

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for Senate Substitute for
2 Senate Committee Substitute for Senate Bill Nos. 53 & 60, Page 2, Line 33, by inserting after all of
3 the said line the following:

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5 "Further amend said bill, Page 66, Section 545.940, Line 24, by inserting after all of said section and
6 line the following:

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8 "547.031.1.A prosecuting or circuit attorney, in the jurisdiction in which a person was
9 convicted of an offense, may file a motion to vacate or set aside the judgment at any time if he or
10 she has information that the convicted person may be innocent or may have been erroneously
11 convicted. The circuit court in which the person was convicted shall have jurisdiction and authority
12 to consider, hear, and decide the motion.

13 2. Upon the filing of a motion to vacate or set aside the judgment, the court shall order a
14 hearing and shall issue findings of fact and conclusions of law on all issues presented. The attorney
15 general shall be given notice of hearing of such a motion by the circuit clerk and shall be permitted
16 to appear, question witnesses, and make arguments in a hearing of such a motion.

17 3. The court shall grant the motion of the prosecuting or circuit attorney to vacate or set aside
18 the judgment where the court finds that there is clear and convincing evidence of actual innocence
19 or constitutional error at the original trial or plea that undermines the confidence in the judgment. In
20 considering the motion, the court shall take into consideration the evidence presented at the original
21 trial or plea; the evidence presented at any direct appeal or post-conviction proceedings, including
22 state or federal habeas actions; and the information and evidence presented at the hearing on the
23 motion.

24 4. The prosecuting attorney or circuit attorney shall have the authority and right to file and
25 maintain an appeal of the denial or disposal of such a motion. The attorney general may file a motion
26 to intervene and, in addition to such motion, file a motion to dismiss the motion to vacate or to set
27 aside the judgment in any appeal filed by the prosecuting or circuit attorney."; and"; and

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29 Further amend said bill by amending the title, enacting clause, and intersectional references
30 accordingly.

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32 THIS AMENDMENT AMENDS 0461H10.41

Action Taken _____ Date _____