

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 16.1-88.2 of the Code of Virginia, relating to evidence of medical*
3 *reports in district court and appeals to circuit court.*

4 [H 1815]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 16.1-88.2 of the Code of Virginia is amended and reenacted as follows:**8 **§ 16.1-88.2. Evidence of medical reports or records; testimony of health care provider or**
9 **custodian of records.**

10 In a civil suit tried in a general district court or appealed to the circuit court ~~by any defendant~~ to
11 recover damages for personal injuries or to resolve any dispute with an insurance company or health
12 care provider, either party may present evidence as to the extent, nature and treatment of the injury, the
13 examination of the person so injured and the costs of such treatment and examination by a report from
14 the treating or examining health care provider as defined in § 8.01-581.1 and the records of a hospital or
15 similar medical facility at which the treatment or examination was performed. Such medical report shall
16 be admitted if the party intending to present evidence by the use of a report gives the opposing party or
17 parties a copy of the report and written notice of such intention 10 days in advance of trial and if
18 attached to such report is a sworn statement of the treating or examining health care provider that: (i)
19 the person named therein was treated or examined by such health care provider; (ii) the information
20 contained in the report is true and accurate and fully descriptive as to the nature and extent of the
21 injury; and (iii) that any statement of costs contained in the report is true and accurate. Such hospital or
22 other medical facility record shall be admitted if attached to it is a sworn statement of the custodian
23 thereof that the same is a true and accurate copy of the record of such hospital or other medical facility.
24 If, thereafter, the plaintiff or defendant summons the health care provider or custodian making such
25 statement to testify in proper person or by deposition taken de bene esse, the court shall determine
26 which party shall pay the fee and costs for such appearance or depositions, or may apportion the same
27 among the parties in such proportions as the ends of justice may require. If such health care provider or
28 custodian is not subject to subpoena for cross-examination in court or by a deposition de bene esse, then
29 the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care
30 provider or custodian to obtain his testimony as the ends of justice may require. *The plaintiff may only*
31 *present evidence pursuant to this section in circuit court if he has not requested an amount in excess of*
32 *the ad damnum in the motion for judgment filed in the general district court.*

ENROLLED

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