

1-1 By: Ellis, Van de Putte S.B. No. 263  
1-2 (In the Senate - Filed January 22, 2007; January 30, 2007,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 16, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 16, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 263 By: Ellis

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of a commission to investigate and prevent  
1-11 wrongful convictions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 43, Code of Criminal Procedure, is  
1-14 amended by adding Article 43.27 to read as follows:

1-15 Art. 43.27. TEXAS INNOCENCE COMMISSION

1-16 Sec. 1. CREATION. The Texas Innocence Commission is  
1-17 created.

1-18 Sec. 2. COMPOSITION. (a) The commission is composed of  
1-19 nine members. The governor shall appoint two members, one of whom  
1-20 must be a dean of a law school and one of whom must be a law  
1-21 enforcement officer. The chair of the criminal justice committee  
1-22 of the senate shall appoint one member, who may be a member of the  
1-23 legislature. The chair of the criminal jurisprudence committee of  
1-24 the house of representatives shall appoint one member, who may be a  
1-25 member of the legislature. The presiding judge of the court of  
1-26 criminal appeals shall appoint one member, who must be a member of  
1-27 the judiciary. The presiding officer of the Texas Forensic Science  
1-28 Commission shall appoint one member, who must work in the forensic  
1-29 science field. The Texas District and County Attorneys Association  
1-30 shall appoint one member, who must be a prosecuting attorney. The  
1-31 Texas Criminal Defense Lawyers Association shall appoint one  
1-32 member, who must be a criminal defense lawyer. The president of the  
1-33 Texas Center for Actual Innocence at The University of Texas School  
1-34 of Law shall appoint one member, who must be an attorney with  
1-35 experience in filing successful appellate claims based on actual  
1-36 innocence.

1-37 (b) Each member serves a two-year term.

1-38 (c) The governor shall designate a member to serve as  
1-39 presiding officer.

1-40 Sec. 3. DUTIES. (a) The commission shall investigate  
1-41 thoroughly all postconviction exonerations, including convictions  
1-42 vacated based on a plea to time served, to:

1-43 (1) ascertain errors and defects in the criminal  
1-44 procedure used to prosecute the defendant's case at issue;

1-45 (2) identify errors and defects in the criminal  
1-46 justice process in this state generally;

1-47 (3) develop solutions and methods to correct the  
1-48 identified errors and defects; and

1-49 (4) identify procedures and programs to prevent future  
1-50 wrongful convictions.

1-51 (b) The commission may enter into contracts for research  
1-52 services as considered necessary to complete the investigation of a  
1-53 particular case, including forensic testing and autopsies.

1-54 (c) The commission may administer oaths and issue  
1-55 subpoenas, signed by the presiding officer, to compel the  
1-56 production of documents and the attendance of witnesses as  
1-57 considered necessary to conduct a thorough investigation. A  
1-58 subpoena of the commission shall be served by a peace officer in the  
1-59 manner in which district court subpoenas are served. On  
1-60 application of the commission, a district court of Travis County  
1-61 shall compel compliance with the subpoena in the same manner as for  
1-62 district court subpoenas.

1-63 Sec. 4. REPORT. (a) The commission shall compile a

2-1 detailed annual report of its findings and recommendations,  
2-2 including any proposed legislation to implement procedures and  
2-3 programs to prevent future wrongful convictions or executions.

2-4 (b) The report shall be made available to the public on  
2-5 request.

2-6 (c) The findings and recommendations contained in the  
2-7 report may not be used as binding evidence in a subsequent civil or  
2-8 criminal proceeding.

2-9 Sec. 5. SUBMISSION. The commission shall submit the report  
2-10 described by Section 4 to the governor, the lieutenant governor,  
2-11 and the speaker of the house of representatives not later than  
2-12 December 1 of each even-numbered year.

2-13 Sec. 6. RESPONSE. Not later than the 60th day after the  
2-14 date of receipt of the report required by this article, the  
2-15 governor, lieutenant governor, and speaker of the house of  
2-16 representatives shall, singly or jointly, issue a formal written  
2-17 response to the findings and recommendations of the commission.

2-18 Sec. 7. REIMBURSEMENT. A member of the commission is not  
2-19 entitled to compensation but is entitled to reimbursement for the  
2-20 member's travel expenses as provided by Chapter 660, Government  
2-21 Code, and the General Appropriations Act.

2-22 Sec. 8. ASSISTANCE. The Texas Legislative Council, the  
2-23 Legislative Budget Board, and The University of Texas at Austin  
2-24 shall assist the commission in performing the commission's duties.

2-25 Sec. 9. OTHER LAW. The commission is not subject to Chapter  
2-26 2110, Government Code.

2-27 SECTION 2. The appointments to the Texas Innocence  
2-28 Commission as required by Article 43.27, Code of Criminal  
2-29 Procedure, as added by this Act, shall be made not later than the  
2-30 60th day after the effective date of this Act.

2-31 SECTION 3. This Act takes effect September 1, 2007.

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