

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2679

BY DELEGATES STEELE, FOSTER, J. PACK, AND GRAVES

[Introduced February 23, 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 §16-3-14 relating to cause of action for the spread of a communicable disease;
 3 providing that no cause of action shall be maintained in any court under certain conditions;
 4 providing for an evidentiary standard; providing for reasonable attorney's fees and costs
 5 under certain conditions; providing that the transmission of the communicable disease
 6 must have been a knowing and intentional act; and providing for the burden of proof on
 7 the plaintiff.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER
 INFECTIOUS DISEASES.**

§16-3-14. Cause of action regarding spread of communicable disease.

1 No cause of action shall be maintained for the unintentional transmission or contraction of
 2 a communicable disease, and any court of this state hearing such a cause of action shall dismiss
 3 said action upon motion of a defending party unless there is a preponderance of the evidence
 4 presented by the non-moving party that the transmission of the communicable disease was a
 5 knowing and intentional act of the defendant. Any defendant responding to a complaint alleging
 6 damages due to the spread of a communicable disease shall be entitled to reasonable attorney's
 7 fees and costs unless the plaintiff or plaintiffs present a preponderance of the evidence that the
 8 transmission of the communicable disease was a knowing and intentional act of the defendant. It
 9 shall be the burden of the plaintiff in any case to prove, by a preponderance of the evidence, that
 10 the transmission or contraction of a communicable disease was a knowing and intentional act of
 11 the defendant.

NOTE: The purpose of this bill is to establish a cause of action for regarding the spread of communicable diseases under certain conditions.

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