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HOUSE JOINT RESOLUTION NO. 50

Offered January 11, 2006

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Directing the Joint Legislative Audit and Review Commission to study the feasibility of establishing a multi-jurisdictional pilot health court and subsequently a system of health courts in the Commonwealth. Report.

Patrons—Hamilton, Athey, Callahan, Cosgrove, Gear, Gilbert, Kilgore, Landes, Lingamfelter, Marshall, D.W., McQuigg, Nutter, O'Bannon, Rust and Saxman

Referred to Committee on Rules

WHEREAS, grave concerns have arisen regarding access to health care in the Commonwealth and the composition of Virginia's current medical malpractice system is often cited as having a significant negative impact on the quality and availability of health care in the Commonwealth; and

WHEREAS, despite years of study and analysis of issues and the implementation of a cap on damages and other reforms related to medical malpractice many persons still believe that a medical malpractice crisis exists in the Commonwealth; and

WHEREAS, the ultimate goal is to ensure that the health care system works well for those who receive services and those who deliver services; and

WHEREAS, although it is a small percentage of cases which a patient is injured due to the medical malpractice of a health care practitioner, it is important to have a fair and just system for compensating those who are injured and there is a growing consensus that a new, more reliable system of medical justice is needed; and

WHEREAS, medical malpractice cases are extremely complex and technical and beyond the comprehension of most jurors and judges and require specialized knowledge that cannot be easily gained; and

WHEREAS, the Medical Society of Virginia has stated that the goals of health courts would be: more reliable application of consistent standards of care, consistent compensation for an increased number of injured patients, and reduced incentives for secrecy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study the feasibility of establishing a multi-jurisdictional pilot health court and subsequently a system of health courts in the Commonwealth.

In conducting its study, the Joint Legislative Audit and Review Commission shall study the implementation of health courts in other states and shall identify the advantages that would accrue to the citizens of the Commonwealth from a system of health courts, whether such courts would enhance the consistent application of the standard of care and promote consistency in verdicts, whether such courts would lessen legal incentives for defensive medicine and thereby reduce costs, whether litigation costs would be reduced, the costs of establishing and operating health courts and possible funding sources, the availability of judges with health care training or the feasibility of training existing judges, the number of judges that would be needed, whether there should be neutral experts who are compensated by the court, how it would impact the parties' right to a jury trial, and how it would work logistically.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Executive Secretary of the Supreme Court. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2006, 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 2007 Regular Session of the General Assembly. The executive summary shall state whether the Joint Legislative Audit and Review 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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