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HOUSE JOINT RESOLUTION NO. 50
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on February 8, 2006)

(Patron Prior to Substitute—Delegate Hamilton)

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

WHEREAS, 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 an impact on the availability of health care in the Commonwealth; and

WHEREAS, after years of study and analysis of issues and the implementation of a cap on damages and other reforms related to medical malpractice, there is a concern that a medical malpractice crisis may exist 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, there are cases in which a patient is injured due to the medical malpractice of a health care provider, and it is important to have a fair and just system for compensating those who are injured; 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 multijurisdictional 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 examine (i) health courts in other states; (ii) the advantages and disadvantages that would accrue to the judicial system and justice to citizens of the Commonwealth from a system of health courts; (iii) whether such courts would promote unbiased verdicts; (iv) whether such courts would lessen legal incentives for defensive medicine and thereby reduce costs for medical services; (v) whether litigation costs would be reduced; (vi) the costs of establishing and operating health courts and possible funding sources; (vii) the availability of judges with health care training or the feasibility of training existing judges and the number of judges that would be needed; (viii) whether there should be neutral experts who are compensated by the court and the definition of neutral experts; (ix) how a system of health courts would impact the parties' right to a jury trial; (x) who the potential jurors would be; (xi) whether all citizens will be treated equally before all the courts in the Commonwealth pursuant to the Constitution; (xii) whether a health care pilot project should be implemented, and if so, the logistical components of a health court and would it provide equal justice to all the citizens of the Commonwealth in all jury trials; and (xiii) such other related issues as the Commission deems appropriate.

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 study 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.

HOUSE SUBSTITUTE

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