

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 981

1 AN ACT TO AUTHORIZE ANY PERSON SENTENCED AS A HABITUAL
 2 OFFENDER TO FILE A MOTION TO REDUCE, SET ASIDE OR VACATE A
 3 SENTENCE OR JUDGMENT; TO PROVIDE THAT SUCH PERSON MAY FILE THE
 4 MOTION IF HE OR SHE HAS SERVED A CERTAIN AMOUNT OF HIS OR HER
 5 SENTENCE; TO LIST THE INFORMATION THAT SHALL BE CONTAINED IN THE
 6 MOTION; TO AUTHORIZE A JUDGE TO VACATE, SET ASIDE OR REDUCE THE
 7 SENTENCE UPON REVIEW OF THE MOTION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) Any person sentenced as a habitual offender
 10 under the laws of this state by any court of record of the State
 11 of Mississippi, including a person currently incarcerated, civilly
 12 committed, on parole or probation, may file a motion in the court
 13 in which the conviction was had to vacate, set aside or reduce the
 14 judgment or sentence.

15 (2) A motion for relief under this act shall be made if the
 16 person has served at least twenty percent (20%) or fifteen (15)
 17 years of his or her sentence, whichever is less.

18 (3) The motion under this act shall be filed as an original
 19 civil action in the trial court in which the conviction was had,
 20 except in cases in which the petitioner's conviction and sentence



21 have been appealed to the Supreme Court of Mississippi and there
22 affirmed or the appeal dismissed. Where the conviction and
23 sentence have been affirmed on appeal or the appeal has been
24 dismissed, the motion under this article shall not be filed in the
25 trial court until the motion shall have first been presented to a
26 quorum of the Justices of the Supreme Court of Mississippi,
27 convened for said purpose either in termtime or in vacation, and
28 an order granted allowing the filing of such motion in the trial
29 court.

30 (4) A motion under this act shall contain all of the
31 following:

32 (a) The identity of the proceedings in which the
33 petitioner was convicted.

34 (b) The date of the entry of the judgment of conviction
35 and sentence of which complaint is made.

36 (c) A concise statement of the claims or grounds upon
37 which the motion is based.

38 (d) A separate statement of the specific facts which
39 are within the personal knowledge of the petitioner and which
40 shall be sworn to by the petitioner explaining why the petitioner
41 should be released, have his or her sentence or judgment vacated,
42 set aside or reduced.

43 (5) (a) The original motion, together with all the files,
44 records, transcripts and correspondence relating to the judgment
45 under attack, shall be examined promptly by the judge to whom it



46 is assigned. The judge may make an order to vacate, set aside or
47 reduce the judgment or sentence, and spread the reasons for such
48 in the record.

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

