

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joyce A. Spiliotis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act RELATIVE TO MEDICAL MALPRACTICE REFORM.

PETITION OF:

NAME: _____ DISTRICT/ADDRESS: _____

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO MEDICAL MALPRACTICE REFORM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 211B of the General Laws is hereby amended by inserting at the end of Section 19 the
2 following Section 19A:

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4 Section 19A. Pilot Project for Medical Malpractice Court Initiative Committee

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6 (a) Establishment. A pilot project creating medical malpractice court committees is established for
7 the purpose of developing an approach to adjudicating medical disputes arising between patients and
8 health care providers that is evidence-based and provides appropriate and fair compensation to
9 claimants. Committees shall be located in the counties of Berkshire, Worcester, and Suffolk. Pilot courts
10 shall be applicable to claimants residing within the named counties. The three pilot courts, as
11 established herein, shall have exclusive jurisdiction over all actions for malpractice, error or mistake
12 against a provider of health care arising within the county. The committees shall be under the direct
13 supervision of the chief justice of administration and management. The chief justice shall be responsible
14 to fund, coordinate, and evaluate activities of the committees within said counties to screen and refer
15 cases to the medical malpractice pilot courts.

16 The chief justice for administration and management shall monitor and evaluate the cost, impact and
17 effectiveness of activities undertaken to screen and refer cases to a medical malpractice pilot court and
18 report annually to the general court on his findings. The annual report should identify unmet needs and
19 promising opportunities for additional screening and referral activities and recommend legislative
20 actions required to implement these activities.

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22 (b)(1) Committee Composition. Each committee shall be composed of the following persons:

- 23 A. a district judge presiding in such county, appointed by the chief justice for administration and
24 management, who will serve as committee chair;
- 25 B. 1 member representing the county clerk's office within the county
- 26 C. The Attorney General of the Commonwealth or her designee
- 27 D. The Commissioner of the Division of Insurance, or her designee
- 28 E. One member representing the Massachusetts Medical Society
- 29 F. One member representing the Massachusetts Hospital Association
- 30 G. One member representing the defense trial bar
- 31 H. One member representing the plaintiff trial bar
- 32 I. One member representing a consumer organization

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34 (c). The county committees shall be responsible for establishing a medical malpractice pilot court within
35 each of the named counties to be operational no later than January 1, 2009. The committees shall meet
36 no later than January 15, 2008. In establishing said courts, the committees shall:

- 37 1. Establish procedures for the operation of the courts;
- 38 2. Establish a process for filing and processing civil actions for medical malpractice claims;
- 39 3. Establish evidence-based standards to be used in resolving disputes; and
- 40 4. Develop a schedule for awarding damages that is based proportionally on the negligence of the
41 provider and set maximum amounts for awards. In no event shall damages for pain and
42 suffering exceed the amount of damages available pursuant to section 60H of chapter 231. The
43 provisions of section 85K of chapter 231 shall apply, as applicable, to actions adjudicated as part
44 of the pilot program.

45

46 (d). The chief justice for administration and management on July 1, 2009, shall report to the general
47 court on the progress and outcomes of each committee on achieving the goals of the pilot. On January
48 1, 2010, the chief justice for administration and management shall report to the general court on the
49 operation of the pilot courts and make recommendations for expanding the medical malpractice courts
50 to all districts in the Commonwealth.

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