

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1679

H.P. 1187

House of Representatives, May 20, 2005

An Act To Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator HOBBS of York and
Representatives: BRYANT of Windham, CANAVAN of Waterville, CARR of Lincoln,
FAIRCLOTH of Bangor, GERZOFKY of Brunswick, NASS of Acton, PELLETIER-
SIMPSON of Auburn, SHERMAN of Hodgdon.

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

4 **Sec. 1. 15 MRSA §1205**, as amended by PL 1989, c. 401, Pt. B,
§1, is further amended to read:

6 **§1205. Certain out-of-court statements made by minors or persons**
8 **with mental retardation describing sexual contact**

10 A hearsay statement made by a person under the age of 16
years or a person with mental retardation as defined in Title
12 34-B, section 5001, subsection 3, describing any incident
involving a sexual act or sexual contact performed with or on the
14 minor or person by another, shall ~~may~~ not be excluded as evidence
in criminal proceedings in courts of this State if:

16 **1. Mental or physical well-being of a person.** On motion of
the attorney for the State and at an in camera hearing, the court
18 finds that the mental or physical well-being of that person will
more likely than not be harmed if that person were to testify in
20 open court; and

22 **2. Examination and cross-examination.** Pursuant to order of
court made on such a motion, the statement is made under oath,
24 subject to all of the rights of confrontation secured to an
accused by the Constitution of Maine or the United States
26 Constitution and the statement has been recorded by any means
approved by the court, and is made in the presence of a judge or
28 justice.

30 **SUMMARY**

32 Current law allows into evidence certain out-of-court
statements made by minors describing sexual contact. This bill
34 extends the admissibility into evidence of such statements to
those made by persons with mental retardation.