

By: Dutton, et al.

H.B. No. 814

A BILL TO BE ENTITLED

AN ACT

relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.

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

SECTION 1. Section 103.051(a), Civil Practice and Remedies Code, is 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;

(3) a statement provided by the Texas Department of Criminal Justice verifying the length of incarceration; ~~and~~

(4) a certification of the claimant's actual innocence of the crime for which the claimant was sentenced that is signed by the attorney representing the state in the prosecution of felonies in the county in which the sentence was rendered; and

(5) if the claimant is 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, Family Code, for that period.

1 SECTION 2. Section 103.052, Civil Practice and Remedies
2 Code, is amended by amending Subsections (a) and (b) and adding
3 Subsection (d) to read as follows:

4 (a) A person who meets the requirements of Section 103.001
5 is entitled to:

6 (1) compensation in an amount equal to:

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

10 (B) [~~(2)~~] \$500,000 if the time served is 20 years
11 or more; and

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

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

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

23 SECTION 3. Subchapter C, Chapter 103, Civil Practice and
24 Remedies Code, is amended by adding Section 103.1041 to read as
25 follows:

26 Sec. 103.1041. REQUIRED EVIDENCE. A claimant who brings a
27 suit under this subchapter for compensation under Section

1 103.052(a)(2) must submit to the court as evidence a certified copy
2 of each child support order under which child support payments
3 became due during the time the claimant served in prison and copies
4 of the official child support payment records described by Section
5 234.009, Family Code, for that period.

6 SECTION 4. Sections 103.105(a) and (c), Civil Practice and
7 Remedies Code, are amended to read as follows:

8 (a) If the trier of fact finds that the petitioner is
9 entitled to compensation, the petitioner is entitled to:

10 (1) expenses incurred by the petitioner in connection
11 with all associated criminal proceedings and appeals and in
12 connection with obtaining the petitioner's discharge from
13 imprisonment, including any fine or court costs paid and reasonable
14 attorney's fees, including reasonable attorney's fees for
15 prosecuting the lawsuit under this subchapter;

16 (2) wages, salary, or other earned income that was
17 lost as a direct result of the arrest, prosecution, conviction, or
18 wrongful imprisonment; ~~and~~

19 (3) medical and counseling expenses incurred by the
20 petitioner as a direct result of the arrest, prosecution,
21 conviction, or wrongful imprisonment; and

22 (4) child support payments owed by the petitioner that
23 became due and interest on child support arrearages that accrued
24 during the time served in prison but were not paid.

25 (c) Excluding the amount of child support payments and
26 interest on child support arrearages under Subsection (a)(4), total
27 ~~Total~~ damages assessed under this subchapter may not exceed

1 \$500,000.

2 SECTION 5. Sections 103.151(a) and (c), Civil Practice and
3 Remedies Code, are amended to read as follows:

4 (a) The comptroller shall make the first installment
5 payment due an applicant and the lump-sum payment, if any, to be
6 paid to the state disbursement unit, as defined by Section
7 101.0302, Family Code, under Subchapter B, to the extent that funds
8 are available and appropriated for that purpose, not later than the
9 30th day after the date the comptroller grants the application.

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

14 SECTION 6. Section 103.152, Civil Practice and Remedies
15 Code, is amended to read as follows:

16 Sec. 103.152. PAYMENT OF COMPENSATION. (a) Not later than
17 November 1 of each even-numbered year, the comptroller shall
18 provide a list of claimants entitled to payment under Subchapter B
19 or C and the amounts due for each claimant to the governor, the
20 lieutenant governor, and the chair of the appropriate committee in
21 each house of the legislature so that the legislature may
22 appropriate the amount needed to pay the amount owed to each
23 claimant and the amount to be paid to the state disbursement unit,
24 as defined by Section 101.0302, Family Code, on the claimant's
25 behalf [~~the amount owed~~].

26 (b) Not later than September 1 of the year in which an
27 appropriation under this chapter has been made by the legislature,

1 the comptroller shall pay the required amount to each claimant and
2 the state disbursement unit, as defined by Section 101.0302, Family
3 Code.

4 (c) The amount of compensation awarded under Section
5 103.105(a)(4) must be paid on the claimant's behalf in a lump-sum
6 payment to the state disbursement unit, as defined by Section
7 101.0302, Family Code, for distribution to the obligee under the
8 child support order.

9 SECTION 7. Section 103.154, Civil Practice and Remedies
10 Code, is amended to read as follows:

11 Sec. 103.154. TERMINATION OF PAYMENTS. (a) Except as
12 provided by Subsection (c), compensation [~~Compensation~~] payments
13 to a person under this chapter terminate if, after the date the
14 person becomes eligible for compensation under Section 103.001, the
15 person is convicted of a crime punishable as a felony. Compensation
16 payments terminate under this subsection on the date of the
17 subsequent conviction.

18 (b) Except as provided by Subsection (c), compensation
19 [~~Compensation~~] payments to a person under this chapter terminate on
20 the date of the person's death. Any payments scheduled to be paid
21 after that date are credited to the state and may not be paid to any
22 other person, including the person's surviving spouse, heirs,
23 devisees, or beneficiaries under the person's will, or to the
24 person's estate.

25 (c) This section does not apply to compensation for child
26 support payments and interest on child support arrearages to be
27 paid on a person's behalf under this chapter to the state

1 disbursement unit, as defined by Section 101.0302, Family Code.

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

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