

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 744

S.P. 282

In Senate, February 28, 2013

An Act To Extend the Statute of Limitations on Certain Civil Professional Negligence Suits

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator VALENTINO of York.

Cosponsored by Senator: TUTTLE of York, Representatives: DeCHANT of Bath, HAYES of Buckfield, MAKER of Calais, MONAGHAN-DERRIG of Cape Elizabeth, TURNER of Burlington, VILLA of Harrison.

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

2 **Sec. 1. 14 MRSA §853**, as amended by PL 1985, c. 343, §2, is further amended to
3 read:

4 **§853. Persons under disability may bring action when disability removed**

5 If a person entitled to bring any of the actions under sections 752 to 754, including
6 section 752-C, and under sections 851, and 852 and Title 24, ~~section~~ sections 2902 and
7 2902-B is a minor, mentally ill, imprisoned or without the limits of the United States
8 when the cause of action accrues, the action may be brought within the times limited
9 herein after the disability is removed.

10 **Sec. 2. 24 MRSA §2902**, as repealed and replaced by PL 1985, c. 804, §§13 and
11 22, is amended to read:

12 **§2902. Statute of limitations for health care providers and health care practitioners**
13 **excluding claims based on sexual acts**

14 ~~Actions~~ Except as provided in section 2902-B, actions for professional negligence
15 ~~shall~~ must be commenced within 3 years after the cause of action accrues. For the
16 purposes of this section, a cause of action accrues on the date of the act or omission
17 giving rise to the injury. Notwithstanding the provisions of Title 14, section 853, relating
18 to minority, actions for professional negligence by a minor ~~shall~~ must be commenced
19 within 6 years after the cause of action accrues or within 3 years after the minor reaches
20 the age of majority, whichever first occurs. This section does not apply ~~where~~ when the
21 cause of action is based upon the leaving of a foreign object in the body, in which case
22 the cause of action ~~shall accrue~~ accrues when the plaintiff discovers or reasonably should
23 have discovered the harm. For the purposes of this section, the term "foreign object" does
24 not include a chemical compound, prosthetic aid or object intentionally implanted or
25 permitted to remain in the patient's body as a part of the health care or professional
26 services.

27 If the provision in this section reducing the time allowed for a minor to bring a claim
28 is found to be void or otherwise invalidated by a court of proper jurisdiction, ~~then~~
29 the statute of limitations for professional negligence ~~shall be~~ is 2 years after the cause of
30 action accrues, except that no claim brought under the 3-year statute may be extinguished
31 by the operation of this paragraph.

32 **Sec. 3. 24 MRSA §2902-B** is enacted to read:

33 **§2902-B. Statute of limitations for health care providers and health care**
34 **practitioners for claims based on sexual acts**

35 Except as provided in Title 14, section 752-C, actions for professional negligence
36 based on a sexual act must be commenced within 10 years after the cause of action
37 accrues. For purposes of this section, a cause of action accrues on the date of the act or
38 omission giving rise to the injury. For purposes of this section, "sexual act" means the
39 following acts:

1 1. Sexual act. A sexual act, as defined in Title 17-A, section 251, subsection 1,
2 paragraph C; or

3 2. Sexual contact. Sexual contact, as defined in Title 17-A, section 251, subsection
4 1, paragraph D.

5 **Sec. 4. Application.** This Act applies to the following actions for professional
6 negligence against health care providers and health care practitioners when the action is
7 based on a sexual act or sexual contact:

8 1. An action based on a sexual act or sexual contact occurring on or after the
9 effective date of this Act; and

10 2. An action for which the claim has not yet been barred pursuant to the Maine
11 Revised Statutes, Title 24, section 2902, excluding the exceptions under Title 24, section
12 2902-B.

13 **SUMMARY**

14 This bill extends the statute of limitations for professional negligence actions against
15 health care providers and health care practitioners when the action is based on a sexual
16 act or sexual contact. The bill provides that the new statute of limitations applies to all
17 actions based on a sexual act or sexual contact occurring on or after the effective date of
18 the Act and all actions for which the claim has not yet been barred by the previous statute
19 of limitations.