

1-1 By: Anchia, et al. (Senate Sponsor - Duncan) H.B. No. 1736
1-2 (In the Senate - Received from the House April 27, 2009;
1-3 April 27, 2009, read first time and referred to Committee on State
1-4 Affairs; May 6, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 6, 2009, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1736 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to compensation of and services to persons wrongfully
1-11 imprisoned.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. This Act shall be known as the Tim Cole Act.

1-14 SECTION 2. Section 103.001, Civil Practice and Remedies
1-15 Code, is amended by adding Subsection (c) to read as follows:

1-16 (c) If a deceased person would be entitled to compensation
1-17 under Subsection (a)(2) if living, including a person who received
1-18 a posthumous pardon, the person's heirs, legal representatives, and
1-19 estate are entitled to lump-sum compensation under Section 103.052.

1-20 SECTION 3. Section 103.003, Civil Practice and Remedies
1-21 Code, is amended to read as follows:

1-22 Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than
1-23 the third anniversary of the date the person on whose imprisonment
1-24 the claim is based received the pardon or was granted relief [~~found~~
1-25 ~~not guilty~~] as required by Section 103.001, a person seeking
1-26 compensation under this chapter must ~~+~~

1-27 ~~[(1)]~~ file an application with the comptroller for
1-28 compensation under Subchapter B ~~+, or~~

1-29 ~~[(2)]~~ ~~file suit against the state for compensation~~
1-30 ~~under Subchapter C].~~

1-31 SECTION 4. Section 103.051(a), Civil Practice and Remedies
1-32 Code, as amended by Chapters 1190 (H.B. 814) and 1388 (S.B. 1719),
1-33 Acts of the 80th Legislature, Regular Session, 2007, is reenacted
1-34 and amended to read as follows:

1-35 (a) To apply for compensation under this subchapter, the
1-36 claimant must file with the comptroller's judiciary section:

1-37 (1) an application for compensation provided for that
1-38 purpose by the comptroller;

1-39 (2) a verified copy of the pardon or court order
1-40 justifying the application for compensation; ~~and~~

1-41 (3) a statement provided by the Texas Department of
1-42 Criminal Justice and any county or municipality that incarcerated
1-43 the person on whose imprisonment the claim is based in connection
1-44 with the relevant sentence verifying the length of incarceration;

1-45 (4) if applicable, a statement from the Department of
1-46 Public Safety verifying registration as a sex offender and length
1-47 of registration;

1-48 (5) if applicable, a statement from the Texas
1-49 Department of Criminal Justice verifying the length of time spent
1-50 on parole; and

1-51 (6) if the claimant is applying for compensation under
1-52 Section 103.052(a)(2), a certified copy of each child support order
1-53 under which child support payments became due during the time the
1-54 claimant served in prison and copies of the official child support
1-55 payment records described by Section 234.009, Family Code, for that
1-56 period.

1-57 SECTION 5. Section 103.052, Civil Practice and Remedies
1-58 Code, is amended to read as follows:

1-59 Sec. 103.052. LUMP-SUM ~~[AMOUNT AND TIMING OF]~~ COMPENSATION.

1-60 (a) A person who meets the requirements of Section 103.001 is
1-61 entitled to compensation in an amount equal to:

1-62 (1) \$80,000 ~~[\$50,000]~~ multiplied by the number of
1-63 years served in prison, expressed as a fraction to reflect partial

2-1 years; and

2-2 (2) compensation for child support payments owed by
2-3 the person on whose imprisonment the claim is based that became due
2-4 and interest on child support arrearages that accrued during the
2-5 time served in prison but were not paid.

2-6 ~~[(a-1) Notwithstanding Subsection (a)(1), a person~~
2-7 ~~sentenced to death who meets the requirements of Section 103.001 is~~
2-8 ~~entitled to compensation in an amount equal to \$100,000 multiplied~~
2-9 ~~by the number of years served in prison, expressed as a fraction to~~
2-10 ~~reflect partial years.]~~

2-11 (b) A person who, after serving a sentence in a Texas prison
2-12 for which the person is entitled to compensation under Subsection
2-13 (a)(1), was released on parole or required to register as a sex
2-14 offender under Chapter 62, Code of Criminal Procedure, is entitled
2-15 to compensation in an amount equal to \$25,000 multiplied by the
2-16 number of years served either on parole or as a registered sex
2-17 offender, expressed as a fraction to reflect partial years [A
2-18 person who is owed an amount of compensation under Subsection
2-19 (a)(1) or (a-1) equal to or greater than \$50,000 shall be paid that
2-20 compensation in two equal annual installments].

2-21 ~~(c) [If requested by the claimant, the Texas Department of~~
2-22 ~~Mental Health and Mental Retardation shall provide appropriate~~
2-23 ~~counseling for one year to the claimant at a mutually agreed-on~~
2-24 ~~location at no charge to the claimant.~~

2-25 ~~[(d)]~~ The amount of compensation under Subsection (a)(2) to
2-26 which a person is entitled shall be paid on the person's behalf in a
2-27 lump-sum payment to the state disbursement unit, as defined by
2-28 Section 101.0302, Family Code, for distribution to the obligee
2-29 under the child support order.

2-30 SECTION 6. Subchapter B, Chapter 103, Civil Practice and
2-31 Remedies Code, is amended by adding Section 103.053 to read as
2-32 follows:

2-33 Sec. 103.053. ANNUITY COMPENSATION. (a) A person entitled
2-34 to compensation under Section 103.001(a) is entitled to annuity
2-35 payments, based on a present value sum equal to the amount to which
2-36 the person is entitled under Sections 103.052(a)(1) and (b).

2-37 (b) The annuity payments under this section are payable in
2-38 equal monthly installments for the life of the claimant and must be
2-39 based on a five percent per annum interest rate and other actuarial
2-40 factors within the discretion of the comptroller.

2-41 (c) The annuity payments may not be accelerated, deferred,
2-42 increased, or decreased. The applicant may not sell, mortgage or
2-43 otherwise encumber, or anticipate the payments, wholly or partly,
2-44 by assignment or otherwise.

2-45 SECTION 7. Section 103.151, Civil Practice and Remedies
2-46 Code, is amended to read as follows:

2-47 Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION. (a)
2-48 The comptroller shall make the compensation [first installment
2-49 payment] due a claimant under Section 103.052 [an applicant] and
2-50 the lump-sum payment, if any, to be paid to the state disbursement
2-51 unit, as defined by Section 101.0302, Family Code, under Subchapter
2-52 B, to the extent that funds are available and appropriated for that
2-53 purpose, not later than the 30th day after the date the comptroller
2-54 grants the application. A claim for lump-sum compensation payable
2-55 under Section 103.052(a) or (b) shall survive the death of the
2-56 claimant in favor of the heirs, legal representatives, and estate
2-57 of the claimant.

2-58 (b) The comptroller shall begin making annuity payments to a
2-59 claimant under Section 103.053(a) on the first anniversary of the
2-60 date of payment of the compensation due under Section 103.052 [pay
2-61 the amount of the second installment payment on the first
2-62 anniversary of the date of the first installment].

2-63 (c) If appropriated funds are insufficient to pay the amount
2-64 due a claimant [an applicant] and the amount to be paid to the state
2-65 disbursement unit, as defined by Section 101.0302, Family Code,
2-66 money shall be paid under the procedure described by Section
2-67 103.152.

2-68 SECTION 8. Section 103.152(a), Civil Practice and Remedies
2-69 Code, is amended to read as follows:

3-1 (a) Not later than November 1 of each even-numbered year,
 3-2 the comptroller shall provide a list of claimants entitled to
 3-3 payment under Subchapter B [~~or C~~] and the amounts due for each
 3-4 claimant to the governor, the lieutenant governor, and the chair of
 3-5 the appropriate committee in each house of the legislature so that
 3-6 the legislature may appropriate the amount needed to pay the amount
 3-7 owed to each claimant and the amount to be paid to the state
 3-8 disbursement unit, as defined by Section 101.0302, Family Code, on
 3-9 the claimant's behalf.

3-10 SECTION 9. Section 103.154(b), Civil Practice and Remedies
 3-11 Code, is amended to read as follows:

3-12 (b) Annuity [~~Except as provided by Subsection (c),~~
 3-13 ~~compensation~~] payments to a person under Section 103.151(b) [~~this~~
 3-14 ~~chapter~~] terminate on the date of the person's death. Any payments
 3-15 scheduled to be paid after that date are credited to the state and
 3-16 may not be paid to any other person, including the person's
 3-17 surviving spouse, heirs, devisees, or beneficiaries under the
 3-18 person's will, or to the person's estate.

3-19 SECTION 10. Subchapter C, Chapter 501, Government Code, is
 3-20 amended by adding Section 501.091 to read as follows:

3-21 Sec. 501.091. REENTRY AND REINTEGRATION SERVICES FOR
 3-22 WRONGFULLY IMPRISONED PERSONS. (a) In this section, "wrongfully
 3-23 imprisoned person" means a person who:

3-24 (1) has served wholly or partly a sentence in prison
 3-25 under the laws of this state; and

3-26 (2) has:

3-27 (A) received a full pardon on the basis of
 3-28 innocence for the crime for which the person was sentenced; or

3-29 (B) been granted relief on the basis of actual
 3-30 innocence of the crime for which the person was sentenced.

3-31 (b) The department shall develop a comprehensive plan to
 3-32 ensure the successful reentry and reintegration of wrongfully
 3-33 imprisoned persons into the community following discharge from the
 3-34 department. The reentry and reintegration plan developed under
 3-35 this section must include:

3-36 (1) life-skills, job, and vocational training for a
 3-37 wrongfully imprisoned person following discharge, for as long as
 3-38 those services are beneficial to the person;

3-39 (2) a requirement that the department provide, before
 3-40 a wrongfully imprisoned person is discharged from the department,
 3-41 the person with any documents that are necessary after discharge,
 3-42 including a state identification card; and

3-43 (3) the provision of financial assistance to aid a
 3-44 wrongfully imprisoned person in the reentry and reintegration
 3-45 process and in covering living expenses following discharge, in an
 3-46 amount not to exceed \$10,000.

3-47 (c) The provision of financial assistance under Subsection
 3-48 (b)(3) shall be administered by the Texas Correctional Office on
 3-49 Offenders with Medical or Mental Impairments or the department.

3-50 (d) The amount of financial assistance provided to a
 3-51 wrongfully imprisoned person under Subsection (b)(3) shall be
 3-52 deducted from the amount of compensation provided to the person
 3-53 under Section 103.052, Civil Practice and Remedies Code.

3-54 (e) The department may contract with private vendors or
 3-55 other entities to implement the comprehensive reentry and
 3-56 reintegration plan required by this section.

3-57 SECTION 11. Chapter 614, Health and Safety Code, is amended
 3-58 by adding Section 614.021 to read as follows:

3-59 Sec. 614.021. SERVICES FOR WRONGFULLY IMPRISONED PERSONS.

3-60 (a) In this section, "wrongfully imprisoned person" has the
 3-61 meaning assigned by Section 501.091, Government Code.

3-62 (b) The office shall develop a plan to use existing case
 3-63 management functions to assist wrongfully imprisoned persons who
 3-64 are discharged from the Texas Department of Criminal Justice in:

3-65 (1) accessing medical and dental services, including
 3-66 assistance in completing documents required for application to
 3-67 federal entitlement programs;

3-68 (2) obtaining mental health treatment and related
 3-69 support services through the public mental health system for as

4-1 long as the wrongfully imprisoned person requires assistance; and
4-2 (3) obtaining appropriate support services, as
4-3 identified by the wrongfully imprisoned person and the assigned
4-4 case manager, to assist the person in making the transition from
4-5 incarceration into the community.

4-6 (c) The office shall submit an annual report to the
4-7 legislature on the provision of services under this section to
4-8 wrongfully imprisoned persons.

4-9 SECTION 12. The following provisions of the Civil Practice
4-10 and Remedies Code are repealed:

- 4-11 (1) Section 103.002;
- 4-12 (2) Subchapter C, Chapter 103; and
- 4-13 (3) Section 103.152(c).

4-14 SECTION 13. (a) As soon as practicable after the effective
4-15 date of this Act, the Texas Department of Criminal Justice shall
4-16 develop a comprehensive plan for the reentry and reintegration of
4-17 wrongfully imprisoned persons as required by Section 501.091,
4-18 Government Code, as added by this Act.

4-19 (b) As soon as practicable after the effective date of this
4-20 Act, the Texas Correctional Office on Offenders with Medical or
4-21 Mental Impairments shall develop a plan to assist wrongfully
4-22 imprisoned persons as required by Section 614.021, Health and
4-23 Safety Code, as added by this Act, and shall submit the first annual
4-24 report to the legislature as required by that section not later than
4-25 September 1, 2010.

4-26 SECTION 14. (a) Chapter 103, Civil Practice and Remedies
4-27 Code, as amended by this Act, applies only to an application for
4-28 compensation for wrongful imprisonment that is filed on or after
4-29 the effective date of this Act. An application filed or action
4-30 commenced under Chapter 103, Civil Practice and Remedies Code,
4-31 before the effective date of this Act is governed by the law in
4-32 effect immediately before the effective date of this Act, and that
4-33 law is continued in effect for that purpose.

4-34 (b) Notwithstanding Section 103.003, Civil Practice and
4-35 Remedies Code, as amended by this Act, a person who received
4-36 compensation under Chapter 103, Civil Practice and Remedies Code,
4-37 before September 1, 2009, is entitled to annuity payments under
4-38 Section 103.053, Civil Practice and Remedies Code, as added by this
4-39 Act, based on a present value sum equal to the amount the person
4-40 would receive under Sections 103.052(a)(1) and (b), Civil Practice
4-41 and Remedies Code, as amended by this Act, if the person were to
4-42 receive compensation under those sections on September 1, 2009.
4-43 The comptroller of public accounts shall begin making payments to a
4-44 claimant under this section not later than the 30th day after the
4-45 date the comptroller determines the claimant is eligible to receive
4-46 compensation under this section.

4-47 SECTION 15. This Act takes effect September 1, 2009.

4-48 * * * * *