

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 934

H.P. 691

House of Representatives, February 25, 2003

An Act To Allow the Videotaping of the Testimony of Witnesses 13 Years of Age and under in Certain Cases

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McNEIL of Rockland.
Cosponsored by Senator NASS of York and
Representatives: BLANCHETTE of Bangor, GERZOFKY of Brunswick, GROSE of
Woolwich, LERMAN of Augusta, O'BRIEN of Augusta, SNOWE-MELLO of Poland,
Senators: HATCH of Somerset, SAVAGE of Knox.

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

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

6 §1206. Videotape trial testimony of minors under 13
years of age authorized

8 1. Sexual assault victims and witnesses. In a criminal
10 case for a violation of Title 17-A, chapter 11, the prosecuting
12 attorney may move to take videotape trial testimony of any
14 witness who was 13 years of age or under at the time of the
alleged offense. A witness who was 13 years of age or under at
the time of the offense may also move to have videotape trial
testimony taken. The court shall order videotape trial testimony
if it finds by a preponderance of the evidence that:

16 A. The witness will suffer emotional or mental strain if
18 required to testify in open court; or

20 B. Waiting until the trial to give testimony will impair
22 the witness's ability to recall and relate the facts of the
alleged offense.

24 2. Taking of videotape trial testimony. Videotape trial
26 testimony taken pursuant to this section must be conducted before
the judge in a place ordered by the court. The testimony must be
28 taken in the presence of the prosecutors, the defendant and the
defendant's attorneys and any other persons the court allows.
30 Examination and cross examination of the witness must proceed in
the same manner as permitted at trial.

32 3. Admissibility. Videotape trial testimony taken pursuant
34 to this section is admissible into evidence at trial in lieu of
any other testimony by the witness.

36 4. Appear or testify. Unless otherwise ordered by the
38 court for good cause shown, a witness whose testimony is taken
pursuant to this section may not be required to appear or testify
at trial.

40 5. Parent or other adult present. A witness who is 13
42 years of age or under may have the witness's parent or any other
appropriate adult, or both, present during the witness's
44 testimony taken pursuant to this section.

46 6. Witness. For the purpose of this section, the term
48 "witness" includes the victim of the crime.

50 7. Rules. The Supreme Judicial Court may adopt rules
necessary to implement this section.

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SUMMARY

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6 This bill is modeled on New Hampshire's law concerning
videotaping the testimony of a victim or other witness who is 13
8 years of age or under when the offense being prosecuted is a
sexual offense. It allows the prosecuting attorney or the victim
10 or other witness who is 13 years of age or under to request that
the testimony be videotaped. The court has discretion whether to
12 allow the trial testimony to be videotaped. A victim or other
witness who is 13 years of age or under and whose testimony is
videotaped is not required to appear or testify in the trial.

14

16 The testimony must be videotaped in front of the judge, with
the prosecuting attorneys, the defendant and the defendant's
attorneys present. The victim or other witness may also have a
18 parent or other appropriate adult present during the testimony.

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The Supreme Judicial Court may adopt rules necessary to
carry out this Act.