

# MAINE STATE LEGISLATURE

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Maj. A

SWK  
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L.D. 1612

Date: 6-15-21

(Filing No. H-53)

REPORT A  
JUDICIARY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1201, L.D. 1612, "An Act To Facilitate Children's Testimony in Certain Sex Crime Cases"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA §1321 is enacted to read:

**§1321. Child witnesses in certain sex crime cases**

**1. Testimony of a child outside the presence of the defendant.** Upon motion by the State prior to trial and with reasonable notice to the defendant, a court may allow a child who is 14 years of age or younger to testify outside the presence of the defendant pursuant to this section in a criminal proceeding concerning a crime under Title 17-A, chapter 11 or 12 in which the child is the alleged victim.

**2. Requirements for direct testimony outside the presence of the defendant.** Direct testimony of a child outside the presence of the defendant under subsection 1 must meet the following requirements:

**A. The testimony must be conducted by way of 2-way closed-circuit television or other audiovisual electronic means;**

**B. The testimony must occur at a recognized children's advocacy center with only a victim or witness advocate present in the room in which the child is testifying;**

**C. The opportunity for real-time cross-examination of the child must be provided to the defendant's attorney after the child's direct testimony; and**

**D. The defendant must be able to observe the testimony of the child while the child is testifying and must be able to communicate with the defendant's attorney while the child is testifying.**

**3. Exception.** This section does not apply if the defendant is an attorney pro se or if the positive identification of the defendant is required.'

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
2 number to read consecutively.

3 **SUMMARY**

4 This amendment is the majority report of the committee. It gives the court discretion  
5 as to whether to allow the child to provide testimony using the procedure established in the  
6 bill. It clarifies that the defendant's attorney must be provided an opportunity in real time  
7 to cross-examine the child after the child's direct testimony. It requires that the defendant  
8 be able to observe the child's testimony while it is happening and be able to communicate  
9 with the defendant's attorney during the testimony.