

House Bill 814
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

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

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

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

(1) compensation in an amount equal to:

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

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

(2) 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) 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.

(d) The amount of compensation under Subsection (a)(2) to which a person is entitled shall be paid on the person'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.

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

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

(2) 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 ~~[\$500,000 if the time served is 20 years or more].~~

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

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

(d) The amount of compensation under Subsection (a)(2) to which a person is entitled shall be paid on the person'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.

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

Sec. 103.1041. REQUIRED EVIDENCE. 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, Family Code, for that period.

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

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

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

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

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

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

No equivalent provision.

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

(a) The comptroller shall 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, to the extent that funds are available and appropriated for that purpose, not later than the 30th day after the date the comptroller grants the application.

(c) 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, money shall be paid under the procedure described by Section 103.152.

SECTION __. Section 103.105(c), Civil Practice and Remedies Code, is repealed.

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

Sec. 103.152. PAYMENT OF COMPENSATION. (a) Not later than November 1 of each even-numbered year, the comptroller shall 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 [~~the amount owed~~].

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

(c) The amount of compensation awarded under Section 103.105(a)(4) must 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.

Same as House version.

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

Sec. 103.154. TERMINATION OF PAYMENTS. (a) Except as provided by Subsection (c), compensation

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[Compensation] payments to a person under this chapter terminate if, after the date the person becomes eligible for compensation under Section 103.001, the person is convicted of a crime punishable as a felony. Compensation payments terminate under this subsection on the date of the subsequent conviction.

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

(c) 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. 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.

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SECTION 8. (a) Except as provided by Subsection (b) of this section, 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.

(b) Sections 103.052(a)(1) and (a-1), Civil Practice and Remedies Code, as amended and added, respectively, by this Act, apply to an administrative proceeding for

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compensation for wrongful imprisonment for which the application is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

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

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