

BILL ANALYSIS

Senate Research Center
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S.B. 440
By: Ellis
Criminal Justice
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the Civil Practice and Remedies Code allows for compensation for wrongful imprisonment of \$25,000 per year of imprisonment with a cap of \$500,000 per year. As proposed, S.B. 440 raises the level of compensation to \$50,000 per year in prison and \$100,000 per year on death row. In addition, S.B. 440 removes the \$500,000 cap on compensation.

These changes in law are necessary to make state law consistent with the federal Justice for All Act. By ensuring adequate compensation to those who are wrongfully convicted, Texas can take an important step toward guaranteeing that its criminal justice system achieves justice in all cases.

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 Section 103.002, Civil Practice and Remedies Code, as follows:

Sec. 103.002. New heading: CHOICE OF COMPENSATION METHOD; DOUBLE RECOVERY PROHIBITED. (a) Creates subsection from existing text. Authorizes a person entitled to compensation under Section 103.001 (Claimants Entitled to Compensation) to proceed by following the provisions for administratively awarded compensation under Subchapter B (Administrative Proceeding), by filing suit under Subchapter C (Filing Suit), or by proceeding under both Subchapters B and C. Deletes text prohibiting a person from seeking compensation under both Subchapters B and C.

(b) Requires the court to reduce the amount of compensation that a person is awarded under Subchapter C by the amount of any compensation that, before the date of the court award, was paid or was scheduled to be paid to the person under Subchapter B for the same wrongful imprisonment.

(c) Requires the comptroller of public accounts (comptroller) to reduce the amount of compensation that a person is awarded under Subchapter B by the amount of any compensation that, before the date of the administrative award, was paid or was scheduled to be paid to the person as a result of an award or settlement in a suit filed under Subchapter C for the same wrongful imprisonment.

(d) Prohibits the court or comptroller, as applicable, from awarding additional compensation if, under Subsection (b) or (c), the amount of the reduction is equal to or greater than the amount of the compensation being reduced.

SECTION 2. Amends Section 103.003, Civil Practice and Remedies Code, as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. (a) Creates this subsection from existing text.

(b) Provides that the filing of an application for compensation under Subchapter B tolls the limitation period that is provided by Subsection (a)(2) and that is

applicable to a suit filed under Subchapter C by the same person for the same wrongful imprisonment until the date the comptroller makes a determination under Section 103.051(c) (relating to the comptroller's determination of eligibility for compensation).

SECTION 3. Amends Section 103.052, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Entitles, except as provided by Subsection (a-1), a person who meets the requirements of Section 103.001 to compensation in an amount equal to \$50,000, rather than \$25,000, multiplied by the number of years served in prison, expressed as a fraction to reflect partial years. Deletes existing text relating to compensation given on the basis of time served under or over 20 years.

(a-1) Provides that a person sentenced to death who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$100,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.

SECTION 4. Amends Section 103.153(b), Civil Practice and Remedies Code, to make a conforming change.

SECTION 5. Repealer: Section 103.105(c) (limiting the total damages assessed under this chapter to \$500,000), Civil Practice and Remedies Code.

SECTION 6. Makes application of Sections 103.052 and 103.105, as amended by this Act, prospective.

SECTION 7. Provides that the changes in law made by this Act to Sections 103.002 and 103.003, Civil Practice and Remedies Code, apply without regard to whether a person has filed an application under Subchapter B, Chapter 103, Civil Practice and Remedies Code, or has commenced an action under Subchapter C, Chapter 103, Civil Practice and Remedies Code, before the effective date of this Act.

SECTION 8. Effective date: upon passage or September 1, 2005.