

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Judiciary Committee  
2 Representative Overdorf offered the following:

3  
4 **Amendment (with directory and title amendments)**

5 Between lines 56 and 57, insert:

6 (2) The prosecuting authority must respond to the petition  
7 within 30 days. If the prosecuting authority moved to vacate the  
8 person's conviction and sentence in the original sentencing  
9 court, or otherwise did not object to the original sentencing  
10 court vacating the person's conviction and sentence, the  
11 prosecuting authority must petition the Governor within 15 days  
12 of the filing of a petition under subsection (1) to appoint a  
13 prosecuting authority from another judicial circuit to be  
14 substituted as the prosecuting authority for the purposes of  
15 complying with the requirements of this section. Within 10 days  
16 of the filing of a petition under this subsection, the Governor

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17 must appoint a substitute prosecuting authority who is  
18 responsible for complying with the requirements of this section.  
19 If a petition is filed under this subsection, the time period in  
20 which the prosecuting authority must respond to a petition filed  
21 under subsection (1) is tolled until the date the Governor  
22 appoints a substitute prosecuting authority. The prosecuting  
23 authority may respond:

24 (a) By certifying to the court that, based upon the  
25 petition and verifiable and substantial evidence of actual  
26 innocence, no further criminal proceedings in the case at bar  
27 can or will be initiated by the prosecuting authority, that no  
28 questions of fact remain as to the petitioner's wrongful  
29 incarceration, and that the petitioner is not ineligible from  
30 seeking compensation under the provisions of s. 961.04; or

31 (b) By contesting the nature, significance, or effect of  
32 the evidence of actual innocence, the facts related to the  
33 petitioner's alleged wrongful incarceration, or whether the  
34 petitioner is ineligible from seeking compensation under the  
35 provisions of s. 961.04.

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38 **D I R E C T O R Y A M E N D M E N T**

39 Remove lines 25-27 and insert:

40 Section 2. Paragraph (b) of subsection (1) and subsection  
41 (2) of section 961.03, Florida Statutes, are amended, and

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42 paragraph (c) is added to subsection (1) of that section, to  
43 read:

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**T I T L E   A M E N D M E N T**

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Remove line 6 and insert:

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seeking compensation must be filed; requiring the prosecuting

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authority to petition the Governor to appoint a substitute

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prosecuting authority under certain circumstances; providing

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that a