

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1391

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H.P. 983

House of Representatives, April 20, 1995

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**An Act to Establish a Statute of Limitations for Claims against the  
Dalkon Shield Claimants Trust.**

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Received by the Clerk of the House on April 18, 1995. Referred to the Committee on  
Judiciary and ordered printed pursuant to Joint Rule 14.

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

JOSEPH W. MAYO, Clerk

Presented by Representative DAGGETT of Augusta.  
Cosponsored by Representatives: DORE of Auburn, JONES of Bar Harbor, SAMSON of Jay,  
VOLENIK of Sedgwick.

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

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**Sec. 1. Statute of limitations.** Notwithstanding the Maine Revised Statutes, Title 14, chapter 205, any civil action brought by, or on behalf of, any person to recover for injuries caused by the Dalkon Shield intrauterine device against the Dalkon Shield Claimants Trust must be brought in accordance with the procedures established by the A.H. Robins Company, Inc., plan of reorganization, and must be brought within 15 years of the date on which the injury occurred, except that this period of limitation is tolled from August 21, 1985, the date on which the A.H. Robins Company, Inc. filed for Chapter 11 reorganization in Richmond, Virginia, until one year after certification to proceed with litigation pursuant to the procedures of the plan.

**Sec. 2. Application.** Notwithstanding the Maine Revised Statutes, Title 1, section 302, or any other provision of Maine law to the contrary, this Act applies to all actions or claims whether or not they are pending and regardless of when any such action or claim accrued or was filed and regardless of whether the claim has lapsed or otherwise is barred by any other statute of limitations and revives any action previously dismissed solely on the ground of limitations.

**Sec. 3. Actions alleging fraud or fraudulent concealment.** Notwithstanding the Maine Revised Statutes, Title 14, section 859, actions alleging fraud or fraudulent concealment are governed by the limitations period stated in this Act, except that the period does not commence to run until the person entitled to bring the action discovers that that person has just cause of action.

**Sec. 4. Application to claim for professional malpractice.** This Act does not apply to any claim for professional malpractice.

**STATEMENT OF FACT**

The purpose of this bill is to establish a special statute of limitations for the claims of Maine women injured by the Dalkon Shield as has been done in several other states. Under this bill, a Dalkon Shield victim's claim is extended for a period of 15 years from the date of injury, except in cases of fraud or fraudulent concealment, to August 21, 1985, the date the A.H. Robins Company, Inc., filed for protection under the provisions of Chapter 11 of the United States Bankruptcy Code, and is deemed tolled from that date until one year following certification to proceed with litigation under the procedures established by the Dalkon Shield Claimants Trust.