

1-1 By: McClendon, et al. (Senate Sponsor - Ellis) H.B. No. 498  
1-2 (In the Senate - Received from the House May 18, 2009;  
1-3 May 21, 2009, read first time and referred to Committee on Criminal  
1-4 Justice; May 23, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0,  
1-6 1 present not voting; May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 498 By: Ellis

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of a commission to investigate and prevent  
1-11 wrongful convictions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 43, Code of Criminal Procedure, is  
1-14 amended by adding Article 43.27 to read as follows:

1-15 Art. 43.27. TIMOTHY COLE INNOCENCE COMMISSION

1-16 Sec. 1. CREATION. The Timothy Cole Innocence Commission is  
1-17 created.

1-18 Sec. 2. COMPOSITION. (a) The commission is composed of the  
1-19 following nine members:

1-20 (1) two members appointed by the governor, one of whom  
1-21 must be a prosecuting attorney and one of whom must be a law  
1-22 enforcement officer;

1-23 (2) one member appointed by the chair of the criminal  
1-24 justice committee of the senate, who may be a member of the  
1-25 legislature;

1-26 (3) one member appointed by the chair of the criminal  
1-27 jurisprudence committee of the house of representatives, who may be  
1-28 a member of the legislature;

1-29 (4) one member appointed by the presiding judge of the  
1-30 court of criminal appeals, who must be a member of the judiciary;

1-31 (5) one member appointed by the presiding officer of  
1-32 the Texas Forensic Science Commission, who must work in the  
1-33 forensic science field;

1-34 (6) one member who is appointed, on a rotating basis,  
1-35 by the executive director of the innocence project at the Texas Tech  
1-36 University School of Law, the president of the Texas Center for  
1-37 Actual Innocence at The University of Texas School of Law, or the  
1-38 director of the Texas innocence network at the University of  
1-39 Houston Law Center and who must be an attorney with experience in  
1-40 filing successful appellate claims based on actual innocence;

1-41 (7) one member appointed by the Texas Criminal Defense  
1-42 Lawyers Association, who must be a criminal defense lawyer; and

1-43 (8) the director of the Task Force on Indigent  
1-44 Defense.

1-45 (b) Each member serves a two-year term.

1-46 (c) The governor shall designate a member to serve as  
1-47 presiding officer.

1-48 Sec. 3. DUTIES. The commission shall investigate  
1-49 thoroughly all post-conviction exonerations in this state,  
1-50 including, in appropriate circumstances as determined by the  
1-51 commission, convictions vacated based on a plea to time served, to:

1-52 (1) ascertain errors and defects in the criminal  
1-53 procedure used to prosecute the defendant's case at issue;

1-54 (2) identify errors and defects in the criminal  
1-55 justice process in this state generally;

1-56 (3) develop solutions and methods to correct the  
1-57 identified errors and defects; and

1-58 (4) identify procedures and programs to prevent future  
1-59 wrongful convictions.

1-60 Sec. 4. REPORT. (a) The commission shall compile a  
1-61 detailed annual report of its findings and recommendations,  
1-62 including any proposed legislation to implement procedures and  
1-63 programs to prevent future wrongful convictions.

2-1 (b) The report shall be made available to the public on  
2-2 request.

2-3 Sec. 5. SUBMISSION. The commission shall submit the report  
2-4 described by Section 4 to the governor, the lieutenant governor,  
2-5 and the speaker of the house of representatives not later than  
2-6 December 1 of each even-numbered year.

2-7 Sec. 6. RESPONSE. Not later than the 60th day after the  
2-8 date of receipt of the report required by this article, the  
2-9 governor, lieutenant governor, and speaker of the house of  
2-10 representatives shall, singly or jointly, issue a formal written  
2-11 response to the findings and recommendations of the commission.

2-12 Sec. 7. REIMBURSEMENT. A member of the commission is not  
2-13 entitled to compensation but is entitled to reimbursement for the  
2-14 member's travel expenses as provided by Chapter 660, Government  
2-15 Code, and the General Appropriations Act.

2-16 Sec. 8. ASSISTANCE. The Texas Legislative Council and the  
2-17 Legislative Budget Board shall assist the commission in performing  
2-18 the commission's duties.

2-19 Sec. 9. OTHER LAW. The commission is not subject to Chapter  
2-20 2110, Government Code.

2-21 SECTION 2. (a) The purpose of this section is to establish  
2-22 the rotating basis for appointments as required by Section 2,  
2-23 Article 43.27, Code of Criminal Procedure, as added by this Act.

2-24 (b) The executive director of the innocence project at the  
2-25 Texas Tech University School of Law shall make the first  
2-26 appointment under Section 2, Article 43.27, Code of Criminal  
2-27 Procedure, as added by this Act. On the expiration of the term of  
2-28 that appointee, the president of the Texas Center for Actual  
2-29 Innocence at The University of Texas School of Law shall make the  
2-30 second appointment under Section 2, Article 43.27, Code of Criminal  
2-31 Procedure, as added by this Act. On the expiration of the term of  
2-32 that appointee, the director of the Texas innocence network at the  
2-33 University of Houston Law Center shall make the third appointment.  
2-34 On the expiration of the term of that appointee, the appointment  
2-35 cycle described by this section begins again.

2-36 SECTION 3. The initial appointments to the Timothy Cole  
2-37 Innocence Commission as required by Article 43.27, Code of Criminal  
2-38 Procedure, as added by this Act, shall be made not later than  
2-39 November 1, 2009.

2-40 SECTION 4. This Act takes effect September 1, 2009.

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