

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

## **Senate Bill 31**

BY SENATORS TRUMP AND ROBERTS

[Introduced February 10, 2021; referred  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §48-9-105, relating to venue for custodial allocation actions independent of  
 3 divorce.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-  
 MAKING RESPONSIBILITY OF CHILDREN.**

**§48-9-105. Venue for custodial allocation actions independent of divorce.**

1 (a) Venue for the initial determination of custodial allocation or child custody determination  
 2 within a divorce action shall be governed by §48-5-106 or §48-20-101 et seq. of this code, or both.

3 (b) Venue for the initial determination of custodial allocation or child custody determination  
 4 as between parties who reside in separate states shall be governed by §48-20-101 et seq. of this  
 5 code.

6 (c) Venue for modification of custodial allocation or modification of child custody  
 7 determination which was previously determined in a tribunal of a state other than West Virginia  
 8 shall be governed by §48-20-101 et seq. of this code.

9 (d) When all persons with potential custodial responsibility reside within the State of West  
 10 Virginia and the home state of the child is West Virginia as defined in §48-20-102(g) of this code:

11 (1) Venue for an initial determination of custodial allocation shall be properly had in the  
 12 county where the parties and the child last resided together or in the child’s home county, which  
 13 is where the child has resided for at least six consecutive months or since birth. If a child, over  
 14 the age of six months, has not resided in any county for six consecutive months, then venue lies  
 15 in the county where the respondent resides at the time of the filing of the action.

16 (2) Venue for a modification of custodial allocation remains in the county in which the initial  
 17 custodial allocation was determined until such time as:

18 (A) Neither the child nor any person with custodial responsibility has resided in the county

19 where the initial custodial allocation was determined for a period of not less than six months  
20 preceding the filing of the modification action; neither the child nor any person with custodial  
21 responsibility resides within 40 miles of the county seat of the county where the initial custodial  
22 allocation was determined; a modification action has been filed in the county where the initial  
23 custodial allocation was determined; and a motion to change venue to the residence of the  
24 responding party has been filed.

25 (B) If the conditions of paragraph (A) of this subdivision are satisfied, the matter shall be  
26 transferred to the family court in the responding party's county of residence; or

27 (C) If the conditions of paragraph (A) of this subdivision are met and all parties consent,  
28 the matter may be transferred to the family court in the petitioning party's county of residence.

NOTE: The purpose of this bill is to provide venue for custodial allocation actions independent of divorce.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.