

WESTLAW

Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure (Refs & Annots)
Title 1, Code of Criminal Procedure of 1965

Art. 43.27. Timothy Cole Exoneration Review Commission

Vernon's Texas Statutes and Codes Annotated Code of Criminal Procedure Effective: June 1, 2015 (Approx. 5 pages)
Chapter 43. EXECUTION OF JUDGMENT

Effective: June 1, 2015

Vernon's Ann.Texas C.C.P. Art. 43.27

Art. 43.27. Timothy Cole Exoneration Review Commission

Currentness

<This article expires pursuant to the terms of Sec. 12.>

Creation

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

Composition

Sec. 2. (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 Law Enforcement appointed by the presiding officer;
- (8) the presiding officer of the Texas Indigent Defense **Commission**, or a member or employee of the Texas Indigent Defense **Commission** appointed by the presiding officer;
- (9) the presiding officer of the Texas Forensic Science **Commission**, or a member or employee of the Texas Forensic Science **Commission** who has significant experience in the field of forensic science appointed by the presiding officer;
- (10) the president of the Texas Criminal Defense Lawyers Association, or the president's designee; and
- (11) the chairman of the board of the Texas District and County Attorneys Association, or the chairman's designee.

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

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

- (1) the director of the Texas Center for Actual Innocence at The University of Texas School of Law;
- (2) the director of the Texas Innocence Network at the University of Houston Law Center;
- (3) the executive director of the Innocence Project of Texas; and
- (4) the executive director of the Innocence Project at Thurgood Marshall School of Law.

Terms; Vacancies

Sec. 3. (a) A member of the **commission** serves until the **commission** is dissolved.

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

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

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

Administrative Attachment

Sec. 4. (a) The **commission** exists under the Texas Judicial Council created under Chapter 71, Government Code. The **commission** operates independently of the Texas Judicial Council.

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

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

- (1) provide administrative assistance and services to the **commission**;
- (2) accept, deposit, and disburse money made available to the **commission**; and
- (3) provide the **commission** with adequate computer equipment and support.

Meetings

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

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

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

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

Qualifications

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

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

Grounds for Removal

Sec. 7. (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 period; 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.

Duties

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

- (1) identify the causes of wrongful convictions and suggest ways to prevent future wrongful convictions and improve the reliability and fairness of the criminal justice system;
 - (2) ascertain errors and defects in the laws, evidence, and procedures applied or omitted in the defendant's case;
 - (3) consider suggestions to correct the identified errors and defects through legislation or procedural changes;
 - (4) identify procedures, programs, and educational or training opportunities designed to eliminate or minimize the identified causes of wrongful convictions;
 - (5) collect and evaluate data and information from an actual innocence **exoneration** reported to the **commission** by a state-funded innocence project, for inclusion in the **commission's** report under Section 9;
 - (6) identify any patterns in errors or defects in the criminal justice system in this state that impact the pretrial, trial, appellate, or habeas review process; or
 - (7) consider and suggest legislative, training, or procedural changes to correct the patterns, errors, and defects in the criminal justice system that are identified through the work of the **commission**.
- (b) The **commission** shall consider potential implementation plans, costs, cost savings, and the impact on the criminal justice system for each potential solution identified through the work of the **commission**.
- (c) The **commission** shall review and update the research, reports, and recommendations of the Timothy **Cole** advisory panel established in the 81st Regular Session and shall include in its report under Section 9 the degree to which the panel's recommendations were implemented.
- (d) The **commission** may solicit input from innocence projects, bar associations, judicial entities, law enforcement agencies, prosecutor associations, public defender or criminal defense associations, public and private universities, and advocacy organizations.

Report and Records

Sec. 9. (a) The **commission** shall compile and issue a detailed report of its findings and recommendations, including any legislation or policy changes the **commission** recommends to implement procedures and programs to prevent the causes and occurrence of future wrongful convictions. The report must also describe statutory, procedural, and evidentiary reforms that have already been implemented in this state to prevent the causes and occurrence of future wrongful convictions.

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

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

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

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

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

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

Assistance of State-Supported Universities

Sec. 10. The **commission** may request assistance from any state-supported university in performing the **commission's** duties.

Submission

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

Expiration

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

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

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

(2) December 1, 2016.

Credits

Added by Acts 2015, 84th Leg., ch. 268 (H.B. 48), § 1, eff. June 1, 2015.

Vernon's Ann. Texas C. C. P. Art. 43.27, TX CRIM PRO Art. 43.27

Current through the end of the 2015 Regular Session of the 84th Legislature