



Maine Trial Lawyers Association

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Senator Anne Carney
Representative Matthew Moonen
Committee on Judiciary
100 State House Station, Room 438
Augusta, ME 04333

RE: LD 765 -- An Act to Permit Recordings of a Protected Person to Be Admissible in Evidence

Dear Senator Carney, Representative Moonen, and Members of the Committee on Judiciary,

MTLA opposes the provisions of LD 765 that addresses the statutory adoption of an exception to the hearsay rule of the Maine Rules of Evidence.

The provisions in LD 765 which provide for a statutory hearsay exception for child advocacy center recordings are in contrast to the process for adopting rules of evidence that have long been within the purview of the Maine Supreme Judicial Court. The hearsay rules in our Maine Rules of Evidence are detailed, complex, and have been developed and adopted over many years—decades even—through a long established procedure. This process involves careful consideration by the Advisory Committee on the Rules of Evidence, a special committee convened by the Chief Justice of the Maine Supreme Judicial Court. The Committee is comprised of prosecutors, defense lawyers, and judges. After a long and considered process, the Committee makes recommendations to the Maine Supreme Judicial Court and, if appropriate, the Court will then send out a request for comment to interested parties. Following that period of time, the Court will then consider whether to make the rule change and then provide notice to the public.

As detailed above, the established practice of adopting new evidence rules has been through the Maine court system. By permitting the Legislature to be involved in crafting rules of evidence, the Legislature would be abandoning an established practice which could lead to legal complications in the future..

MTLA appreciates the concerns with witnesses under the age of 18 and their potential testimony at a trial. However, these concerns should be addressed within the court system as they have been in the past. In conclusion, the best place for changes to the hearsay rules is with the courts, not the Legislature.

Sincerely,

/s Susan A Faunce

President
Maine Trial Lawyers Association

