

By: Representative Osborne

To: Military Affairs;  
Judiciary A

HOUSE BILL NO. 392

1 AN ACT TO ESTABLISH THE RIGHT OF A DISABLED VETERAN TO  
2 PROCEED ON APPEAL IN FORMA PAUPERIS IN CASES WHERE A JUDGMENT  
3 CREDITOR SEEKS TO COLLECT A DEBT FROM FUNDS DERIVED FROM THE  
4 VETERAN'S DISABILITY BENEFITS AND IN CASES WHERE THE VETERAN, AS A  
5 DEFENDANT OR PLAINTIFF, HAS BEEN PERMITTED TO PROCEED IN FORMA  
6 PAUPERIS IN THE TRIAL COURT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) A disabled veteran judgment debtor sued in a  
9 civil case in any court in the state by a creditor seeking to  
10 collect a debt from funds of the disabled veteran which are  
11 derived from disability benefits from the United States Department  
12 of Veterans Affairs, Social Security Administration or any other  
13 source who desires to appeal the decision of the trial court may  
14 proceed on appeal in forma pauperis. The veteran defendant shall  
15 file a motion for leave to proceed in forma pauperis in the trial  
16 court, together with an affidavit establishing that the defendant  
17 is a disabled veteran. If the motion is granted, the defendant  
18 may so proceed without further application to any appellate court,  
19 including the Mississippi Supreme Court, and without the  
20 prepayment of fees or costs in either court. If the motion is



21 denied, the trial court must state in writing the reasons for the  
22 denial.

23 (2) Notwithstanding any provision of law to the contrary, a  
24 disabled veteran who is a party defendant or plaintiff in any  
25 action who has been permitted to proceed in forma pauperis in the  
26 trial court may proceed on appeal in forma pauperis without  
27 further authorization unless, either before or after notice of  
28 appeal is filed, the trial court certifies that the party is no  
29 longer disabled and is not entitled otherwise to proceed in forma  
30 pauperis. The court shall state in writing the reasons for this  
31 certification or finding. When an appeal is taken to the  
32 Mississippi Supreme Court in forma pauperis, the certification of  
33 compliance required by Rule 11(b)(1) of the Mississippi Rules of  
34 Appellate Procedure must indicate that the appeal is taken in  
35 forma pauperis.

36 (3) If a motion for leave to proceed on appeal in forma  
37 pauperis is denied by the trial court, the trial court clerk  
38 immediately must serve notice of the action. A motion for leave  
39 so to proceed may be filed in the Mississippi Supreme Court within  
40 thirty (30) days after service of notice of the action of the  
41 trial court. The motion must be accompanied by a copy of the  
42 affidavit filed in the trial court, or by the affidavit prescribed  
43 by Rule 6(a)(1) of the Mississippi Rules of Appellate Procedure if  
44 no affidavit has been filed in the trial court, and by a copy of



45 the statement of the reasons given by the trial court for its  
46 action.

47           **SECTION 2.** This act shall take effect and be in force from  
48 and after July 1, 2022.

