

By: Ellis

S.B. No. 225

A BILL TO BE ENTITLED

AN ACT

relating to compensation for wrongful imprisonment.

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

SECTION 1. Section 103.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.002. CHOICE OF COMPENSATION METHOD; DOUBLE RECOVERY PROHIBITED. (a) A person entitled to compensation under Section 103.001 may proceed by following the provisions for administratively awarded compensation under Subchapter B, ~~[or]~~ by filing suit under Subchapter C, or by proceeding ~~[but a person may not seek compensation]~~ under both Subchapters B and C.

(b) The court shall 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) The comptroller shall 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) If under Subsection (b) or (c) the amount of the reduction is equal to or greater than the amount of the compensation

1 being reduced, the court or the comptroller, as applicable, may not  
2 award additional compensation.

3 SECTION 2. Section 103.003, Civil Practice and Remedies  
4 Code, is amended to read as follows:

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

9 (1) file an application with the comptroller for  
10 compensation under Subchapter B; or

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

13 (b) The filing of an application for compensation under  
14 Subchapter B tolls the limitation period that is provided by  
15 Subsection (a)(2) and that is applicable to a suit filed under  
16 Subchapter C by the same person for the same wrongful imprisonment  
17 until the date the comptroller makes a determination under Section  
18 103.051(c).

19 SECTION 3. Section 103.052, Civil Practice and Remedies  
20 Code, is amended by amending Subsection (a) and adding Subsection  
21 (a-1) to read as follows:

22 (a) Except as provided by Subsection (a-1), a [A] person who  
23 meets the requirements of Section 103.001 is entitled to  
24 compensation in an amount equal to:

25 (1) \$50,000 [~~\$25,000~~] multiplied by the number of  
26 years served in prison, expressed as a fraction to reflect partial  
27 years, if the time served is less than 20 years; or

1           (2) \$1,000,000 [~~\$500,000~~] if the time served is 20  
2 years or more.

3           (a-1) A person sentenced to death who meets the requirements  
4 of Section 103.001 is entitled to compensation in an amount equal  
5 to:

6           (1) \$100,000 multiplied by the number of years served  
7 in prison, expressed as a fraction to reflect partial years, if the  
8 time served is less than 10 years; or

9           (2) \$1,000,000 if the time served is 10 years or more.

10          SECTION 4. Section 103.105(c), Civil Practice and Remedies  
11 Code, is amended to read as follows:

12          (c) Total damages assessed under this subchapter may not  
13 exceed \$1,000,000 [~~\$500,000~~].

14          SECTION 5. Section 103.153(b), Civil Practice and Remedies  
15 Code, is amended to read as follows:

16          (b) Except as provided by Section 103.002, a [A] person who  
17 receives compensation under this chapter may not bring any action  
18 involving the same subject matter, including an action involving  
19 the person's arrest, conviction, or length of confinement, against  
20 any governmental unit or an employee of any governmental unit.

21          SECTION 6. (a) The change in law made by this Act to  
22 Section 103.052, Civil Practice and Remedies Code, applies to an  
23 administrative proceeding for compensation for wrongful  
24 imprisonment for which the application is filed on or after the  
25 effective date of this Act. An application filed before the  
26 effective date of this Act is governed by the law in effect on the  
27 date of the filing and that law is continued in effect for that

1 purpose.

2 (b) The change in law made by this Act to Section 103.105,  
3 Civil Practice and Remedies Code, applies to an action:

4 (1) commenced on or after the effective date of this  
5 Act; or

6 (2) pending on that effective date and in which the  
7 trial, or any new trial or retrial following motion, appeal, or  
8 otherwise, begins on or after that effective date.

9 (c) In an action commenced before the effective date of this  
10 Act, a trial, new trial, or retrial that is in progress on the  
11 effective date is governed by the law applicable to the trial, new  
12 trial, or retrial immediately before the effective date, and that  
13 law is continued in effect for that purpose.

14 SECTION 7. The changes in law made by this Act to Sections  
15 103.002 and 103.003, Civil Practice and Remedies Code, apply  
16 without regard to whether a person has filed an application under  
17 Subchapter B, Chapter 103, Civil Practice and Remedies Code, or has  
18 commenced an action under Subchapter C, Chapter 103, Civil Practice  
19 and Remedies Code, before the effective date of this Act.

20 SECTION 8. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2005.