

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND THIRTEEN

—
 S.P. 282 - L.D. 744

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

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

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

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

If a person entitled to bring any of the actions under sections 752 to 754, including section 752-C, and under sections 851, and 852 and Title 24, section 2902 and, until July 1, 2017, section 2902-B is a minor, mentally ill, imprisoned or without the limits of the United States when the cause of action accrues, the action may be brought within the times limited herein after the disability is removed.

Sec. 2. 24 MRSA §2902, as repealed and replaced by PL 1985, c. 804, §§13 and 22, is amended to read:

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

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

permitted to remain in the patient's body as a part of the health care or professional services.

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

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

§2902-B. Statute of limitations for mental health professionals for claims based on sexual acts

1. Limitation. Except as provided in Title 14, section 752-C, actions for professional negligence based on a sexual act engaged in by a professional listed in subsection 3 with a person during the period of time that person was a patient or client of the professional must be commenced within 6 years after the cause of action accrues. For purposes of this section, a cause of action accrues on the date of the act or omission giving rise to the injury.

2. Definitions. As used in this section, the following terms have the following meanings.

A. "Patient or client" means a person who receives counseling or treatment from a professional listed in subsection 3.

B. "Sexual act" means the following:

(1) A sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C; or

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

3. Professionals. Subsection 1 applies with respect to the following types of professionals:

A. A psychiatrist licensed in this State;

B. A psychologist licensed in this State;

C. A clinical social worker licensed in this State;

D. A social worker certified in this State;

E. A clinical professional counselor licensed in this State;

F. A pastoral counselor licensed in this State;

G. A marriage and family therapist licensed in this State; and

H. A clinical professional counselor licensed in this State.

4. Repeal. This section is repealed July 1, 2017.

Sec. 4. Application. This Act applies to the following actions for professional negligence against professionals specified in the Maine Revised Statutes, Title 24, section 2902-B, subsection 3 when the action is based on a sexual act or sexual contact:

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

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