

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 287

BY SENATORS BLAIR AND AZINGER

[Introduced February 14, 2017; 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 §55-7-31, relating generally to damages for medical monitoring; prohibiting
3 payment of damages for a plaintiff's future medical surveillance, screening tests or
4 monitoring procedures to a plaintiff to cover the cost of his or her future medical
5 surveillance, screening tests or monitoring procedures until they have been completed;
6 establishing that court shall order liable defendant to make periodic payments into a fund
7 established to pay the cost of future medical surveillance, screening tests or monitoring
8 procedures; authorizing court to determine how the fund will be administered; requiring
9 court to establish date after which future medical surveillance, screening tests or
10 monitoring procedures are no longer required; providing for repayment of moneys
11 remaining in the fund that are not needed to pay for medical surveillance, screening tests
12 or monitoring procedures completed prior to the date established by the court to the
13 contributing defendants; and providing that repayments to multiple defendants to be made
14 in proportion to the total contributions of each defendant to the fund.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §55-7-31, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-31. Limitations on medical monitoring damages.

1 In any civil action in which a court orders a defendant to pay for a plaintiff's future medical
2 surveillance, screening tests, or monitoring procedures, no plaintiff shall be awarded or paid any
3 moneys to cover the cost of his or her future medical surveillance, screening tests, or monitoring
4 procedures until they have been completed. The court shall order that the liable defendant make
5 periodic payments into a fund established to pay the cost of future medical surveillance, screening
6 tests, or monitoring procedures that are required by the judgment of the court. The court shall
7 determine how such fund will be administered. The court shall also determine the date after which

8 such future medical surveillance, screening tests, or monitoring procedures are no longer
9 required, and after that date any moneys remaining in the fund that are not needed to pay for
10 medical surveillance, screening tests, or monitoring procedures completed prior to such
11 termination date shall be repaid to the liable defendant who paid such amounts into the fund. If
12 there are multiple such defendants, then repayments shall be made in proportion to the total
13 contributions of each defendant into the fund.

NOTE: The purpose of this bill is to govern when and how civil damages for future medical monitoring expenses will be paid and administered.

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