

SENATE BILL REPORT

EHB 2839

As Reported By Senate Committee On:
Judiciary, February 25, 2004

Title: An act relating to a study of alternatives for resolving disputes related to injuries resulting from health care.

Brief Description: Creating a task force to study alternatives for resolving disputes related to injuries resulting from health care.

Sponsors: Representatives Schual-Berke, Kagi, Cody, Lantz, Linville, Morrell, Wallace, Kenney, O'Brien, Miloscia, Sommers, Rockefeller, Clibborn, Edwards and Dickerson.

Brief History:

Committee Activity: Judiciary: 2/25/04 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: Medical malpractice cases may be resolved through a civil action in superior court, or through mediation or arbitration. All medical malpractice claims are subject to mandatory mediation in accordance with court rules. However, the court rule allows mandatory mediation to be waived upon petition of any party that mediation is not appropriate.

Some medical malpractice claims may be subject to mandatory arbitration requirements. Mandatory arbitration is required in counties with a population over 150,000 and authorized in smaller counties. It applies to actions in which the sole relief requested is monetary damages not exceeding \$35,000. In addition, parties to a dispute may voluntarily agree in writing to enter into arbitration to resolve the dispute.

Summary of Amended Bill: A joint task force is created to study judicial and administrative alternatives to resolving medical malpractice suits. The task force's objectives are to:

- Examine the approaches other states and jurisdictions have taken to address medical malpractice cases, such as mediation and arbitration, administrative compensation systems, and the use of impartial medical experts or specialized courts or judges;
- Recommend one or more methods of resolution of medical malpractice disputes, such as an administrative resolution process, medical courts, or court rule modifications designed to increase the medical knowledge of judges; and

- Recommend an implementation plan that addresses the administrative structure of the proposed method, the cost of implementation, and necessary changes to statutes and court rules.

The task force is chaired by the Office of the Attorney General and includes the following members:

- Legislators, including one member from each caucus;
- Superior court judges, appointed by the president of the Superior Court Judges Association, including one from eastern Washington and one from western Washington;
- One appellate court judge appointed by the Chief Justice of the Supreme Court;
- One retired judge actively involved in mediation or arbitration of medical negligence suits;
- The Secretary of the Department of Health;
- Two physician representatives of the Washington Medical Association;
- One representative of the Washington State Hospital Association;
- One representative of the Washington State Bar Association; and
- One representative of health care consumers, appointed by the Attorney General.

The task force must submit a report to the Governor and the appropriate committees of the Legislature by November 1, 2004.

Amended Bill Compared to Original Bill: The amendment advances the due date for the report from November 1, 2005 to November 1, 2004.

Appropriation: None.

Fiscal Note: New fiscal note requested on amended bill on February 4, 2004.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: No one.