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SENATE JOINT RESOLUTION NO. 451

Offered January 24, 2005

Directing the Virginia State Crime Commission to study the implications of recent United States Supreme Court cases. Report.

Patron—Mims_____
Unanimous consent to introduce_____
Referred to Committee on Rules

WHEREAS, several recent United States Supreme Court cases have raised questions about established criminal procedures of the Commonwealth; and

Whereas, on March 8, 2004, the United States Supreme Court rendered an opinion in Crawford v. Washington that overturned decades of jurisprudence concerning exceptions to a defendant's Sixth Amendment right to confrontation; and

Whereas, current Virginia law allows for the introduction of crime lab certificates and affidavits in criminal trials as proof of certain facts; and

WHEREAS, under Crawford, criminal defendants have a right to confront witnesses providing testimony, used at trial, against them; and

Whereas, the Crawford decision now casts doubt on the constitutionality of crime lab certificates and uncontested affidavits used at trial because these statements may be testimonial in nature; and

WHEREAS, starting with Apprendi v. New Jersey decided on June 26, 2002, and continuing with Blakely v. Washington on June 24, 2004, and U.S. v. Booker and U.S. v. Fanfan on January 12, 2005, the United States Supreme Court has issued opinions that call into question the enhancement of sentences on the basis of facts that have not been found by a jury; now therefore be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia State Crime Commission be directed to study the impact of the above-mentioned U.S. Supreme Court cases on Virginia's statutes. The Crime Commission shall survey Virginia statutes and Rules of Court and identify those that may be in need of amendment or repeal.

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

The Virginia State Crime Commission shall complete its meetings by November 30, 2005, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2006 Regular Session of the General Assembly. The executive summary shall state whether the Virginia State Crime Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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