

BILL ANALYSIS

Senate Research Center
78R4740 EMT-D

S.B. 1045
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Criminal Justice
3/24/2003
As Filed

DIGEST AND PURPOSE

Current Texas law does not provide for an entity responsible for investigating incidents of wrongful convictions and their causes. As proposed, S.B. 1045 creates the Texas Innocence Commission (commission) and requires it to conduct investigations into the causes of wrongful convictions and to generate recommendations as to how to prevent such errors and defects in the criminal justice procedures of this state. In addition, S.B. 1045 requires the commission to present an annual report to certain state officials, and requires those officials to issue a formal response.

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. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. Creates the Texas Innocence Commission (commission).

Sec. 2. COMPOSITION. (a) Provides that the commission is composed of nine members. Requires the governor to appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. Requires the attorney general to appoint a member who is an attorney who represents the state in the prosecution of felonies. Requires the chair of the criminal justice committee of the senate to appoint one member who may be a member of the legislature. Requires the chair of the criminal jurisprudence committee of the house of representatives to appoint one member who may be a member of the legislature. Requires the chief justice of the supreme court to appoint one member who must be a member of the judiciary. Requires the chancellor of The University of Texas System to appoint two members, one of whom must be a law professor and one of whom must work in the forensic science field. Requires the Texas Criminal Defense Lawyers Association to appoint one member who must be a criminal defense lawyer.

(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. (a) Requires the commission to investigate all post-conviction exonerations, including certain vacated convictions, to identify errors and defects in the criminal procedure both in the case at issue and in the criminal justice process in this state generally; to develop solutions and methods to correct the identified errors and defects; and to identify procedures and programs to prevent future wrongful convictions.

(b) Authorizes the commission to enter into contracts for research services as necessary to complete the investigation of a particular case, including forensic testing and autopsies.

(c) Authorizes the commission to administer oaths and issue subpoenas, signed by the presiding officer, to compel the production of documents and the attendance of witnesses as considered necessary to conduct a thorough investigation, and sets forth the procedure for issuing such subpoenas.

Sec. 4. REPORT. (a) Requires the commission to compile an annual report of its findings and recommendations, including any proposed legislation and programs aimed at the prevention of wrongful convictions.

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

(c) Prohibits the findings and recommendations contained in the report from being used as binding evidence in a subsequent civil or criminal proceeding.

Sec. 5. SUBMISSION. Requires the commission to submit the report described by Section 4 to certain officials by December 1 of each even-numbered year.

Sec. 6. RESPONSE. Requires the officials who receive the report from the commission to issue a formal written response to the commission's findings and recommendations by the 60th day after receiving the report.

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 law.

Sec. 8. ASSISTANCE. Requires the Texas Legislative Council, the Legislative Budget Board, the Criminal Justice Policy Council, and The University of Texas at Austin to assist the commission in performing its duties.

Sec. 9. OTHER LAW. Exempts the commission from Chapter 2110 (State Agency Advisory Committees), Government Code.

SECTION 2. Requires the appointments to the commission as required by this Act to be made by the 60th day after this Act's effective date.

SECTION 3. Effective date: September 1, 2003.