

SENATE JOINT RESOLUTION NO. 385

Creating a joint subcommittee to study means of encouraging prompt and equitable resolution of civil disputes.

Agreed to by the Senate, February 23, 1995

Agreed to by the House of Delegates, February 22, 1995

WHEREAS, the number of civil actions filed in the Commonwealth continues to escalate; and
WHEREAS, an efficient and equitable system of resolving legal disputes between persons is essential; and

WHEREAS, the concept of an "offer of settlement" is an approach whereby either party may make an offer to settle at a relatively early point in the litigation, and if the other party refuses the offer, proceeds with the litigation but does not substantially prevail, the party who made the offer may be entitled to recoup a portion of his costs incurred in continuing the litigation; and

WHEREAS, Rule 68 of the Federal Rules of Civil Procedure has served as a model for state statutes which encourage the parties to come to a realistic settlement early in the litigation process; and

WHEREAS, adoption of an offer of settlement approach has been considered by the General Assembly; and

WHEREAS, in its 1988 report the Joint Subcommittee Studying the Liability Insurance Crisis and the Need for Tort Reform, after looking at the federal rule and other state statutes as well as Rule 4:13 of the Rules of the Virginia Supreme Court, recognized the ". . . merit of any process which encourages early and equitable resolution of disputes. . . . but remain[ed] concerned over the possible chilling effect imposition of sanctions might have on the settlement process. . . ."; and

WHEREAS, various practitioners remain concerned that Rule 4:13 is not adequate to facilitate and improve the efficiency of the tort reparations system; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a seven-member joint subcommittee be created to study alternative means for encouraging the early settlement of tort cases, particularly the efficacy of Rule 4:13 and "offer of settlement" statutes used in other jurisdictions. The membership of the joint subcommittee shall be appointed as follows: three members of the Senate to be appointed by the Senate Committee on Privileges and Elections and four members of the House of Delegates to be appointed by the Speaker of the House.

The direct costs of this study shall not exceed \$8,750.

The Division of Legislative Services shall provide staff support for the study.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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