

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2208

By: Johnson (Constance)

4
5
6 AS INTRODUCED

7 An Act relating to state government; stating intent;
8 creating the Oklahoma Commission on Wrongful
9 Conviction; providing membership; stating length of
10 service; providing for reimbursement; specifying
11 duties of the Commission; requiring report; requiring
12 certain response; providing for staffing; requiring
13 appointments by certain time; providing for
14 codification; providing an effective date; and
15 declaring an emergency.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 8251 of Title 74, unless there
19 is created a duplication in numbering, reads as follows:

20 The legislature finds that:

21 1. Whenever a person convicted of a crime is found, through
22 post-conviction DNA testing or the discovery of other new evidence,
23 to have been innocent of that crime, a failure has occurred in the
24 criminal justice system which wrongly convicted an innocent person
and allowed the real perpetrator to remain undetected;

1 2. A review of the causes of wrongful convictions enable this
2 state to identify potential weaknesses in the state criminal justice
3 system, and the remedies that can strengthen the quality of criminal
4 justice in this state;

5 3. There is not presently any government entity in this state
6 charged with conducting the independent, expert reviews of wrongful
7 convictions necessary to identify the primary and potential causes
8 of wrongful convictions of this state;

9 4. Several states have convened commissions to understand the
10 causes of wrongful convictions, which resulted in the adoption of
11 positive reforms to enhance the accuracy of criminal investigations,
12 strengthen criminal prosecutions, and protect the innocent; and

13 5. This state would benefit from the creation of an Oklahoma
14 Commission on Wrongful Conviction, charged with:

- 15 a. identifying the systemic causes of wrongful
16 convictions,
- 17 b. identifying policies and procedures demonstrated to
18 minimize the likelihood of wrongful convictions,
- 19 c. proposing reforms to minimize the likelihood of
20 wrongful convictions in this state, bolster public
21 confidence in the state's criminal justice system, and
22 ensure that the administration of criminal justice in
23 this state is fair, accurate and reliable, and

24

1 d. conducting its work in a manner that is transparent,
2 with the goal of keeping the public informed.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 8252 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. There is hereby created until December 31, 2015, the
7 Oklahoma Commission on Wrongful Conviction.

8 B. The Commission shall be composed of thirteen (13) members as
9 follows:

10 1. The Governor shall appoint two members:

11 a. one of whom shall be a dean of a law school or a
12 designee, who shall be a law professor, and

13 b. one of whom shall be a law enforcement officer;

14 2. The Attorney General shall appoint two members:

15 a. one of whom shall be an attorney who represents the
16 state in the prosecution of felonies, and

17 b. one of whom shall be a scientist in the field of
18 forensics;

19 3. The chair of the Judiciary Committee of the Oklahoma State
20 Senate shall appoint one member who may be a member of the
21 Legislature;

22 4. The chair of the Public Safety Committee of the Oklahoma
23 House of Representatives shall appoint one member who may be a
24 member of the Legislature;

1 5. The Chief Justice of the Oklahoma Supreme Court shall
2 appoint one member who shall be a member of the judiciary;

3 6. The Chancellor of State Regents for Higher Education shall
4 appoint two members:

5 a. one of whom shall be a law professor, and

6 b. one of whom shall have a background in laboratory
7 science;

8 7. The Oklahoma Indigent Defense System shall appoint one
9 member who shall be a criminal defense lawyer;

10 8. The President of the Oklahoma Bar Association shall appoint
11 two members:

12 a. one of whom shall be a member of the State Bar, and

13 b. one of whom shall be a victim advocate or a victim of
14 a serious felony; and

15 9. An individual who was wrongfully convicted and incarcerated
16 for a violent felony.

17 C. The members shall serve for the life of the Commission.

18 D. The members of the Commission shall elect from among its
19 members a chair and vice-chair.

20 E. Members of the Commission shall not be entitled to
21 compensation but are entitled to reimbursement for the member's
22 travel expenses as follows:

23 1. Legislative members of the Commission shall be reimbursed
24 pursuant to Section 456 of Title 74 of the Oklahoma Statutes;

1 2. Members that are state employees shall be reimbursed
2 pursuant to the State Travel Reimbursement Act; and

3 3. All other members shall be reimbursed in the same manner as
4 the appointing authority.

5 F. The Commission shall:

6 1. Review all cases in this state in which an innocent person
7 was convicted and exonerated;

8 2. Identify the causes of wrongful convictions;

9 3. Identify the current Oklahoma laws, rules and procedures
10 implicated by each identified cause of wrongful convictions;

11 4. Identify, through peer-reviewed research, experts, and
12 discussion, potential solutions in the form of legislation, rule, or
13 procedural changes;

14 5. Identify educational or training opportunities demonstrated
15 to eliminate or minimize the occurrence of each cause of wrongful
16 convictions;

17 6. Consider potential implementation plans, costs, cost
18 savings, and the impact on the criminal justice system for each
19 potential solution; and

20 7. Issue interim reports and detailed annual reports
21 recommending solutions for each cause identified, and any
22 legislation, rule or policy changes necessary to implement
23 procedures and programs to prevent future wrongful convictions;
24 provided, however:

1 a. such reports shall be made available to the public on
2 request, and

3 b. findings and recommendations contained in the reports
4 may not be used as binding evidence in any subsequent
5 civil or criminal proceeding.

6 G. The Commission shall submit reports as provided in
7 subsection F of this section to the Governor, the Lieutenant
8 Governor, the President Pro Tempore of the Senate, and the Speaker
9 of the House of Representatives by January 1, 2012, and each year
10 thereafter.

11 H. Not later than sixty (60) days after the date of receipt of
12 a report issued pursuant to this act, the Governor, Lieutenant
13 Governor, the President Pro Tempore of the Senate, and the Speaker
14 of the House of Representatives shall, singly or jointly, issue a
15 formal written response to the findings and recommendations of the
16 Commission.

17 I. The Legislative Service Bureau and the Regents for Higher
18 Education shall assist the Commission in performing its duties.
19 Other government and private entities in this state may also provide
20 such assistance, with the consent of a majority of the members of
21 the Commission and consistent with Oklahoma law.

22 J. Appointing authorities shall make all appointments to the
23 Oklahoma Commission on Wrongful Conviction not later than sixty (60)
24 days after the effective date of this act.

1 SECTION 3. This act shall become effective July 1, 2010.

2 SECTION 4. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6

7 52-2-3216 MRB 2/3/2010 8:25:04 PM

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24