

By: Nixon, et al.

H.J.R. No. 3

Substitute the following for H.J.R. No. 3:

By: Gattis

C.S.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 the members
21 present in 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.