

By: Representative Fillingane

To: Judiciary B

HOUSE BILL NO. 860

1 AN ACT TO AMEND SECTION 99-39-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY DIRECT APPEALS IN POST-CONVICTION PROCEEDINGS; AND FOR
3 RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-39-3, Mississippi Code of 1972, is
6 amended as follows:

7 99-39-3. (1) The purpose of this article is to revise,
8 streamline and clarify the rules and statutes pertaining to
9 post-conviction collateral relief law and procedures, to resolve
10 any conflicts therein and to provide the courts of this state with
11 an exclusive and uniform procedure for the collateral review of
12 convictions and sentences. Specifically, this article repeals the
13 statutory writ of error coram nobis, supersedes Rule 8.07 of the
14 Mississippi Uniform Criminal Rules of Circuit Court Practice and
15 abolishes the common law writs relating to post-conviction
16 collateral relief, including by way of illustration but not
17 limitation, error coram nobis, error coram vobis, and
18 post-conviction habeas corpus, as well as statutory
19 post-conviction habeas corpus. The relief formerly accorded by
20 such writs may be obtained by an appropriate motion under this
21 article. The enactment of this article does not affect any
22 pre-conviction remedies.

23 (2) Direct appeal shall be the principal means of reviewing
24 all criminal convictions. The purpose of this article is to
25 provide prisoners with a procedure, limited in nature, to review
26 those objections, defenses, claims, questions, issues or errors

27 which in practical reality could not be or should not have been
28 raised at trial or on direct appeal.

29 **SECTION 2.** This act shall take effect and be in force from
30 and after July 1, 2005.