

By: McClendon, Thompson, Gallego, Hodge,
Pierson, et al.

H.B. No. 498

Substitute the following for H.B. No. 498:

By: Hodge

C.S.H.B. No. 498

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 Art. 43.27. TIMOTHY COLE INNOCENCE COMMISSION

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

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

12 (1) two members appointed by the governor, one of whom
13 must be a dean of a law school and one of whom must be a law
14 enforcement officer;

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

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

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

24 (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 University of Texas System, one of whom must be a law professor and
4 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 (c) The findings and recommendations contained in the
13 report are admissible in a subsequent civil or criminal proceeding
14 only if the presiding judge determines that the issue the party
15 seeks to establish by offering the findings and recommendations is
16 not sufficiently corroborated by other admissible evidence in the
17 proceeding.

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

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

27 Sec. 7. REIMBURSEMENT. A member of the commission is not

1 entitled to compensation but is entitled to reimbursement for the
2 member's travel expenses as provided by Chapter 660, Government
3 Code, and the General Appropriations Act.

4 Sec. 8. ASSISTANCE. The Texas Legislative Council, the
5 Legislative Budget Board, and The University of Texas at Austin
6 shall assist the commission in performing the commission's duties.

7 Sec. 9. OTHER LAW. The commission is not subject to Chapter
8 2110, Government Code.

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

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