

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 632

S.P. 196

In Senate, February 23, 1993

An Act to Protect the Identity of Minor Witnesses in Criminal Trials.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

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

Sec. 1. 15 MRSA §1317, as amended by PL 1973, c. 567, §20, is further amended to read:

§1317. List of witnesses

The Attorney General, district attorney or ~~foreman~~ foreperson of the grand jury shall swear or affirm, in presence of the jury, all witnesses who are to testify before them, and a list thereof, stating the cases in which they testify, ~~shall~~ must be returned into the court by the ~~foreman~~ foreperson before the jury is discharged and filed and entered on record by the clerk. The clerk ~~shall~~ may not make such list public until the criminal cases at such terms have been tried or otherwise disposed of. The clerk may not make public any names of minor witnesses protected by the court under section 1321.

Sec. 2. 15 MRSA §1321 is enacted to read:

§1321. Protection of minor witnesses

1. Courtroom cleared. On motion and in camera hearing and upon finding that there is a substantial likelihood that a victim or witness who is under 16 years of age would suffer at least moderate emotional or mental harm if the identity of the minor were revealed or if the minor were required to testify in open court, the trial court may order that the courtroom be cleared of all persons except the prosecutors, the defendant, the defendant's counsel, court reporters, officers of the court and the judge during the minor's testimony.

2. Motion. The motion may be made by:

A. The victim or witness, or the victim's or witness' attorney, parent, legal guardian or guardian ad litem;

B. The trial judge on the judge's own motion;

C. The prosecuting attorney; or

D. The defendant or the defendant's counsel.

STATEMENT OF FACT

This bill allows the court to close the courtroom to all but persons necessary to the proceedings when a victim or witness is testifying in a criminal proceeding and the victim or witness is under 16 years of age. The court must first hold a hearing in

2 camera and make findings that the victim or witness would suffer
at least moderate emotional or mental harm if that victim or
4 witness were required to testify in open court or if the identity
of that victim or witness were revealed. These provisions are
6 similar to Florida law.

8 In addition, lists of grand jury witnesses that are released
to the public may not include the name of any person testifying
10 during a proceeding closed to protect the victim or witness.