

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 594

S.P. 203

In Senate, February 11, 2003

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 "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TURNER of Cumberland.
Cosponsored by Representative MARRACHÉ of Waterville and
Senator: WOODCOCK of Franklin, Representatives: BOWLES of Sanford, CARR of Lincoln,
CURLEY of Scarborough, DUGAY of Cherryfield, PERRY of Bangor, SHERMAN of
Hodgdon.

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

4 **Sec. 1. 24 MRSA c. 21, sub-c. 11** is enacted to read:

6 **SUBCHAPTER 11**

8 **LIMITS ON NONECONOMIC DAMAGES**

10 **§2991. Limits on noneconomic damages**

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

18 **A. "Noneconomic damages"** means subjective, nonpecuniary
20 damages arising from pain, suffering, inconvenience,
22 physical impairment, disfigurement, mental anguish,
24 emotional stress, loss of society and companionship, loss of
26 consortium, injury to reputation, humiliation, other
28 nonpecuniary damages and any other theory of damages such as
30 fear of loss, illness or injury.

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

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

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

48 **SUMMARY**

This bill sets a limit of \$250,000 on noneconomic damages in
medical liability actions. Under this bill, a plaintiff is still

entitled to the full economic loss, including all medical
2 expenses, rehabilitation services, custodial care, loss of
earnings and earning capacity, loss of income and any other
4 verifiable monetary losses.