

By: Anchia, Jackson, et al.

H.B. No. 417

A BILL TO BE ENTITLED

AN ACT

relating to claims for compensation for wrongful imprisonment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER A. ELIGIBILITY; NOTICE OF ELIGIBILITY [~~AND CHOICE OF COMPENSATION METHOD~~]

SECTION 2. Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended by adding Section 103.002 to read as follows:

Sec. 103.002. NOTICE TO WRONGFULLY IMPRISONED PERSON. (a)

In this section:

(1) "Department" means the Texas Department of Criminal Justice.

(2) "Penal institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

(3) "Wrongfully imprisoned person" has the meaning assigned by Section 501.091, Government Code, as added by Chapter 180 (H.B. 1736), Acts of the 81st Legislature, Regular Session, 2009.

(b) The department shall provide to each wrongfully imprisoned person information, both orally and in writing, that includes:

(1) guidance on how to obtain compensation under this

1 chapter; and

2 (2) a list of and contact information for nonprofit  
3 advocacy groups, identified by the department, that assist  
4 wrongfully imprisoned persons in filing claims for compensation  
5 under this chapter.

6 (c) The department must provide the information required  
7 under Subsection (b):

8 (1) at the time of the release of the wrongfully  
9 imprisoned person from a penal institution; or

10 (2) if the wrongfully imprisoned person is not  
11 confined in a penal institution, as soon as is practicable after the  
12 date of the full pardon or granting of relief on the basis of  
13 innocence or actual innocence, respectively.

14 SECTION 3. Section 103.051(d), Civil Practice and Remedies  
15 Code, is amended to read as follows:

16 (d) If the comptroller denies the claim, the comptroller  
17 must state the reason for the denial. Not later than the 30th  
18 ~~[10th]~~ day after the date the denial is received, the claimant must  
19 submit an application to cure any problem identified. Not later  
20 than the 45th day after the date an application is received under  
21 this subsection, the comptroller shall determine the claimant's  
22 eligibility and the amount owed.

23 SECTION 4. Chapter 103, Civil Practice and Remedies Code,  
24 is amended by adding Subchapter C to read as follows:

25 SUBCHAPTER C. FEES

26 Sec. 103.101. FEES LIMITED; PREREQUISITES TO FEE AGREEMENT.

27 (a) A person, including an attorney, may not charge or collect a

1 fee for preparing, filing, or curing a claimant's application under  
2 Section 103.051 unless the fee is based on a reasonable hourly rate.

3 (b) An attorney may enter into a fee agreement with a  
4 claimant for services related to an application under Section  
5 103.051 only after the attorney has disclosed in writing to the  
6 claimant the hourly rate that will be charged for the services.

7 (c) An attorney may not charge or collect a fee for  
8 preparing, filing, or curing a claimant's application under Section  
9 103.051 before a final determination is made by the comptroller  
10 that the claimant is eligible or ineligible for compensation under  
11 this chapter.

12 Sec. 103.102. SUBMISSION OF FEE REPORT. (a) Together with  
13 an application for compensation under this chapter or not later  
14 than the 14th day after the date the application or cured  
15 application is filed, a person seeking payment for preparing,  
16 filing, or curing the application must file a fee report with the  
17 comptroller's judiciary section.

18 (b) A fee report under this section must include:

19 (1) if the preparer is an attorney, a sworn copy of the  
20 attorney's fee agreement, signed by the attorney and claimant;

21 (2) the total dollar amount sought for fees;

22 (3) the number of hours the person worked preparing,  
23 filing, or curing the application; and

24 (4) a brief description of work done during those  
25 hours.

26 Sec. 103.103. VIOLATION. An attorney who charges or  
27 collects a fee for services that, in the comptroller's opinion,

1 violates Section 103.101 shall be referred to the Office of Chief  
2 Disciplinary Counsel for the State Bar of Texas.

3 SECTION 5. Section 501.091, Government Code, as added by  
4 Chapter 180 (H.B. 1736), Acts of the 81st Legislature, Regular  
5 Session, 2009, is amended by adding Subsection (d-1) to read as  
6 follows:

7 (d-1) The department shall provide information to  
8 wrongfully imprisoned persons as required by Section 103.002, Civil  
9 Practice and Remedies Code.

10 SECTION 6. Subchapter C, Chapter 103, Civil Practice and  
11 Remedies Code, as added by this Act, applies only to an attorney's  
12 fee agreement entered into on or after January 1, 2012. An  
13 attorney's fee agreement entered into before January 1, 2012, is  
14 governed by the law as it existed immediately before the effective  
15 date of this Act, and that law is continued in effect for that  
16 purpose.

17 SECTION 7. This Act takes effect September 1, 2011.