

WEST VIRGINIA CODE: §56-8-5

§56-8-5. Scire facias or motion for revival; continuance.

In any stage of any case, a scire facias may be sued out for or against the committee of any party who is insane or a convict; or for or against a party before insane, a convict or an infant, the powers of whose committee or guardian have ceased; or for or against the personal representative of the decedent who, or whose committee, guardian or personal representative, was a party; or for or against the succeeding or substituted committee or guardian of a convict, insane person or infant whose committee or guardian was a party and has died or been removed; or for or against the heirs or devisees of a decedent who was a party; or for the assignee or beneficiary party; to show cause why the suit or action should not proceed in the name of him or them. Or where the party dying, or whose powers cease, or such insane person or convict, is plaintiff or appellant, the person or persons for whom such scire facias might be sued out may, without notice or scire facias, move that the suit proceed in his or their name. Likewise, the person or persons against whom a scire facias might be sued out by the plaintiff may also, without notice or scire facias, move that the suit or action proceed in his or their name. If the proceeding be by scire facias, after service of the scire facias, or if the proceeding be by motion then on such motion, if no sufficient cause be shown against it, an order shall be entered that the suit or action proceed according to such scire facias or motion. Any such new party, except in an appellate court, may have a continuance of the case at the term at which such order is entered; and the court may allow him to plead anew or amend the pleadings as far as it deems reasonable; but in other respects the case shall proceed to final judgment or decree for or against him in like manner as if the case had been pending for or against him before such scire facias or motion.