

By: Nelson

S.J.R. No. 48

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the legislature  
2 to determine limits for noneconomic damages in medical or health  
3 care liability claims and other claims.

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

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

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

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

1 any combination of theories of liability. The claim or cause of  
2 action includes a medical or health care liability claim as defined  
3 by the legislature.

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

14 (d) The legislature may include in any statute passed under  
15 this section a limitation of liability in the statute that:

16 (1) applies to each claim or cause of action, each  
17 claimant, each provider, or a combination of one or more claims or  
18 causes of action, claimants, or providers;

19 (2) applies to all damages and losses, other than  
20 economic damages, sought with respect to the claim or cause of  
21 action, an element of the damage or loss sought, or a combination of  
22 those elements;

23 (3) is subject to increase or decrease over time by a  
24 means or as otherwise specified by the legislature;

25 (4) is subject to or conditioned on an event or  
26 requirement specified by the legislature; or

27 (5) applies to a claim or cause of action under either

1 Subsection (b) or (c) of this section that has not become vested in  
2 a final judgment, including a claim or cause of action in a suit or  
3 action pending on or before the effective date of a statute passed  
4 under this section.

5 (e) Except as provided by Subsection (c) of this section,  
6 this section applies to a law enacted by the 78th Legislature,  
7 Regular Session, 2003, and to all subsequent regular or special  
8 sessions of the legislature.

9 SECTION 2. This proposed constitutional amendment shall be  
10 submitted to the voters at an election to be held September 13,  
11 2003. The ballot shall be printed to permit voting for or against  
12 the proposition: "The constitutional amendment authorizing the  
13 legislature to determine limitations on noneconomic damages."

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