class mail to the last known address of the respondent. The respondent shall be afforded fifteen days after the date of mailing to appear or answer.

(c) The court or referee may order the issuance of a subpoena against the person having custody and control of the juvenile ordering him or her to bring the juvenile before the court.

(d) When any case of a juvenile charged with the commission of a crime is certified or transferred to the circuit court, the court shall forthwith cause the juvenile and his or her parents, guardians or custodians to be served with a petition as provided in subsections (a) and (b) of this section. In the event the juvenile is in custody, the petition shall be served upon the juvenile within ninety-six hours of the time custody began and if the petition is not served within that time, the juvenile shall be released forthwith.

WV Legislature

(e) The clerk of the court shall notify, within two judicial days, the local office of the Department of Human Services of all proceedings under this article, which is responsible for convening and directing the multidisciplinary treatment planning process in accordance with section four hundred six of this article. In status offense or delinquency cases where a case manager has not been assigned, the juvenile probation officer is responsible for notifying the local office of the Department of Human Services which will assign a case manager who will initiate assessment and be responsible for convening and directing the multidisciplinary treatment planning process.

(f) Notwithstanding any other provision of this code to the contrary, a petition filed pursuant to §48-27-403 of this code in which the petition for the emergency protective order is filed by or on behalf of the juvenile's parent, guardian or custodian or other person with whom the juvenile resides and that results in the issuance of an emergency protective order naming a juvenile as the respondent, shall be treated as a petition authorized by this section, alleging the juvenile is a juvenile delinquent. However, the magistrate court shall notify the prosecuting attorney in the county where the emergency protective order is issued within twenty-four hours of the issuance of the emergency protective order and the prosecuting attorney may file an amended verified petition to comply with subsection (a) of this section within two judicial days.

WV Legislature