

1-1 By: Ellis S.B. No. 1045
1-2 (In the Senate - Filed March 7, 2003; March 17, 2003, read
1-3 first time and referred to Committee on State Affairs; March 20,
1-4 2003, rereferred to Committee on Criminal Justice; March 31, 2003,
1-5 reported favorably by the following vote: Yeas 4, Nays 2;
1-6 March 31, 2003, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the creation of a commission to investigate and prevent
1-10 wrongful convictions.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 43, Code of Criminal Procedure, is
1-13 amended by adding Article 43.27 to read as follows:

1-14 Art. 43.27. TEXAS INNOCENCE COMMISSION

1-15 Sec. 1. CREATION. The Texas Innocence Commission is
1-16 created.

1-17 Sec. 2. COMPOSITION. (a) The commission is composed of
1-18 nine members. The governor shall appoint two members, one of whom
1-19 must be a dean of a law school and one of whom must be a law
1-20 enforcement officer. The attorney general shall appoint one
1-21 member, who must be an attorney who represents the state in the
1-22 prosecution of felonies. The chair of the criminal justice
1-23 committee of the senate shall appoint one member, who may be a
1-24 member of the legislature. The chair of the criminal jurisprudence
1-25 committee of the house of representatives shall appoint one member,
1-26 who may be a member of the legislature. The chief justice of the
1-27 supreme court shall appoint one member, who must be a member of the
1-28 judiciary. The chancellor of The University of Texas System shall
1-29 appoint two members, one who must be a law professor and one who
1-30 must work in the forensic science field. The Texas Criminal Defense
1-31 Lawyers Association shall appoint one member, who must be a
1-32 criminal defense lawyer.

1-33 (b) Each member serves a two-year term.

1-34 (c) The governor shall designate a member to serve as
1-35 presiding officer.

1-36 Sec. 3. DUTIES. (a) The commission shall investigate
1-37 thoroughly all post-conviction exonerations, including convictions
1-38 vacated based on a plea to time served, to:

1-39 (1) ascertain errors and defects in the criminal
1-40 procedure used to prosecute the defendant's case at issue;

1-41 (2) identify errors and defects in the criminal
1-42 justice process in this state generally;

1-43 (3) develop solutions and methods to correct the
1-44 identified errors and defects; and

1-45 (4) identify procedures and programs to prevent future
1-46 wrongful convictions.

1-47 (b) The commission may enter into contracts for research
1-48 services as considered necessary to complete the investigation of a
1-49 particular case, including forensic testing and autopsies.

1-50 (c) The commission may administer oaths and issue
1-51 subpoenas, signed by the presiding officer, to compel the
1-52 production of documents and the attendance of witnesses as
1-53 considered necessary to conduct a thorough investigation. A
1-54 subpoena of the commission shall be served by a peace officer in the
1-55 manner in which district court subpoenas are served. On
1-56 application of the commission, a district court of Travis County
1-57 shall compel compliance with the subpoena in the same manner as for
1-58 district court subpoenas.

1-59 Sec. 4. REPORT. (a) The commission shall compile a
1-60 detailed annual report of its findings and recommendations,
1-61 including any proposed legislation to implement procedures and
1-62 programs to prevent future wrongful convictions.

1-63 (b) The report shall be made available to the public on
1-64 request.

2-1 (c) The findings and recommendations contained in the
2-2 report may not be used as binding evidence in a subsequent civil or
2-3 criminal proceeding.

2-4 Sec. 5. SUBMISSION. The commission shall submit the report
2-5 described by Section 4 to the governor, the lieutenant governor,
2-6 and the speaker of the house of representatives not later than
2-7 December 1 of each even-numbered year.

2-8 Sec. 6. RESPONSE. Not later than the 60th day after the
2-9 date of receipt of the report required by this article, the
2-10 governor, lieutenant governor, and speaker of the house of
2-11 representatives shall, singly or jointly, issue a formal written
2-12 response to the findings and recommendations of the commission.

2-13 Sec. 7. REIMBURSEMENT. A member of the commission is not
2-14 entitled to compensation but is entitled to reimbursement for the
2-15 member's travel expenses as provided by Chapter 660, Government
2-16 Code, and the General Appropriations Act.

2-17 Sec. 8. ASSISTANCE. The Texas Legislative Council, the
2-18 Legislative Budget Board, the Criminal Justice Policy Council, and
2-19 The University of Texas at Austin shall assist the commission in
2-20 performing the commission's duties.

2-21 Sec. 9. OTHER LAW. The commission is not subject to Chapter
2-22 2110, Government Code.

2-23 SECTION 2. The appointments to the Texas Innocence
2-24 Commission as required by Article 43.27, Code of Criminal
2-25 Procedure, as added by this Act, shall be made not later than the
2-26 60th day after the effective date of this Act.

2-27 SECTION 3. This Act takes effect September 1, 2003.

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