

AN ACT

relating to the creation of a commission to review convictions after exoneration and to 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 EXONERATION REVIEW COMMISSION

Sec. 1. CREATION. The Timothy Cole Exoneration Review Commission is created.

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

(1) a member appointed by the governor;

(2) the chair of the Senate Committee on Criminal Justice;

(3) the chair of the Senate Committee on State Affairs;

(4) the chair of the House Committee on Criminal Jurisprudence;

(5) the chair of the House Committee on Judiciary and Civil Jurisprudence;

(6) a member appointed by the chair of the Texas Judicial Council;

(7) the presiding officer of the Texas Commission on Law Enforcement, or a member or employee of the Texas Commission on

1 Law Enforcement appointed by the presiding officer;

2 (8) the presiding officer of the Texas Indigent
3 Defense Commission, or a member or employee of the Texas Indigent
4 Defense Commission appointed by the presiding officer;

5 (9) the presiding officer of the Texas Forensic
6 Science Commission, or a member or employee of the Texas Forensic
7 Science Commission who has significant experience in the field of
8 forensic science appointed by the presiding officer;

9 (10) the president of the Texas Criminal Defense
10 Lawyers Association, or the president's designee; and

11 (11) the chairman of the board of the Texas District
12 and County Attorneys Association, or the chairman's designee.

13 (b) A person appointed under this section may not, while
14 serving on the commission, be an active judge, as that term is
15 defined by Section 74.041, Government Code.

16 (c) The following persons serve as advisory members to the
17 commission:

18 (1) the director of the Texas Center for Actual
19 Innocence at The University of Texas School of Law;

20 (2) the director of the Texas Innocence Network at the
21 University of Houston Law Center;

22 (3) the executive director of the Innocence Project of
23 Texas; and

24 (4) the executive director of the Innocence Project at
25 Thurgood Marshall School of Law.

26 Sec. 3. TERMS; VACANCIES. (a) A member of the commission
27 serves until the commission is dissolved.

1 (b) The presiding officer of the commission shall be elected
2 by the members of the commission.

3 (c) A vacancy on the commission is filled in the same manner
4 as the original appointment.

5 (d) The presiding officer may appoint committees from the
6 membership of the commission as needed to organize the commission
7 or to perform the duties of the commission.

8 Sec. 4. ADMINISTRATIVE ATTACHMENT. (a) The commission
9 exists under the Texas Judicial Council created under Chapter 71,
10 Government Code. The commission operates independently of the
11 Texas Judicial Council.

12 (b) The commission is administratively attached to the
13 Office of Court Administration of the Texas Judicial System.

14 (c) Notwithstanding any other law, and subject to available
15 funding, the Office of Court Administration of the Texas Judicial
16 System shall:

17 (1) provide administrative assistance and services to
18 the commission;

19 (2) accept, deposit, and disburse money made available
20 to the commission; and

21 (3) provide the commission with adequate computer
22 equipment and support.

23 Sec. 5. MEETINGS. (a) The commission may hold its hearing
24 and meetings and other proceedings at a time and in a manner
25 determined by the commission, but shall meet in Austin at least
26 annually. The commission shall hold its first meeting on or before
27 October 31, 2015.

1 (b) The commission shall conduct one public hearing.
2 Advisory members may participate in the public hearing of the
3 commission but do not count toward a quorum and are not entitled to
4 vote on matters before the commission.

5 (c) Six members of the commission constitute a quorum. The
6 commission may act only on the concurrence of six or more members.
7 The commission may issue a report under Section 9 only on the
8 concurrence of seven members.

9 (d) Subject to the availability of funds, a member of the
10 commission is entitled only to reimbursement for the member's
11 travel expenses as provided by Chapter 660, Government Code, and
12 the General Appropriations Act.

13 Sec. 6. QUALIFICATIONS. (a) A member of the commission
14 may not participate in or vote on any matter before the commission
15 if the matter directly concerns an individual related to the member
16 within the second degree by affinity or consanguinity.

17 (b) An individual may not be a member of the commission if
18 the individual or individual's spouse is required to register as a
19 lobbyist under Chapter 305, Government Code, because of the
20 individual's activities for compensation on behalf of a profession
21 or entity related to the operation of the commission.

22 Sec. 7. GROUNDS FOR REMOVAL. (a) It is a ground for
23 removal from the commission that a member:

24 (1) if applicable, does not have at the time of
25 appointment the qualifications required by this article;

26 (2) does not maintain during service on the commission
27 the qualifications required by this article;

1 (3) violates a prohibition established by this
2 article;

3 (4) is ineligible for membership under this article;

4 (5) cannot, because of illness or disability,
5 discharge the member's duties for a substantial period; or

6 (6) is absent from more than half of the regularly
7 scheduled meetings that the member is eligible to attend during a
8 calendar year, unless the absence is excused by a majority vote of
9 the commission.

10 (b) The validity of an action of the commission is not
11 affected by the fact that it is taken when a ground for removal of a
12 commission member exists.

13 Sec. 8. DUTIES. (a) The commission may review and examine
14 all cases in this state in which an innocent defendant was convicted
15 and then, on or after January 1, 2010, was exonerated to, as
16 applicable:

17 (1) identify the causes of wrongful convictions and
18 suggest ways to prevent future wrongful convictions and improve the
19 reliability and fairness of the criminal justice system;

20 (2) ascertain errors and defects in the laws,
21 evidence, and procedures applied or omitted in the defendant's
22 case;

23 (3) consider suggestions to correct the identified
24 errors and defects through legislation or procedural changes;

25 (4) identify procedures, programs, and educational or
26 training opportunities designed to eliminate or minimize the
27 identified causes of wrongful convictions;

1 (5) collect and evaluate data and information from an
2 actual innocence exoneration reported to the commission by a
3 state-funded innocence project, for inclusion in the commission's
4 report under Section 9;

5 (6) identify any patterns in errors or defects in the
6 criminal justice system in this state that impact the pretrial,
7 trial, appellate, or habeas review process; or

8 (7) consider and suggest legislative, training, or
9 procedural changes to correct the patterns, errors, and defects in
10 the criminal justice system that are identified through the work of
11 the commission.

12 (b) The commission shall consider potential implementation
13 plans, costs, cost savings, and the impact on the criminal justice
14 system for each potential solution identified through the work of
15 the commission.

16 (c) The commission shall review and update the research,
17 reports, and recommendations of the Timothy Cole advisory panel
18 established in the 81st Regular Session and shall include in its
19 report under Section 9 the degree to which the panel's
20 recommendations were implemented.

21 (d) The commission may solicit input from innocence
22 projects, bar associations, judicial entities, law enforcement
23 agencies, prosecutor associations, public defender or criminal
24 defense associations, public and private universities, and
25 advocacy organizations.

26 Sec. 9. REPORT AND RECORDS. (a) The commission shall
27 compile and issue a detailed report of its findings and

1 recommendations, including any legislation or policy changes the
2 commission recommends to implement procedures and programs to
3 prevent the causes and occurrence of future wrongful convictions.
4 The report must also describe statutory, procedural, and
5 evidentiary reforms that have already been implemented in this
6 state to prevent the causes and occurrence of future wrongful
7 convictions.

8 (b) The report may not include any recommendation regarding
9 the use of the death penalty or related procedures.

10 (c) The official report issued by the commission must be
11 made available to the public on request.

12 (d) Working papers and records, including all documentary
13 or other information, collected, received, prepared, or maintained
14 by the commission or members of the commission in performing under
15 this article or other law the commission's duties to conduct an
16 evaluation and prepare a report, are confidential and not subject
17 to disclosure under Chapter 552, Government Code.

18 (e) The commission may request that an entity of state
19 government or of a political subdivision provide information
20 related to the commission's duties under Section 8. On the request
21 of the commission, an entity may provide information to the
22 commission unless otherwise prohibited from disclosing that
23 information.

24 (f) Information held by an entity of state government or of
25 a political subdivision that is confidential and that the
26 commission receives in connection with the performance of the
27 commission's functions under this article or other law remains

1 confidential and is not subject to disclosure under Chapter 552,
2 Government Code.

3 (g) In carrying out its duties, the commission may examine
4 the public records of an entity of state government or a political
5 subdivision that are provided under Subsection (e).

6 Sec. 10. ASSISTANCE OF STATE-SUPPORTED UNIVERSITIES. The
7 commission may request assistance from any state-supported
8 university in performing the commission's duties.

9 Sec. 11. SUBMISSION. The commission shall submit the
10 report described by Section 9 to the governor, the lieutenant
11 governor, the speaker of the house of representatives, the
12 legislature, and the Texas Judicial Council not later than December
13 1, 2016.

14 Sec. 12. EXPIRATION. (a) This article expires December 1,
15 2016.

16 (b) The commission is dissolved on the earlier of:

17 (1) the date the commission submits its report; or

18 (2) December 1, 2016.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 48 was passed by the House on May 1, 2015, by the following vote: Yeas 134, Nays 6, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 48 on May 28, 2015, by the following vote: Yeas 137, Nays 5, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 48 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor