

By: Anchia

H.B. No. 1736

A BILL TO BE ENTITLED

AN ACT

relating to compensation of persons wrongfully imprisoned.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 103.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than the third anniversary of the date the person received the pardon or was found not guilty as required by Section 103.001, a person seeking compensation under this chapter must ~~+~~

~~(1)~~ file an application with the comptroller for compensation under Subchapter B ~~+, or~~

~~(2) file suit against the state for compensation under Subchapter C~~.

SECTION 2. Section 103.051(a), Civil Practice and Remedies Code, as amended by Chapters 1190 (H.B. 814) and 1388 (S.B. 1719), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(a) To apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon or court order justifying the application for compensation; ~~and~~

(3) a statement provided by the Texas Department of

1 Criminal Justice and any county or municipality that incarcerated
2 the person in connection with the relevant sentence verifying the
3 length of incarceration;

4 (4) if applicable, a statement from the Department of
5 Public Safety verifying registration as a sex offender and length
6 of registration;

7 (5) if applicable, a statement from the Texas
8 Department of Criminal Justice verifying the length of time spent
9 on parole; and

10 (6) if the claimant is applying for compensation under
11 Section 103.052(a)(2), a certified copy of each child support order
12 under which child support payments became due during the time the
13 claimant served in prison and copies of the official child support
14 payment records described by Section 234.009, Family Code, for that
15 period.

16 SECTION 3. Section 103.052, Civil Practice and Remedies
17 Code, is amended to read as follows:

18 Sec. 103.052. LUMP-SUM AND CERTAIN OTHER ~~[AMOUNT AND TIMING~~
19 ~~OF]~~ COMPENSATION. (a) A person who meets the requirements of
20 Section 103.001 is entitled to compensation in an amount equal to:

21 (1) \$80,000 ~~[\$50,000]~~ multiplied by the number of
22 years served in prison, expressed as a fraction to reflect partial
23 years; and

24 (2) compensation for child support payments owed by
25 the person that became due and interest on child support arrearages
26 that accrued during the time served in prison but were not paid.

27 ~~[(a-1) Notwithstanding Subsection (a)(1), a person sentenced~~

1 ~~to death who meets the requirements of Section 103.001 is entitled~~
2 ~~to compensation in an amount equal to \$100,000 multiplied by the~~
3 ~~number of years served in prison, expressed as a fraction to reflect~~
4 ~~partial years.]~~

5 (b) A person who, after serving a sentence in a Texas prison
6 for which the person is entitled to compensation under Subsection
7 (a)(1), was released on parole or required to register as a sex
8 offender under Chapter 62, Code of Criminal Procedure, is entitled
9 to compensation in an amount equal to \$25,000 multiplied by the
10 number of years served either on parole or as a registered sex
11 offender, expressed as a fraction to reflect partial years [A
12 ~~person who is owed an amount of compensation under Subsection~~
13 ~~(a)(1) or (a-1) equal to or greater than \$50,000 shall be paid that~~
14 ~~compensation in two equal annual installments].~~

15 (c) On application by the claimant in a manner prescribed by
16 the board of trustees of the Employees Retirement System of Texas, a
17 claimant may participate in the group benefits program under
18 Chapter 1551, Insurance Code, and is automatically covered by the
19 basic coverage for annuitants provided under that chapter. A
20 claimant who participates in the group benefits program is
21 entitled to receive state contributions for the full cost of the
22 premiums. Eligibility to participate in the group benefits program
23 under this subsection does not extend to the claimant's dependents
24 ~~[If requested by the claimant, the Texas Department of Mental~~
25 ~~Health and Mental Retardation shall provide appropriate counseling~~
26 ~~for one year to the claimant at a mutually agreed-on location at no~~
27 ~~charge to the claimant].~~

1 (d) The amount of compensation under Subsection (a)(2) to
2 which a person is entitled shall be paid on the person's behalf in a
3 lump-sum payment to the state disbursement unit, as defined by
4 Section 101.0302, Family Code, for distribution to the obligee
5 under the child support order.

6 (e) If requested by the claimant, up to 120 hours of tuition
7 at a career center, community college, or state university shall be
8 paid on behalf of the claimant.

9 SECTION 4. Subchapter B, Chapter 103, Civil Practice and
10 Remedies Code, is amended by adding Section 103.053 to read as
11 follows:

12 Sec. 103.053. ANNUITY COMPENSATION. (a) A person entitled
13 to compensation under Section 103.052 is entitled to annuity
14 payments, based on a present value sum equal to the amount to which
15 the person is entitled under Sections 103.052(a)(1) and (b).

16 (b) The annuity payments under this section are payable in
17 equal monthly installments for the life of the claimant and must be
18 based on a five percent per annum interest rate and other actuarial
19 factors within the discretion of the comptroller.

20 (c) The annuity payments may not be accelerated, deferred,
21 increased, or decreased. The applicant may not sell, mortgage or
22 otherwise encumber, or anticipate the payments, wholly or partly,
23 by assignment or otherwise.

24 SECTION 5. Section 103.151, Civil Practice and Remedies
25 Code, is amended to read as follows:

26 Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION. (a)
27 The comptroller shall make the compensation [~~first installment~~

1 ~~payment]~~ due a claimant under Section 103.052 [~~an applicant]~~ and
2 the lump-sum payment, if any, to be paid to the state disbursement
3 unit, as defined by Section 101.0302, Family Code, under Subchapter
4 B, to the extent that funds are available and appropriated for that
5 purpose, not later than the 30th day after the date the comptroller
6 grants the application. A claim for lump-sum compensation payable
7 under Section 103.052(a) or (b) shall survive the death of the
8 claimant in favor of the heirs, legal representatives, and estate
9 of the claimant.

10 (b) The comptroller shall begin making annuity payments to a
11 claimant under Section 103.053(a) on the first anniversary of the
12 date of payment of the compensation due under Section 103.052 [~~pay~~
13 ~~the amount of the second installment payment on the first~~
14 ~~anniversary of the date of the first installment)].~~

15 (c) If appropriated funds are insufficient to pay the amount
16 due a claimant [~~an applicant]~~ and the amount to be paid to the state
17 disbursement unit, as defined by Section 101.0302, Family Code,
18 money shall be paid under the procedure described by Section
19 103.152.

20 SECTION 6. Section 103.152(a), Civil Practice and Remedies
21 Code, is amended to read as follows:

22 (a) Not later than November 1 of each even-numbered year,
23 the comptroller shall provide a list of claimants entitled to
24 payment under Subchapter B [~~or C~~] and the amounts due for each
25 claimant to the governor, the lieutenant governor, and the chair of
26 the appropriate committee in each house of the legislature so that
27 the legislature may appropriate the amount needed to pay the amount

1 owed to each claimant and the amount to be paid to the state
2 disbursement unit, as defined by Section 101.0302, Family Code, on
3 the claimant's behalf.

4 SECTION 7. Section 103.154(b), Civil Practice and Remedies
5 Code, is amended to read as follows:

6 (b) Annuity [~~Except as provided by Subsection (c),~~
7 ~~compensation~~] payments to a person under Section 103.151(b) [~~this~~
8 ~~chapter~~] terminate on the date of the person's death. Any payments
9 scheduled to be paid after that date are credited to the state and
10 may not be paid to any other person, including the person's
11 surviving spouse, heirs, devisees, or beneficiaries under the
12 person's will, or to the person's estate.

13 SECTION 8. The following provisions of the Civil Practice
14 and Remedies Code are repealed:

- 15 (1) Section 103.002;
- 16 (2) Subchapter C, Chapter 103; and
- 17 (3) Section 103.152(c).

18 SECTION 9. (a) The change in law made by this Act applies
19 only to an application for compensation for wrongful imprisonment
20 that is filed on or after the effective date of this Act. An
21 application filed or action commenced under Chapter 103, Civil
22 Practice and Remedies Code, before the effective date of this Act is
23 governed by the law in effect immediately before the effective date
24 of this Act, and that law is continued in effect for that purpose.

25 (b) Notwithstanding Section 103.003, Civil Practice and
26 Remedies Code, as amended by this Act, a person who received
27 compensation under Chapter 103, Civil Practice and Remedies Code,

1 before September 1, 2009, is entitled to annuity payments under
2 Section 103.053, Civil Practice and Remedies Code, based on a
3 present value sum equal to the amount the person would receive under
4 Sections 103.052(a)(1) and (b), Civil Practice and Remedies Code,
5 as amended by this Act, if the person were to receive compensation
6 under those sections on September 1, 2009. The comptroller of
7 public accounts shall begin making payments to a claimant under
8 this section not later than the 30th day after the date the
9 comptroller determines the claimant is eligible to receive
10 compensation under this section.

11 SECTION 10. This Act takes effect September 1, 2009.