WEST virginia legislature

2021 regular session

Introduced

House Bill 2679

By Delegates Steele, Foster, J. Pack, and Graves

[Introduced February 23, 2021; Referred to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §16-3-14 relating to cause of action for the spread of a communicable disease; providing that no cause of action shall be maintained in any court under certain conditions; providing for an evidentiary standard; providing for reasonable attorney’s fees and costs under certain conditions; providing that the transmission of the communicable disease must have been a knowing and intentional act; and providing for the burden of proof on the plaintiff.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-14. Cause of action regarding spread of communicable disease.

No cause of action shall be maintained for the unintentional transmission or contraction of a communicable disease, and any court of this state hearing such a cause of action shall dismiss said action upon motion of a defending party unless there is a preponderance of the evidence presented by the non-moving party that the transmission of the communicable disease was a knowing and intentional act of the defendant. Any defendant responding to a complaint alleging damages due to the spread of a communicable disease shall be entitled to reasonable attorney’s fees and costs unless the plaintiff or plaintiffs present a preponderance of the evidence that the transmission of the communicable disease was a knowing and intentional act of the defendant. It shall be the burden of the plaintiff in any case to prove, by a preponderance of the evidence, that the transmission or contraction of a communicable disease was a knowing and intentional act of the defendant.

NOTE: The purpose of this bill is to establish a cause of action for regarding the spread of communicable diseases under certain conditions.

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