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H.P. 930

House of Representatives, March 29, 2021

**An Act To Establish Resentencing Units in the Attorney General's
Office and All Maine Prosecutorial Districts**

Received by the Clerk of the House on March 25, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative EVANGELOS of Friendship.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: HARNETT of Gardiner, NEWELL of the Passamaquoddy Tribe, O'NEIL of
Saco, PLUECKER of Warren, SHEEHAN of Biddeford, WARREN of Hallowell, Senator:
MAXMIN of Lincoln.

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

2 **Sec. 1. 15 MRSA c. 301, sub-c. 5** is enacted to read:

3 **SUBCHAPTER 5**

4 **RESENTENCING UNITS**

5 **§1861. Resentencing units**

6 **1. Resentencing units.** The Attorney General and every district attorney under Title
7 30-A, chapter 1, subchapter 5 shall maintain within their respective offices a resentencing
8 unit that timely reviews the sentences of imprisonment of criminal cases prosecuted by the
9 Attorney General's or that district attorney's office that have not yet commenced or are
10 ongoing to determine whether to reduce or terminate a sentence in the interests of fairness
11 or justice.

12 **2. Review.** A resentencing unit shall review for reduction or termination under
13 subsection 1 the following sentences:

14 A. A sentence in which the person's current sentence is no longer necessary to ensure
15 public safety or the interests of fairness or justice given the nature of the crime
16 committed and the specific facts of the crime, with priority given to a person currently
17 incarcerated who is either over 50 years of age or was sentenced for a crime committed
18 as a minor;

19 B. A sentence for a person who committed an offense under Title 17-A, section 202
20 in which the person did not commit the killing or have an intent to kill;

21 C. A sentence of at least 5 years for a person who is eligible for release within the next
22 12 months;

23 D. A sentence of a person who is suffering from a terminal or debilitating illness;

24 E. A sentence in which an illegality or irregularity may exist or have been committed;
25 and

26 F. A sentence that the resentencing unit determines should be reviewed in the interests
27 of fairness or justice.

28 **3. Recommendation; appeal.** A resentencing unit shall make in a timely manner a
29 recommendation to the Attorney General or district attorney in whose office the
30 resentencing unit is located whether to reduce or terminate a sentence reviewed. The
31 Attorney General or district attorney may reject, accept or modify a recommendation and
32 file a petition under chapter 305-A of a sentence that the Attorney General or district
33 attorney determines requires reduction or termination.

34 **Sec. 2. 15 MRSA §2122**, as amended by PL 2011, c. 601, §4, is further amended to
35 read:

36 **§2122. Purpose**

37 This chapter provides a comprehensive and, except for direct appeals from a criminal
38 judgment, exclusive method of review of those criminal judgments and of post-sentencing

1 proceedings occurring during the course of sentences. It is a remedy for unfair, unjust or
2 illegal restraint and other impediments specified in section 2124 that have occurred directly
3 or indirectly as a result of an illegal criminal judgment or post-sentencing proceeding. It
4 replaces the remedies available pursuant to post-conviction habeas corpus, to the extent
5 that review of a criminal conviction or proceedings were reviewable, the remedies available
6 pursuant to common law habeas corpus, including habeas corpus as recognized in Title 14,
7 sections 5501 and 5509 to 5546, coram nobis, audita querela, writ of error, declaratory
8 judgment and any other previous common law or statutory method of review, except appeal
9 of a judgment of conviction or juvenile adjudication and remedies that are incidental to
10 proceedings in the trial court. The substantive extent of the remedy of post-conviction
11 review is defined in this chapter and not defined in the remedies that it replaces; ~~provided~~
12 ~~that this.~~ This chapter provides and is must be construed to provide relief for those persons
13 required to use this chapter as required by the Constitution of Maine, Article I, Section 10.

14 **Sec. 3. 15 MRSA §2125**, as amended by PL 2013, c. 266, §4, is further amended to
15 read:

16 **§2125. Ground for relief**

17 A person who satisfies the prerequisites of section 2124 may show that the challenged
18 criminal judgment or sentence is unlawful or unlawfully imposed; or a sentence is unfair
19 or unjust under section 1861 or that the impediment resulting from the challenged post-
20 sentencing proceeding is unlawful, as a result of any error or ground for relief, whether or
21 not of record, unless the error is harmless or unless relief is unavailable for a reason
22 provided in section 2126, section 2128 unless section 2128-A applies, or section 2128-B.

23 **Sec. 4. 15 MRSA §2126**, as amended by PL 2013, c. 266, §5, is further amended to
24 read:

25 **§2126. Exhaustion**

26 A Except for a petition brought under section 1861, a person under restraint or
27 impediment specified in section 2124 must also demonstrate that the person has previously
28 exhausted remedies incidental to proceedings in the trial court, on appeal or administrative
29 remedies. A person who has taken an appeal from a judgment of conviction, a juvenile
30 adjudication or a judgment of not criminally responsible by reason of insanity is not
31 precluded from utilizing the remedy of this chapter while the appeal is pending. The post-
32 conviction review proceeding is automatically stayed pending resolution of the appeal
33 unless the Appellate Court on motion and for good cause otherwise directs.

34 **Sec. 5. 15 MRSA §2128, first ¶**, as amended by PL 2011, c. 601, §9, is further
35 amended to read:

36 A Except for a petition brought under section 1861, a person under restraint or
37 impediment specified in section 2124 shall demonstrate that any ground of relief has not
38 been waived. The bases of waiver are as follows.

39 **Sec. 6. 15 MRSA §2128-B, sub-§4** is enacted to read:

40 **4. Filing deadline for resentencing review.** A petition to reduce or terminate a
41 sentence filed pursuant to section 1861 may be brought from the date of sentencing to the
42 termination of the sentence.

