

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1334

7 S.P. 496

In Senate, April 17, 1985

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Carpenter of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Child Witness Law.
18

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

21 15 MRSA §1205, as enacted by PL 1983, c. 411, is
22 repealed and the following enacted in its place:

23 §1205. Certain out-of-court statements made by mi-
24 nors

25 A hearsay statement made by a person who has not
26 attained his 14th birthday shall be admissible in any
27 criminal proceeding if:

28 1. Mental or physical well-being of a per-
29 son. On motion of the attorney for the State and at
30 an in camera hearing, the court finds that the mental
31 or physical well-being of the person will more likely
32 than not be harmed if that person were to testify in
33 open court; and

1 2. Examination and cross-examination. Pursuant
2 to order of the court made on that motion, the state-
3 ment is made under oath, subject to all of the rights
4 of confrontation secured to an accused by the United
5 States Constitution, the Constitution of Maine, and
6 the statement has been record by any means approved
7 by the court.

8 STATEMENT OF FACT

9 This bill expands the use of out-of-court state-
10 ments by minors to all cases and changes the standard
11 by which the court must judge harm to the prospective
12 child witness. The use of the out-of-court state-
13 ments by minors is intended to be expanded to cases
14 other than sexual abuse matters where the child is an
15 important witness. Specifically included are cases
16 involving the abuse of other children and proceedings
17 surrounding the death of or injury to a child's par-
18 ents or relatives. The method by which the
19 out-of-court statements is made is left to the
20 court's discretion. The use of video tape or other
21 electronic means is encouraged. An in camera hearing
22 is one which is closed to the general public, but
23 open to the parties, attorneys, witnesses, essential
24 personnel, such as bailiffs, court reporters, clerks,
25 equipment operators and other persons, whose presence
26 the presiding judge or justice deems necessary.

27 1801040885