

## **BILL ANALYSIS**

H.B. 814  
By: Dutton  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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.

Nevertheless, 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 would authorize the state to make a lump sum payment to the state disbursement unit on behalf of persons that 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**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

**SECTION 1.** Amends Section 103.051(a), Civil Practice and Remedies Code by adding Subsection (a)(5), which provides that the claimant, when applying for compensation under Section 103.052(a)(2), 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 of Family Code, for that period must be filed with the comptroller's judiciary section.

**SECTION 2.** Amends Section 103.052 of the Civil Practice and Remedies Code, by amending Subsections (a) and (b) and adding Subsection (d) to provide that a person who meets the requirements of Section 103.001 is entitled 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.

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

Such payments are to be made to the state disbursement unit for distribution to the obligee under the child support order. This payment is excluded from the \$500,000 maximum compensation allowed under the current law.

**SECTION 3.** Amends Subchapter C, Chapter 103 of the Civil Practice and Remedies Code, by adding Section 103.1041, which provides that a claimant who brings a suit under this subchapter for compensation under Section 103.052(a)(2) must 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 of the Family Code, for that period.

**SECTION 4.** Amends Sections 103.105 (a) and (c) of the Civil Practice and Remedies Code by providing that if the trier of fact finds that the petitioner is entitled to compensation, the petitioner is entitled 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.

The cap of \$500,000 total damages does not apply to the amount of child support payments and related interest.

**SECTION 5.** Amends Sections 103.151 (a) and (c) of the Civil Practice and Remedies Code by requiring the State comptroller to make the lump-sum payment, if any, to be paid to the state disbursement unit. If appropriated funds are insufficient to pay the amount due an applicant and the amount to be paid to the state disbursement unit, the money shall be made available through procedures described by Section 103.152.

**SECTION 6.** Section 103.152 of the Civil Practice and Remedies Code is amended by providing that the state disbursement unit be included along with the claimant to receive payments through direct appropriations from the legislature if the appropriated funds are insufficient. The amount of compensation awarded must be paid on the claimant's behalf in a lump-sum payment to the state disbursement unit for distribution to the obligee under the child support order.

**SECTION 7.** Amends Section 103.154 (a) and (b) and adds (c) of the Civil Practice and Remedies Code by requiring that compensation child support payments and interest on child support arrearage do not terminate if the person is convicted of a crime punishable as a felony or if the person dies.

**SECTION 8.** Prospective Clause

**SECTION 9.** This Act takes effect September 1, 2007.

**EFFECTIVE DATE**

September 1, 2007