

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1038

S.P. 393

In Senate, April 4, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

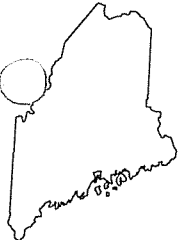
Presented by Senator TWITCHELL of Oxford.

Cosponsored by Representative MacBRIDE of Presque Isle, Representative ROLDE of York and Senator HOLLOWAY of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Establish a Limit on Noneconomic Damages in Medical Liability
Actions.



1 Be it enacted by the People of the State of Maine as follows:

3 24 MRSA c. 21, sub-c. IX is enacted to read:

5 SUBCHAPTER IX

7 LIMITS ON NONECONOMIC DAMAGES

9 §2971. Limits on Noneconomic Damages

11 1. Limitation. In an action for professional negligence as
13 defined in section 2502, the noneconomic damages awarded to a
15 prevailing party may not exceed \$250,000. If the trial of the
17 action is to a jury, the jury shall not be informed of the damage
19 award limitation established in this subsection. If the jury
21 awards total damages in excess of \$250,000, the court shall
23 direct the jury to establish the portion of the total damages
25 awarded that is noneconomic damages. If the portion that is
27 noneconomic exceeds \$250,000, the court shall reduce the
29 noneconomic damages awarded to that amount, unless a further
31 reduction is warranted by exercise of the powers described in
33 subsection 3.

23 2. Definition. As used in this subchapter, unless the
25 context otherwise indicates, "noneconomic damages" means
27 subjective, nonpecuniary damages arising from pain, suffering,
29 inconvenience, physical impairment, disfigurement, mental
31 anguish, emotional stress, loss of society and companionship,
33 loss of consortium, injury to reputation, humiliation, other
35 nonpecuniary damages and any other theory of damages such as fear
37 of loss, illness or injury.

33 3. Court's powers. Nothing in this section is intended to
35 eliminate the court's powers of additur and remittitur with
37 regard to all damages, except to the extent that the power of
39 additur is limited with regard to noneconomic damages beyond the
41 limitation established in subsection 1.

39 4. Application. This Act applies to all cases in which
41 notices of claim are filed after the effective date of the Act.

43 STATEMENT OF FACT

43 This bill sets a limit of \$250,000 on noneconomic damages in
45 medical liability actions, as recommended by the United States
47 Department of Health and Human Services in its Report of the Task
49 Force on Medical Liability and Malpractice, August 1987. A
51 plaintiff would still be entitled to the plaintiff's full
economic loss, including all medical expenses, rehabilitation
services, custodial care, loss of earnings and earning capacity,
loss of income and any other objectively verifiable monetary
losses. Twenty-nine states have taken action to limit damages,

1 either noneconomic or total, in medical liability cases. Such
action has been found to have a positive influence on medical
3 malpractice insurance premiums over time.