

# Vermont Joins Growing Number of States Allowing Medical Monitoring for Alleged Exposure to Chemicals

## Publications

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On April 21st, Vermont Governor Phil Scott signed into law Senate Bill 113 that provides a cause of action for medical monitoring for individuals exposed to toxic chemicals. The new law specifically provides persons without a present injury or disease with a cause of action for medical monitoring if the following conditions are demonstrated by a preponderance of the evidence:

- Exposure to a toxic substance at a rate greater than the general population;
- The exposure is a result of tortious conduct of the defendant;
- As a result of the exposure, plaintiff has suffered an increased risk of contracting a serious disease;
- The increased risk makes it medically necessary for plaintiff to undergo periodic medical examinations different from that prescribed for the general population; and
- Monitoring procedures exist that are reasonable in cost and safe for use.

The bill also provides for an award of attorneys' fees and other litigation costs.

The new law comes on the heels of a Vermont federal court's approval of a \$34 million dollar class action settlement relating to alleged PFAS exposures that included a \$6 million dollar medical monitoring fund.

With its new law, Vermont joins Arizona, California, the District of Columbia, Florida, Massachusetts, Missouri, New Jersey, Ohio, Pennsylvania, Utah and West Virginia as states that specifically allow lawsuits seeking reimbursement for medical monitoring costs in the absence of present injury or disease. However, unlike these other states where the right to medical monitoring is a right recognized by the courts, Vermont is one of first states in the nation to provide that right via statute. Other states may well follow Vermont's lead and there have been ongoing albeit unsuccessful

efforts to create a federal cause of action for medical monitoring for exposure to certain toxic chemicals at the federal level.

We will continue to provide updates on federal and state efforts to codify the ability to bring claims seeking medical monitoring relief at the Corporate Environmental Lawyer blog.

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