

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 39

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 21, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4838S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, relating to prohibiting laws interfering with freedom of choice in health care.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2012, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding
2 thereto, to be known as section 35, to read as follows:

**Section 35. 1. That a law or rule shall not compel, directly or
2 indirectly, any person, employer, or health care provider to participate
3 in any health care system.**

4 **2. A person or employer may pay directly for lawful health care
5 services and shall not be required to pay penalties or fines for paying
6 directly for lawful health care services. A health care provider may
7 accept direct payment for lawful health care services and shall not be
8 required to pay penalties or fines for accepting direct payment from a
9 person or employer for lawful health care services.**

10 **3. Subject to reasonable and necessary rules that do not
11 substantially limit a person's options, the purchase or sale of health
12 insurance in private health care systems shall not be prohibited by law
13 or rule.**

14 **4. This section does not:**

15 **(1) Affect which health care services a health care provider or**

16 **hospital is required to perform or provide;**

17 **(2) Affect which health care services are permitted by law;**

18 **(3) Prohibit care provided under workers' compensation as**
19 **provided under state law;**

20 **(4) Affect laws or regulations in effect as of January 1, 2012;**

21 **(5) Affect the terms or conditions of any health care system to**
22 **the extent that those terms and conditions do not have the effect of**
23 **punishing a person or employer for paying directly for lawful health**
24 **care services or a health care provider or hospital for accepting direct**
25 **payment from a person or employer for lawful health care services.**

26 **5. As used in this section, the following terms shall mean:**

27 **(1) "Compel", any penalties or fines;**

28 **(2) "Direct payment or pay directly", payment for lawful health**
29 **care services without a public or private third party, not including an**
30 **employer, paying for any portion of the service;**

31 **(3) "Health care system", any public or private entity whose**
32 **function or purpose is the management of, processing of, enrollment of**
33 **individuals for or payment for, in full or in part, health care services**
34 **or health care data or health care information for its participants;**

35 **(4) "Lawful health care services", any health-related service or**
36 **treatment to the extent that the service or treatment is permitted or**
37 **not prohibited by law or regulation that may be provided by persons or**
38 **businesses otherwise permitted to offer such services; and**

39 **(5) "Penalties or fines", any civil or criminal penalty or fine, tax,**
40 **salary or wage withholding or surcharge or any named fee with a**
41 **similar effect established by law or rule by a government established,**
42 **created or controlled agency that is used to punish or discourage the**
43 **exercise of rights protected under this section.**

Section B. Pursuant to chapter 116, RSMo, and other applicable
2 constitutional provisions and laws of this state allowing the general assembly to
3 adopt ballot language for the submission of a joint resolution to the voters of this
4 state, the official ballot title of the amendment proposed in section A of this
5 resolution shall be as follows:

6 "Shall the Missouri Constitution be amended as follows:

7 1. That government may neither penalize citizens for refusing to purchase
8 private health insurance, nor infringe upon a citizen's right to offer or
9 accept direct payment for lawful health care services.

10 2. This section shall permit courts to enforce contracts voluntarily
11 entered, and the General Assembly to regulate the health insurance
12 industry.".

✓

Unofficial

Bill

Copy