

By: McClendon, Thompson, Gallego, Hodge,
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H.B. No. 498

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a commission to investigate and prevent wrongful convictions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.27 to read as follows:

Art. 43.27. TIMOTHY COLE INNOCENCE COMMISSION

Sec. 1. CREATION. The Timothy Cole Innocence Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of the following nine members:

(1) 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;

(2) one member appointed by the attorney general, who must be an attorney who represents the state in the prosecution of felonies;

(3) one member appointed by the chair of the criminal justice committee of the senate, who may be a member of the legislature;

(4) one member appointed by the chair of the criminal jurisprudence committee of the house of representatives, who may be a member of the legislature;

(5) one member appointed by the chief justice of the

1 supreme court, who must be a member of the judiciary;

2 (6) two members appointed by the chancellor of the
3 Texas Tech University System, one of whom must be a law professor
4 and one of whom must work in the forensic science field; and

5 (7) one member appointed by the Texas Criminal Defense
6 Lawyers Association, who must be a criminal defense lawyer.

7 (b) Each member serves a two-year term.

8 (c) The governor shall designate a member to serve as
9 presiding officer.

10 Sec. 3. DUTIES. (a) The commission shall investigate
11 thoroughly all post-conviction exonerations, including convictions
12 vacated based on a plea to time served, to:

13 (1) ascertain errors and defects in the criminal
14 procedure used to prosecute the defendant's case at issue;

15 (2) identify errors and defects in the criminal
16 justice process in this state generally;

17 (3) develop solutions and methods to correct the
18 identified errors and defects; and

19 (4) identify procedures and programs to prevent future
20 wrongful convictions.

21 (b) The commission may enter into contracts for research
22 services as considered necessary to complete the investigation of a
23 particular case, including forensic testing and autopsies.

24 (c) The commission may administer oaths and issue
25 subpoenas, signed by the presiding officer, to compel the
26 production of documents and the attendance of witnesses as
27 considered necessary to conduct a thorough investigation. A

1 subpoena of the commission shall be served by a peace officer in the
2 manner in which district court subpoenas are served. On
3 application of the commission, a district court of Travis County
4 shall compel compliance with the subpoena in the same manner as for
5 district court subpoenas.

6 Sec. 4. REPORT. (a) The commission shall compile a
7 detailed annual report of its findings and recommendations,
8 including any proposed legislation to implement procedures and
9 programs to prevent future wrongful convictions.

10 (b) The report shall be made available to the public on
11 request.

12 Sec. 5. SUBMISSION. The commission shall submit the report
13 described by Section 4 to the governor, the lieutenant governor,
14 and the speaker of the house of representatives not later than
15 December 1 of each even-numbered year.

16 Sec. 6. RESPONSE. Not later than the 60th day after the
17 date of receipt of the report required by this article, the
18 governor, lieutenant governor, and speaker of the house of
19 representatives shall, singly or jointly, issue a formal written
20 response to the findings and recommendations of the commission.

21 Sec. 7. REIMBURSEMENT. A member of the commission is not
22 entitled to compensation but is entitled to reimbursement for the
23 member's travel expenses as provided by Chapter 660, Government
24 Code, and the General Appropriations Act.

25 Sec. 8. ASSISTANCE. The Texas Legislative Council, the
26 Legislative Budget Board, and the Texas Tech University System
27 shall assist the commission in performing the commission's duties.

1 Sec. 9. OTHER LAW. The commission is not subject to Chapter
2 2110, Government Code.

3 SECTION 2. The appointments to the Timothy Cole Innocence
4 Commission as required by Article 43.27, Code of Criminal
5 Procedure, as added by this Act, shall be made not later than
6 November 1, 2009.

7 SECTION 3. This Act takes effect September 1, 2009.