

By Representatives Garcia and Cantens

1 A bill to be entitled
2 An act relating to criminal appeals and
3 collateral review; amending s. 924.051, F.S.;
4 providing standards of evidence for the
5 appellate court for purposes of reviewing a
6 claim of insufficient evidence; prohibiting the
7 appellate court from reversing a conviction on
8 the ground of insufficiency of evidence under
9 certain circumstances; providing standards of
10 review for the Supreme Court in determining
11 whether harmless error was committed on appeal;
12 prohibiting the court from presuming that error
13 affected the defendant's substantial rights;
14 providing certain limitations on filing
15 successive motions for collateral relief or
16 other postconviction relief; limiting
17 circumstances under which a postconviction
18 proceeding may be stayed based upon a claim
19 that the defendant has certain mental
20 deficiencies; requiring that the state be
21 notified of defense witnesses; providing that a
22 judgment under appeal or collateral review may
23 be used to enhance or reclassify other
24 sentences or dispositions; amending s. 924.055,
25 F.S., relating to time limitations for
26 postconviction proceedings in capital cases;
27 providing that an improperly filed
28 postconviction motion or petition does not toll
29 the time limitations; providing for
30 severability; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 924.051, Florida Statutes, is
4 amended to read:

5 924.051 Terms and conditions of appeals and collateral
6 review in criminal cases.--

7 (1) As used in this section:

8 (a) "Prejudicial error" means an error in the trial
9 court that harmfully affected the judgment or sentence.

10 (b) "Preserved" means that an issue, legal argument,
11 or objection to evidence was timely raised before, and ruled
12 on by, the trial court, and that the issue, legal argument, or
13 objection to evidence was sufficiently precise that it fairly
14 apprised the trial court of the relief sought and the grounds
15 therefor.

16 (2) The right to direct appeal and the provisions for
17 collateral review created in this chapter may only be
18 implemented in strict accordance with the terms and conditions
19 of this section.

20 (3) An appeal may not be taken from a judgment or
21 order of a trial court unless a prejudicial error is alleged
22 and is properly preserved or, if not properly preserved, would
23 constitute fundamental error. A judgment or sentence may be
24 reversed on appeal only when an appellate court determines
25 after a review of the complete record that prejudicial error
26 occurred and was properly preserved in the trial court or, if
27 not properly preserved, would constitute fundamental error.

28 (4) When reviewing a claim that the evidence is
29 insufficient to support the conviction, the appellate court
30 must view the evidence in the light most favorable to the
31 state, give the state the benefit of all inferences that

1 logically may be drawn from the evidence, and sustain the
2 conviction if it is supported by competent substantial
3 evidence. A conviction may be based in whole or in part on
4 circumstantial evidence. The evidence need not exclude every
5 reasonable hypothesis except guilt. The appellate court may
6 not reverse the judgment of conviction on the ground of
7 insufficiency of the evidence unless a rational trier of fact
8 could not have found the essential elements of the crime
9 beyond a reasonable doubt.

10 (5)(a)(4) If a defendant pleads nolo contendere
11 without expressly reserving the right to appeal a legally
12 dispositive issue, or if a defendant pleads guilty without
13 expressly reserving the right to appeal a legally dispositive
14 issue, the defendant may not appeal the judgment or sentence.

15 (b) A judgment in a capital case may not be reversed
16 unless the Supreme Court is of the opinion, after an
17 examination of the entire appellate record, that error was
18 committed that so injuriously affected the substantial rights
19 of the defendant that the error is not harmless. The Supreme
20 Court may not presume that error injuriously affected the
21 substantial rights of the defendant.

22 (6)(5) Collateral relief is not available on grounds
23 that were or could have been raised at trial and, if properly
24 preserved, on direct appeal of the conviction and sentence.

25 (7)(6)(a) In a noncapital case, a petition or motion
26 for collateral or other postconviction relief may not be
27 considered if it is filed more than 2 years after the judgment
28 and sentence became final, unless the petition or motion
29 alleges that:

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1 1. The facts upon which the claim is predicated were
2 unknown to the petitioner or his or her attorney and could not
3 have been ascertained by the exercise of due diligence;

4 2. The fundamental constitutional right asserted was
5 not established within the period provided for in this
6 subsection and has been held to apply retroactively; or

7 3. The sentence imposed was illegal because it either
8 exceeded the maximum or fell below the minimum authorized by
9 statute for the criminal offense at issue. Either the state
10 or the defendant may petition the trial court to vacate an
11 illegal sentence at any time.

12 (b) In a capital case in which the sentence of death
13 has been imposed:

14 1. A motion for collateral or other postconviction
15 relief may not be considered if the motion is filed more than
16 1 year after the judgment and sentence became final, unless
17 the facts upon which the claim is predicated were unknown to
18 the petitioner or his or her attorney and could not have been
19 ascertained by the exercise of due diligence, or the
20 fundamental constitutional right asserted was not established
21 within the period provided for in this subsection and has been
22 held to apply retroactively.

23 2. A successive motion for collateral relief or other
24 postconviction relief may not be considered unless the
25 conditions set forth in subparagraph 1. are satisfied and the
26 facts underlying the claim, if proven and viewed in light of
27 the evidence as a whole, are sufficient to establish by clear
28 and convincing evidence that, but for constitutional error, a
29 reasonable factfinder would not have found the defendant
30 guilty of the underlying offense.

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1 ~~3.2.~~ An expert witness may not be called to testify
2 unless approved by the court.

3 ~~(8)(7)~~ In a direct appeal or a collateral proceeding,
4 the party challenging the judgment or order of the trial court
5 has the burden of demonstrating that a prejudicial error
6 occurred in the trial court. A conviction or sentence may not
7 be reversed absent an express finding that a prejudicial error
8 occurred in the trial court.

9 (9) A postconviction proceeding under this chapter may
10 not be stayed based upon a claim that the defendant is
11 mentally ill, mentally deficient, mentally incompetent, or
12 insane, unless such stay is issued under s. 922.07.

13 (10) Upon demand by the state in a collateral
14 proceeding, the defendant must timely provide the state copies
15 of all documents to be introduced into evidence by the defense
16 and the names and addresses of all defense witnesses in the
17 collateral proceeding.

18 (11) A trial court judgment in a criminal case or
19 juvenile delinquency case is final until overturned on appeal
20 or collateral review. A judgment that is being appealed or
21 that is under collateral review must be treated as final and
22 may be used to enhance or reclassify any other conviction,
23 sentence, adjudication, or disposition, including, but not
24 limited to, the following uses:

25 (a) In computing a sentence under chapter 921;

26 (b) As an aggravating circumstance;

27 (c) As grounds for revoking probation or community
28 control; and

29 (d) As a predicate conviction for purposes of imposing
30 a penalty provided for habitual offenders or repeat offenders
31 or for imposing another enhanced or reclassified sentence.

1 (12)~~(8)~~ It is the intent of the Legislature that all
2 terms and conditions of direct appeal and collateral review be
3 strictly enforced, including the application of procedural
4 bars, to ensure that all claims of error are raised and
5 resolved at the first opportunity. It is also the
6 Legislature's intent that all procedural bars to direct appeal
7 and collateral review be fully enforced by the courts of this
8 state.

9 (13)~~(9)~~ Funds, resources, or employees of this state
10 or its political subdivisions may not be used, directly or
11 indirectly, in appellate or collateral proceedings unless the
12 use is constitutionally or statutorily mandated.

13 Section 2. Section 924.055, Florida Statutes, is
14 amended to read:

15 924.055 Time limitations for postconviction
16 proceedings in capital cases.--

17 (1) The Legislature recognizes that unjustified delay
18 in postconviction proceedings in capital cases frustrates
19 justice and diminishes public confidence in the criminal
20 justice system. It is the intent of the Legislature that
21 postconviction proceedings in capital cases progress in a fair
22 but timely fashion and that, absent extreme circumstances, the
23 participants in such proceedings abide by the time limitations
24 set forth in this section.

25 (2) Within 1 year after the date the Supreme Court
26 issues a mandate on a direct appeal or the United States
27 Supreme Court denies a petition for certiorari, whichever is
28 later, all postconviction motions and petitions that challenge
29 the judgment, sentence, or appellate decision must be properly
30 filed in the appropriate court. As used in this section, the
31 term "properly filed" means that a postconviction motion or

1 petition is complete, is accompanied by sworn affidavits
2 substantiating any factual allegations therein, and is not
3 subject to amendment. A postconviction motion or petition that
4 is not properly filed does not toll the time limitations in
5 this section.

6 (3) Within 90 days after the date the state files a
7 response to a postconviction motion that challenges the
8 judgment or sentence, the circuit court shall conduct all
9 necessary hearings and render a decision.

10 (4) Within 200 days after the date a notice is filed
11 appealing an order of the trial court or an extraordinary writ
12 is filed in a postconviction proceeding, the Supreme Court
13 shall render a decision.

14 (5) A convicted person must file any petition for
15 habeas corpus in the district court of the United States
16 within 90 days after the date the Supreme Court issues a
17 mandate in a postconviction proceeding.

18 Section 3. If any provision of this act or the
19 application thereof to any person or circumstance is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the act which can be given effect without the
22 invalid provision or application, and to this end the
23 provisions of this act are declared severable.

24 Section 4. This act shall take effect July 1, 1999.
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SENATE SUMMARY

Revises various standards of evidence and grounds for appeal in criminal cases. Specifies standards under which the appellate court is required to sustain a conviction. Provides standards of review for the Supreme Court in determining whether harmless error was committed on appeal. Limits circumstances under which a defendant may file a successive motion for collateral relief or other postconviction relief. Limits circumstances under which a postconviction proceeding may be stayed based upon a claim that the defendant has certain mental deficiencies. Authorizes the court to use a judgment under appeal or collateral review to enhance or reclassify another sentence or disposition. Provides that an improperly filed postconviction motion or petition does not toll certain time limitations in a capital case. (See bill for details.)