# WEST VIRGINIA CODE: §51-2A-12

**§51-2A-12. Stay of proceedings pending appeal.**

(a) Any person desiring to file a petition for appeal from a final order of the family court may file a motion for a stay of proceedings to the family court in which the order was entered. The motion for a stay shall be filed with the clerk of the circuit court and served on the respondent in accordance with rule 5 of the rules of civil procedure. The family court may, sua sponte, order a stay of all or part of a final order pending appeal. Subject to the provisions of subsection (c) of this section, the family court may order a stay for the period of time allowed for the filing of a petition for appeal to the circuit court or for any additional period of time pending disposition of the appeal. If the circuit court refuses to consider the petition for appeal, the stay is vacated.

(b) If the family court judge denies a motion for a stay of the proceedings pending appeal, or if the relief afforded is not acceptable, the person desiring to file the petition for appeal may file a motion for a stay of the proceedings to the circuit court. The motion for stay shall be filed with the clerk of the circuit court and served upon the other party in accordance with rule 5 of the rules of civil procedure. Subject to the provisions of subsection (c) of this section, the circuit court may order a stay for the period of time allowed for the filing of a petition for appeal to the circuit court or for any additional period of time pending disposition of the appeal. If the circuit court refuses to consider the petition for appeal, the stay is vacated.

(c) An order granting a motion for a stay under the provisions of this section may not include a stay of an award for the payment of spousal support or child support pending the appeal, except that an award of past-due child support may be stayed pending an appeal.

WV Legislature