WEST VIRGINIA CODE: §56-6-4

§56-6-4. Direction and trial of issues out of chancery.

Any court, wherein is pending a chancery case in which there is such a conflict in the evidence as, in the opinion of such court, to render it proper, may direct an issue thereon to be tried in such court. And the court shall have the discretion to direct such an issue to be tried before any proof has been taken by either the plaintiff or the defendant, if it shall be shown by affidavit or affidavits, after reasonable notice, that the case will be rendered doubtful by the conflicting evidence of the respective parties. Although the verdict on such issue may be set aside, there shall be no new trial thereof, but the court may proceed to decree as if no issue had been directed. No issue out of chancery shall be directed in any other case unless specially authorized by statute. Nothing in this section shall be construed to conflict with any of the provisions of chapter forty- one of this code.

WV Legislature