

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1033
By: Ellis
Criminal Justice
4/22/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to seek improvements to the criminal justice system by reducing the occurrence of wrongful convictions and ensuring that only guilty individuals are convicted. Currently, when an innocent person is wrongly convicted, our system does not have any institutional mechanism to evaluate the conviction, find out why the mistake occurred, and prevent such an occurrence in the future.

C.S.S.B. 1033 charges the Criminal Justice Advisory Council (council) with thoroughly investigating all post-conviction exonerations. The council is granted broad investigative powers and is authorized to determine errors and defects in the criminal justice system that lead to the conviction of innocent individuals. The council will review wrongful convictions, identify the causes of those mistaken convictions, and recommend improvements to the criminal justice system to prevent future wrongful convictions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 43, Code of Criminal Procedure, by adding Article 43.27, as follows:

Art. 43.27. CRIMINAL JUSTICE ADVISORY COUNCIL.

Sec. 1. DEFINITION. Defines "council."

Sec. 2 GOALS. (a) Authorizes the Criminal Justice Advisory Council (council), in addition to the duties imposed by executive order, to investigate all postconviction exonerations, including convictions vacated based on a plea to time served, in order to ascertain errors and defects in the criminal procedure used to prosecute the case, identify errors and defects in the criminal justice process in this state generally, develop solutions and methods to correct the identified errors and defects, identify procedures and programs to prevent future wrongful convictions, and identify postconviction procedures to provide courts with additional methods to identify wrongful convictions. Requires the commission to investigate all colorable allegations that an innocent person has been executed.

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

(c) Authorizes the council to administer oaths and issue subpoenas, signed by the chairperson, to compel the production of documents and the attendance of witnesses as necessary to conduct a thorough investigation. Sets forth the manner in which the subpoena is required to be served. Requires a district court of Travis County, on application of the council, to compel compliance with the subpoena in a certain manner.

SECTION 2. Effective date: September 1, 2005.