

By Senator Bean

4-00905A-22

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1                   A bill to be entitled  
2       An act relating to wrongful convictions; creating s.  
3       925.13, F.S.; authorizing certain prosecuting  
4       attorneys to file a motion to vacate or set aside a  
5       judgment if he or she has evidence or information that  
6       a convicted person is innocent; requiring the court to  
7       schedule a hearing within a specified timeframe upon  
8       the filing of a motion to vacate or set aside a  
9       judgment; requiring the court to appoint counsel for  
10      such convicted person if he or she does not otherwise  
11      have legal counsel and if an evidentiary hearing is  
12      required; providing hearing and court procedures;  
13      authorizing the appeal of a denial of the prosecuting  
14      attorney's motion to vacate or set aside a judgment by  
15      any party; requiring an order denying relief to  
16      include a certain statement; authorizing any party to  
17      file a motion for rehearing within a specified  
18      timeframe; providing for tolling of a certain time  
19      period; requiring the prosecuting attorney to notify  
20      the victim or the victim's family of all court dates;  
21      providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25       Section 1. Section 925.13, Florida Statutes, is created to  
26 read:

27       925.13 Motion to vacate based upon evidence of innocence.-

28       (1) A prosecuting attorney from the prosecuting agency or  
29 office that sought the original conviction may file a motion to

4-00905A-22

20221200\_\_

30 vacate or set aside the judgment at any time if he or she has  
31 evidence or information that the convicted person is innocent.  
32 The court in which the person was convicted shall have  
33 jurisdiction and authority to hear, consider, and decide the  
34 motion.

35 (2) Upon the filing of a motion to vacate or set aside the  
36 judgment, the court shall schedule a hearing within 90 days. If  
37 an evidentiary hearing is required, the court must appoint an  
38 attorney to represent the defendant if he or she does not  
39 otherwise have legal counsel. Defense counsel may seek a  
40 reasonable continuance beyond the 90 days if necessary to  
41 adequately prepare for the hearing. The state and defense may  
42 present evidence at the hearing. The court shall issue written  
43 findings of fact that resolve all claims raised in the motion.  
44 The court must grant the motion of the prosecuting attorney to  
45 vacate or set aside the judgment if the court finds there is  
46 clear and convincing evidence of actual innocence.

47 (3) (a) The denial of the prosecuting attorney's motion to  
48 vacate or set aside the judgment is a final order, and an appeal  
49 may be taken to the appropriate appellate court by any party.

50 (b) An order denying relief must include a statement that  
51 an appeal may be taken within 30 days after the order denying  
52 relief is entered.

53 (c) Any party may file a motion for rehearing within 15  
54 days after service of the order denying relief. The time for  
55 filing an appeal is tolled until an order on the motion for  
56 rehearing has been entered.

57 (4) The prosecuting attorney shall notify the victim or the  
58 victim's family of all court dates, who each have the right to

4-00905A-22

20221200\_\_

59 be heard at a hearing to address the motion filed.

60 Section 2. This act shall take effect July 1, 2022.