

1-1 By: Dutton, et al. (Senate Sponsor - Ellis) H.B. No. 814
1-2 (In the Senate - Received from the House April 27, 2007;
1-3 May 1, 2007, read first time and referred to Committee on Criminal
1-4 Justice; May 16, 2007, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 16, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the payment of child support obligations on behalf of
1-9 persons wrongfully imprisoned.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 103.051(a), Civil Practice and Remedies
1-12 Code, is amended to read as follows:

1-13 (a) To apply for compensation under this subchapter, the
1-14 claimant must file with the comptroller's judiciary section:

1-15 (1) an application for compensation provided for that
1-16 purpose by the comptroller;

1-17 (2) a verified copy of the pardon or court order
1-18 justifying the application for compensation;

1-19 (3) a statement provided by the Texas Department of
1-20 Criminal Justice verifying the length of incarceration; ~~and~~

1-21 (4) a certification of the claimant's actual innocence
1-22 of the crime for which the claimant was sentenced that is signed by
1-23 the attorney representing the state in the prosecution of felonies
1-24 in the county in which the sentence was rendered; and

1-25 (5) if the claimant is applying for compensation under
1-26 Section 103.052(a)(2), a certified copy of each child support order
1-27 under which child support payments became due during the time the
1-28 claimant served in prison and copies of the official child support
1-29 payment records described by Section 234.009, Family Code, for that
1-30 period.

1-31 SECTION 2. Section 103.052, Civil Practice and Remedies
1-32 Code, is amended by amending Subsections (a) and (b) and adding
1-33 Subsection (d) to read as follows:

1-34 (a) A person who meets the requirements of Section 103.001
1-35 is entitled to:

1-36 (1) compensation in an amount equal to:

1-37 (A) ~~[(1)]~~ \$25,000 multiplied by the number of
1-38 years served in prison, expressed as a fraction to reflect partial
1-39 years, if the time served is less than 20 years; or

1-40 (B) ~~[(2)]~~ \$500,000 if the time served is 20 years
1-41 or more; and

1-42 (2) compensation for child support payments owed by
1-43 the person that became due and interest on child support arrearages
1-44 that accrued during the time served in prison but were not paid.

1-45 (b) A person who is owed an amount of compensation under
1-46 Subsection (a)(1) equal to or greater than \$50,000 shall be paid
1-47 that compensation in two equal annual installments.

1-48 (d) The amount of compensation under Subsection (a)(2) to
1-49 which a person is entitled shall be paid on the person's behalf in a
1-50 lump-sum payment to the state disbursement unit, as defined by
1-51 Section 101.0302, Family Code, for distribution to the obligee
1-52 under the child support order.

1-53 SECTION 3. Subchapter C, Chapter 103, Civil Practice and
1-54 Remedies Code, is amended by adding Section 103.1041 to read as
1-55 follows:

1-56 Sec. 103.1041. REQUIRED EVIDENCE. A claimant who brings a
1-57 suit under this subchapter for compensation under Section
1-58 103.052(a)(2) must submit to the court as evidence a certified copy
1-59 of each child support order under which child support payments
1-60 became due during the time the claimant served in prison and copies
1-61 of the official child support payment records described by Section
1-62 234.009, Family Code, for that period.

1-63 SECTION 4. Sections 103.105(a) and (c), Civil Practice and
1-64 Remedies Code, are amended to read as follows:

2-1 (a) If the trier of fact finds that the petitioner is
2-2 entitled to compensation, the petitioner is entitled to:

2-3 (1) expenses incurred by the petitioner in connection
2-4 with all associated criminal proceedings and appeals and in
2-5 connection with obtaining the petitioner's discharge from
2-6 imprisonment, including any fine or court costs paid and reasonable
2-7 attorney's fees, including reasonable attorney's fees for
2-8 prosecuting the lawsuit under this subchapter;

2-9 (2) wages, salary, or other earned income that was
2-10 lost as a direct result of the arrest, prosecution, conviction, or
2-11 wrongful imprisonment; ~~and~~

2-12 (3) medical and counseling expenses incurred by the
2-13 petitioner as a direct result of the arrest, prosecution,
2-14 conviction, or wrongful imprisonment; and

2-15 (4) child support payments owed by the petitioner that
2-16 became due and interest on child support arrearages that accrued
2-17 during the time served in prison but were not paid.

2-18 (c) Excluding the amount of child support payments and
2-19 interest on child support arrearages under Subsection (a)(4), total
2-20 [Total] damages assessed under this subchapter may not exceed
2-21 \$500,000.

2-22 SECTION 5. Sections 103.151(a) and (c), Civil Practice and
2-23 Remedies Code, are amended to read as follows:

2-24 (a) The comptroller shall make the first installment
2-25 payment due an applicant and the lump-sum payment, if any, to be
2-26 paid to the state disbursement unit, as defined by Section
2-27 101.0302, Family Code, under Subchapter B, to the extent that funds
2-28 are available and appropriated for that purpose, not later than the
2-29 30th day after the date the comptroller grants the application.

2-30 (c) If appropriated funds are insufficient to pay the amount
2-31 due an applicant and the amount to be paid to the state disbursement
2-32 unit, as defined by Section 101.0302, Family Code, money shall be
2-33 paid under the procedure described by Section 103.152.

2-34 SECTION 6. Section 103.152, Civil Practice and Remedies
2-35 Code, is amended to read as follows:

2-36 Sec. 103.152. PAYMENT OF COMPENSATION. (a) Not later than
2-37 November 1 of each even-numbered year, the comptroller shall
2-38 provide a list of claimants entitled to payment under Subchapter B
2-39 or C and the amounts due for each claimant to the governor, the
2-40 lieutenant governor, and the chair of the appropriate committee in
2-41 each house of the legislature so that the legislature may
2-42 appropriate the amount needed to pay the amount owed to each
2-43 claimant and the amount to be paid to the state disbursement unit,
2-44 as defined by Section 101.0302, Family Code, on the claimant's
2-45 behalf ~~[the amount owed].~~

2-46 (b) Not later than September 1 of the year in which an
2-47 appropriation under this chapter has been made by the legislature,
2-48 the comptroller shall pay the required amount to each claimant and
2-49 the state disbursement unit, as defined by Section 101.0302, Family
2-50 Code.

2-51 (c) The amount of compensation awarded under Section
2-52 103.105(a)(4) must be paid on the claimant's behalf in a lump-sum
2-53 payment to the state disbursement unit, as defined by Section
2-54 101.0302, Family Code, for distribution to the obligee under the
2-55 child support order.

2-56 SECTION 7. Section 103.154, Civil Practice and Remedies
2-57 Code, is amended to read as follows:

2-58 Sec. 103.154. TERMINATION OF PAYMENTS. (a) Except as
2-59 provided by Subsection (c), compensation ~~[Compensation]~~ payments
2-60 to a person under this chapter terminate if, after the date the
2-61 person becomes eligible for compensation under Section 103.001, the
2-62 person is convicted of a crime punishable as a felony. Compensation
2-63 payments terminate under this subsection on the date of the
2-64 subsequent conviction.

2-65 (b) Except as provided by Subsection (c), compensation
2-66 ~~[Compensation]~~ payments to a person under this chapter terminate on
2-67 the date of the person's death. Any payments scheduled to be paid
2-68 after that date are credited to the state and may not be paid to any
2-69 other person, including the person's surviving spouse, heirs,

3-1 devisees, or beneficiaries under the person's will, or to the
3-2 person's estate.

3-3 (c) This section does not apply to compensation for child
3-4 support payments and interest on child support arrearages to be
3-5 paid on a person's behalf under this chapter to the state
3-6 disbursement unit, as defined by Section 101.0302, Family Code.

3-7 SECTION 8. The changes in law made by this Act apply to an
3-8 action or application for compensation under Chapter 103, Civil
3-9 Practice and Remedies Code, as amended by this Act, that is pending
3-10 or commenced on or after the effective date of this Act.

3-11 SECTION 9. This Act takes effect September 1, 2007.

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