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## HOUSE JOINT RESOLUTION NO. 150

Offered January 22, 1996

*Requesting a joint subcommittee to study the capacity of the Court of Appeals of Virginia.*

Patron—Almand

Referred to Committee on Rules

WHEREAS, the Commission on the Future of the Virginia Judicial System submitted recommendations for a study and review of the Commonwealth's System of Appellate Review in Civil Cases, and a joint subcommittee was formed to study those recommendations (HJR 329); and

WHEREAS, the joint subcommittee, in 1990, recommended that the appellate system not be changed at that time, but recommended a reevaluation in the future of both the civil and criminal appellate systems; and

WHEREAS, in 1994, the Judiciary Committee of The Virginia Bar Association (the "Committee") completed a two-year study of the appellate process in Virginia, which was endorsed by The Virginia Bar Association and, in January 1995, released to the public, all members of the Judiciary of the Commonwealth, the members of the General Assembly, leaders of the organized bar, and other interested persons in the Commonwealth; and

WHEREAS, the study received much favorable comment for its breadth and depth; and

WHEREAS, The Boyd Graves Conference reviewed the study and its recommendations at its meeting in October 1995; and endorsed the call of the Virginia Bar Association for further legislative study of this issue; and

WHEREAS, in the 1995 Session, the legislature acted on the recommendation of the study to amend Virginia Code Annotated § 17-116.01 to allow the Judicial Council of Virginia to prepare periodic reviews about staffing of the Court of Appeals; and

WHEREAS, the study recommended that current staff needs of the Court of Appeals be funded on an ongoing basis; and

WHEREAS, the study also recommended that all civil cases be made appealable to the Court of Appeals in the first instance by petition, as is now true with criminal cases; and

WHEREAS, the study further recommended that Virginia Code Annotated § 17-116.07 be amended to make cases in all subject matters eligible for appeal after action by the Court of Appeals by petition to the Supreme Court, permitting the Supreme Court the maximum ability to deal with the evolving legal issues facing the state, resolve ambiguities in the law, interpret legislation, and set policy; and

WHEREAS, the study also recommended that, over time, the Commonwealth adopt a system whereby appeal to the Court of Appeals shifts from petition to "notice of appeal," which does not require a separate petition for "leave to appeal," thus assuring one level of appellate review; and

WHEREAS, the study additionally recommended that the time frame set for this change be one which allows for analysis and development of systems which do not lower the quality of review afforded litigants from that currently enjoyed, and which allows for the practical necessity of funding both normal growth needs and necessary changes in the appellate system; and

WHEREAS, it is believed that the best approach to determining changes necessary and appropriate to the current appellate system is through further study, by a joint subcommittee, of the relevant issues raised by the committee report, and that such a study would be in the best interests of the Commonwealth; now, therefore be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee for the Study and Review of the Commonwealth's System of Appellate Review be established.

The joint subcommittee shall consist of eleven members to be appointed as follows: three members of the House of Delegates and three judges, to be appointed by the Speaker of the House, and three members of the Senate of Virginia and two members of the Virginia Bar Association, to be appointed by the Senate Committee on Privileges and Elections. The subcommittee is requested, as it may find appropriate, to develop its recommendations by providing for public comment and participation, as well as providing opportunity for participation by representatives of all other interested organizations and individuals.

The direct costs of this study shall not exceed \$ 11,200.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1997 Session of the General Assembly as provided in the procedures of the Division

INTRODUCED

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**60** of Legislative Automated Systems for processing legislative documents.

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