

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]

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; providing that increased
3 risk of disease is not a compensable basis for damages or other relief in any civil action;
4 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.

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

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

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