

BILL ANALYSIS

Senate Research Center
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S.B. 1033
By: Ellis
Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to seek improvements to the criminal justice system by reducing the occurrence of wrongful convictions and ensuring that only guilty individuals are convicted. Currently, when an innocent person is wrongly convicted, our system does not have any institutional mechanism to evaluate the conviction, find out why the mistake occurred, and prevent such an occurrence in the future.

As proposed, S.B. 1033 creates the Texas Innocence Commission. The commission will consist of nine members representing a cross-section of the criminal justice community, including prosecutors, judges, police officers, defense attorneys, and forensic scientists, and is charged with thoroughly investigating all post-conviction exonerations.

The commission is granted broad investigative powers and is required to determine errors and defects in the criminal justice system that lead to the conviction of innocent individuals. The commission will review wrongful convictions, identify the causes of those mistaken convictions, and recommend improvements to the criminal justice system to prevent future wrongful convictions.

S.B. 1033 requires the commission to compile an annual report of its findings and recommendations and submit these findings to the governor, lieutenant governor, and the speaker of the house of representatives.

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. Sets forth which officers, entities, or persons are required to appoint members; the number of members each officer, entity, or person is required to appoint; and which persons must be chosen as members.

(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 postconviction exonerations in order to ascertain errors and defects in the criminal procedure used to prosecute the case, 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. Requires the commission to investigate all colorable allegations that an innocent person has been executed.

(b) Authorizes the commission to enter into contracts for research services as considered necessary to complete the investigation of a particular case.

(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 necessary to conduct a thorough investigation. Sets forth the manner in which the subpoena is required to be served. Requires a district court of Travis County, on application of the commission, to compel compliance with the subpoena in a certain manner.

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 or executions.

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

(c) Prohibits the findings and recommendations contained in the report to be 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 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 the speaker of the house of representatives, not later than the 60th day after the date of receipt of the report, to singly or jointly 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 certain travel expenses.

Sec. 8. ASSISTANCE. Requires the Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin 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. Requires the appointments to the commission, as required by Article 43.27, Code of Criminal Procedure, as added by this Act, to be made not later than the 60th day after the effective date of this Act.

SECTION 3. Effective date: September 1, 2005.