

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: McClendon, Leach, Herrero, Moody,  
Simpson, et al.

H.B. No. 48

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a commission to review convictions  
after exoneration and to 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. TIMOTHY COLE EXONERATION REVIEW COMMISSION

Sec. 1. CREATION. The Timothy Cole Exoneration Review  
Commission is created.

Sec. 2. COMPOSITION. The commission is composed of the  
following nine members:

(1) the presiding judge of the court of criminal  
appeals, or another judge of the court of criminal appeals  
appointed by the presiding judge;

(2) the chief justice of the Texas Supreme Court, or  
another justice of the Texas Supreme Court appointed by the chief  
justice;

(3) a district court judge, appointed by the presiding  
judge of the court of criminal appeals;

(4) the presiding officer of the Texas Commission on  
Law Enforcement, or a member or employee of the Texas Commission on  
Law Enforcement appointed by the presiding officer;

(5) the presiding officer of the Texas Indigent  
Defense Commission, or a member or employee of the Texas Indigent

1 Defense Commission appointed by the presiding officer;

2 (6) the presiding officer of the Texas Forensic  
3 Science Commission, or a member or employee of the Texas Forensic  
4 Science Commission who has significant experience in the field of  
5 forensic science appointed by the presiding officer;

6 (7) the chair of the Senate Committee on Criminal  
7 Justice, or the chair's designee;

8 (8) the chair of the House Committee on Criminal  
9 Jurisprudence, or the chair's designee; and

10 (9) the president of the State Bar of Texas, or the  
11 president's designee.

12 Sec. 3. ADVISORY PANEL. The commission may receive advice  
13 and guidance from an advisory panel composed of the following  
14 members:

15 (1) the president of the Texas Criminal Defense  
16 Lawyers Association, or the president's designee;

17 (2) the chairman of the board of the Texas District and  
18 County Attorneys Association, or the chairman's designee; and

19 (3) the director of the Texas Center for Actual  
20 Innocence at The University of Texas School of Law, the director of  
21 the Texas Innocence Network at the University of Houston Law  
22 Center, the executive director of the Innocence Project of Texas,  
23 or the executive director of the Innocence Project at Thurgood  
24 Marshall School of Law, each serving on a rotating basis.

25 Sec. 4. TERMS; VACANCIES. (a) If a member of the  
26 commission is appointed under Sections 2(1)-(6), the member serves  
27 for a six-year term.

1        (b) The presiding officer of the commission shall be elected  
2 on an annual basis by the members of the commission.

3        (c) If a person appointed to the commission does not  
4 complete the person's term, the vacancy is filled for the unexpired  
5 portion of the term in the same manner as the original appointment.

6        (d) The presiding officer may appoint committees from the  
7 membership of the commission as needed to organize the commission  
8 or to perform the duties of the commission.

9        (e) The commission may hire a director and other necessary  
10 personnel to perform the duties of the commission.

11        Sec. 5. ADMINISTRATIVE ATTACHMENT. (a) The commission  
12 exists under the Texas Judicial Council created under Chapter 71,  
13 Government Code. The commission operates independently of the  
14 Texas Judicial Council.

15        (b) The commission is administratively attached to the  
16 Office of Court Administration of the Texas Judicial System.

17        (c) Notwithstanding any other law, and subject to available  
18 funding, the Office of Court Administration of the Texas Judicial  
19 System shall:

20                (1) provide administrative assistance and services to  
21 the commission, including budget planning and purchasing;

22                (2) accept, deposit, and disburse money made available  
23 to the commission;

24                (3) pay the salaries and benefits of the director and  
25 employees of the commission; and

26                (4) provide the commission with adequate computer  
27 equipment and support.

1       Sec. 6. MEETINGS. (a) The commission may hold its  
2 meetings, hearings, and other proceedings at a time and in a manner  
3 determined by the commission, but shall meet in Austin at least  
4 annually.

5       (b) The commission shall conduct a public hearing at least  
6 annually, the agenda of which must include a review of the work  
7 conducted by the commission in the preceding year. The advisory  
8 committee may participate in a public hearing of the commission.

9       (c) Five members of the commission constitute a quorum. The  
10 commission may act only on the concurrence of five or more members.  
11 The commission may issue a report under Section 13 only on the  
12 concurrence of six members.

13       (d) A member of the commission is entitled only to  
14 reimbursement for the member's travel expenses as provided by  
15 Section 10 of this article, Chapter 660, Government Code, and the  
16 General Appropriations Act.

17       Sec. 7. QUALIFICATIONS. (a) A member of the commission  
18 may not participate in or vote on any matter before the commission  
19 if the matter directly concerns an individual related to the member  
20 within the second degree by affinity or consanguinity.

21       (b) An individual may not be a member of the commission or  
22 act as the general counsel to the commission if the individual or  
23 individual's spouse is required to register as a lobbyist under  
24 Chapter 305, Government Code, because of the individual's  
25 activities for compensation on behalf of a profession or entity  
26 related to the operation of the commission.

27       Sec. 8. GROUNDS FOR REMOVAL. (a) It is a ground for

removal from the commission that a member:

(1) if applicable, does not have at the time of appointment the qualifications required by this article;

(2) does not maintain during service on the commission the qualifications required by this article;

(3) violates a prohibition established by this article;

(4) is ineligible for membership under this article;

(5) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(6) is absent from more than half of the regularly scheduled meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

Sec. 9. COMMISSION MEMBER TRAINING. (a) A member of the commission shall complete a training program that meets the requirements of this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on

1 the rules that relate to its examination authority;

2 (5) the requirements of laws relating to public  
3 officials and public meetings, including conflict-of-interest  
4 laws; and

5 (6) any applicable ethics policies adopted by the  
6 commission or the Texas Ethics Commission.

7 Sec. 10. COMPENSATION; REIMBURSEMENT. A member of the  
8 commission may not receive compensation for the services provided  
9 as a member. A member is entitled to reimbursement by the  
10 commission for the member's actual and necessary expenses incurred  
11 in performing commission duties, subject to the availability of  
12 funds that may be appropriated to the commission by the state.  
13 Reimbursements to members for actual and necessary expenses  
14 incurred may be authorized by the commission through funds received  
15 and administered by the commission from gifts, grants, and  
16 donations the commission accepts under Section 11.

17 Sec. 11. GIFTS, GRANTS, AND DONATIONS. (a) The commission  
18 may request and accept gifts, grants, and donations from any source  
19 to carry out its functions, except that the commission may not  
20 request or accept gifts from:

21 (1) a law firm, as defined by Section 72.028,  
22 Government Code;

23 (2) an attorney or the attorney's spouse; or

24 (3) an employee of the law firm or an attorney or the  
25 spouse of that employee.

26 (b) All gifts, grants, and donations must be accepted in an  
27 open meeting by a majority of the members of the commission then

1 present and voting, and must be reported in the public records of  
2 the commission with the name of the donor and purpose of the gift,  
3 grant, or donation accepted.

4 (c) The commission may authorize and disburse subgrants of  
5 funds from those funds that the commission may accept from time to  
6 time under this section for appropriate programs, services, and  
7 activities related to and in accord with the purposes and  
8 activities of the commission.

9 Sec. 12. DUTIES. (a) The commission shall thoroughly  
10 review and examine all cases in which an innocent defendant was  
11 convicted and exonerated, including convictions vacated based on a  
12 plea to time served, to:

13 (1) identify the causes of wrongful convictions and  
14 suggest ways to prevent future wrongful convictions and improve the  
15 reliability and fairness of the criminal justice system;

16 (2) ascertain errors and defects in the laws,  
17 evidence, and procedures applied or omitted in the defendant's  
18 case;

19 (3) identify errors and defects in the criminal  
20 justice system in this state generally, using research, expert  
21 analysis, and demographic data;

22 (4) consider suggestions to correct the identified  
23 errors and defects through legislation or procedural changes;

24 (5) identify procedures, programs, and educational or  
25 training opportunities designed to eliminate or minimize the  
26 identified causes of wrongful convictions, including the  
27 identified errors and defects in the criminal justice system that

1 contribute to wrongful convictions; and

2 (6) collect and evaluate data and information from an  
3 actual innocence exoneration reported to the commission by a  
4 state-funded innocence project, for inclusion in the commission's  
5 reports under Section 13.

6 (b) Subject to available funding and applicable  
7 accreditation procedures, the commission may assist with and  
8 suggest training and continuing education opportunities for  
9 persons involved in the investigation, prosecution, defense,  
10 trial, or appeal of matters in the criminal justice system.

11 (c) The commission shall review and examine each case in  
12 which a final ruling was made by the court of criminal appeals on a  
13 writ of habeas corpus granted for actual innocence on or after  
14 January 1, 1994, and each case in which a commutation of punishment  
15 or pardon was granted before January 1, 1994, based on a claim of  
16 actual innocence and shall use relevant data and information to:

17 (1) identify any apparent breach of professional  
18 responsibility or misconduct by attorneys, judges, or criminal  
19 justice system personnel that is revealed in the course of any  
20 habeas review process existing in the case;

21 (2) refer any apparent breach of professional  
22 responsibility or misconduct to, as appropriate, the State  
23 Commission on Judicial Conduct, the State Bar of Texas, the Texas  
24 Commission on Law Enforcement, the office of the attorney general,  
25 or other appropriate agency or office, for their review of the  
26 apparent breach of professional responsibility or misconduct;

27 (3) identify any patterns in:



1                   (A) apparent breaches of professional  
2 responsibility or misconduct by attorneys, judges, or criminal  
3 justice system personnel; or

4                   (B) errors or defects in the criminal justice  
5 system in this state that impact the pretrial, trial, appellate, or  
6 habeas review process; and

7                   (4) consider and suggest legislative, training, or  
8 procedural changes to correct the patterns, errors, and defects  
9 identified through the work of the commission.

10                  (d) The commission shall consider potential implementation  
11 plans, costs, cost savings, and the impact on the criminal justice  
12 system for each potential solution identified through the work of  
13 the commission.

14                  (e) The commission may, subject to available funding, enter  
15 into contracts for research, analysis, and professional services as  
16 may be necessary or appropriate to facilitate the work and  
17 activities of the commission or to complete the review and  
18 examination of a case in which there has been a commutation of  
19 punishment, a pardon, or a final ruling of actual innocence on an  
20 application for a writ of habeas corpus.

21                  (f) In its first biennium of operation the commission shall  
22 give particular attention to reviewing and updating the research,  
23 reports, and recommendations of the Timothy Cole advisory panel  
24 established in the 81st Regular Session and the degree to which the  
25 panel's recommendations were implemented.

26                  (g) Following the initial biennium, in each subsequent  
27 biennium the commission shall:

1           (1) continue to monitor the progress and  
2 implementation of the recommendations made in the first biennium;  
3 and

4           (2) determine future items for study by identifying  
5 not more than 10 prominent criminal justice issues to consider, of  
6 which the chief justice of the Texas Supreme Court and the presiding  
7 judge of the court of criminal appeals biennially shall choose not  
8 more than six to be studied by the commission in the applicable  
9 biennium.

10          (h) The commission may solicit input from innocence  
11 projects, bar associations, judicial entities, law enforcement  
12 agencies, prosecutor associations, public defender or criminal  
13 defense associations, and advocacy organizations.

14          Sec. 13. REPORTS AND RECORDS. (a) The commission shall  
15 compile and issue a detailed annual report of its findings and  
16 recommendations, including any proposed legislation or policy  
17 changes necessary or appropriate to implement procedures and  
18 programs to prevent the causes and occurrence of future wrongful  
19 convictions, wrongful executions, or errors or defects in the  
20 habeas review process. The commission may also compile and issue  
21 interim reports for the same or similar purposes.

22          (b) Official annual and interim reports issued by the  
23 commission must be made available to the public on request.

24          (c) Working papers and records, including all documentary  
25 or other information, collected, received, prepared, or maintained  
26 by the commission or members or staff of the commission in  
27 performing the commission's duties under this article or other law

1 to conduct an evaluation and prepare a report, are confidential and  
2 not subject to disclosure under Chapter 552, Government Code.

3 (d) The commission may request that an entity of state  
4 government or of a political subdivision provide information  
5 related to the commission's duties under Section 12. On the request  
6 of the commission, an entity shall provide information to the  
7 commission unless otherwise prohibited from disclosing that  
8 information. The commission may examine the public records,  
9 documents, and files of an entity of state government or a political  
10 subdivision in carrying out the commission's duties.

11 (e) Information held by an entity of state government or of  
12 a political subdivision that is confidential and that the  
13 commission receives in connection with the performance of the  
14 commission's functions under this article or other law remains  
15 confidential and is not subject to disclosure under Chapter 552,  
16 Government Code.

17 Sec. 14. ASSISTANCE OF STATE AGENCIES; ACCESS TO STATE  
18 AGENCIES. (a) Subject to available funding, the commission may  
19 request assistance from the Legislative Budget Board and any  
20 state-supported university in performing the commission's duties.

21 (b) The commission may also request the assistance of other  
22 state agencies and officers. When assistance is requested, a state  
23 agency or officer shall assist the commission in carrying out its  
24 functions under this article.

25 Sec. 15. SUBMISSION. The commission shall submit the  
26 reports described by Section 13 to the governor, the lieutenant  
27 governor, the speaker of the house of representatives, the

1 legislature, and the Texas Judicial Council not later than December  
2 1 of each even-numbered year, or not later than the 60th day after  
3 the date the report is issued, whichever occurs first.

4 SECTION 2. The heading to Section 79.039, Government Code,  
5 is amended to read as follows:

6 Sec. 79.039. EXONERATION REPORTS [~~REPORT~~].

7 SECTION 3. Section 79.039, Government Code, is amended by  
8 adding Subsection (c) to read as follows:

9 (c) At the same time the legal clinic or program submits a  
10 report under Subsection (a), the clinic or program shall submit a  
11 comprehensive report to the Timothy Cole Exoneration Review  
12 Commission that:

13 (1) contains all information included in the report  
14 submitted under Subsection (a); and

15 (2) provides a narrative describing the services and  
16 work performed by the clinic or program during the previous fiscal  
17 year that includes the number of innocence claims the clinic or  
18 program handled in that year, including a summary of each claim, the  
19 legal remedies pursued, and the type of relief granted in the case,  
20 if any.

21 SECTION 4. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2015.

ADOPTED

MAY 26 2015

*Latoy Spaw*  
Secretary of the Senate

By: Ellis

H.B. No. 48

Substitute the following for H.B. No. 48:

By: *Ellis*

C.S.H.B. No. 48

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a commission to review convictions  
after exoneration and to 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. TIMOTHY COLE EXONERATION REVIEW COMMISSION

Sec. 1. CREATION. The Timothy Cole Exoneration Review  
Commission is created.

Sec. 2. COMPOSITION. (a) The commission is composed of the  
following 11 members:

(1) a member appointed by the governor;  
(2) the chair of the Senate Committee on Criminal  
Justice;

(3) the chair of the Senate Committee on State  
Affairs;

(4) the chair of the House Committee on Criminal  
Jurisprudence;

(5) the chair of the House Committee on Judiciary and  
Civil Jurisprudence;

(6) a member appointed by the chair of the Texas  
Judicial Council;

(7) the presiding officer of the Texas Commission on  
Law Enforcement, or a member or employee of the Texas Commission on

1 Law Enforcement appointed by the presiding officer;

2 (8) the presiding officer of the Texas Indigent  
3 Defense Commission, or a member or employee of the Texas Indigent  
4 Defense Commission appointed by the presiding officer;

5 (9) the presiding officer of the Texas Forensic  
6 Science Commission, or a member or employee of the Texas Forensic  
7 Science Commission who has significant experience in the field of  
8 forensic science appointed by the presiding officer;

9 (10) the president of the Texas Criminal Defense  
10 Lawyers Association, or the president's designee; and

11 (11) the chairman of the board of the Texas District  
12 and County Attorneys Association, or the chairman's designee.

13 (b) A person appointed under this section may not, while  
14 serving on the commission, be an active judge, as that term is  
15 defined by Section 74.041, Government Code.

16 (c) The following persons serve as advisory members to the  
17 commission:

18 (1) the director of the Texas Center for Actual  
19 Innocence at The University of Texas School of Law;

20 (2) the director of the Texas Innocence Network at the  
21 University of Houston Law Center;

22 (3) the executive director of the Innocence Project of  
23 Texas; and

24 (4) the executive director of the Innocence Project at  
25 Thurgood Marshall School of Law.

26 Sec. 3. TERMS; VACANCIES. (a) A member of the commission  
27 serves until the commission is dissolved.

1       (b) The presiding officer of the commission shall be elected  
2 by the members of the commission.

3       (c) A vacancy on the commission is filled in the same manner  
4 as the original appointment.

5       (d) The presiding officer may appoint committees from the  
6 membership of the commission as needed to organize the commission  
7 or to perform the duties of the commission.

8       Sec. 4. ADMINISTRATIVE ATTACHMENT. (a) The commission  
9 exists under the Texas Judicial Council created under Chapter 71,  
10 Government Code. The commission operates independently of the  
11 Texas Judicial Council.

12       (b) The commission is administratively attached to the  
13 Office of Court Administration of the Texas Judicial System.

14       (c) Notwithstanding any other law, and subject to available  
15 funding, the Office of Court Administration of the Texas Judicial  
16 System shall:

17               (1) provide administrative assistance and services to  
18 the commission;

19               (2) accept, deposit, and disburse money made available  
20 to the commission; and

21               (3) provide the commission with adequate computer  
22 equipment and support.

23       Sec. 5. MEETINGS. (a) The commission may hold its hearing  
24 and meetings and other proceedings at a time and in a manner  
25 determined by the commission, but shall meet in Austin at least  
26 annually. The commission shall hold its first meeting on or before  
27 October 31, 2015.

1       (b) The commission shall conduct one public hearing.  
2 Advisory members may participate in the public hearing of the  
3 commission but do not count toward a quorum and are not entitled to  
4 vote on matters before the commission.

5       (c) Six members of the commission constitute a quorum. The  
6 commission may act only on the concurrence of six or more members.  
7 The commission may issue a report under Section 9 only on the  
8 concurrence of seven members.

9       (d) Subject to the availability of funds, a member of the  
10 commission is entitled only to reimbursement for the member's  
11 travel expenses as provided by Chapter 660, Government Code, and  
12 the General Appropriations Act.

13       Sec. 6. QUALIFICATIONS. (a) A member of the commission  
14 may not participate in or vote on any matter before the commission  
15 if the matter directly concerns an individual related to the member  
16 within the second degree by affinity or consanguinity.

17       (b) An individual may not be a member of the commission if  
18 the individual or individual's spouse is required to register as a  
19 lobbyist under Chapter 305, Government Code, because of the  
20 individual's activities for compensation on behalf of a profession  
21 or entity related to the operation of the commission.

22       Sec. 7. GROUNDS FOR REMOVAL. (a) It is a ground for  
23 removal from the commission that a member:

24               (1) if applicable, does not have at the time of  
25 appointment the qualifications required by this article;

26               (2) does not maintain during service on the commission  
27 the qualifications required by this article;



1           (3) violates a prohibition established by this  
2 article;

3           (4) is ineligible for membership under this article;

4           (5) cannot, because of illness or disability,  
5 discharge the member's duties for a substantial period; or

6           (6) is absent from more than half of the regularly  
7 scheduled meetings that the member is eligible to attend during a  
8 calendar year, unless the absence is excused by a majority vote of  
9 the commission.

10          (b) The validity of an action of the commission is not  
11 affected by the fact that it is taken when a ground for removal of a  
12 commission member exists.

13          Sec. 8. DUTIES. (a) The commission may review and examine  
14 all cases in this state in which an innocent defendant was convicted  
15 and then, on or after January 1, 2010, was exonerated to, as  
16 applicable:

17           (1) identify the causes of wrongful convictions and  
18 suggest ways to prevent future wrongful convictions and improve the  
19 reliability and fairness of the criminal justice system;

20           (2) ascertain errors and defects in the laws,  
21 evidence, and procedures applied or omitted in the defendant's  
22 case;

23           (3) consider suggestions to correct the identified  
24 errors and defects through legislation or procedural changes;

25           (4) identify procedures, programs, and educational or  
26 training opportunities designed to eliminate or minimize the  
27 identified causes of wrongful convictions;

1           (5) collect and evaluate data and information from an  
2 actual innocence exoneration reported to the commission by a  
3 state-funded innocence project, for inclusion in the commission's  
4 report under Section 9;

5           (6) identify any patterns in errors or defects in the  
6 criminal justice system in this state that impact the pretrial,  
7 trial, appellate, or habeas review process; or

8           (7) consider and suggest legislative, training, or  
9 procedural changes to correct the patterns, errors, and defects in  
10 the criminal justice system that are identified through the work of  
11 the commission.

12          (b) The commission shall consider potential implementation  
13 plans, costs, cost savings, and the impact on the criminal justice  
14 system for each potential solution identified through the work of  
15 the commission.

16          (c) The commission shall review and update the research,  
17 reports, and recommendations of the Timothy Cole advisory panel  
18 established in the 81st Regular Session and shall include in its  
19 report under Section 9 the degree to which the panel's  
20 recommendations were implemented.

21          (d) The commission may solicit input from innocence  
22 projects, bar associations, judicial entities, law enforcement  
23 agencies, prosecutor associations, public defender or criminal  
24 defense associations, public and private universities, and  
25 advocacy organizations.

26          Sec. 9. REPORT AND RECORDS. (a) The commission shall  
27 compile and issue a detailed report of its findings and

1 recommendations, including any legislation or policy changes the  
2 commission recommends to implement procedures and programs to  
3 prevent the causes and occurrence of future wrongful convictions.  
4 The report must also describe statutory, procedural, and  
5 evidentiary reforms that have already been implemented in this  
6 state to prevent the causes and occurrence of future wrongful  
7 convictions.

8 (b) The report may not include any recommendation regarding  
9 the use of the death penalty or related procedures.

10 (c) The official report issued by the commission must be  
11 made available to the public on request.

12 (d) Working papers and records, including all documentary  
13 or other information, collected, received, prepared, or maintained  
14 by the commission or members of the commission in performing under  
15 this article or other law the commission's duties to conduct an  
16 evaluation and prepare a report, are confidential and not subject  
17 to disclosure under Chapter 552, Government Code.

18 (e) The commission may request that an entity of state  
19 government or of a political subdivision provide information  
20 related to the commission's duties under Section 8. On the request  
21 of the commission, an entity may provide information to the  
22 commission unless otherwise prohibited from disclosing that  
23 information.

24 (f) Information held by an entity of state government or of  
25 a political subdivision that is confidential and that the  
26 commission receives in connection with the performance of the  
27 commission's functions under this article or other law remains

1 confidential and is not subject to disclosure under Chapter 552,  
2 Government Code.

3 (g) In carrying out its duties, the commission may examine  
4 the public records of an entity of state government or a political  
5 subdivision that are provided under Subsection (e).

6 Sec. 10. ASSISTANCE OF STATE-SUPPORTED UNIVERSITIES. The  
7 commission may request assistance from any state-supported  
8 university in performing the commission's duties.

9 Sec. 11. SUBMISSION. The commission shall submit the  
10 report described by Section 9 to the governor, the lieutenant  
11 governor, the speaker of the house of representatives, the  
12 legislature, and the Texas Judicial Council not later than December  
13 1, 2016.

14 Sec. 12. EXPIRATION. (a) This article expires December 1,  
15 2016.

16 (b) The commission is dissolved on the earlier of:

17 (1) the date the commission submits its report; or

18 (2) December 1, 2016.

19 SECTION 2. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB48, As Passed 2nd House: a negative impact of (\$341,326) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$171,109)
2017	(\$170,217)
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$171,109)	2.0
2017	(\$170,217)	2.0
2018	\$0	0.0
2019	\$0	0.0
2020	\$0	0.0

Fiscal Analysis

The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration Review Commission. The bill would establish guidelines, requirements, duties, and responsibilities for the commission which would be composed of eleven members as required by the bill. The bill would authorize the commission to receive advice and guidance from an advisory

panel and would specify members of the panel.

The bill would administratively attach the commission to the Office of Court Administration (OCA). Under the provisions of the bill, the commission would be required to conduct a public hearing at least once annually in Austin and may hold meetings at times determined by the commission with the requirement that the first meeting be on or before October 31, 2015. The bill would authorize the commission to be reimbursed for travel expenses under Chapter 660 of the Government Code if appropriations are provided in the General Appropriations Act.

The bill would require the commission to submit a detailed report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, the Legislature, and to the Texas Judicial Council not later than December 1, 2016. The bill would dissolve the commission on the earlier of either the date the commission submits its report, or December 1, 2016.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2015.

### **Methodology**

Based on information provided by OCA, a researcher at \$66,660 with benefits of \$21,549 and a data analyst at \$55,992 with benefits of \$18,130, or \$162,331 each year, would be necessary to write reports, coordinate meetings, analyst data and provide other resources and support with operating expenses of \$1,190 in fiscal year 2016 and \$298 in fiscal year 2017. It is assumed that seven of the eleven commission members would travel for commission meetings for four quarterly commission meetings lasting one day each at a cost of \$271 per person per meeting, or \$7,588 each year.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, MW, GDz, SD, KJo

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION  
Revision 1

May 23, 2015

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB48, Committee Report 2nd House, Substituted: a negative impact of (\$341,326) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$171,109)
2017	(\$170,217)
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$171,109)	2.0
2017	(\$170,217)	2.0
2018	\$0	0.0
2019	\$0	0.0
2020	\$0	0.0

Fiscal Analysis

The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration

Review Commission. The bill would establish guidelines, requirements, duties, and responsibilities for the commission which would be composed of eleven members as required by the bill. The bill would authorize the commission to receive advice and guidance from an advisory panel and would specify members of the panel.

The bill would administratively attach the commission to the Office of Court Administration (OCA). Under the provisions of the bill, the commission would be required to conduct a public hearing at least once annually in Austin and may hold meetings at times determined by the commission with the requirement that the first meeting be on or before October 31, 2015. The bill would authorize the commission to be reimbursed for travel expenses under Chapter 660 of the Government Code if appropriations are provided in the General Appropriations Act.

The bill would require the commission to submit a detailed report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, the Legislature, and to the Texas Judicial Council not later than December 1, 2016. The bill would dissolve the commission on the earlier of either the date the commission submits its report, or December 1, 2016.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2015.

### **Methodology**

Based on information provided by OCA, a researcher at \$66,660 with benefits of \$21,549 and a data analyst at \$55,992 with benefits of \$18,130, or \$162,331 each year, would be necessary to write reports, coordinate meetings, analyst data and provide other resources and support with operating expenses of \$1,190 in fiscal year 2016 and \$298 in fiscal year 2017. It is assumed that seven of the eleven commission members would travel for commission meetings for four quarterly commission meetings lasting one day each at a cost of \$271 per person per meeting, or \$7,588 each year.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, MW, GDz, SD, KJo



LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB48, Committee Report 2nd House, Substituted: a positive impact of \$341,326 through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$171,109
2017	\$170,217
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	\$171,109	2.0
2017	\$170,217	2.0
2018	\$0	0.0
2019	\$0	0.0
2020	\$0	0.0

Fiscal Analysis

The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration Review Commission. The bill would establish guidelines, requirements, duties, and

responsibilities for the commission which would be composed of eleven members as required by the bill. The bill would authorize the commission to receive advice and guidance from an advisory panel and would specify members of the panel.

The bill would administratively attach the commission to the Office of Court Administration (OCA). Under the provisions of the bill, the commission would be required to conduct a public hearing at least once annually in Austin and may hold meetings at times determined by the commission with the requirement that the first meeting be on or before October 31, 2015. The bill would authorize the commission to be reimbursed for travel expenses under Chapter 660 of the Government Code if appropriations are provided in the General Appropriations Act.

The bill would require the commission to submit a detailed report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, the Legislature, and to the Texas Judicial Council not later than December 1, 2016. The bill would dissolve the commission on the earlier of either the date the commission submits its report, or December 1, 2016.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2015.

### **Methodology**

Based on information provided by OCA, a researcher at \$66,660 with benefits of \$21,549 and a data analyst at \$55,992 with benefits of \$18,130, or \$162,331 each year, would be necessary to write reports, coordinate meetings, analyst data and provide other resources and support with operating expenses of \$1,190 in fiscal year 2016 and \$298 in fiscal year 2017. It is assumed that seven of the eleven commission members would travel for commission meetings for four quarterly commission meetings lasting one day each at a cost of \$271 per person per meeting, or \$7,588 each year.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, GDz, KJo, MW

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 19, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB48, As Engrossed: a negative impact of (\$394,864) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$199,882)
2017	(\$194,982)
2018	(\$194,982)
2019	(\$194,982)
2020	(\$194,982)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$199,882)	1.5
2017	(\$194,982)	1.5
2018	(\$194,982)	1.5
2019	(\$194,982)	1.5
2020	(\$194,982)	1.5

Fiscal Analysis

The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration Review Commission. The bill would establish guidelines, requirements, and responsibilities for the commission which would be composed of nine members as required by the bill. The bill would authorize the commission to receive advice and guidance from an advisory panel and

would specify members of the panel. The bill would require the commission to issue a detailed annual report.

The bill would administratively attach the commission to the Office of Court Administration (OCA) and would allow the commission to hire a director and other staff to perform the duties of the commission. Under the provisions of the bill, the commission would be required to conduct a public hearing at least once annually and may hold meetings at times determined by the commission with the requirement that one meeting be held in Austin. The bill would authorize the commission to be reimbursed for travel expenses if appropriations are provided in the General Appropriations Act. The bill would allow the commission to apply for and accept gifts, grants and donations from organizations described in the bill and would authorize the commission to disburse sub-grants from grants received by the commission. The bill would also allow the commission to enter into contracts for research, analysis, and professional services as necessary. Subject to available funding, the bill would allow the commission to be assisted by the Legislative Budget Board, any state-supported university, and any other state agencies and officers.

The bill would require the commission to submit reports required by the bill to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Legislature, and to the Texas Judicial Council not later than December 1st of each even-numbered year, or not later than the 60th day after the issuance of the report, whichever occurs first.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2015.

### **Methodology**

Based on information provided by OCA, one director and part-time administrative assistant would be necessary to write reports, coordinate meetings, and provide other resources and support. Salaries for these positions would total \$108,000 with benefit costs of \$32,119 and additional operating costs of \$1,925 each year. OCA anticipates that computer and initial equipment costs for these positions would total \$4,900 in fiscal year 2016. Travel related costs are anticipated to be \$2,938 each year for four quarterly commission meetings lasting one day and two advisory panel meetings also lasting one day. In addition, OCA assumes that \$50,000 each year would be necessary to conduct extensive research where innocence projects do not have adequate resources to absorb the workload. For the purposes of this analysis, OCA assumes that costs associated with the director assisting with training opportunities could be absorbed within existing resources.

### **Technology**

This analysis assumes initial computer and software costs of \$6,325 in fiscal year 2016 with maintenance and operating costs of \$1,425 continuing each subsequent year through fiscal year 2020. Equipment includes one desktop computer, one laptop computer, associated software, and a printer.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, KJo, MW

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 6, 2015

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB48, Committee Report 1st House, Substituted: a negative impact of (\$394,864) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$199,882)
2017	(\$194,982)
2018	(\$194,982)
2019	(\$194,982)
2020	(\$194,982)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$199,882)	1.5
2017	(\$194,982)	1.5
2018	(\$194,982)	1.5
2019	(\$194,982)	1.5
2020	(\$194,982)	1.5

Fiscal Analysis

The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration Review Commission. The bill would establish guidelines, requirements, and responsibilities for

the commission which would be composed of nine members as required by the bill. The bill would authorize the commission to receive advice and guidance from an advisory panel and would specify members of the panel. The bill would require the commission to issue a detailed annual report.

The bill would administratively attach the commission to the Office of Court Administration (OCA) and would allow the commission to hire a director and other staff to perform the duties of the commission. Under the provisions of the bill, the commission would be required to conduct a public hearing at least once annually and may hold meetings at times determined by the commission with the requirement that one meeting be held in Austin. The bill would authorize the commission to be reimbursed for travel expenses if appropriations are provided in the General Appropriations Act. The bill would allow the commission to apply for and accept gifts, grants and donations from organizations described in the bill and would authorize the commission to disburse sub-grants from grants received by the commission. The bill would also allow the commission to enter into contracts for research, analysis, and professional services as necessary. Subject to available funding, the bill would allow the commission to be assisted by the Legislative Budget Board, any state-supported university, and any other state agencies and officers.

The bill would require the commission to submit reports required by the bill to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Legislature, and to the Texas Judicial Council not later than December 1st of each even-numbered year, or not later than the 60th day after the issuance of the report, whichever occurs first.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2015.

**Methodology**

Based on information provided by OCA, one director and part-time administrative assistant would be necessary to write reports, coordinate meetings, and provide other resources and support. Salaries for these positions would total \$108,000 with benefit costs of \$32,119 and additional operating costs of \$1,925 each year. OCA anticipates that computer and initial equipment costs for these positions would total \$4,900 in fiscal year 2016. Travel related costs are anticipated to be \$2,938 each year for four quarterly commission meetings lasting one day and two advisory panel meetings also lasting one day. In addition, OCA assumes that \$50,000 each year would be necessary to conduct extensive research where innocence projects do not have adequate resources to absorb the workload. For the purposes of this analysis, OCA assumes that costs associated with the director assisting with training opportunities could be absorbed within existing resources.

**Technology**

This analysis assumes initial computer and software costs of \$6,325 in fiscal year 2016 with maintenance and operating costs of \$1,425 continuing each subsequent year through fiscal year 2020. Equipment includes one desktop computer, one laptop computer, associated software, and a printer.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, KJo, MW

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 17, 2015

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the code of Criminal Procedure by creating the Timothy Cole Exoneration Review Commission. The nine member commission, appointed by the Governor, would make thorough review or investigation of all cases in which innocent persons are convicted and exonerated. The bill would establish guidelines, requirements, and responsibilities for the commission and would subject the commission to review under the Texas Sunset Act. Under the provisions of the bill the commission would be required to conduct a public hearing at least once annually and be required to compile a detailed annual report of its findings and recommendations. The bill would also allow the commission to enter into contracts for research and professional services as necessary. The commission would submit the reports to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and to the Legislature not later than December 1 of each even-numbered year, or not later than the 60th day after the issuance of the report, whichever occurs first.

Under the provisions of the bill, members of the commission would receive no compensation for commission services but would be entitled to reimbursement by the commission for the member's actual and necessary expenses incurred in performing commission duties, subject to the availability of funds from General Revenue that may be appropriated to the commission by the state. The commission may apply for and accept gifts, grants and donations from organizations described in the bill and the commission shall be assisted by the Legislative Budget Board, the University of Texas at Austin, and any other state agency able to assist the commission. For this analysis it is assumed that the bill would not result in a significant fiscal impact to the State or in a significant increase on the workload or demand for resources and services of the agencies required to provide assistance.

#### Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 720 The University of Texas System Administration



**LBB Staff:** UP, KJo, MW, GDz, KVe

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**OPEN GOVERNMENT IMPACT STATEMENT**

**84TH LEGISLATIVE REGULAR SESSION**

**May 22, 2015**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **Committee Report 2nd House, Substituted**

As a result of this bill there will be a restriction upon the open records law and the access to government information.
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The bill would exempt certain working papers and records of the Timothy Cole Exoneration Review Commission, members, and staff from disclosure under Chapter 552, Government Code.

**Source Agencies:**

**LBB Staff:** UP, SD, KVe

LEGISLATIVE BUDGET BOARD  
Austin, Texas

OPEN GOVERNMENT IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 19, 2015

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB48** by McClendon (Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.), **As Engrossed**

As a result of this bill there will be a restriction upon the open records law and the access to government information.

The bill would exempt certain working papers and records of the Timothy Cole Exoneration Review Commission, members, and staff from disclosure under Chapter 552, Government Code.

**Source Agencies:**

**LBB Staff:** UP, SD, KVe