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SENATE JOINT RESOLUTION NO. 186

Offered January 24, 2000

*Directing the Virginia State Crime Commission to study the use of preliminary hearings.*

Patrons—Ticer, Byrne, Hawkins, Lucas, Mims and Puller

Referred to Committee on Rules

WHEREAS, Virginia law requires prosecutors to present the predominate evidence in a criminal case at a preliminary hearing to determine probable cause to charge a person with a felony; and

WHEREAS, this requirement may have led to murder in a case in Northern Virginia where two days after a preliminary hearing on burglary charges, the prosecution's chief witness disappeared and is presumed dead; the federal government has indicted the man accused of burglary for murder in the case; and

WHEREAS, many prosecutors feel that Virginia law puts victims and witnesses at great risk of intimidation and actual harm, because they must confront the defendant before trial often when the defendant is free on bail; and

WHEREAS, in many other states, a preliminary hearing is unnecessary where there is a grand jury indictment and evidence presented to the grand jury can be summarized for the court at an expedited preliminary hearing; and

WHEREAS, the legislature should investigate other procedures so that witnesses and victims for their own protection do not have to appear at preliminary hearings; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia State Crime Commission be directed to study the use of preliminary hearings. Technical assistance shall be provided to the Commission by the Commonwealth's Attorneys Association.

All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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