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Date: (Filing No. H-)

JUDICIARY

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

COMMITTEE AMENDMENT “ ” to H.P. 933, L.D. 1273, “An Act To Establish Conviction Integrity Units in Maine”

Amend the bill by striking out the title and substituting the following:

'An Act To Establish a Conviction Integrity Unit in Maine'

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

'Sec. 1. 5 MRSA §200-M is enacted to read:

§200-M. Conviction Integrity Unit

1. Establishment. The Attorney General may create the Conviction Integrity Unit within the Office of the Attorney General. The Conviction Integrity Unit must be separate from the Office of the Attorney General’s Criminal Division, and the director of the Conviction Integrity Unit shall report directly to the Attorney General.

2. Purpose. The purpose of the Conviction Integrity Unit is to review convictions obtained by the Office of the Attorney General or a district attorney to determine whether there is clear and convincing evidence of actual innocence.

3. Review. The Conviction Integrity Unit may, in its discretion and either upon its own initiative or upon application from any person, review a conviction that contains:

- A. Facts that suggest a plausible claim of actual innocence;
- B. Evidence of a constitutional violation or prosecutorial misconduct; or
- C. Facts or circumstances requiring a review in the interests of fairness or justice.

4. Investigation. In reviewing a conviction, the Conviction Integrity Unit may conduct such investigation as it determines appropriate, including but not limited to a review of all files, evidence, work product, notes, laboratory records, personnel records and other information possessed or obtained by the State in the course of or relevant to the underlying conviction, any evidence proffered by the defendant or others, and such further facts and evidence that may be relevant, regardless whether such facts and evidence were

COMMITTEE AMENDMENT

1 available or proffered by the defense at the time of trial. An investigation may include
2 interviews of defense counsel, the defendant, witnesses and others.

3 **5. Evidence of prosecutorial misconduct.** If, in the course of reviewing a conviction,
4 the Conviction Integrity Unit determines that there is credible evidence of prosecutorial
5 misconduct, the Conviction Integrity Unit shall submit such evidence to the Board of
6 Overseers of the Bar.

7 **6. Report of findings and post-conviction review.** Upon completion of a review of
8 a conviction, the Conviction Integrity Unit shall report its findings to the Attorney General.
9 If the Attorney General determines it appropriate to do so, the Attorney General may, with
10 the consent of the convicted individual, file a petition for post-conviction review pursuant
11 to Title 15, chapter 305-A.

12 **7. Annual report.** By March 1st of every year, the Attorney General shall prepare
13 and transmit to the joint standing committee of the Legislature having jurisdiction over
14 judiciary matters a report describing the activities of the Conviction Integrity Unit during
15 the preceding year. The report must include:

16 A. The number of applications for review received pursuant to subsection 3 and the
17 sources of the applications; and

18 B. For each conviction reviewed:

19 (1) The identity of the prosecuting authority;

20 (2) The crime or crimes for which the individual was convicted;

21 (3) Whether the conviction was the result of a trial or plea;

22 (4) Whether any state or federal post-conviction review petitions were filed prior
23 to review and the outcome of any such petitions;

24 (5) Findings of the review by the Conviction Integrity Unit;

25 (6) Whether a petition for post-conviction review under Title 15, chapter 305-A
26 was filed following completion of the review under this section and the results of
27 any such petition; and

28 (7) Whether the review resulted in a referral to the Board of Overseers of the Bar.

29 **8. Rulemaking.** The Attorney General may adopt rules for the operation of the
30 Conviction Integrity Unit. Rules adopted pursuant to this section are routine technical rules
31 as defined in chapter 375, subchapter 2-A.

32 **Sec. 2. 15 MRSA §2124-A** is enacted to read:

33 **§2124-A. Petition by the Attorney General**

34 With the consent of an individual under a present restraint or impediment as a direct
35 result of a criminal judgment of this State, as described in section 2124, the Attorney
36 General, pursuant to Title 5, section 200-M, subsection 6, may initiate an action for post-
37 conviction review of such judgment by filing a petition in the court of original jurisdiction
38 in the county specified in section 2123. The provisions of this chapter apply to the petition,
39 except that a waiver as set forth in section 2128, failure to exhaust remedies as set forth in
40 section 2126 and failure to file the petition by the deadlines as set forth in section 2128-B

1 do not bar such a petition. If the court determines that relief should be granted, it shall
 2 order appropriate relief, including relief set forth in section 2130.

3 **Sec. 3. Appropriations and allocations.** The following appropriations and
 4 allocations are made.

5 **ATTORNEY GENERAL, DEPARTMENT OF THE**

6 **Administration - Attorney General 0310**

7 Initiative: Establishes one Attorney General Detective position to conduct investigations
 8 for the Conviction Integrity Unit.

9	GENERAL FUND	2021-22	2022-23
10	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
11	Personal Services	\$125,041	\$131,105
12			
13	GENERAL FUND TOTAL	<u>\$125,041</u>	<u>\$131,105</u>

14 **Administration - Attorney General 0310**

15 Initiative: Establishes one Assistant Attorney General position to support the Conviction
 16 Integrity Unit, including any actions that are initiated.

17	GENERAL FUND	2021-22	2022-23
18	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
19	Personal Services	\$135,325	\$141,888
20			
21	GENERAL FUND TOTAL	<u>\$135,325</u>	<u>\$141,888</u>

22 **Administration - Attorney General 0310**

23 Initiative: Establishes one Secretary Associate position to support the work of the
 24 Conviction Integrity Unit.

25	GENERAL FUND	2021-22	2022-23
26	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
27	Personal Services	\$73,841	\$77,422
28			
29	GENERAL FUND TOTAL	<u>\$73,841</u>	<u>\$77,422</u>

30 **Administration - Attorney General 0310**

31 Initiative: Provides All Other funding to support the work of the Conviction Integrity Unit.

32	GENERAL FUND	2021-22	2022-23
33	All Other	\$24,394	\$24,394
34			
35	GENERAL FUND TOTAL	<u>\$24,394</u>	<u>\$24,394</u>

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37 **ATTORNEY GENERAL, DEPARTMENT OF THE**
 38 **DEPARTMENT TOTALS**

39		2021-22	2022-23
40	GENERAL FUND	\$358,601	\$374,809
41		<u> </u>	<u> </u>

1 **DEPARTMENT TOTAL - ALL FUNDS** **\$358,601** **\$374,809**

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

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SUMMARY

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This amendment is the majority report of the committee. It replaces the bill. It authorizes the Attorney General to establish a single Conviction Integrity Unit in the Office of the Attorney General to review convictions obtained by the Office of the Attorney General as well as any district attorney's office. The Conviction Integrity Unit must be separate from the Criminal Division, and the head of the unit reports directly to the Attorney General. The purpose of the Conviction Integrity Unit is to review convictions to determine whether there is clear and convincing evidence of actual innocence.

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The Conviction Integrity Unit is authorized, in its discretion and either upon its own initiative or upon application from any person, to review a conviction that contains facts that suggest a plausible claim of actual innocence, evidence of a constitutional violation or prosecutorial misconduct or facts or circumstances requiring a review in the interests of fairness or justice.

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The Conviction Integrity Unit is directed to report evidence of prosecutorial misconduct to the Board of Overseers of the Bar.

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The Attorney General is directed to submit an annual report describing the activities of the Conviction Integrity Unit to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

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The amendment also adds an appropriations and allocations section.

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FISCAL NOTE REQUIRED

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(See attached)