

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 161

S.P. 73

In Senate, January 20, 1995

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

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HALL of Piscataquis.
Cosponsored by Senators: BEGLEY of Lincoln, BENOIT of Franklin, CARPENTER of York,
CASSIDY of Washington, FERGUSON of Oxford, HANLEY of Oxford, HARRIMAN of
Cumberland, HATHAWAY of York, LORD of York, PENDEXTER of Cumberland,
Representatives: BAILEY of Township 27, CROSS of Dover-Foxcroft, REED of Dexter,
TUFTS of Stockton Springs.

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

4 **Sec. 1. 24 MRSA c. 21, sub-c. X is enacted to read:**

6 **SUBCHAPTER X**

8 **LIMITS ON NONECONOMIC DAMAGES**

10 **§2995. Limits on noneconomic damages**

12 **1. Definitions.** As used in this subchapter, unless the
context otherwise indicates, the following terms have the
following meanings.

14 **A.** "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.

22 **2. Limitation.** In an action for professional negligence as
defined in section 2502, the noneconomic damages awarded to a
prevailing party may not exceed \$350,000. If the trial of the
action is by a jury, the jury may not be informed of the damage
award limitation established in this section. If the jury awards
total damages in excess of \$350,000, 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
damages exceeds \$350,000, 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.

34 **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.

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

44 **STATEMENT OF FACT**

46
48 This bill sets a limit of \$350,000 on noneconomic damages in
49 medical liability actions. Under this bill, a plaintiff is still
50 entitled to the full economic loss, including all medical
expenses, rehabilitation services, custodial care, loss

2 of earnings and earning capacity, loss of income and any other
verifiable monetary losses.