

# 132nd MAINE LEGISLATURE

# FIRST REGULAR SESSION-2025

**Legislative Document** 

No. 425

H.P. 279

House of Representatives, February 4, 2025

An Act to Establish a Conviction Integrity Unit in the Attorney General's Office

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative MILLIKEN of Blue Hill. Cosponsored by Representatives: BOYER of Poland, SINCLAIR of Bath, Senators: BENNETT of Oxford, CARNEY of Cumberland.

#### 1 Be it enacted by the People of the State of Maine as follows:

### Sec. 1. 5 MRSA §200-O is enacted to read:

## §200-O. Conviction Integrity Unit

- 1. Establishment. The Attorney General shall 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 of whether such facts and evidence were available or proffered by the defense at the time of trial. An investigation may include interviews of defense counsel, the defendant, witnesses and others.
- 5. Evidence of prosecutorial misconduct. If, in the course of reviewing a conviction, the Conviction Integrity Unit determines that there is credible evidence of prosecutorial misconduct, the Conviction Integrity Unit shall submit such evidence to the Board of Overseers of the Bar.
- 6. Report of findings and post-conviction review. Upon completion of a review of a conviction, the Conviction Integrity Unit shall report its findings to the Attorney General. If the Attorney General determines it appropriate to do so, the Attorney General may, with the consent of the convicted individual, file a petition for post-conviction review pursuant to Title 15, chapter 305-A.
- 7. Annual report. By March 1st of each year, the Attorney General shall prepare and transmit to the joint standing committee of the Legislature having jurisdiction over judiciary matters a report describing the activities of the Conviction Integrity Unit during the preceding calendar year. The report must include:
  - A. The number of applications for review received pursuant to subsection 3 and the sources of the applications; and
  - B. For each conviction reviewed:
    - (1) The identity of the prosecuting authority;
  - (2) The crime or crimes for which the individual was convicted;

1 (3) Whether the conviction was the result of a trial or plea; 2 (4) Whether any state or federal post-conviction review petitions were filed prior to review and the outcome of any such petitions; 3 4 (5) Findings of the review by the Conviction Integrity Unit; 5 (6) Whether a petition for post-conviction review under Title 15, chapter 305-A was filed following completion of the review under this section and the results of 6 7 any such petition; and 8 (7) Whether the review resulted in a referral to the Board of Overseers of the Bar. 9 8. Rulemaking. The Attorney General may adopt rules for the operation of the Conviction Integrity Unit. Rules adopted pursuant to this subsection are routine technical 10 rules as defined in chapter 375, subchapter 2-A. 11 Sec. 2. 15 MRSA §2124-A is enacted to read: 12 13 §2124-A. Petition by Attorney General 14 With the consent of an individual under a present restraint or impediment as a direct result of a criminal judgment of this State, as described in section 2124, the Attorney 15 General, pursuant to Title 5, section 200-O, subsection 6, may initiate an action for post-16 conviction review of such judgment by filing a petition in the court of original jurisdiction 17 in the county specified in section 2123. The provisions of this chapter apply to the petition, 18 except that a waiver as set forth in section 2128, failure to exhaust remedies as set forth in 19 section 2126 and failure to file the petition by the deadlines as set forth in section 2128-B 20 do not bar such a petition. If the court determines that relief should be granted, it shall 21 22 order appropriate relief, including relief set forth in section 2130. 23 SUMMARY 24 This bill requires the Attorney General to establish a single Conviction Integrity Unit 25 in the Office of the Attorney General to review convictions obtained by the Office of the 26 Attorney General as well as any district attorney's office. The Conviction Integrity Unit 27 must be separate from the Criminal Division, and the head of the unit reports directly to the 28 Attorney General. The purpose of the Conviction Integrity Unit is to review convictions 29 to determine whether there is clear and convincing evidence of actual innocence. 30 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 31 32 that suggest a plausible claim of actual innocence, evidence of a constitutional violation or 33 prosecutorial misconduct or facts or circumstances requiring a review in the interests of

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

fairness or justice.

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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.