

# MAINE STATE LEGISLATURE

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DATE: 4/11/05

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CRIMINAL JUSTICE AND PUBLIC SAFETY

Majority

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 20, L.D. 17, Bill, "An Act To Ensure Fair Reimbursement for the Medical Care Provided to State Inmates"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Medical Care for Incarcerated Persons'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 14 MRSA c. 15 is enacted to read:

CHAPTER 15

LIMITATION ON DAMAGES

§401. Action for medical services to prisoners

1. Limit established. On any tort claim arising out of the provision of a medical service for a person being held in a state, county or municipal correctional or detention facility, the award of damages, including costs, against an individual medical service provider may not exceed \$10,000 and against any other medical service provider may not exceed \$400,000. The court shall abate a verdict in an action to the extent it exceeds these limits. This section applies to all medical care services, goods, prescription drugs and medications provided to a person inside or outside the facility.

2. Costs. Court costs, prejudgment interest and all other costs that a court may assess must be included within the damage

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limits specified by this section. Accrued post-judgment interest may not be included within the damage limits.

3. Maine Health Security Act. Nothing in this section limits the applicability of Title 24, chapter 21.

Sec. 2. 18-A MRSA §2-804, sub-§(e) is enacted to read:

(e) An action under this section is limited as provided in Title 14, section 401 if applicable.

Sec. 3. 34-A MRSA §3031-B, as enacted by PL 2003, c. 513, Pt. E, §1, is amended to read:

**§3031-B. Limitation on reimbursement rate to medical service providers for services outside department facility**

Effective July 1, 2004, the department or its contracted medical service provider may pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no greater than the reimbursement rate applicable to that provider and that service as established by rule of the Department of Health and Human Services for the MaineCare program under Title 22. Payment for which the department or its contracted medical service provider is liable must be made within 30 days of receipt of proof of the service rendered. This limitation section applies to all medical care services, goods, prescription drugs and medications provided to a person outside the facility.'

**SUMMARY**

This amendment replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment limits the damages that may be awarded against a medical service provider on a tort claim arising out of the provision of medical services to a person being held in a state, county or municipal correctional or detention facility and applies to services provided inside the facility and outside the facility. This amendment is analogous to the provisions limiting damages awards against governmental employees and entities found in the Maine Tort Claims Act, including a provision that makes its limits applicable to wrongful death actions. The amendment also provides that the Maine Health Security Act's provisions, including those governing the mandatory prelitigation screening process, continue to apply.

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2 The amendment also requires that a payment for a medical  
3 service provided to a person residing in a Department of  
4 Corrections facility that is provided outside the facility and  
5 for which the department or its contracted medical provider is  
6 liable must be made within 30 days of receipt of proof of the  
service rendered.

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