

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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.

# ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 1

*Leta Spaw*  
Secretary of the Senate

BY: Ellis

1 Amend H.B. No. 814 (Senate Committee Printing) as follows:

2 (1) Strike SECTION 2 of the bill (page 1, lines 31 through  
3 52) and substitute the following:

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

7 (a) A person who meets the requirements of Section 103.001  
8 is entitled to compensation in an amount equal to:

9 (1) \$50,000 [~~\$25,000~~] multiplied by the number of  
10 years served in prison, expressed as a fraction to reflect partial  
11 years; and [~~, if the time served is less than 20 years, or~~]

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 [\$500,000 if the time served is 20 years or more].

16 (a-1) Notwithstanding Subsection (a)(1), a person sentenced  
17 to death who meets the requirements of Section 103.001 is entitled  
18 to compensation in an amount equal to \$100,000 multiplied by the  
19 number of years served in prison, expressed as a fraction to reflect  
20 partial years.

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

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

29 (2) Add the following appropriately numbered SECTION to the

7  
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1 bill and renumber subsequent SECTIONS accordingly:

2 SECTION \_\_\_\_\_. Section 103.105(c), Civil Practice and  
3 Remedies Code, is repealed.

4 (3) In SECTION 8 of the bill (page 3, line 7), strike "The  
5 changes" and substitute "(a) Except as provided by Subsection (b)  
6 of this section, the changes".

7 (4) In SECTION 8 of the bill (page 3, between lines 10 and  
8 11) insert Subsection (b) to read as follows:

9 (b) Sections 103.052(a)(1) and (a-1), Civil Practice and  
10 Remedies Code, as amended and added, respectively, by this Act,  
11 apply to an administrative proceeding for compensation for wrongful  
12 imprisonment for which the application is filed on or after the  
13 effective date of this Act. An application filed before the  
14 effective date of this Act is governed by the law in effect on the  
15 date of the filing, and that law is continued in effect for that  
16 purpose.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 11, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB814** by Dutton (Relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would require the State to pay for current child support that accrues while a wrongfully imprisoned obligor is in prison, plus any interest accruals during the period of imprisonment. The Comptroller of Public Accounts indicates there would be no administrative costs for the agency; however, a cost to General Revenue may result for additional payments resulting from wrongful imprisonment estimated to be approximately \$589,000 for the first biennium and \$229,000 for the next biennium.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, ES, MN, JM

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 13, 2007**

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB814** by Dutton (Relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

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**Local Government Impact**

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**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

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**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB814** by Dutton (Relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

**Source Agencies:**

**LBB Staff:** JOB, GG

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

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