

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 344

H.P. 253

House of Representatives, February 5, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HASTINGS of Fryeburg.

Cosponsored by Representative RICHARDS of Hampden, Senator TWITCHELL of Oxford and Senator BERUBE of Androscoggin.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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

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

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

**SUBCHAPTER X**  
**LIMITS ON NONECONOMIC DAMAGES**

**§2981. Limits on noneconomic damages**

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

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

3. Court's powers. Nothing in this section is intended to eliminate the court's powers of additur and remittitur with regard to all damages, except to the extent that the power of additur is limited with regard to noneconomic damages beyond the limitation established in subsection 2.

4. Application. This section applies to all cases in which notices of claim are filed after the effective date of this section.

**STATEMENT OF FACT**

This bill sets a limit of \$250,000 on noneconomic damages in medical liability actions, as recommended by the United States Department of Health and Human Services in its Report of the Task Force on Medical Liability and Malpractice, August 1987. A plaintiff would still be entitled to the plaintiff's full economic loss, including all medical expenses, rehabilitation

2 services, custodial care, loss of earnings and earning capacity,  
loss of income and any other objectively verifiable monetary  
4 losses. Twenty-nine states have taken action to limit damages,  
either noneconomic or total, in medical liability cases. Such  
6 action has been found to have a positive influence on medical  
malpractice insurance premiums over time.