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By: Ellis

S.B. No. 1033

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 attorney general shall appoint one member, who must be an attorney who represents the state in the prosecution of felonies. The chair of the criminal justice committee of the senate shall appoint one member, who may be a member of the legislature. The chair of the criminal jurisprudence committee of the house of representatives shall appoint one member, who may be a member of the legislature. The

chief justice of the supreme court shall appoint one member, who must be a member of the judiciary. The chancellor of The University of Texas System shall appoint two members, one of whom must be a law professor and one of whom must work in the forensic science field. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer.

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

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

Sec. 3. DUTIES. (a) The commission shall investigate thoroughly:

(1) all postconviction exonerations, including convictions vacated based on a plea to time served, to:

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

(B) identify errors and defects in the criminal justice process in this state generally;

(C) develop solutions and methods to correct the identified errors and defects; and

(D) identify procedures and programs to prevent future wrongful convictions; and

(2) all colorable allegations that an innocent person

has been executed.

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

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

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

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

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

Sec. 5. SUBMISSION. The commission shall submit the

report described by Section 4 to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

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

Sec. 7. 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 660, Government Code, and the General Appropriations Act.

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

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

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

SECTION 3. This Act takes effect September 1, 2005.