

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1707

S.P. 609

In Senate, January 11, 1994

An Act to Provide Better Information Concerning Tort Reform.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland.
Cosponsored by Representatives: COTE of Auburn, FAIRCLOTH of Bangor.

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

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Sec. 1. Bureau of Insurance study. The Department of Professional and Financial Regulation, Bureau of Insurance shall review the study conducted in 1989 by the Minnesota Department of Commerce relating to closed medical malpractice liability claims in Minnesota, North Dakota and South Dakota and any material prepared subsequent to that study. The purpose of the review is to determine what closed claims information should be collected in the State in order to provide a data base to evaluate the effects of past law changes and the likely effect of proposals to change laws relating to tort law and insurance regulations, or for any purpose that the bureau considers appropriate to assist it in performing its functions. After determining the information that is appropriate to collect, the bureau shall examine any medical malpractice rate filing made from 1991 to 1993 to determine whether the filing produces that information, directly or by extraction. The bureau shall then conduct a closed claims study pursuant to section 2.

Sec. 2. Closed claims study. The Superintendent of Insurance shall prepare and forward to the Legislature, by January 1, 1995, a model for collecting data in a closed claims study of medical malpractice claims. The model must be developed after a public hearing process, and must provide sufficient information to serve as a basis for comparison with rate filings. The superintendent shall also develop a model for collecting data on claims made in the State on an ongoing basis using the same public hearing process.

- I. Study contents.** The study must include information regarding:
- A. The number of claims opened;
 - B. The history of each claim;
 - C. Demographic characteristics of the plaintiffs and defendants;
 - D. Types of injuries;
 - E. Policies in effect;
 - F. Loss reserves established and any changes in loss reserves;
 - G. Disposition of the claims;
 - H. Amounts and breakdown of any settlements or verdicts; and

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I. A breakdown of allocated loss adjustment expenses.

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2. **Report to Legislature.** The Superintendent of Insurance shall complete the first closed claims study and report to the Legislature on the findings by January 1996. The study must then be conducted at 5-year intervals.

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STATEMENT OF FACT

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This bill continues the process begun by Public Law 1989, chapter 843, section 3. That law charged the Bureau of Insurance with the task of reviewing the 1989 study by the Minnesota Department of Commerce relating to closed medical malpractice liability claims in Minnesota, North Dakota and South Dakota. The purpose of this review was to determine what closed claims information should be collected in Maine in order to provide a data base to evaluate the effects of past law changes and the likely effect of proposals to change laws relating to tort law and insurance regulation. The Bureau of Insurance was then to determine whether or not the necessary information could be obtained through medical malpractice rate filing made during 1990. If that information was not available, the bureau was then to seek out an appropriate, cost-effective manner of collecting the information. The bureau was then to report its determinations and recommendations to the Joint Standing Committee on Banking and Insurance and the Executive Director of the Legislative Council by January 1, 1991. This bill finishes this process by charging the Bureau of Insurance with the task of compiling updated information and writing a report that would estimate the actual savings of tort reform in the State as a percentage of total health spending.

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This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.