

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 301 (Senator McFadden. *et al.*)

Judicial Proceedings

Evidence - Pulmonary Function Tests for Asbestos Claims - Prohibition on Race-Based Corrections

This bill prohibits a court from considering a race-based correction for lung capacity or function in conjunction with a pulmonary function test or similar test that is designed to measure lung capacity or function when scheduling a trial date for a claim involving asbestosis or exposure to asbestos.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill would codify current practice.

Small Business Effect: None.

Analysis

Current Law: None applicable.

Background: In order to accommodate the large number of pending asbestos cases (estimated at more than 12,000 as of early 1999), the Baltimore City Circuit Court established guidelines in 1992 to assign plaintiffs to “active” and “inactive” dockets. A plaintiff whose illness was more advanced would be assigned to the active docket. Those placed on the inactive docket would not get a trial date until they qualified for the active docket.

In early 1999, Owens Corning, which is a defendant in many of the asbestos cases, attempted to exclude a number of African-American plaintiffs from the active docket based on their pulmonary function test (PFT) scores. Owens Corning argued that there is medical evidence that African-Americans generally have a smaller lung capacity and consistently score lower on the PFT than whites. Consequently, Owens Corning wanted to apply a race-based correction to the PFT, which would mean that African-Americans would have to score lower on the PFT than whites in order to be admitted to the active docket.

Baltimore City Circuit Court advises that it does not currently apply a race-based correction to the PFT.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2000
nncsjr

Analysis by: Claire E. Rooney

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510