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HOUSE JOINT RESOLUTION NO. 530

Offered January 11, 2023

Prefiled January 11, 2023

Directing the Joint Legislative Audit and Review Commission to study the magisterial system in the Commonwealth. Report.

Patron—Williams

Referred to Committee on Rules

WHEREAS, the magisterial system in the Commonwealth is divided into eight magisterial regions, with each region having between three and five judicial districts and each judicial district having a chief magistrate; in addition, each magisterial region has a magistrate regional supervisor and such number of magistrates as authorized by the Committee on District Courts and appointed by the Executive Secretary of the Supreme Court of Virginia; and

WHEREAS, there is at least one magistrate office located in each of the 32 judicial districts within the Commonwealth; and

WHEREAS, magistrates serve 24 hours per day, seven days per week and perform such duties as issuing arrest warrants, summonses, search warrants, emergency protective orders, emergency custody orders, and conducting certain bail hearings as authorized by the Code of Virginia; and

WHEREAS, magistrates are not required to be graduates of a school of law, but are required to complete training and certification requirements established by the Committee on District Courts during a nine-month probationary period, after which they serve at the pleasure of the Executive Secretary of the Supreme Court of Virginia; and

WHEREAS, prior to 2008, magistrates in each judicial district were appointed and overseen by the chief judge of the circuit court, in consultation with the chief judge of the general district court and chief judge of the juvenile and domestic relations district court, in such judicial district; and

WHEREAS, the terms used by, definitions of, and functions performed by magistrates, as well as the method of selecting or electing magistrates, differ between states; 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 magisterial system in the Commonwealth. Such study shall analyze the effectiveness of the current magisterial system and compare the organization and use of magistrates in the Commonwealth to that of other states with both similar and dissimilar magisterial systems, and those without magisterial systems, in order to provide suggestions for improving the magisterial system in the Commonwealth.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) define the term "magistrate" as it is used in the Commonwealth and by other states that use the same or a similar term; (ii) determine which states use magistrates in a role or function comparable to the Commonwealth and compare the role or functions and workloads of such magistrates to magistrates in the Commonwealth; (iii) determine the methods of selection, methods of oversight, and the term lengths, if any, of magistrates in other states that use magistrates in a role or function comparable to the Commonwealth; (iv) determine which states do not have magistrates, and identify in such states who performs the functions of that of a magistrate; (v) determine in which states the role or functions performed by magistrates differ significantly from the role or functions performed by magistrates in the Commonwealth and analyze (a) the difference in the role or functions performed by such magistrates in other states as well as the difference in education and training requirements for such magistrates in other states, (b) where such magisterial role or function falls within such other states' judicial or justice system and the overall workload for and effectiveness of such magisterial role or function, and (c) any potential limitations with such magisterial role or function in such other states as compared to the magisterial system in the Commonwealth; and (vi) provide recommendations for the improvement or reorganization of the magisterial system in the Commonwealth.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Office of the Executive Secretary of the Supreme Court of Virginia. 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 for the first year by November 30, 2023, and for the second year by November 30, 2024, 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 next Regular Session of the General Assembly for

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59 each year. Each executive summary shall state whether the Joint Legislative Audit and Review
60 Commission intends to submit to the General Assembly and the Governor a report of its findings and
61 recommendations for publication as a House or Senate document. The executive summaries and reports
62 shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for
63 the processing of legislative documents and reports and shall be posted on the General Assembly's
64 website.