

1 HB1
2 215136-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 27-SEP-21

SYNOPSIS: Under existing law, an individual who was convicted of a nonviolent crime prior to October 1, 2013, was sentenced pursuant to the statutory sentencing range or the Habitual Felony Offender Act.

This bill would provide that individuals currently incarcerated who committed nonviolent offenses and who were sentenced pursuant to the statutory sentencing range or the Habitual Felony Offender Act prior to October 1, 2013, may be eligible to be resentenced pursuant to the presumptive sentencing standards currently in effect.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to sentencing standards; to provide for
2 resentencing of certain individuals convicted of nonviolent
3 offenses.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 12-25-34.3 is added to the Code
6 of Alabama 1975, to read as follows:

7 §12-25-34.3.

8 (a) For the purposes of this section, the following
9 words shall have the following meanings:

10 (1) COVERED OFFENSE. A nonviolent offense as
11 provided in Section 12-25-32, whose penalties were modified by
12 Sections 12-25-34 and 12-25-34.2.

13 (2) DEFENDANT. An individual incarcerated in the
14 Department of Corrections resulting from a conviction of a
15 covered offense.

16 (b) On or after the effective date of this act, a
17 defendant or the Department of Corrections may file a motion
18 for reduction in sentence pursuant to the presumptive
19 sentencing standards in effect at the time of the motion,
20 provided that the defendant meets both of the requirements in
21 subsection (d).

22 (c) The venue for a motion filed pursuant to
23 subsection (b) shall be the criminal division of the circuit
24 court in the county in which the defendant was convicted. The
25 petition shall be heard by the original sentencing judge, the
26 presiding judge of the circuit, or a retired judge as assigned
27 by the Chief Justice of the Supreme Court.

1 (d) To be eligible for a reduction in sentencing
2 both of the following shall be satisfied:

3 (1) The covered offense occurred prior to October 1,
4 2013.

5 (2) The motion for reduction in sentence is
6 accompanied by evidence that the defendant has demonstrated
7 behavior during incarceration that would indicate his or her
8 fitness for resentencing pursuant to this section.

9 (e) The motion for reduction in sentence shall be
10 served upon the district attorney in the county of conviction.
11 The district attorney shall have a right to be heard on any
12 motion filed pursuant to this section.

13 (f) The court may impose a reduced sentence pursuant
14 to the presumptive sentencing standards in effect at the time
15 of the motion. When considering a motion made pursuant to this
16 section, the court shall consider both the underlying offense
17 and the defendant's conduct while in custody.

18 (g) A court may not entertain a motion made pursuant
19 to this section if a previous motion for a reduction of
20 sentence was denied.

21 (h) A court may not entertain a motion made pursuant
22 to this section if the individual is not currently serving his
23 or her sentence in a Department of Corrections facility.

24 (i) Nothing in this section shall be construed to
25 require a court to reduce any sentence pursuant to this
26 section.

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.