

1 HB51  
2 215750-1  
3 By Representative Hill  
4 RFD: Judiciary  
5 First Read: 11-JAN-22  
6 PFD: 01/06/2022

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 or voluntary sentencing standards currently in effect.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to sentencing standards; to add Section 12-25-34.3 to the Code of Alabama 1975, to provide for

1 resentencing of certain individuals under certain  
2 circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 §12-25-34.3.

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

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

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

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

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

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

1                   (1) The covered offense occurred prior to October 1,  
2 2013.

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

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

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

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

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

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