

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4370

BY DELEGATES HIGGINBOTHAM, ELLINGTON, HAMRICK

AND BARNHART

[Introduced January 16, 2020; 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 §55-7-32, relating to damages for medical monitoring.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INURIES.

§55-7-32. 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 such surveillance, tests, or procedures have been completed: *Provided*, That a
5 court may order a defendant to make periodic payments into a fund established to pay the cost
6 of future medical surveillance, screening tests, or monitoring procedures that are required by the
7 judgment of the court. The court shall determine how the fund will be administered. The court
8 shall also determine the date after which the future medical surveillance, screening tests, or
9 monitoring procedures are no longer required, and after that date any moneys remaining in the
10 fund that are not needed to pay for medical surveillance, screening tests, or monitoring
11 procedures completed prior to the termination date shall be repaid to the defendant who paid such
12 amounts in the fund. If there are multiple defendants, then repayments shall be made in
13 proportion to the total contributions of each defendant into the fund.

NOTE: The purpose of this bill is to establish limits applicable to the award of damages for medical monitoring.

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