

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2574**

BY DELEGATE SUMMERS

BY REQUEST

[Introduced February 17, 2021; Referred to the  
Committee on Workforce Development then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §21-17-1, §21-17-2, §21-17-3, and §21-17-4, all relating to prohibiting  
 3 employers from requiring employees or prospective employees to have devices implanted  
 4 or otherwise incorporated into their bodies as a condition of employment or any  
 5 employment benefit; to prohibit employers from discriminating in the terms, conditions,  
 6 and benefits of employment against employees who refuse to have a device implanted or  
 7 otherwise incorporated into their bodies; and to provide remedies.

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

**ARTICLE 17: MICROCHIP PROTECTION ACT.**

**§21-17-1. Short title.**

1 This article may be cited as the Microchip Protection Act.

**§21-17-2. Definitions.**

1 As used in this article:

2 “Device” includes any acoustic, optical, mechanical, electronic, medical, or molecular  
 3 device.

4 “Employer” means a person that has one or more employees, and includes an agent of  
 5 that person.

6 “Person” means an individual, partnership, corporation, association, governmental entity,  
 7 or other legal entity.

**§21-17-3. Prohibited acts.**

1 (a) An employer shall not require an employee or prospective employee to take any of the  
 2 following actions as a condition of employment, as a condition of employment in a particular  
 3 position, or as a condition of receiving additional compensation or other benefits:

4 (1) Implant, or undergo a procedure to implant, a device into the employee’s or prospective  
 5 employee’s body;

6 (2) Inject, or receive an injection of, a device into the employee’s or prospective

7 employee's body; or

8 (3) Ingest, inhale, or otherwise incorporate a device into the employee's or prospective  
9 employee's body.

10 (b) An employer shall not discriminate against an employee with respect to the employee's  
11 compensation or other benefits, or any term or condition of employment, based on the employee's  
12 refusal to take an action described in subsection (a) of this section.

**§21-17-4. Civil action for violations; damages.**

1 (a) An employee or prospective employee may bring a civil action against an employer to  
2 enforce the provisions of §21-17-3 of this code.

3 (b) In an action brought under this section, if an employer is found to have violated §21-  
4 17-3 of this code, the court may do any of the following:

5 (1) Award the prevailing employee or prospective employee actual damages and/or court  
6 costs and reasonable attorney fees; and/or

7 (2) Enjoin further violation of this article.

8 (c) Nothing in this article limits an employee's or prospective employee's rights or  
9 remedies under any other state or federal law.

NOTE: The purpose of this bill is to prohibit employers from requiring employees or prospective employees to have devices implanted or otherwise incorporated into their bodies as any condition related to their employment. This bill also provides for civil actions and damages for violations.

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