

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 473

By Senator Tarr

[Introduced February 14, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §55-7-33, relating to damages for medical monitoring; establishing
3 requirements for an order for payment of medical monitoring expenses; and providing that
4 an increased risk of disease is not a compensable basis for damages in any civil action.

Be it enacted by the Legislature of West Virginia: _

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-33. Limitations on medical monitoring damages.

1 (a) Increased risk of disease, whether or not accompanied by physiological or other
2 changes in the human body, is not compensable through damages or any other form of relief under
3 the 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 in addition to the other requirements for the underlying cause of action: (1) That
7 such future medical surveillance, screening tests, or monitoring procedures are directly related to
8 a presently existing and diagnosable physical disease of the plaintiff; and (2) that the plaintiff's
9 presently existing physical disease was caused by the defendant's conduct.

10 (b) In any civil action in which a court orders a defendant to pay for a plaintiff's future
11 medical surveillance, screening tests, or monitoring procedures, no plaintiff shall be awarded or
12 paid any moneys to cover the cost of his or her future medical surveillance, screening tests, or
13 monitoring procedures until they have been completed. The court shall order that the liable
14 defendant make periodic payments into a fund established to pay the cost of future medical
15 surveillance, screening tests, or monitoring procedures that are required by the judgment of the
16 court. The court shall determine how such fund will be administered. The court shall also
17 determine the date after which such future medical surveillance, screening tests, or monitoring
18 procedures are no longer required, and after that date any moneys remaining in the fund that are
19 not needed to pay for medical surveillance, screening tests, or monitoring procedures completed

- 20 prior to such termination date shall be repaid to the liable defendant who paid such amounts into
21 the fund. If there are multiple such defendants, then repayments shall be made in proportion to the
22 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.