

By: Nixon, et al.

H.J.R. No. 3

A JOINT RESOLUTION

1 proposing a constitutional amendment concerning civil lawsuits  
2 against doctors and health care providers, and other actions,  
3 authorizing the legislature to determine limitations on  
4 non-economic damages.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article III, Texas Constitution, is amended by  
7 adding Section 66 to read as follows:

8 Sec. 66. (a) In this section "economic damages" means  
9 compensatory damages for any pecuniary loss or damage. The term  
10 does not include any loss or damage, however characterized, for  
11 past, present, and future physical pain and suffering, mental  
12 anguish and suffering, loss of consortium, loss of companionship  
13 and society, disfigurement, or physical impairment.

14 (b) Notwithstanding any other provision of this  
15 constitution, the legislature by statute may determine the limit of  
16 liability for all damages and losses, however characterized, other  
17 than economic damages, of a provider of medical or health care with  
18 respect to treatment, lack of treatment, or other claimed departure  
19 from an accepted standard of medical or health care or safety,  
20 however characterized, that is or is claimed to be a cause of, or  
21 that contributes or is claimed to contribute to, disease, injury,  
22 or death of a person. This subsection applies without regard to  
23 whether the claim or cause of action arises under or is derived from  
24 common law, a statute, or other law, including any claim or cause of

1 action based or sounding in tort, contract, or any other theory or  
2 any combination of theories of liability. The claim or cause of  
3 action includes a medical or health care liability claim as defined  
4 by the legislature.

5 (c) Notwithstanding any other provision of this  
6 constitution, after January 1, 2005, the legislature by statute may  
7 determine the limit of liability for all damages and losses,  
8 however characterized, other than economic damages, in a claim or  
9 cause of action not covered by Subsection (b) of this section. This  
10 subsection applies without regard to whether the claim or cause of  
11 action arises under or is derived from common law, a statute, or  
12 other law, including any claim or cause of action based or sounding  
13 in tort, contract, or any other theory or any combination of  
14 theories of liability.

15 (d) Except as provided by Subsection (c) of this section,  
16 this section applies to a law enacted by the 78th Legislature,  
17 Regular Session, 2003, and to all subsequent regular or special  
18 sessions of the legislature.

19 (e) A legislative exercise of authority under Subsection  
20 (c) of this section requires a three-fifths vote of all the members  
21 elected to each house and must include language citing this  
22 section.

23 SECTION 2. This proposed constitutional amendment shall be  
24 submitted to the voters at an election to be held September 13,  
25 2003. The ballot shall be printed to permit voting for or against  
26 the proposition: "The constitutional amendment concerning civil  
27 lawsuits against doctors and health care providers, and other

1 actions, authorizing the legislature to determine limitations on  
2 non-economic damages."

3 SECTION 3. If a majority of the voters vote against this  
4 proposed constitutional amendment, a court may not consider any  
5 aspect of the vote for any purpose, in any manner, or to any extent.