

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 1326 Session of  
2003

INTRODUCED BY TURZAI, ARMSTRONG, BARRAR, BIRMELIN, CAPPELLI,  
CLYMER, COLEMAN, CREIGHTON, FAIRCHILD, FEESE, GODSHALL,  
HUTCHINSON, JAMES, LEH, LEWIS, MAHER, METCALFE, O'NEILL,  
REED, ROSS, RUBLEY, SAYLOR, SCAVELLO, SCHRODER, S. H. SMITH,  
STEIL, E. Z. TAYLOR, TIGUE, WEBER, WILT, YOUNGBLOOD, BOYD AND  
BARD, MAY 6, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 10, 2003

A JOINT RESOLUTION

1 ~~Proposing an amendment to the Constitution of the Commonwealth~~ <—  
2 ~~of Pennsylvania, further providing for compensation laws~~  
3 ~~allowed to General Assembly relating to medical professional~~  
4 ~~liability actions.~~

5 PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE COMMONWEALTH <—  
6 OF PENNSYLVANIA, FURTHER PROVIDING FOR COMPENSATION LAWS  
7 ALLOWED TO THE GENERAL ASSEMBLY.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby resolves as follows:

10 ~~Section 1. Access to quality health care is of the utmost~~ <—  
11 ~~importance to the safety and welfare of our Commonwealth's more~~  
12 ~~than 12 million citizens.~~

13 ~~The health and welfare of our residents is in serious~~  
14 ~~jeopardy because many physicians faced with excessive medical~~  
15 ~~malpractice premiums can no longer afford to deliver quality~~  
16 ~~health care in this Commonwealth.~~

17 ~~Several factors, including excessive jury awards, have~~

~~facilitated the sudden exodus of many of the medical malpractice insurance providers in this Commonwealth.~~

~~This diminished market has placed severe restrictions on the physician's ability to secure, afford and maintain reasonable liability insurance.~~

~~In the absence of affordable insurance coverage, many physicians are in the untenable position of being forced to reduce services, moving to other states or leaving the medical profession altogether.~~

~~The departure of our Commonwealth's physicians, combined with costly insurance premiums, has resulted in the reduction of other essential hospital services.~~

~~The ultimate result of this reduction in services is restricted access to health care for the citizens of this Commonwealth.~~

~~This Commonwealth is clearly in the midst of an escalating liability emergency.~~

~~This Commonwealth has long been recognized as a leader in medical research and medical services, supporting some of the best medical institutions in the world.~~

~~It is imperative that the citizens of this Commonwealth continue to have access to the best physicians, the safest medical institutions and a fair and just legal system.~~

~~Access to quality health care must not come at the expense of those injured by the willful or wanton actions of practitioners.~~

~~The Commonwealth must balance the right of its citizens to quality health care against the rights of professionals who cause injury to its citizens.~~

~~The General Assembly desires to alleviate the medical emergency that has evolved from unreasonable jury awards,~~

~~unaffordable insurance premiums and reduced reimbursements, but is limited in its efforts by rigid restrictions in the Constitution of Pennsylvania.~~

~~The safety and welfare of this Commonwealth requires prompt amendment to the Constitution of Pennsylvania.~~

~~The following amendment to the Constitution of Pennsylvania is proposed in accordance with section 1(a) and (b) of Article XI:~~

~~That section 18 of Article III be amended to read:~~

~~§ 18. Compensation laws allowed to General Assembly.~~

~~(a) The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof[; but in no other cases shall]. Except as otherwise provided for in this section, the General Assembly shall not limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.~~

~~(b) Subject to the provisions of subsection (c), the General Assembly may enact laws limiting the amount of recovery for noneconomic and punitive damages in any medical professional liability action.~~

~~(c) The provisions of subsection (b) shall not apply to noneconomic and punitive damages in any medical professional liability action if the act or omission amounts to willful or wanton misconduct.~~

~~Section 2. This proposed amendment shall be submitted by the Secretary of the Commonwealth to the qualified electors of the State at the municipal election to be held on November 4, 2003, after the advertising requirements of section 1(a) of Article XI of the Constitution of Pennsylvania have been satisfied.~~

SECTION 1. THE FOLLOWING AMENDMENT TO THE CONSTITUTION OF PENNSYLVANIA IS PROPOSED IN ACCORDANCE WITH ARTICLE XI:

THAT SECTION 18 OF ARTICLE III BE AMENDED TO READ:

§ 18. COMPENSATION LAWS ALLOWED TO GENERAL ASSEMBLY.

THE GENERAL ASSEMBLY MAY ENACT LAWS REQUIRING THE PAYMENT BY EMPLOYERS, OR EMPLOYERS AND EMPLOYEES JOINTLY, OF REASONABLE COMPENSATION FOR INJURIES TO EMPLOYEES ARISING IN THE COURSE OF THEIR EMPLOYMENT, AND FOR OCCUPATIONAL DISEASES OF EMPLOYEES, WHETHER OR NOT SUCH INJURIES OR DISEASES RESULT IN DEATH, AND REGARDLESS OF FAULT OF EMPLOYER OR EMPLOYEE, AND FIXING THE BASIS OF ASCERTAINMENT OF SUCH COMPENSATION AND THE MAXIMUM AND MINIMUM LIMITS THEREOF, AND PROVIDING SPECIAL OR GENERAL REMEDIES FOR THE COLLECTION THEREOF[; BUT IN NO OTHER CASES SHALL THE GENERAL ASSEMBLY LIMIT THE AMOUNT TO BE RECOVERED FOR INJURIES RESULTING IN DEATH, OR FOR INJURIES TO PERSONS OR PROPERTY, AND IN]. IN ALL OTHER CASES, THE GENERAL ASSEMBLY SHALL NOT LIMIT THE RECOVERY OF ECONOMIC DAMAGES FOR INJURIES

1 RESULTING IN DEATH, OR FOR INJURIES TO PERSONS OR PROPERTY AND  
2 MAY BY STATUTE LIMIT THE RECOVERY OF NONECONOMIC DAMAGES FOR  
3 INJURIES RESULTING IN DEATH, OR FOR INJURIES TO PERSONS OR  
4 PROPERTY. IN CASE OF DEATH FROM SUCH INJURIES, THE RIGHT OF  
5 ACTION SHALL SURVIVE, AND THE GENERAL ASSEMBLY SHALL PRESCRIBE  
6 FOR WHOSE BENEFIT SUCH ACTIONS SHALL BE PROSECUTED. NO ACT SHALL  
7 PRESCRIBE ANY LIMITATIONS OF TIME WITHIN WHICH SUITS MAY BE  
8 BROUGHT AGAINST CORPORATIONS FOR INJURIES TO PERSONS OR  
9 PROPERTY, OR FOR OTHER CAUSES DIFFERENT FROM THOSE FIXED BY  
10 GENERAL LAWS REGULATING ACTIONS AGAINST NATURAL PERSONS, AND  
11 SUCH ACTS NOW EXISTING ARE AVOIDED.

12 SECTION 2. (A) UPON THE FIRST PASSAGE BY THE GENERAL  
13 ASSEMBLY OF THIS PROPOSED CONSTITUTIONAL AMENDMENT, THE  
14 SECRETARY OF THE COMMONWEALTH SHALL PROCEED IMMEDIATELY TO  
15 COMPLY WITH THE ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE  
16 XI OF THE CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE  
17 REQUIRED ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN  
18 WHICH SUCH NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER  
19 PASSAGE OF THIS PROPOSED CONSTITUTIONAL AMENDMENT.

20 (B) UPON THE SECOND PASSAGE BY THE GENERAL ASSEMBLY OF THIS  
21 PROPOSED CONSTITUTIONAL AMENDMENT, THE SECRETARY OF THE  
22 COMMONWEALTH SHALL PROCEED IMMEDIATELY TO COMPLY WITH THE  
23 ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE XI OF THE  
24 CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE REQUIRED  
25 ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN WHICH SUCH  
26 NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER PASSAGE OF  
27 THIS PROPOSED CONSTITUTIONAL AMENDMENT. THE SECRETARY OF THE  
28 COMMONWEALTH SHALL SUBMIT THIS PROPOSED CONSTITUTIONAL AMENDMENT  
29 TO THE QUALIFIED ELECTORS OF THIS COMMONWEALTH AT THE FIRST  
30 PRIMARY, GENERAL OR MUNICIPAL ELECTION WHICH MEETS THE

1 REQUIREMENTS OF AND IS IN CONFORMANCE WITH SECTION 1 OF ARTICLE  
2 XI OF THE CONSTITUTION OF PENNSYLVANIA AND WHICH OCCURS AT LEAST  
3 THREE MONTHS AFTER THE PROPOSED CONSTITUTIONAL AMENDMENT IS  
4 PASSED BY THE GENERAL ASSEMBLY.