



# Ohio Legislative Service Commission

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## Bill Analysis

Bill Rowland

### **H.B. 233**

128th General Assembly  
(As Introduced)

**Reps.** Weddington, Boyd, S. Williams, Brown, Stewart, Winburn

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## **BILL SUMMARY**

- Creates the Criminal Justice Reform Commission to review certain cases of wrongful conviction or delinquent child adjudications; identify the causes of wrongful conviction and delinquent child adjudications; identify current laws, rules and procedures implicated by each identified cause of wrongful convictions or delinquent child adjudications; issue certain reports; and conduct other duties as specified by the bill.
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## **CONTENT AND OPERATION**

### **Criminal Justice Reform Commission**

#### **Creation and composition of the Commission**

The bill creates the Criminal Justice Reform Commission, consisting of the following 13 members (R.C. 181.01(A)(1) to (13)):

1. A dean of a law school appointed by the Governor or a professor of law designated by that dean;
2. A law enforcement officer appointed by the Governor;
3. A prosecuting attorney experienced in prosecuting felonies appointed by the Attorney General;
4. A forensic scientist appointed by the Attorney General;
5. An individual appointed by the President of the Senate;

6. An individual appointed by the Speaker of the House of Representatives or, if the Speaker belongs to the same political party as the President of the Senate, by the minority leader of the House of Representatives;

7. A judge of a court in this state appointed by the Chief Justice of the Supreme Court;

8. A professor of law appointed by the Executive Director of the Ohio Prosecuting Attorneys Association;

9. A laboratory scientist appointed by the Executive Director of the Ohio Association of Criminal Defense Lawyers;

10. A criminal defense attorney appointed by the State Public Defender;

11. An attorney licensed to practice law in this state appointed by the President of the Ohio State Bar Association;

12. A victim advocate or a victim of a serious felony<sup>1</sup> appointed by the President of the Ohio State Bar Association;

13. A person who was wrongfully convicted of a serious felony and was incarcerated for five years or more as a result of that conviction appointed by the Executive Director of the Ohio Association of Criminal Defense Lawyers.

### **Duties of the Commission**

Under the bill, the Criminal Justice Reform Commission must do all of the following (R.C. 181.01(C)):

1. Review every case to which both of the following apply:

(a) An individual's conviction of an offense or adjudication as a delinquent child was vacated, dismissed, or reversed on appeal, the prosecuting attorney in the case cannot or will not seek any further appeal of right or upon leave of court, and no criminal or delinquency proceeding is pending, can be brought, or will be brought by any prosecuting attorney, city director of law, village solicitor, or other chief legal officer of a municipal corporation against the individual for any act associated with that conviction;

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<sup>1</sup> "Serious felony" is defined by the bill to mean a felony of the first, second, or third degree as a result of which the victim receives serious physical harm to the victim's person or that is a sexually oriented offense (R.C. 181.01(G)(1)).

(b) After sentencing for the offense or disposition for the delinquent child adjudication and during or after imprisonment or placement in a Department of Youth Services facility, it was determined by a court of common pleas that the offense of which the individual was convicted or the delinquent act for which the individual was adjudicated a delinquent child, including all lesser-included offenses, either was not committed by the individual or was not committed by any person;

2. Identify the causes of wrongful convictions and delinquent child adjudications;

3. Identify current laws, rules, and procedures implicated by each identified cause of wrongful convictions or delinquent child adjudications;

4. Identify through peer-reviewed research, expert evidence, and other means potential solutions to the problem of wrongful convictions and delinquent child adjudications in the form of legislation, rules, procedural changes, and educational or training opportunities demonstrated to eliminate or minimize the occurrence of each cause of wrongful convictions or delinquent child adjudications;

5. Consider potential implementation plans, costs, cost savings, and impact on the criminal justice system and the juvenile justice system for each potential solution;

6. Issue reports as specified below.

### **Reports of the Commission**

For each case reviewed by the Commission (see, "**Duties of the Commission**," #1, above), the Commission must conduct an investigation, including hearings, to determine the cause or causes of the wrongful conviction or adjudication. Within 60 days after the completion of an investigation, the Commission must issue a preliminary written report of its findings of fact and conclusions, including any recommendations to prevent wrongful convictions or adjudications from occurring under similar circumstances in the future. Within 120 days after issuing the preliminary report, the Commission must issue a final report. The Commission must make the final report available to the public and must submit copies to the Governor, Attorney General, Chief Justice, President of the Senate, and Speaker of the House of Representatives, and to any governmental agency that the Commission finds may have been involved in the investigation or trial that resulted in the wrongful conviction or adjudication. (R.C. 181.01(F)(1).)

The bill requires the Commission to annually prepare, make available to the public, and submit to the Governor, Attorney General, Chief Justice, President of the Senate, and Speaker of the House of Representatives a report indicating the number of

cases investigated under the bill's provisions (see, "**Duties of the Commission**," #1, above), and the status of pending investigations, and a summary of its findings and recommendations for the year covered by the report. Within 60 days after receiving a report issued under the bill, the Governor, President of the Senate, and Speaker of the House of Representatives must, singly or jointly, issue a formal written response to the Commission's findings and recommendations. The contents of any report prepared under the bill may not be used as evidence in any civil or criminal proceeding (R.C. 181.01(F)(2), (3), and (4)).

### **Terms of office and other requirements governing the Commission**

Of the initial members appointed to the Criminal Justice Reform Commission, members 8 to 13 listed above must each serve a term that expires on December 31, 2010, and members 1 to 7 listed above (see, "**Creation and composition of the Commission**") must each serve a term that expires on December 31, 2011. Thereafter, each term is for two years, commencing on the first day of January and ending on the last day of December. A vacancy must be filled in the same manner as the original appointment. A member appointed to fill a vacancy must hold office for the remainder of the term and a member must continue in office subsequent to the expiration of the term until the member's successor takes office. (R.C. 181.01(B)(1).)

The Governor is required to designate one member of the Commission to serve as the chairperson. Six members of the Commission constitute a quorum, and the affirmative vote of six members is required for approval of any action by the Commission. After each initial member of the Commission has been appointed, the Commission must meet and select from among the members a secretary and such other officers as the Commission considers necessary to carry out its duties. Organizational meetings of the Commission must be held at times and places designated by call of the chairperson. Meetings of the Commission may be held anywhere in the state and must be in compliance with the Open Meetings Law and the Public Records Law. The Commission may adopt rules necessary to carry out its purposes. (R.C. 181.01(B)(2) to (4).)

Members of the Commission are required to serve without compensation but must be reimbursed for the actual and necessary expenses incurred in the performance of their official duties. All actual and necessary expenses incurred by members of the Commission in carrying out the requirements of the bill are payable solely from money appropriated for that purpose by the General Assembly, and the Commission must incur no liability or obligation beyond that money. (R.C. 181.01(D).)

The Legislative Service Commission, Department of Administrative Services, and the Ohio Board of Regents must assist the Commission in the performance of its

duties. The Criminal Justice Reform Commission may also accept assistance from other governmental and private entities in Ohio. (R.C. 181.01(E).)

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## HISTORY

ACTION	DATE
Introduced	06-23-09

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