

By: Ellis

S.B. No. 115

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a commission to investigate and prevent wrongful convictions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

Art. 43.27. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. The Texas Innocence Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of nine members. The governor shall appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. The lieutenant governor shall appoint one member, who may be a member of the legislature. The speaker of the house of representatives shall appoint one member, who may be a member of the legislature. The presiding judge of the court of criminal appeals shall appoint one member, who must be a member of the judiciary. The presiding officer of the Texas Forensic Science Commission shall appoint one member, who must work in the forensic science field. The Texas District and County Attorneys Association shall appoint one member, who must be a prosecuting attorney. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer. The president of the Texas Center for Actual Innocence at The University of Texas School

1 of Law, the director of the innocence project at the University of  
2 Houston Law Center, or the director of the innocence project at the  
3 Texas Tech University School of Law, on a rotating basis, shall  
4 appoint one member, who must be an attorney with experience in  
5 filing successful appellate claims based on actual innocence.

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

7 (c) The governor shall designate a member to serve as  
8 presiding officer.

9 Sec. 3. DUTIES. (a) The commission shall investigate  
10 thoroughly all postconviction exonerations, including convictions  
11 vacated based on a plea to time served, to:

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

14 (2) identify errors and defects in the criminal  
15 justice process in this state generally;

16 (3) develop solutions and methods to correct the  
17 identified errors and defects; and

18 (4) identify procedures and programs to prevent future  
19 wrongful convictions.

20 (b) The commission may enter into contracts for research  
21 services as considered necessary to complete the investigation of a  
22 particular case, including forensic testing and autopsies.

23 Sec. 4. REPORT. (a) The commission shall compile a  
24 detailed annual report of its findings and recommendations,  
25 including any proposed legislation to implement procedures and  
26 programs to prevent future wrongful convictions or executions.

27 (b) The report shall be made available to the public on

1 request.

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

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

9 Sec. 6. REIMBURSEMENT. A member of the commission is not  
10 entitled to compensation but is entitled to reimbursement for the  
11 member's travel expenses as provided by Chapter 660, Government  
12 Code, and the General Appropriations Act.

13 Sec. 7. ASSISTANCE. The Texas Legislative Council, the  
14 Legislative Budget Board, and The University of Texas at Austin  
15 shall assist the commission in performing the commission's duties.

16 Sec. 8. OTHER LAW. The commission is not subject to Chapter  
17 2110, Government Code.

18 SECTION 2. (a) The purpose of this section is to establish  
19 the rotating basis for appointments by law schools as required by  
20 Section 2, Article 43.27, Code of Criminal Procedure, as added by  
21 this Act.

22 (b) The president of the Texas Center for Actual Innocence  
23 at The University of Texas School of Law shall make the first  
24 appointment under Section 2, Article 43.27, Code of Criminal  
25 Procedure, as added by this Act. After the expiration of the  
26 appointee's two-year term, the director of the innocence project at  
27 the University of Houston Law Center shall make the second

1 appointment under Section 2, Article 43.27, Code of Criminal  
2 Procedure, as added by this Act. After the expiration of the second  
3 appointment, the director of the innocence project at the Texas  
4 Tech University School of Law shall make the third appointment.

5 SECTION 3. The appointments to the Texas Innocence  
6 Commission as required by Article 43.27, Code of Criminal  
7 Procedure, as added by this Act, shall be made not later than the  
8 60th day after the effective date of this Act.

9 SECTION 4. This Act takes effect September 1, 2009.