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THE MAINE SENATE

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*Testimony of Senator Anne Carney introducing*  
**LD 765, An Act to Permit Recordings of a Protected Person to  
Be Admissible in Evidence**  
*Before the Joint Standing Committee on Judiciary*  
**March 15, 2023**

Representative Moonen and esteemed colleagues on the Joint Standing Committee on Judiciary, as you know, I am Anne Carney, proudly representing Senate District 29, which includes South Portland, Cape Elizabeth, and part of Scarborough. Today I am pleased to introduce LD 765, "An Act to Permit Recordings of a Protected Person to Be Admissible in Evidence." This legislation, if enacted, will achieve the important policy goal of protecting Maine's most vulnerable population, children and disabled adults, from sexual assault and physical abuse.

Investigation of these cases is challenging for all involved, and most especially for young children who are interviewed during an investigation of alleged abuse who may also be called upon to provide testimony in a civil or criminal trial. To reduce harm to children and disabled adults, about 10 years ago Maine created a system of child advocacy centers that coordinate investigation and intervention services. 22 MRS §4019.

Among other services, child advocacy centers have specially trained forensic interviewers to interview children who have been abused or witnessed abuse, in a neutral, child-friendly environment. A video and audio recording of the full forensic interview is preserved. Often these forensic interviews are used in child protective proceedings. They are generally not admissible in court. And that is the problem we are here to address. If forensic interviews could be used in court, we would be able to hold the abuser accountable the first time an accurate, credible instance of abuse came to light. We would prevent future abuse by the same individual.

LD 765 includes rigorous standards for forensic interviewers and the recording of forensic interviews. It would allow recordings that meet these statutory standards to be admissible in civil and criminal cases as an exception to the hearsay rule.

You will hear from pediatricians, children's advocacy center staff, attorneys involved in child abuse cases, and others about the forensic interview process, the difficulty children have testifying in court, and why this legislation is urgently needed to protect children and disabled adults from sexual assault and physical abuse.

You will also hear assertions that this issue is best left to the Maine Advisory Committee on Rules of Evidence. This group of 8 lawyers is charged with "ensur[ing] that the Rules sufficiently comply with constitutional requirements and maintain procedural efficiency but do

not infringe upon the substantive rights of any litigant.” The Rules permit a statute to create an exception to the hearsay rule:

**RULE 802. THE RULE AGAINST HEARSAY**

Hearsay is not admissible unless any of the following provides otherwise:

- A statute;
- These rules; or
- Other rules prescribed by the Maine Supreme Judicial Court.

M.R. Evid. 802

I have thought carefully about the responsibility of the Legislature to make policy, and the power of the Judicial Department to establish court rules. Adopting a framework for a forensic interview process that allows a recording of a forensic interview of a child or protected person to be used in court, in order to prevent abuse, is a policy decision for the 185 legislators elected by the people of Maine.

I ask for your support of LD 765. If forensic interviews are admissible into evidence in court, we will hold abusers accountable, and prevent harm to children and protected persons.

Thank you for your consideration and time. I am happy to answer your questions about the bill.



Anne Carney

State Senator, Senate District 29

*South Portland, Cape Elizabeth, and part of Scarborough*