



## MODEL LEGISLATION, 2007 STATE LEGISLATIVE SESSIONS

### **AN ACT CREATING A (STATE) CRIMINAL JUSTICE REFORM COMMISSION**

#### SECTION 1. LEGISLATIVE INTENT

The legislature finds that whenever a person convicted of a crime is found, through post-conviction DNA testing or the discovery of other new evidence, to have been innocent of that crime, a failure has occurred in the criminal justice system which wrongly convicted an innocent person and allowed the real perpetrator to remain free; insufficient attention is being paid to cases where factual errors are being made; review of wrongful convictions is necessary to identify, isolate and address the errors that cause wrongful convictions and thus minimize the possibility of their future occurrence; and that such a process of review will help ensure both a high quality of criminal justice in [State] and the public's faith in our criminal justice system. The legislature intends by enactment of the provisions of this Act to create A [State] Criminal Justice Reform Commission, charged with: identifying the systemic causes of wrongful convictions; identifying policies and procedures demonstrated to minimize the likelihood of the occurrence of wrongful convictions; proposing reforms to minimize the likelihood of wrongful convictions in [State]; and ensuring that the administration of criminal justice in [State] is fair, accurate and reliable.

#### SECTION 2. CREATION AND COMPOSITION

(The appropriate section of the state criminal code) is amended by adding (chapter/article/section ##) to read as follows:

Chapter/article/section ## [State] Criminal Justice Reform Commission



- A. The [State] Criminal Justice Reform Commission is created.
- B. The Commission is composed of ten members:
  1. The Governor shall appoint two members:
    - a. One of whom must be a dean of a law school; and
    - b. One of whom must be a law enforcement officer;
  2. The Attorney General shall appoint two members:
    - a. One of whom must be an attorney who represents the state in the prosecution of felonies; and
    - b. One of whom must be a scientist in the field of forensics;
  3. The Chair of the criminal justice committee of the Senate shall appoint one member who may be a member of the legislature;
  4. The Chair of the criminal justice committee of the House of Representatives shall appoint one member who may be a member of the legislature;
  5. The Chief Justice of the Supreme Court shall appoint one member who must be a member of the judiciary;
  6. The chancellor of The University of [State] System shall appoint two members:
    - a. One who must be a law professor; and
    - b. One who must have a background in laboratory science; and
  7. The [State] Public Defender (or Criminal Defense Lawyers Association) shall appoint one member who must be a criminal defense lawyer.
- C. Each member serves a two-year term.
- D. The Governor shall designate a member to serve as presiding officer.

SECTION 3. DUTIES



- A. The Commission shall review past, present and future cases in which an innocent person was convicted.
- B. The Commission shall identify the common causes of wrongful convictions.
- C. The Commission shall identify current [State] laws, rules and procedures implicated by each type of causation.
- D. The Commission shall identify through peer-reviewed research, experts and discussion potential solutions in the form of legislation; rule, regulation or procedural changes; and/or educational or training opportunities for elimination or minimization of each type of causation.
- E. The Commission shall consider potential implementation plans, costs, cost savings, and the impact on the criminal justice system for each potential solution.
- F. The Commission shall issue interim reports and/or a detailed annual report recommending solutions for each causation issue identified, including implementation plans, the identification of cost implications, and any recommended proposed legislation and/or other rule or policy changes necessary to implement procedures and programs to prevent future wrongful convictions.
  - 1. The report shall be made available to the public on request.
  - 2. The findings and recommendations contained in the report may not be used as binding evidence in any subsequent civil or criminal proceeding.

#### SECTION 4. SUBMISSION OF REPORT

The Commission shall submit the report(s) described by Section 3 (F) to the Governor, the Lieutenant Governor, the Senate President and the Speaker of the House of Representatives not later than July 1 of each year.

#### SECTION 5. RESPONSE TO REPORT



Not later than the 60<sup>th</sup> day after the date of receipt of the report required by this article, the Governor, Lieutenant Governor, the Senate President and the Speaker of the House of Representatives shall, singly or jointly, issue a formal written response to the findings and recommendations of the Commission.

SECTION 6. REIMBURSEMENT.

A member of the Commission is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter [XXX] of the [State] Code, and the General Appropriations Act.

SECTION 7. ASSISTANCE.

The [State] Office of Legislative Research, Department of Administrative Services, and the University of [State], shall assist the Commission in performing the Commission's duties. Other government and private entities in [State] may also provide such assistance, with the consent of a majority of the commission and consistent with [State] law.

SECTION 8. EFFECTIVE DATE.

The appointments to the [State] Criminal Justice Reform Commission as required by (chapter/article/section ##, above), Code of Criminal Procedure, as added by this Act, shall be made not later than the 60<sup>th</sup> day after the effective day of this Act. This Act takes effect XX, XX, XXXX.