

House Bill 1736
Senate Amendments
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HOUSE VERSION

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CONFERENCE

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

Same as House version.

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

Same as House version.

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

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

Same as House version.

Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than the third anniversary of the date the person on whose imprisonment the claim is based received the pardon or was granted relief [~~found not guilty~~] as required by Section 103.001, a person seeking compensation under this chapter must~~[-~~:
[~~1~~] file an application with the comptroller for compensation under Subchapter B~~[-or~~:
[~~2~~] ~~file suit against the state for compensation under Subchapter C~~].

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

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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; ~~and~~

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

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

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

(6) 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 5. Section 103.052, Civil Practice and Remedies Code, is amended to read as follows:

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Sec. 103.052. LUMP-SUM AND CERTAIN OTHER ~~[AMOUNT AND TIMING OF]~~ COMPENSATION. (a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

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

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

~~[(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, after serving a sentence in a Texas prison for which the person is entitled to compensation under Subsection (a)(1), was released on parole or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, is entitled to compensation in an amount equal to \$25,000 multiplied by the number of years served either on parole or as a registered sex offender, expressed as a fraction to reflect partial years ~~[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~~

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Sec. 103.052. LUMP-SUM ~~[AMOUNT AND TIMING OF]~~ COMPENSATION. (a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

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

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

~~[(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, after serving a sentence in a Texas prison for which the person is entitled to compensation under Subsection (a)(1), was released on parole or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, is entitled to compensation in an amount equal to \$25,000 multiplied by the number of years served either on parole or as a registered sex offender, expressed as a fraction to reflect partial years ~~[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~~

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~~annual installments].~~

(c) On application by the claimant in a manner prescribed by the board of trustees of the Employees Retirement System of Texas, a claimant who is entitled to compensation under Section 103.001(a) may participate in the group benefits program under Chapter 1551, Insurance Code, and is automatically covered by the basic coverage for annuitants provided under that chapter. A claimant who participates in the group benefits program is entitled to receive state contributions for the full cost of the premiums. ~~[If requested by the claimant, the Texas Department of Mental Health and Mental Retardation shall provide appropriate counseling for one year to the claimant at a mutually agreed-on location at no charge to the claimant.]~~

(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.

(e) If requested by the claimant, up to 120 hours of tuition at a career center, community college, or state university shall be paid on behalf of the claimant.

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

Sec. 103.053. ANNUITY COMPENSATION. (a) A

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~~annual installments].~~

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

~~[(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.

SECTION 6. Subchapter B, Chapter 103, Civil Practice and Remedies Code, is amended by adding Sections 103.053 and 103.054 to read as follows:

Sec. 103.053. ANNUITY COMPENSATION. (a) A

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person entitled to compensation under Section 103.001(a) is entitled to annuity payments, based on a present value sum equal to the amount to which the person is entitled under Sections 103.052(a)(1) and (b).
(b) The annuity payments under this section are payable in equal monthly installments for the life of the claimant and must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller.
(c) The annuity payments may not be accelerated, deferred, increased, or decreased. The applicant may not sell, mortgage or otherwise encumber, or anticipate the payments, wholly or partly, by assignment or otherwise.

SECTION 7. Section 103.151, Civil Practice and Remedies Code, is amended to read as follows:
Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION. (a) The comptroller shall make the

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person entitled to compensation under Section 103.001(a) is entitled to annuity payments, based on a present value sum equal to the amount to which the person is entitled under Sections 103.052(a)(1) and (b).
(b) The annuity payments under this section are payable in equal monthly installments for the life of the claimant and must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller.
(c) The annuity payments may not be accelerated, deferred, increased, or decreased. The applicant may not sell, mortgage or otherwise encumber, or anticipate the payments, wholly or partly, by assignment or otherwise.
Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the fifth anniversary of the date the claimant received the pardon or was granted relief as required by Section 103.001, up to 120 hours of tuition, including tuition charged under Section 54.0513, Education Code, any other law granting the educational institution discretion to set the tuition rate, and any associated fees charged under Subchapter E, Chapter 54, Education Code, at a career center, community college, or state university shall be paid on behalf of the claimant.

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compensation ~~[first installment payment]~~ due a claimant under Section 103.052 ~~[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. A claim for lump-sum compensation payable under Section 103.052(a) or (b) shall survive the death of the claimant in favor of the heirs, legal representatives, and estate of the claimant.

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

(c) If appropriated funds are insufficient to pay the amount due a claimant ~~[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 8. Section 103.152(a), Civil Practice and Remedies Code, is amended to read as follows:

(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

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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.

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

(b) Annuity [~~Except as provided by Subsection (c), compensation~~] payments to a person under Section 103.151(b) [~~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.

No equivalent provision.

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Same as House version.

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

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

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

(2) has:

(A) received a full pardon on the basis of innocence for

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the crime for which the person was sentenced; or
(B) been granted relief on the basis of actual innocence
of the crime for which the person was sentenced.
(b) The department shall develop a comprehensive plan
to ensure the successful reentry and reintegration of
wrongfully imprisoned persons into the community
following discharge from the department. The reentry
and reintegration plan developed under this section must
include:
(1) life-skills, job, and vocational training for a
wrongfully imprisoned person following discharge, for
as long as those services are beneficial to the person;
(2) a requirement that the department provide, before a
wrongfully imprisoned person is discharged from the
department, the person with any documents that are
necessary after discharge, including a state identification
card; and
(3) the provision of financial assistance to aid a
wrongfully imprisoned person in the reentry and
reintegration process and in covering living expenses
following discharge, in an amount not to exceed \$10,000.
(c) The provision of financial assistance under
Subsection (b)(3) shall be administered by the Texas
Correctional Office on Offenders with Medical or Mental
Impairments or the department.
(d) The amount of financial assistance provided to a
wrongfully imprisoned person under Subsection (b)(3)
shall be deducted from the amount of compensation
provided to the person under Section 103.052, Civil

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Practice and Remedies Code.

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

No equivalent provision.

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

Sec. 614.021. SERVICES FOR WRONGFULLY IMPRISONED PERSONS. (a) In this section, "wrongfully imprisoned person" has the meaning assigned by Section 501.091, Government Code.

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

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

(2) obtaining mental health treatment and related support services through the public mental health system for as long as the wrongfully imprisoned person requires assistance; and

(3) obtaining appropriate support services, as identified by the wrongfully imprisoned person and the assigned case manager, to assist the person in making the transition from incarceration into the community.

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

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

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

SECTION 11. (a) **The change in law made by this Act** applies only to an application for compensation for wrongful imprisonment that is filed on or after the effective date of this Act. An application filed or action commenced under Chapter 103, Civil Practice and Remedies Code, before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

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SECTION 12. Same as House version.

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

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

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claimant is eligible to receive compensation under this section.

No equivalent provision.

SECTION 12. This Act takes effect September 1, 2009.

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claimant is eligible to receive compensation under this section.

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

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

SECTION 15. Same as House version.

CONFERENCE