

# MAINE STATE LEGISLATURE

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L.D. 2523

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(Filing No. S-342 )

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STATE OF MAINE

4

SENATE

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113TH LEGISLATURE

6

SECOND REGULAR SESSION

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SENATE AMENDMENT "A " to H.P. 1843, L.D. 2523,

8

Bill, "AN ACT to Establish a Limit on Noneconomic

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Damages."

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Amend the bill by striking out all of the title

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(page 1, lines 1 and 2 in L.D.) and inserting in its

12

place the following:

13

'AN ACT to Establish a Limit on Noneconomic

14

Damages in Medical Malpractice Actions.'

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Further amend the bill by striking out all of

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section 1 and inserting in its place the following:

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'Sec. 1. 14 MRSA §1455 is enacted to read:

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§1455. Damage award limitation in personal injury

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actions for professional negligence

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1. Definitions. As used in this section, unless

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the context indicates otherwise, the following terms

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have the following meanings.

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A. "Action for professional negligence" has the

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meaning set forth in Title 24, section 2502,

25

subsection 6.

SENATE AMENDMENT " A " to H.F. 1843, L.D. 2523

1           B. "Economic damages" means objectively  
2           verifiable pecuniary damages arising from medical  
3           expenses and medical care; rehabilitation  
4           services; custodial care; medical, rehabilitation  
5           or custodial care provided outside of a health  
6           care provider facility; loss of earnings and  
7           earning capacity; loss of income; loss of income  
8           or earnings by a spouse or other relative who  
9           provides custodial care; burial costs; loss of use  
10           of property; costs of repair or replacement of  
11           property; costs of obtaining substitute domestic  
12           services; loss of employment; loss of business or  
13           employment opportunities; and other objectively  
14           verifiable monetary losses.

15           C. "Health care provider" has the meaning set  
16           forth in Title 24, section 2502, subsection 2.

17           D. "Noneconomic damages" means subjective,  
18           nonpecuniary damages arising from pain, suffering,  
19           inconvenience, physical impairment, disfigurement,  
20           mental anguish, emotional distress, loss of  
21           society and companionship, loss of consortium,  
22           injury to reputation, humiliation and other  
23           nonpecuniary damages, including those arising from  
24           theories of damages such as fear of loss, illness  
25           or injury. It does not include punitive damages.

26           2. Damage award limitation. In any action for  
27           professional negligence, the noneconomic damages  
28           awarded to a prevailing party may not exceed  
29           \$500,000. If the trial of the action is to a jury,  
30           the jury shall not be informed of the damage award  
31           limitation established in this subsection. If the  
32           jury awards total damages in excess of \$500,000, the  
33           court shall direct the jury to establish the portion  
34           of the total damages awarded that is economic damages  
35           and the portion that is noneconomic damages. If the  
36           portion that is noneconomic damages exceeds \$500,000,  
37           the court shall reduce the noneconomic damages awarded  
38           to that amount, unless a further reduction is  
39           warranted by exercise of the powers described in  
40           subsection 3.

