WEST VIRGINIA CODE CHAPTER 53 ARTICLE 3

WV Legislature

§53-3-1. Jurisdiction.

Jurisdiction of writs of certiorari (except such as may be issued from the Supreme Court of Appeals, or a judge thereof in vacation) shall be in the circuit court of the county in which the record or proceeding is, to which the writ relates. Any such writ may be awarded either by the circuit court or by the judge thereof in vacation.

WV Legislature

§53-3-2. When certiorari lies.

In every case, matter or proceeding, in which a certiorari might be issued as the law heretofore has been, and in every case, matter or proceeding before a county court, council of a city, town or village, justice or other inferior tribunal, the record or proceeding may, after a judgment or final order therein, or after any judgment or order therein abridging the freedom of a person, be removed by a writ of certiorari to the circuit court of the county in which such judgment was rendered, or order made; except in cases where authority is or may be given by law to the circuit court, or the judge thereof in vacation, to review such judgment or order on motion, or on appeal, writ of error or supersedeas, or in some manner other than upon certiorari; but no certiorari shall be issued in civil cases before justices where the amount in controversy, exclusive of interest and costs, does not exceed $15.

WV Legislature

§53-3-3. Contents of record; removal of record to circuit court; review.

In every case, matter or proceeding before a county court, council, justice or inferior tribunal, in which a writ of certiorari would lie according to the provisions of the preceding section, the majority of the commissioners composing a court, or the justice or the officer or officers presiding over such council or other inferior tribunal, shall, upon request of either party in a civil case, matter or proceeding, or the defendant in a criminal case, matter or proceeding, certify the evidence, if any, which may have been heard, and sign bills of exceptions, or certificates as provided in section thirty-six, article six, chapter fifty-six of this code, setting forth any rulings or orders which may not otherwise appear of record. Such certificate of evidence and bills of exceptions or certificates shall be part of the record and as such be removed and returned to the circuit court. The clerk upon receiving such record shall file the same and docket the case, in the same manner that other cases are docketed. Upon the hearing, such circuit court shall, in addition to determining such questions as might have been determined upon a certiorari as the law heretofore was, review such judgment, order or proceeding, of the county court, council, justice or other inferior tribunal upon the merits, determine all questions arising on the law and evidence, and render such judgment or make such order upon the whole matter as law and justice may require. But all such cases removed as aforesaid from before a justice to the circuit court, wherein the amount in controversy is more than $15, and in which the judgment of the justice is set aside, shall be retained in such court and disposed of as if originally brought therein.

WV Legislature

§53-3-4. Award of certiorari in vacation; habeas corpus in aid thereof.

Such writs may be awarded by the judge of such circuit court in vacation; and, in case of an order abridging the freedom of a person, may be returned and heard and determined by the judge of such circuit court in vacation, if reasonable notice of such hearing shall have been given the other party; and such court or judge may grant a writ of habeas corpus in aid of such certiorari.

WV Legislature

§53-3-5. Stay of proceedings on judgment or order removed by certiorari -- Bond.

A writ of certiorari shall not operate to suspend the judgment or order removed thereby, or proceedings on such judgment or order, except in a criminal case, until the party applying therefor, or someone for him shall file in the office of the clerk of the circuit court a bond payable to the State of West Virginia, with security approved by such clerk, in a penalty to be prescribed by the court or judge awarding the writ, conditioned to perform and satisfy such judgment or order as may be rendered or made by the circuit court, and to pay all such damages and costs as may be awarded to any party by such court or judge, and with any further condition which such court or judge may prescribe.

WV Legislature

§53-3-6. Same -- Duration.

When such bond as is mentioned in the next preceding section is filed, the writ of certiorari shall operate to stay all proceedings upon the judgment or order removed by the writ, and all further proceedings before the county court, justice or other inferior tribunal in the case, matter or proceeding in which it was awarded, until the final determination of the matter by the circuit court, except as to any order or sentence abridging the freedom of a person; but the court or judge may let such party to bail, as in other cases.

WV Legislature