

## **BILL ANALYSIS**

Senate Research Center  
80R1188 KSD-D

H.B. 814  
By: Dutton, Miles (Ellis)  
Criminal Justice  
5/13/2007  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Texas Civil Practice and Remedies Code provides for persons wrongfully imprisoned to receive compensation for expenses incurred in association with criminal proceedings and appeals to obtain a discharge from imprisonment, including any fine, court cost and reasonable attorney fees, wages, salary or other earned income that was lost, and medical and counseling expenses incurred as a result of the arrest, prosecution, conviction, or wrongful imprisonment.

In 1981, Clarence Brandley, an African American janitor at Bellville High School in Conroe, Texas, was falsely convicted and sentenced to die for the August 23, 1980, murder of Cheryl Lee Ferguson, a young student at the high school. However, in 1990 all charges were dropped against Brandley, making him a free man. Although Brandley is eligible for compensation for wrongful imprisonment, he is not being compensated for the back child support and interest debt that he incurred as a result of his arrest, prosecution, conviction, and wrongful imprisonment.

H.B. 814 authorizes the state to make a lump sum payment to the state disbursement unit on behalf of persons who are wrongfully imprisoned to satisfy back child support and interest that was incurred as a result of their arrest, prosecution, conviction, or wrongful imprisonment.

### **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 103.051(a), Civil Practice and Remedies Code, to require the claimant applying for compensation under Section 103.052(a)(2) to file a certified copy of each child support order under which child support payments became due during the time the claimant served in prison and copies of the official child support payment records described by Section 234.009 (Official Child Support Payment Record), Family Code, for that period, with the comptroller of public accounts (comptroller) judiciary section.

SECTION 2. Amends Section 103.052, Civil Practice and Remedies Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Entitles a person who meets the requirements of Section 103.001 (Claimants Entitled to Compensation), among other things, to compensation for child support payments owed by the person that became due and interest on child support arrearages that accrued during the time served in prison but were not paid.

(b) Requires a person who is owed an amount of compensation under Subsection (a)(1) equal to or greater than \$50,000 to be paid that compensation in two equal annual installments.

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

SECTION 3. Amends Subchapter C, Chapter 103, Civil Practice and Remedies Code, by adding Section 103.1041, as follows:

Sec. 103.1041. **REQUIRED EVIDENCE.** Requires a claimant who brings a suit under this subchapter (Filing Suit) for compensation under Section 103.052(a)(2) to submit to the court as evidence a certified copy of each child support order under which child support payments became due during the time the claimant served in prison and copies of the official child support payment records described by Section 234.009, Family Code, for that period.

SECTION 4. Amends Sections 103.105(a) and (c), Civil Practice and Remedies Code, as follows:

(a) Entitles the petitioner, if the trier of fact finds that the petitioner is entitled to compensation, to child support payments owed by the petitioner that became due and interest on child support arrearages that accrued during the time served in prison but were not paid.

(c) Prohibits total damages assessed under this subchapter, excluding the amount of child support payments and interest on child support arrearages under Subsection (a)(4), from exceeding \$500,000.

SECTION 5. Amends Sections 103.151(a) and (c), Civil Practice and Remedies Code, as follows:

(a) Requires the comptroller to make the first installment payment due an applicant and the lump-sum payment, if any, to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, under Subchapter B (Administrative Proceeding), to the extent that funds are available and appropriated for that purpose, not later than 30 days after the date the comptroller grants the application.

(c) Requires money to be paid under the procedure described by Section 103.152, if appropriated funds are insufficient to pay the amount due an applicant and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code.

SECTION 6. Amends Section 103.152, Civil Practice and Remedies Code, as follows:

Sec. 103.152. **PAYMENT OF COMPENSATION.** (a) Requires the comptroller, not later than November 1 of each even-numbered year, to provide a list of claimants entitled to payment under Subchapter B or C and the amounts due for each claimant to the governor, the lieutenant governor, and the chair of the appropriate committee in each house of the legislature so that the legislature may appropriate the amount needed to pay the amount owed to each claimant and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, on the claimant's behalf.

(b) Requires the comptroller, not later than September 1 of the year in which an appropriation under this chapter (Compensation to Persons Wrongfully Imprisoned) has been made by the legislature, to pay the required amount to each claimant and the state disbursement unit, as defined by Section 101.0302, Family Code.

(c) Requires the amount of compensation awarded under Subsection (a)(4) to be paid on the claimant's behalf in a lump-sum payment to the state disbursement unit, as defined by Section 101.0302, Family Code, for distribution to the obligee under the child support order.

SECTION 7. Amends Section 103.154, Civil Practice and Remedies Code, as follows:

(a) and (b) Creates an exception provided by Subsection (c).

(c) Provides that this section does not apply to compensation for child support payments and interest on child support arrearages to be paid on a person's behalf under this chapter to the state disbursement unit, as defined by Section 101.0302, Family Code.

SECTION 8. Provides that the changes in law made by this Act apply to an action or application for compensation under Chapter 103, Civil Practice and Remedies Code, as amended by this Act, that is pending or commenced on or after the effective date of this Act.

SECTION 9. Effective date: September 1, 2007.