WEST virginia legislature

2022 regular session

Committee Substitute

for

Senate Bill 7

By Senators Azinger, Trump, and Swope

[Originating in the Committee on the Judiciary; reported on February 01, 2022]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to damages for medical monitoring; providing that increased risk of disease is not a compensable basis for damages or other relief in any civil action; and establishing requirements for an order for payment of medical monitoring expenses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Limitations on medical monitoring damages.

Increased risk of disease, whether or not accompanied by physiological or other changes in the human body, is not compensable through damages or any other form of relief under the law of this state, regardless of the legal theory being asserted. In any civil action a defendant cannot be required to pay as damages or provide any other type of legal, injunctive, or equitable relief for a plaintiff’s future medical surveillance, screening tests, or monitoring procedures unless the plaintiff proves the following in addition to the other requirements for the underlying cause of action:

(1) That such future medical surveillance, screening tests, or monitoring procedures are directly related to a presently existing and diagnosable physical disease or injury of the plaintiff; and

(2) That the plaintiff’s presently existing physical disease or injury was caused by the defendant’s conduct.