

By Senator Bean

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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.

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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

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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

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

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