

BILL ANALYSIS

C.S.H.B. 498
By: McClendon
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2001, the legislature enacted S.B. 3, authorizing a convicted person to request a motion for DNA testing, and since that year, 35 people have been exonerated. Currently, the Texas justice system does not have the institutional means to evaluate wrongful convictions or the factors contributing to those convictions. Wrongful convictions have been attributed to false eyewitness identifications, unreliable or limited science, false confessions, forensic science misconduct, government misconduct, unreliable informants, and ineffective legal representation for defendants. Wrongful convictions can lead to the loss of an innocent person's family, employment, and parental rights, and can also affect the families and friends of the innocent.

C.S.H.B. 498 creates the Timothy Cole Innocence Commission to investigate thoroughly all post-conviction exonerations to ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue, to identify errors and defects in the criminal justice process in Texas generally, to develop solutions and methods to correct the identified errors and defects, and to identify procedures and programs to prevent future wrongful convictions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 498 amends the Code of Criminal Procedure to create the Timothy Cole Innocence Commission. The bill sets forth the member selection process and qualifications for the nine-member commission: two members appointed by the governor, one of whom must be a dean of a law school and one of whom must be a law enforcement officer; one member appointed by the attorney general, who must be an attorney who represents the state in the prosecution of felonies; one member appointed by the chair of the criminal justice committee of the senate, who may be a member of the legislature; one member appointed by the chair of the criminal jurisprudence committee of the house of representatives, who may be a member of the legislature; one member appointed by the chief justice of the supreme court, who must be a member of the judiciary; two members appointed by the chancellor of The University of Texas System, one of whom must be a law professor and one of whom must work in the forensic science field; and one member appointed by the Texas Criminal Defense Lawyers Association, who must be a criminal defense lawyer. The bill establishes a two-year term for each member and requires the governor to designate a member to serve as presiding officer.

C.S.H.B. 498 requires the commission to investigate thoroughly all post-conviction exonerations, including convictions vacated based on a plea to time served, to ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue, to identify errors and defects in the criminal justice process in Texas generally, to develop solutions and methods to correct the identified errors and defects, and to identify procedures and programs to prevent future wrongful convictions. The bill authorizes the commission to enter into contracts

for research services as considered necessary to complete the investigation of a particular case. The bill authorizes the commission to administer oaths and issue subpoenas to compel the production of documents and the attendance of witnesses as considered necessary to conduct a thorough investigation, and sets forth procedures and requirements relating to those subpoenas.

C.S.H.B. 498 requires the commission to compile a detailed annual report of its findings and recommendations, including any proposed legislation to implement procedures and programs to prevent future wrongful convictions, requires the report to be made available to the public on request, and sets forth the conditions under which the findings and recommendations contained in the report are admissible in a subsequent civil or criminal proceeding. The bill requires the commission to submit the report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year, and requires those officials to issue a formal written response to the findings and recommendations of the commission not later than the 60th day after the date of receipt of the report. The bill entitles a member of the commission to reimbursement for the member's travel expenses as provided by the Travel Regulations Act, but not to compensation. The bill requires the Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin to assist the commission in performing the commission's duties. The bill exempts the commission from provisions applicable to state agency advisory committees and requires the appointments to the commission to be made not later than November 1, 2009.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 498 differs from the original by naming the commission the Timothy Cole Innocence Commission, whereas the original names the commission the Texas Innocence Commission.