

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 811

By Senators Azinger

[Introduced February 16, 2024; referred
to the Committee on the Judiciary]

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 law
 3 of this state, regardless of the legal theory being asserted. In any civil action a defendant cannot
 4 be required to pay as damages or provide any other type of legal, injunctive, or equitable relief for a
 5 plaintiff's future medical surveillance, screening tests, or monitoring procedures unless the plaintiff
 6 proves the following in addition to the other requirements for the underlying cause of action:

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

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

NOTE: The purpose of this bill is to limit medical monitoring damages based on increased risk of disease and setting requirements for plaintiff's seeking such damages.

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