



WRITTEN TESTIMONY

**SUBMITTED BY ANA YÁÑEZ-CORREA, EXECUTIVE DIRECTOR
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REGARDING HOUSE BILL 681

**HOUSE OF REPRESENTATIVES
COMMITTEE ON CRIMINAL JURISPRUDENCE**

MARCH 6, 2007

Dear Members of the Committee,

My name is Ana Yáñez-Correa. I am the Executive Director of the Texas Criminal Justice Coalition. Thank you for allowing me this opportunity to present testimony regarding House Bill 681.

Today, many innocent and wrongfully convicted people who are serving time in Texas prisons could be exonerated through DNA testing. Since DNA testing has become available, it has been used to prove the innocence of over 175 convicted people throughout the nation, and Dallas County alone has seen almost a dozen recent DNA-based exonerations.

H.B. 681 BY REP. HOCHBERG WOULD UNTIE JUDGES' HANDS TO ENSURE THAT JUSTICE IS SERVED.

H.B. 681 would amend the Code of Criminal Procedure to enable judges to order additional forensic testing to resolve controverted and previously unresolved facts in an applicant's case. In addition, with the exception of defendants with their own counsel, H.B. 681 would require the State to pay the cost of the testing – but as the bill's fiscal note points out, this will incur a minimal cost (since only 25 additional annual DNA typing requests are estimated to be filed).

WHILE H.B. 681 IS A GOOD FIRST STEP, MORE NEEDS TO BE DONE TO REMOVE BARRIERS TO DNA FORENSIC TESTING.

Currently, there are still obstacles that prevent individuals from having their cases re-examined. Specifically, courts only order post-conviction forensic DNA testing if two conditions are met: (1) the results of a DNA test alone will be sufficient in proving a defendant's innocence of a crime, and (2) identity was or is the deciding issue leading to incrimination in the case. These prerequisites often work to deny a defendant the right to DNA testing if someone at trial has testified categorically that the defendant was the perpetrator. It should be noted, however, that of the first 70 exonerations achieved by the national Innocence Project, 61 cases involved mistaken identification.

In capital cases, forensic testing should be permitted where it has the scientific potential to produce new, non-cumulative evidence relevant to the defendant's assertion of actual innocence, even if the results alone may not completely exonerate the defendant.

TEXAS' POST-CONVICTION STATUTE SHOULD ALSO BE AMENDED TO REMOVE BARRIERS TO COLLECTING COMPENSATION AFTER EXONERATION.

In order to bring Texas into line with other states, Texas should remove the \$500,000 cap for payments to the wrongfully convicted to aid them in restoring their lives (shelter, employment, medical care) post-exoneration.

The law should also clarify that in order to receive payment, a wrongfully convicted individual should not first be required to obtain a certification of actual innocence from the District Attorney in the county of conviction (usually, the prosecutor that convicted him or her).