**A** **BILL**

TO AMEND SECTION 17‑27‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POST‑CONVICTION RELIEF PROCEDURES AND PERSONS WHO MAY INSTITUTE PROCEEDINGS, SO AS TO CLARIFY PERSONS MUST HAVE BEEN CONVICTED OF, AND SENTENCED FOR, A CRIME IN ADDITION TO MEETING THE DELINEATED CRITERIA IN ORDER TO INSTITUTE A POST‑CONVICTION RELIEF PROCEEDING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17‑27‑20 of the 1976 Code is amended to read:

“Section 17‑27‑20. ~~(a)~~(A) Any person who has been convicted of, ~~or~~ and sentenced for, a crime and who claims that:

(1) ~~That~~ the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;

(2) ~~That~~ the court was without jurisdiction to impose sentence;

(3) ~~That~~ the sentence exceeds the maximum authorized by law;

(4) ~~That~~ there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) ~~That~~ his sentence has expired, his probation, parole, or conditional release was unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(6) ~~That~~ the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error ~~heretofore~~ available ~~under~~ pursuant to any common law, statutory, or other writ, motion, petition, proceeding, or remedy; may institute, without paying a filing fee, a proceeding ~~under~~ pursuant to this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

~~(b)~~(B) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies ~~heretofore~~ available for challenging the validity of the conviction or sentence. It ~~shall~~ must be used exclusively in place of them.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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