

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1805

S.P. 705

In Senate, April 29, 2025

An Act to Establish a Post-conviction Review Process for Crimes Committed by Victims of Sex Trafficking and Sexual Exploitation

Received by the Secretary of the Senate on April 25, 2025. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland.
Cosponsored by Representative MOONEN of Portland and
Senators: BAILEY of York, BENNETT of Oxford, BRENNER of Cumberland,
Representatives: BOYER of Poland, KUHN of Falmouth, LEE of Auburn, SATO of Gorham,
SINCLAIR of Bath.

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

2 Sec. 1. 15 MRSA c. 312 is enacted to read:

3 **CHAPTER 312**

4 **POST-CONVICTION REVIEW FOR VICTIMS OF SEX TRAFFICKING AND**
5 **SEXUAL EXPLOITATION**

6 **§2401. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Assigned justice or judge.** "Assigned justice or judge" has the same meaning as
10 in section 2121, subsection 1-A.

11 **2. Compelling.** "Compelling" includes but is not limited to:

12 A. The use of a drug or intoxicating substance to render a person incapable of
13 controlling that person's conduct or appreciating the nature of the conduct;

14 B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug-
15 dependent or alcohol-dependent person. "Drug-dependent or alcohol-dependent
16 person" means a person who is using scheduled drugs or alcohol and who is in a state
17 of psychic or physical dependence, or both, arising from the use of the drugs or alcohol
18 on a continuing basis;

19 C. Making material false statements, misstatements or omissions;

20 D. Withholding, destroying or confiscating an actual or purported passport or other
21 immigration document or other actual or purported government identification
22 document with the intent to impair a person's freedom of movement;

23 E. Requiring the sexual exploitation of a person to retire, repay or service an actual or
24 purported debt; and

25 F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear
26 that, if the person does not engage or continue to engage in sexual exploitation, the
27 actor or another person will:

28 (1) Cause physical injury or death to a person;

29 (2) Cause damage to property, other than property of the actor;

30 (3) Engage in other conduct constituting a Class A, Class B or Class C crime or
31 criminal restraint;

32 (4) Accuse some person of a crime or cause criminal charges or deportation
33 proceedings to be instituted against some person;

34 (5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to
35 subject some person, except the actor, to hatred, contempt or ridicule;

36 (6) Testify or provide information or withhold testimony or information regarding
37 another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

3. Criminal judgment. "Criminal judgment" has the same meaning as in section 2121, subsection 1.

4. Sentence. "Sentence" has the same meaning as in section 2121, subsection 3.

5. Sex trafficking. "Sex trafficking" means promoting sexual exploitation by compelling a person to enter into, engage in or remain in sexual exploitation, promoting the sexual exploitation of a person who has not attained 18 years of age or promoting the sexual exploitation of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

6. Sexual exploitation. "Sexual exploitation" means engaging in the exchange of a sexual act for money or resources because of a person's history of trauma, adverse childhood experiences, substance use disorder or other circumstances of victimization, exploitation or oppression.

§2402. Jurisdiction and venue

1. Jurisdiction. The Superior Court has jurisdiction over proceedings under this chapter.

2. Supreme Court Justice or authorized Judge of the District Court. A Justice of the Supreme Judicial Court, an Active Retired Justice of the Supreme Judicial Court or a judge authorized to sit in the Superior Court on post-conviction review cases has and shall exercise jurisdiction and has and shall exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court relative to a proceeding under this chapter.

3. Venue. A proceeding under this chapter must be brought in the county in which the criminal judgment that the moving party seeks to reverse was entered. Venue may be transferred by the assigned justice or judge at that assigned justice's or judge's discretion, except that, if multiple post-conviction review motions are filed under this chapter by or on behalf of the same person, the motions must be consolidated to one location and assigned to a single justice or judge.

§2403. Petition and procedure

1. Motion; persons who may file. A person who has been convicted of one or more offenses in which a final criminal judgment has been entered may file a written motion in the underlying criminal proceeding seeking to have the criminal judgment reversed and to correct the court records and related criminal justice agency records on the basis that the conviction or convictions were the substantial result of the person's sexual exploitation or being subjected to sex trafficking. Alternatively, a motion may be filed on behalf of such a person by an attorney for the State or by the court. The court may not assess fees for the filing or service of a motion under this chapter.

1 **2. Timing of motion.** A motion under this section to reverse a criminal judgment and
2 correct the court records and criminal justice agency records may be filed at any time after
3 a final criminal judgment has been entered.

4 **3. Service of motion.** The assigned justice or judge shall determine which
5 representative of the State must be served with a motion under this section and how service
6 of the motion is to be made and enter an order in this regard. The order must direct the
7 appropriate representative of the State to make all reasonable attempts to notify all victims
8 in the underlying matter about the motion.

9 **4. Representation of the State.** The prosecutorial office that represented the State in
10 the underlying criminal proceeding shall represent the State for the purposes of this chapter.
11 If underlying matters involving multiple prosecutorial offices are consolidated to a single
12 location, a different prosecutorial office may represent the State on any matter in which
13 there is agreement between the 2 prosecutorial offices.

14 **5. Counsel.** If the court finds that the person who files a motion under this section or
15 on whose behalf the motion is filed is indigent, the court may appoint counsel for the person
16 at any time during the proceedings.

17 **6. Remote testimony.** The person who files a motion under this section or on whose
18 behalf the motion is filed and any witnesses may participate in the hearing remotely, unless
19 the assigned justice or judge finds that the person or a specific witness resides in this State
20 and that the interest of justice requires the person's or the witness's participation at the
21 hearing in person.

22 **7. Evidence.** The Maine Rules of Evidence do not apply to a hearing on a motion
23 filed under this section, and evidence presented at the hearing by the participants may
24 include testimony, affidavits and other reliable hearsay evidence as permitted by the
25 assigned justice or judge.

26 **8. Rebuttable presumption.** Official documentation of a person's status as a victim
27 of sex trafficking or sexual exploitation creates a rebuttable presumption that the person's
28 participation in a crime was a result of the person's having been a victim of sex trafficking
29 or sexual exploitation. Nothing in this section imposes a requirement that a person filing a
30 motion or on whose behalf the motion is being filed under this section provide official
31 documentation of the person's status as a victim of sex trafficking or sexual exploitation.

32 For purposes of this subsection, "official documentation of a person's status as a victim of
33 sex trafficking or sexual exploitation" includes, but is not limited to:

34 A. A copy of an official record, certification or eligibility letter from a federal, state,
35 tribal or local proceeding, including an approval notice or an enforcement certification
36 generated from a federal immigration proceeding, that reflects that the person filing the
37 motion was a victim of sex trafficking or sexual exploitation;

38 B. An affidavit or sworn testimony from a member of the clergy, a medical
39 professional, a staff member of a victim services organization or other professional
40 from whom the person filing the motion has sought legal counsel or other assistance in
41 addressing the trauma and other challenges associated with being a victim of sex
42 trafficking or sexual exploitation; or

1 C. Any other evidence the assigned justice or judge determines is of sufficient
2 credibility or probative value to establish a rebuttable presumption that the person filing
3 a motion under this section was a victim of sex trafficking or sexual exploitation.

4 **9. Hearing.** The assigned justice or judge shall hold a hearing on a motion filed under
5 this section, except that the assigned justice or judge may grant a motion for relief under
6 this chapter without a hearing if:

7 A. The representative of the State consents in writing to the motion;

8 B. At least 60 days have elapsed since service of the motion on the representative of
9 the State and all reasonable attempts by the State to notify all victims have concluded;
10 and

11 C. An objection to the relief requested has not been filed by a victim or victim's
12 representative.

13 **10. Procedure in proceedings pursuant to this chapter.** The Supreme Judicial Court
14 shall, by rule, establish the procedures for proceedings under this chapter.

15 **§2404. Relief; order**

16 **1. Relief.** If the assigned justice or judge finds that the person who filed a motion
17 under section 2403 or on whose behalf the motion was filed has established by a
18 preponderance of the evidence that the person has been a victim of sex trafficking or sexual
19 exploitation and that the commission of the crime for which relief is sought under this
20 chapter was a substantial result of the sex trafficking or sexual exploitation, the assigned
21 justice or judge shall issue a written order reversing the judgment of conviction. If the
22 assigned justice or judge grants the motion, the assigned justice or judge shall additionally
23 determine what court records and related records held by criminal justice agencies require
24 correction and shall enter a written order specifying the corrections to be made in the court
25 records and the records of each appropriate criminal justice agency.

26 **2. Notice.** A copy of the written order granting or denying the motion must be
27 provided to the person who filed the motion under section 2403 or on whose behalf the
28 motion was filed.

29 **§2405. Review of final judgment**

30 A written order granting or denying a motion under this chapter may be reviewed by
31 the Supreme Judicial Court sitting as the Law Court.

32 **1. Appeal by petitioner.** The person who filed the motion under section 2403 or on
33 whose behalf the motion was filed may appeal an order denying the motion as of right. The
34 time for taking the appeal and the manner and any conditions for the taking of the appeal
35 are as the Supreme Judicial Court provides by rule.

36 **2. Appeal by State.** The representative of the State may appeal an order granting a
37 motion filed under section 2403 as of right and no certificate of approval by the Attorney
38 General is required. The time for taking the appeal and the manner and any conditions for
39 the taking of an appeal are as the Supreme Judicial Court provides by rule.

40 **Sec. 2. Legislative findings; purpose; construction.**

41 **1. Findings.** The Legislature finds that victims of sex trafficking and sexual
42 exploitation may commit a variety of criminal acts as a substantial result of manipulation,

1 intimidation or compulsion by the person committing sex trafficking or sexual exploitation.
2 The Legislature further finds that victims of sex trafficking or sexual exploitation who
3 committed crimes under such circumstances did not have the requisite culpability to justify
4 a criminal judgment or sentence, and permitting the conviction and sentence to remain
5 intact further contributes to the harm and trauma experienced by these victims of sex
6 trafficking or sexual exploitation.

7 **2. Purpose; liberal construction.** The purpose of this Act is to provide a mechanism
8 for reversing criminal judgments entered against victims of sex trafficking and sexual
9 exploitation when the criminal acts committed were a substantial result of the trafficking
10 or exploitation. This Act must be liberally construed to effectuate this purpose.

11 SUMMARY

12 This bill allows a victim of sex trafficking or sexual exploitation to file a post-judgment
13 motion to reverse a criminal conviction if the victim demonstrates, by a preponderance of
14 evidence, that the victim experienced sex trafficking or sexual exploitation and that the
15 conduct underlying the criminal conviction was a substantial result of the sex trafficking
16 or sexual exploitation.