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SENATE JOINT RESOLUTION NO. 259

Offered January 8, 2025

Prefiled January 7, 2025

Directing the Joint Legislative Audit and Review Commission to study the methodology used to determine judicial allocations within the Commonwealth. Report.

Patron—Surovell

Referred to Committee on Rules

WHEREAS, the General Assembly has a constitutional responsibility to provide for judges of courts of record and judges of courts not of record, and acts to ensure the proper allocation of funds and resources to equip the courts of the Commonwealth to carry out justice effectively and efficiently; and

WHEREAS, methods of determining the proper number of authorized judges in courts across the Commonwealth, clerk staff, and other resources necessary for the courts to operate optimally has evolved over time; and

WHEREAS, the General Assembly provided funds for the Supreme Court of Virginia to contract with the National Center for State Courts to conduct a judicial workload assessment study and provide recommendations for any judicial boundary realignment and the recommended number of authorized judgeships for each circuit, general district, and juvenile and domestic relations district court in 2013, and again provided funds for additional judicial workload assessment studies that were conducted by the National Center for State Courts in 2017 and 2024; and

WHEREAS, the current study has resulted in judicial position allocations that are inconsistent with populations, caseloads, and workloads within each circuit and potentially failed to account for the lack of standardization across courts, various differences in case types, complexities, and docketing practices of the courts and locality investments in court systems for law clerks, court clerks, judge-attorney support, and other services, and possibly relied upon flawed data used to determine the results of the judicial workload assessment, which collectively could contribute to excessive or suboptimal allocations of funds and resources to state courts across the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study the methodology used to determine judicial allocations within the Commonwealth.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) analyze the data gathered and utilized in the three judicial workload assessment studies conducted within the Commonwealth by the National Center for State Courts to determine: (a) the extent to which the lack of standardization in case opening, filing, and coding practices as used by clerks in different circuit, general district, and juvenile and domestic relations district courts across the Commonwealth inhibits the ability of third parties to accurately measure judicial effort and need; (b) if case weights factoring in case complexity were properly calculated and assigned given the actual variations in case complexity across the Commonwealth; (c) if local investments in law clerks, judicial-attorney support, and other locally funded judicial support measures are adequately taken into account in measuring the need for state-funded positions; (d) whether the amount of time, both during court hours and during personal time, that judges spend performing judicial work, and the type of work being performed, is accurately captured, evaluated, assessed, or considered, and, conversely, if the amount of time during court hours that judges are not performing judicial tasks is being captured, evaluated, assessed, or considered; (e) whether the present study is capable of being influenced intentionally or accidentally by practices and systems implemented by judges or court staff; and (f) if the averaging of judicial effort across the entire Commonwealth is an accurate or fair method to approximate needed judicial positions for purposes of appropriating funds for judicial positions; (ii) examine the following: (a) the lack of established court efficiency measures to determine if judges are using time during work hours efficiently to hear and properly decide the maximum number of cases within appropriate time frames, and identify those judicial circuits or districts already utilizing docketing practices that create maximum efficiency in processing caseloads that should be considered potential models in establishing statewide court efficiency measures, statewide best practices, and accountability measures; (b) if there are other contributing factors substantially impacting court efficiency, such as regional or local practices of Commonwealth's attorneys, delays in required services performed outside the courtroom, such as drug screening conducted by local or regional jails, or policy changes within the Department of Social Services or other agencies that impact court appearances or filings; and (c) the use of technology, such as virtual appearances, that streamlines the ability to conduct hearings and reduces conflicts in scheduled appearances for attorneys in cases, motions, or other court appearances; (iii) upon taking into consideration the findings of this study, (a) determine whether state

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59 funds would be more appropriately allocated if the Supreme Court of Virginia standardized case opening,  
60 closing, and coding practices through either a uniform electronic case filing system as is utilized in the  
61 Federal Courts and by other states or through regularly performed audits of the courts, and if electronic court  
62 appearances could be utilized as a standard practice, as they were during the COVID-19 pandemic; (b) if  
63 maximum time limits should be statutorily mandated in the Code of Virginia or the Rules of Supreme Court  
64 of Virginia for various case types so that cases are resolved in a predictable time frame and inefficient  
65 practices within various judicial circuits or districts can be better identified, especially in the instance of cases  
66 that are time sensitive, place extensive burdens on families and government services and resources, and do  
67 not already have statutorily mandated time limits triggering reviews or emergency docketing, such as in cases  
68 involving divorce, child support, custody or temporary custody cases, personal injury cases, or the scheduling  
69 of preliminary injunctions; (c) provide recommendations to improve the quality and consistency of data used  
70 in future judicial workload assessment studies; (d) consider if updates to the Code of Virginia, Rules of  
71 Supreme Court of Virginia, Benchbooks utilized by judges, and trainings provided to judges, court clerks,  
72 and other court staff would assist in standardizing practices across courts in the Commonwealth and  
73 positively impact the resulting data gathered from courts during workload assessments; (e) determine if there  
74 are other more accurate means of assessing the workload of judges not previously used in the 2013, 2017, and  
75 2024 judicial workload assessments, and provide suggestions to revise the current method of allocating  
76 resources to develop a fair method of allocating resources that is not subject to the influence of self-reported  
77 data that may contain inaccuracies, or data that reflects the individual nonstandard practices of court staff or  
78 systems implemented by each court; and (g) determine if any other third-party organizations exist to conduct  
79 comprehensive judicial workload assessments for state courts, or if the creation or establishment of a  
80 commission, agency, or a department within the Office of the Executive Secretary of the Supreme Court of  
81 Virginia to act as a permanent independent auditor would be better suited to conduct future judicial workload  
82 assessments.

83 Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the  
84 Office of the Executive Secretary of the Supreme Court of Virginia. All agencies of the Commonwealth shall  
85 provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

86 The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2025,  
87 and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its  
88 findings and recommendations no later than the first day of the 2026 Regular Session of the General  
89 Assembly. The executive summary shall state whether the Joint Legislative Audit and Review Commission  
90 intends to submit to the General Assembly and the Governor a report of its findings and recommendations for  
91 publication as a House or Senate document. The executive summary and report shall be submitted as  
92 provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative  
93 documents and reports and shall be posted on the General Assembly's website.