

## **BILL ANALYSIS**

H.B. 877  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The criminal justice system in Texas continues to be under scrutiny due to the manner in which capital crimes are prosecuted and the manner in which the death penalty is administered. Texas has exonerated nine men from death row since 1973, while 130 people have been released nationwide. Texas has exonerated more people in non-capital criminal cases due to DNA evidence than any other state. Whether an individual supports or opposes the death penalty, most Texans expect the administration of the death penalty to be just and fair.

H.B. 877 creates the Texas Capital Punishment Commission to study capital punishment and to submit a report to the legislature containing recommendations to correct any inequities in the capital punishment process.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 877 amends the Code of Criminal Procedure to create the Texas Capital Punishment Commission and to require the commission to study capital punishment in Texas. The bill requires the commission, in studying capital punishment, to concentrate particularly on addressing issues related to the legal representation of indigent inmates in capital cases; identifying aspects of the capital punishment process that need improvement, if any, including the manner in which law enforcement agencies and the criminal justice system in Texas investigate, prosecute, and handle appeals of capital cases and the ability of new technologies, including DNA testing, to increase the reliability of capital case convictions; and establishing safeguards that ensure that law enforcement agencies and the criminal justice system in Texas fairly and accurately investigate, prosecute, and handle appeals of capital cases. The bill authorizes the commission, in conducting the study, to use the American Bar Association publication, "Death Without Justice: A Guide for Examining the Administration of the Death Penalty in the United States" and requires the commission, after completing the study, to propose legislation to correct any inequities in the Texas capital punishment process. The bill requires this legislation to be designed to ensure that the application and administration of capital punishment in Texas are just, fair, and accurate and to be submitted to the lieutenant governor and the speaker of the house of representatives not later than January 1, 2011.

H.B. 877 establishes that the commission is composed of the following 11 members: the executive director of the Texas District and County Attorneys Association or the executive director's designee; the executive director of the Texas Criminal Defense Lawyers Association or the executive director's designee; the executive director of Justice For All or the executive director's designee; the executive director of Murder Victims' Families for Reconciliation or the executive director's designee; two members appointed by the governor; two members appointed by the lieutenant governor, one of whom is required to be a former appellate level judge

recommended by the Texas Judicial Council; one member appointed by the speaker of the house of representatives; one member appointed by the dean of the law school at The University of Texas at Austin; and one member appointed by the dean of the law school at Texas Tech University. The bill requires the governor to designate a member to serve as presiding officer, requires each commission member to be generally experienced in criminal justice matters, and provides that each appointed member serves at the pleasure of the official by whom the member is appointed. The bill requires the governor, the lieutenant governor, the speaker of the house of representatives, and the deans of the law schools to make the commission appointments not later than the 31st day after the effective date of the bill.

H.B. 877 entitles a commission member to reimbursement for travel expenses as provided by the state Travel Regulations Act and the General Appropriations Act, but not to compensation. The bill requires the Texas Legislative Council and the Legislative Budget Board to assist the commission in performing its duties, and provides that the commission is not subject to state law regarding state agency advisory committees.

H.B. 877 abolishes the commission on January 1, 2011, and establishes that the bill's provisions expire on that same date.

**EFFECTIVE DATE**

September 1, 2009.