

# VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

## CHAPTER 425

*An Act to amend and reenact § 16.1-88.2 of the Code of Virginia, relating to evidence of medical reports and records in cases appealed to circuit court.*

[H 3182]

Approved March 15, 2007

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-88.2 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-88.2. Evidence of medical reports or records; testimony of health care provider or custodian of records.

In a civil suit tried in a general district court or filed in a general district court and removed to circuit court *or appealed to the circuit court by any defendant* where the claim does not exceed the jurisdictional amount set forth in § 16.1-77 to recover damages for personal injuries or to resolve any dispute with an insurance company or health care provider, either party may present evidence as to the extent, nature and treatment of the injury, the examination of the person so injured and the costs of such treatment and examination by a report from the treating or examining health care provider as defined in § 8.01-581.1 and the records of a hospital or similar medical facility at which the treatment or examination was performed. Such medical report shall be admitted if the party intending to present evidence by the use of a report gives the opposing party or parties a copy of the report and written notice of such intention 10 days in advance of trial and if attached to such report is a sworn statement of the treating or examining health care provider that: (i) the person named therein was treated or examined by such health care provider; (ii) the information contained in the report is true and accurate and fully descriptive as to the nature and extent of the injury; and (iii) that any statement of costs contained in the report is true and accurate. Such hospital or other medical facility record shall be admitted if attached to it is a sworn statement of the custodian thereof that the same is a true and accurate copy of the record of such hospital or other medical facility. If, thereafter, the plaintiff or defendant summons the health care provider or custodian making such statement to testify in proper person or by deposition taken de bene esse, the court shall determine which party shall pay the fee and costs for such appearance or depositions, or may apportion the same among the parties in such proportions as the ends of justice may require. If such health care provider or custodian is not subject to subpoena for cross-examination in court or by a deposition de bene esse, then the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care provider or custodian to obtain his testimony as the ends of justice may require.