HOUSE DOCKET, NO. 2779 FILED ON: 1/14/2009

HOUSE . . . . . No. 3779

The Commonwealth of Massachusetts

In the Year Two Thousand 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:

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

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

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

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

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

a district judge presiding in such county, appointed by the chief justice for administration and management, who will serve as committee chair;

1 member representing the county clerk's office within the county

The Attorney General of the Commonwealth or her designee

The Commissioner of the Division of Insurance, or her designee

One member representing the Massachusetts Medical Society

One member representing the Massachusetts Hospital Association

One member representing the defense trial bar

One member representing the plaintiff trial bar

One member representing a consumer organization

(c). The county committees shall be responsible for establishing a medical malpractice pilot court within each of the named counties to be operational no later than January 1, 2009.

The committees shall meet no later than January 15, 2008. In establishing said courts, the committees shall:

Establish procedures for the operation of the courts;

Establish a process for filing and processing civil actions for medical malpractice claims;

Establish evidence-based standards to be used in resolving disputes; and

Develop a schedule for awarding damages that is based proportionally on the negligence of the provider and set maximum amounts for awards. In no event shall damages for pain and suffering exceed the amount of damages available pursuant to section 60H of chapter 231. The provisions of section 85K of chapter 231 shall apply, as applicable, to actions adjudicated as part of the pilot program.

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