

1                   A bill to be entitled  
2           An act relating to vacating erroneous convictions;  
3           creating s. 925.13, F.S.; providing for a motion by a  
4           state attorney to vacate a conviction if he or she has  
5           evidence that the convicted person is innocent or was  
6           erroneously convicted; providing procedures; providing  
7           for appointment of a public defender for an indigent  
8           person; providing for appeal of a decision; providing  
9           an effective date.

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11   Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Section 925.13, Florida Statutes, is created to  
14   read:

15           925.13 Prosecution motion to vacate conviction; evidence  
16 of innocence or erroneous conviction.-

17           (1) The state attorney in the circuit in which a person  
18 was convicted of a criminal offense may file a motion to vacate  
19 the judgment at any time if the state attorney has evidence or  
20 information that the convicted person is innocent or was  
21 erroneously convicted. The court in which the person was  
22 convicted shall have jurisdiction and authority to hear and  
23 decide the motion.

24           (2) Upon the filing of a motion to vacate the judgment,  
25 the court shall schedule a hearing on the motion within 90 days.

HB 653

2022

26 The convicted person is entitled to appointment of a public  
27 defender if he or she is indigent as provided in chapter 27.  
28 Counsel for the convicted person may seek a reasonable  
29 continuance beyond the 90 days if necessary to adequately  
30 prepare for the hearing. The state and counsel for the convicted  
31 person may present evidence at the hearing. The court shall  
32 issue findings of fact and conclusions of law on all issues  
33 presented. The court shall grant the motion of the state  
34 attorney to vacate the judgment if the court finds there is  
35 clear and convincing evidence of actual innocence or  
36 constitutional error at the original trial or plea that  
37 undermines the confidence in the judgment.

38 (3) The denial or other disposition of the state  
39 attorney's motion to vacate the judgment is appealable and may  
40 be appealed by either the state or the convicted person.

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