

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1381

H.P. 1002

House of Representatives, March 26, 2019

**An Act To Create a Post-judgment Mechanism To Provide Relief to
Victims of Sexual Exploitation and Sex Trafficking**

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative RECKITT of South Portland. (BY REQUEST)

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

2 **Sec. 1. 15 MRSA c. 308-A** is enacted to read:

3 **CHAPTER 308-A**

4 **POST-JUDGMENT MOTION WHEN PERSON HAS BEEN VICTIM OF**
5 **SEXUAL EXPLOITATION OR SEX TRAFFICKING**

6 **§2191. Definitions**

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

9 **1. Compelling.** "Compelling" includes but is not limited to:

10 A. The use of a drug or intoxicating substance to render a person incapable of
11 controlling that person's conduct or appreciating its nature;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **2. Sex trafficking.** "Sex trafficking" means promoting sexual exploitation by
8 compelling a person to enter into, engage in or remain in sexual exploitation, promoting
9 the sexual exploitation of a person less than 18 years of age or promoting the sexual
10 exploitation of a person who suffers from a mental disability that is reasonably apparent
11 or known to the actor and that in fact renders the other person substantially incapable of
12 appraising the nature of the conduct involved.

13 **3. Sexual exploitation.** "Sexual exploitation" means engaging in the exchange of
14 sex for money or resources because of a person's history of trauma, adverse childhood
15 experiences, substance use disorder or other circumstances of victimhood, exploitation or
16 oppression.

17 **§2192. Post-judgment motion for vacating and correcting record**

18 **1. Motion; persons who may file.** A person for whom one or more criminal
19 convictions in which a final judgment has been entered were the result of the person's
20 sexual exploitation or being subjected to sex trafficking may file a written motion in the
21 underlying criminal proceeding seeking to vacate the conviction and to correct the court
22 records and related criminal justice agency records. The same motion may also be filed
23 on behalf of such a person by an attorney for the State or by the court.

24 **2. Timing for filing.** A motion under this section to vacate and correct the record
25 must be filed with due diligence, after the person moving for relief has ceased to be a
26 victim of sexual exploitation or sex trafficking or has sought services for victims of
27 sexual exploitation or sex trafficking, subject to reasonable concerns for the safety of the
28 person moving for relief, family members of the person or other victims of sexual
29 exploitation or sex trafficking who may be jeopardized by the bringing of such a motion
30 or for other reasons consistent with the purpose of this subsection.

31 **§2193. Motion and hearing; process**

32 **1. Filing motion.** A motion filed under section 2192 must be filed in the underlying
33 criminal proceeding. The appropriate chief judge or justice shall specially assign the
34 motion. The judge or justice to whom the motion is assigned shall determine upon whom
35 and how service of the motion is to be made and enter an order in this regard.

36 **2. Counsel.** If the court finds that the person who files the motion under section
37 2192 or on whose behalf the motion is filed is indigent, the court may appoint counsel for
38 the person at any time during the proceedings.

