MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 424

H.P. 303

House of Representatives, February 7, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative BOUTILIER of Lewiston.
Cosponsored by Senator GAUVREAU of Androscoggin, Representative CATHCART of Orono and Representative DAGGETT of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

An Act to Enhance Protection of Children in Court Proceedings.



	Be it enacted by the People of the State of Maine as follows:
2	15 MRSA §§1206 and 1207 are enacted to read:
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6	§1206. Testimony of victim in child abuse or neglect case by means of closed-circuit television
8	1. Applicability. In a case alleging abuse or neglect of a child, as defined in Title 22, section 4002, a court may order
10	that the testimony of a child victim be taken outside the courtroom and shown in the courtroom by means of closed-circuit
12	television if:
14	A. The testimony is taken during the proceeding; and
16	B. The court determines that testimony by the child victim in the courtroom would result in the child's suffering
18	serious emotional distress limiting the child's ability to reasonably communicate.
20	
22	2. Who may question. Only the prosecuting attorney, the attorney for the defendant and the judge may question the child.
24	3. Television operators to remain unobtrusive. The operators of the closed-circuit television shall make every
26	effort to be unobtrusive.
28	4. Persons present during questioning. Only the following persons may be in the room with the child when the child
30	testifies by closed-circuit television:
32	A. The prosecuting attorney;
34	B. The attorney for the defendant;
36	C. The operators of the closed-circuit television equipment; and
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40	D. Support persons, as set forth in section 1207, whose presence, in the opinion of the court, contributes to the
42	well-being of the child
	5. Judge and defendant to remain in courtroom. During the
44	child's testimony by closed-circuit television, the judge and the defendant must be in the courtroom.
46	
48	6. Ability to communicate required. The judge and the defendant must be able to communicate with the persons in the room where the child is testifying by any electronic method.
50	7. Defendant acting pro se. The provisions of this section

do not apply if the defendant is acting pro se.

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8. Presence of victim and defendant not precluded. This section does not preclude, for purposes of identification, the presence of both the victim and the defendant in the courtroom at the same time.

§1207. Attendance of support person during testimony of prosecuting witness

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1. Applicability. Notwithstanding any other provision of law, a child victim in a case alleging abuse and neglect as defined in Title 22, section 4002, is entitled to choose, for support, up to 2 persons to be in attendance during the testimony of the child victim. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony.

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2. Attendance desired and helpful. If the support person or persons are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is desired by the child victim for support and would be helpful to the child victim. Upon that showing, the court shall grant the request unless information presented to the defendant or noticed by the court establishes that the support person's attendance during the testimony of the child victim would pose a substantial risk of influencing or affecting the content of that testimony.

3. Testimony restricted. The testimony of the support person or persons who are also prosecuting witnesses must be presented before the testimony of the child victim. The child victim must be excluded from the courtroom during that testimony. Whenever the evidence given by the support person or persons would be subject to exclusion because it is given before the elements of the crime have been established, the evidence must be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the elements of the crime are not later established by the child victim.

STATEMENT OF FACT

This bill would allow a child who is a victim of alleged abuse or neglect to provide testimony using closed-circuit television. However, the court must rule that the testimony of the child victim in the courtroom would result in the child's suffering serious emotional distress, limiting the child's ability to communicate.

The bill also provides victims of alleged abuse or neglect with the option of choosing up to 2 support persons to be present during the testimony of the child.