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## **Analysis: Congress to Weigh Health Courts**

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WASHINGTON, May 24 (UPI) -- The medical tort reform debate has not been fertile ground for compromise, but the sponsors of a bipartisan bill introduced today say they may have found a way out of the impasse.

The Fair and Reliable Medical Justice Act would give 10 states grants to establish special health courts devoted specifically to resolving medical malpractice claims. Instead of jury trials in regular court, malpractice cases would be heard by medical experts in a setting similar to small-claims court.

Courts would encourage the disclosure of medical errors, and these data would be collected and analyzed by states with pilot projects.

Medical malpractice law "has always been a state responsibility," bill co-sponsor Rep. Jim Cooper, D-Tenn., told United Press International.

"Hopefully, this bill will give states the confidence to embrace a new approach," said Cooper, who is co-sponsoring the bill with Republicans and Democrats in the House and Senate.

For the last decade, Congress has been locked in a stalemate over the issue of medical malpractice legal reform, with powerful lobbies for and against change.

Those in favor of health courts -- a broad coalition that includes doctor, patient and insurer groups -- say the current system is broken. Injured patients must wait months or years to place their fate in the hands of juries that render arbitrary decisions. Because the outcomes of trials are so unpredictable, they say, doctors design their treatment to avoid lawsuits instead of patients' needs, driving up the cost of medical care for everyone.

Opponents of health courts -- a constituency that includes the powerful attorney lobby -- say patients hurt by doctors should not be deprived of their right to be heard by a jury.

The face-off between those two groups has meant little federal progress in medical tort reform has materialized, but supporters of the bill say they think it can make it into law.

The bill's limited scope and budget, combined with the fact that details will be decided at the state level, could make the proposal much less contentious than nationwide reform, Cooper said. "The truth is, 50 states experiment every year."

Medical tort reform is below the Democratic leadership's radar, Cooper added, but given the bill's small scope, that could be an advantage if Congress decides to pass the bill with a quick voice vote.



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Health courts are also an idea that creates a lot of consensus, said Sen. Mike Enzi, R-Wyo., ranking member of the Senate Health, Education, Labor and Pensions Committee, who is sponsoring the Senate version of the bill with Senate Finance Committee Chairman Max Baucus, D-Mont.

The idea was chosen for state grants "because it hasn't been politicized by Congress," Enzi said. "I hope it can pass the process quickly."

Once the bill is passed, it could quickly lead to change in Maryland, Pennsylvania and other states, many of which have already found political traction in the health-court idea.

"Federal support would help to a large degree," said Lee Durr, an aide to Jane Orié, the majority whip in the Pennsylvania State Senate.

A state bill establishing a voluntary health-court system is expected to move out of committee this summer or early in the fall, Durr told UPI.

Supporters of health courts praised the bill.

The problems of medical malpractice "affect all patients, all physicians, all families and all businesses," said Doug Laube, immediate past president of the American College of Obstetricians and Gynecologists, one of several physician groups endorsing the bill. The proposal would "provide states with critical financial support to explore and test alternatives."

Consumer groups also applauded the measure.

"Testing of alternatives to the current tort system that promote faster and fairer compensation to injured patients and that also promote quality improvement is a necessary part of the movement to improve the performance of the healthcare system," said John Rother, policy director of the AARP, the nation's largest senior citizens' group.