

BILL ANALYSIS

Senate Research Center

C.S.H.B. 498
By: McClendon et al. (Ellis)
Criminal Justice
5/22/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2001, the 78th Legislature enacted S.B. 3, authorizing a convicted person to request 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.

C.S.H.B. 498 relates to the creation of a commission to investigate and prevent wrongful convictions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 43, Code of Criminal Procedure, by adding Article 43.27, as follows:

Art. 43.27. TIMOTHY COLE INNOCENCE COMMISSION

Sec. 1. CREATION. Provides that the Timothy Cole Innocence Commission (commission) is created.

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

(1) two members appointed by the governor, one of whom is required to be a prosecuting attorney and one of whom is required to be a law enforcement officer;

(2) one member appointed by the chair of the criminal justice committee of the senate, who is authorized to be a member of the legislature;

(3) one member appointed by the chair of the criminal jurisprudence committee of the house of representatives, who is authorized to be a member of the legislature;

(4) one member appointed by the presiding judge of the court of criminal appeals, who is required to be a member of the judiciary;

(5) one member appointed by the presiding officer of the Texas Forensic Science Commission, who is required to work in the forensic science field;

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

(7) one member appointed by the Texas Criminal Defense Lawyers Association, who is required to be a criminal defense lawyer; and

(8) the director of the Task Force on Indigent Defense.

(b) Provides that each member serves a two-year term.

(c) Requires the governor to designate a member to serve as presiding officer.

Sec. 3. DUTIES. Requires the commission to investigate thoroughly all post-conviction exonerations in this state, including, in appropriate circumstances as determined by the commission, 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; identify errors and defects in the criminal justice process in this state generally; develop solutions and methods to correct the identified errors and defects; and identify procedures and programs to prevent future wrongful convictions.

Sec. 4. REPORT. (a) 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.

(b) Requires that the report be made available to the public on request.

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

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

Sec. 7. REIMBURSEMENT. Provides that a member of the commission is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 (Travel Expenses), Government Code, and the General Appropriations Act.

Sec. 8. ASSISTANCE. Requires the Texas Legislative Council and the Legislative Budget Board to assist the commission in performing the commission's duties.

Sec. 9. OTHER LAW. Provides that the commission is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

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

(b) Requires the executive director of the innocence project at the Texas Tech University School of Law to make the first appointment under Section 2, Article 43.27, Code of

Criminal Procedure, as added by this Act. Requires the president of the Texas Center for Actual Innocence at The University of Texas School of Law, on the expiration of the term of that appointee, to make the second appointment under Section 2, Article 43.27, Code of Criminal Procedure, as added by this Act. Requires the director of the Texas Innocence Network at the University of Houston Law Center, on the expiration of the term of that appointee, to make the third appointment. Provides that on the expiration of the term of that appointee, the appointment cycle described by this section begins again.

SECTION 3. Requires that the initial appointments to the commission as required by Article 43.27, Code of Criminal Procedure, as, added by this Act, be made not later than November 1, 2009.

SECTION 4. Effective date: September 1, 2009.