

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 19

H.P. 25

House of Representatives, January 12, 1995

**An Act to Change the Statute of Limitations for Professional Negligence
in Sterilization Procedures.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.
Cosponsored by Senator MILLS of Somerset and
Representatives: BRENNAN of Portland, BUNKER of Kossuth Township, ETNIER of
Harpwell, FITZPATRICK of Durham, HATCH of Skowhegan, JONES of Bar Harbor,
LEMAIRE of Lewiston, SHIAH of Bowdoinham, STEVENS of Orono, TREAT of Gardiner,
TRUMAN of Biddeford, WATSON of Farmingdale, Senator: ABROMSON of Cumberland.

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

4 **Sec. 1. 24 MRSA §2902, first ¶,** as repealed and replaced by PL
5 1985, c. 804, §§13 and 22, is amended to read:

6 Actions for professional negligence shall ~~shall~~ must be commenced
7 within 3 years after the cause of action accrues. For the
8 purposes of this section, a cause of action accrues on the date
9 of the act or omission giving rise to the injury.
10 Notwithstanding the provisions of Title 14, section 853, relating
11 to minority, actions for professional negligence by a minor shall
12 must be commenced within 6 years after the cause of action
13 accrues or within 3 years after the minor reaches the age of
14 majority, whichever first occurs. This section does not apply
15 where the cause of action is based upon the leaving of a foreign
16 object in the body or the failure of a sterilization procedure,
17 in which case the cause of action ~~shall accrue~~ accrues when the
18 plaintiff discovers or reasonably should have discovered the
19 harm. For the purposes of this section, the term "foreign
20 object" does not include a chemical compound, prosthetic aid or
21 object intentionally implanted or permitted to remain in the
22 patient's body as a part of the health care or professional
23 services.

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27 **STATEMENT OF FACT**

28 This bill changes the statute of limitations for medical
29 malpractice actions to allow a suit to be brought within 3 years
30 of the discovery that a sterilization procedure has failed.
31 Currently, the statute begins to run from the date the procedure
32 is performed.
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