

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 787

S.P. 231

In Senate, February 12, 2019

An Act To Support Victims of Child Sexual Abuse

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 DIAMOND of Cumberland.

Cosponsored by Senators: CARPENTER of Aroostook, ROSEN of Hancock.

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

2 **Sec. 1. 15 MRSA §1206** is enacted to read:

3 **§1206. Recorded statements**

4 **1. Requirements for admissibility.** The recording of a statement of a child under
5 16 years of age alleged to be a victim of sexual abuse made before a proceeding begins is
6 admissible into evidence if all of the following requirements are met:

7 A. The recording is both visual and aural and is recorded on film or videotape or
8 other electronic means;

9 B. Every voice on the recording is identified;

10 C. The person conducting the interview of the child in the recording is present at the
11 proceeding and available to testify or be cross-examined by either party;

12 D. The defendant or the attorney for the defendant is afforded an opportunity to view
13 the recording before it is offered into evidence;

14 E. Except as provided in subsection 3, the child is available to testify;

15 F. The recording equipment was capable of making an accurate recording;

16 G. The statement was not made in response to questioning calculated to lead the
17 child to make a particular statement; and

18 H. The child's statement is shown to the reasonable satisfaction of the court to
19 possess particularized guarantees of trustworthiness.

20 **2. Testimony by child; cross-examination.** If a recording of a statement of a child
21 is admitted into evidence under this section, either party may call the child to testify and
22 the opposing party may cross-examine the child.

23 **3. Not available to testify.** The admissibility of a recorded statement under this
24 section is not limited by a finding by the court that the child is unavailable to testify on
25 any of the following grounds:

26 A. The child's death;

27 B. The court finds that there are reasonable grounds to believe that the defendant or
28 someone acting on behalf of the defendant has intentionally removed the child from
29 the jurisdiction of the court;

30 C. The child's total failure of memory;

31 D. The child's physical or mental disability;

32 E. The child's incompetency, including the child's inability to communicate about the
33 offense because of fear or a similar reason; or

34 F. Substantial likelihood that the child would suffer severe emotional trauma from
35 testifying at the proceeding or by means of closed-circuit television.

SUMMARY

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This bill provides for the admissibility in a criminal trial of a recording of a statement of a child under 16 years of age who is a victim of sexual abuse if certain requirements are met, including that the court is satisfied that the statement possesses particularized guarantees of trustworthiness. The child must be available at the trial and be available for cross-examination, unless the court finds certain grounds exist to determine that the child is unavailable to testify. The person who interviewed the child for the recording must be available at trial.