

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1669

H.P. 1245

House of Representatives, December 19, 2003

An Act To Abrogate the Hearsay Rule in Cases Involving Custody or Protection of Children

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 16, 2003. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Senator SHOREY of Washington and
Representatives: BOWLES of Sanford, CARR of Lincoln, CLARK of Millinocket, DUGAY of
Cherryfield, KAELIN of Winterport, TREADWELL of Carmel, Senators: DAVIS of
Piscataquis, DOUGLASS of Androscoggin.

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

4 **Sec. 1. 16 MRSA §61** is enacted to read:

5 **§61. Abrogation of hearsay rule in certain cases**

6 **1. Custody or protection of minors.** Subsection 2 applies
7 to the admissibility of an out-of-court statement made by a minor
8 to the witness offering the out-of-court statement as evidence in
9 civil actions involving the custody or protection of minors
10 including:

11 A. Protection from harassment actions brought on behalf of
12 a minor under Title 5, chapter 337-A;

13 B. Actions that include the determination of parental
14 rights and responsibilities under Title 19-A, section 1653;

15 C. Protection from abuse actions brought on behalf of a
16 minor under Title 19-A, chapter 101; and

17 D. Actions concerning the guardianship of a minor under
18 Title 18-A, Article 5, Part 2.

19 **2. Hearsay.** In a civil action described in subsection 1,
20 an out-of-court statement by a minor not specifically covered by
21 the hearsay exceptions in the rules of evidence but having
22 equivalent circumstantial guarantees of trustworthiness may not
23 be excluded by the hearsay rules if the court determines that:

24 A. The statement is offered as evidence of a material fact
25 and does not constitute unduly repetitious evidence;

26 B. The statement is the kind of evidence upon which
27 reasonable persons are accustomed to rely in the conduct of
28 serious affairs; and

29 C. The general purposes of the rules of evidence and the
30 interests of justice are best served by admission of the
31 statement into evidence.

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34 **SUMMARY**

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37 This bill allows the admission into evidence in certain
38 civil actions of out-of-court statements by minors that would
39 otherwise be excluded on the basis of hearsay. The exception to
40 the hearsay rule requires the court to determine that the
41 statement has the same guarantee of trustworthiness that the
42 hearsay rule provides. The cases in which the hearsay rule is

2 abrogated are those involving the custody or protection of
children in any parental rights and responsibilities matter,
4 protection from abuse and protection from harassment actions on
behalf of the minor and guardianship actions under the Probate
Code.