

SENATE AMENDMENTS

2nd Printing

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.

ADOPTED

MAY 18 2011

Atty Gen
Secretary of the Senate

By: ELLIS

H.B. No. 417

Substitute the following for ___B. No. _____:

By: *Rodney Ellis*

C.S. ___B. No. _____

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. Section 103.001(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person is entitled to compensation if:

(1) the person has served in whole or in part a sentence in prison under the laws of this state; and

(2) the person:

(A) has received a full pardon on the basis of innocence for the crime for which the person was sentenced; [~~or~~]

(B) has been granted relief on the basis of actual innocence of the crime for which the person was sentenced; or

(C) has been granted relief in accordance with a writ of habeas corpus and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states

1 that no credible evidence exists that inculcates the defendant and,
2 either in the motion or in an affidavit, the state's attorney states
3 that the state's attorney believes that the defendant is actually
4 innocent of the crime for which the person was sentenced.

5 SECTION 3. Subchapter A, Chapter 103, Civil Practice and
6 Remedies Code, is amended by adding Section 103.002 to read as
7 follows:

8 Sec. 103.002. NOTICE TO WRONGFULLY IMPRISONED PERSON. (a)
9 In this section:

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

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

14 (3) "Wrongfully imprisoned person" has the meaning
15 assigned by Section 501.091, Government Code, as added by Chapter
16 1389 (S.B. 1847), Acts of the 81st Legislature, Regular Session,
17 2009.

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

21 (1) guidance on how to obtain compensation under this
22 chapter; and

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

27 (c) The department must provide the information required

1 under Subsection (b):

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

4 (2) as soon as practicable after the department has
5 reason to believe that the person is entitled to compensation under
6 Section 103.001(a).

7 SECTION 4. Section 103.003, Civil Practice and Remedies
8 Code, is amended to read as follows:

9 Sec. 103.003. LIMITATION ON TIME TO FILE. A person seeking
10 compensation under this chapter must file an application with the
11 comptroller for compensation under Subchapter B not [Not] later
12 than the third anniversary of the date:

13 (1) the person on whose imprisonment the claim is
14 based received a [the] pardon as provided by Section
15 103.001(a)(2)(A);

16 (2) the person was granted relief as provided by
17 Section 103.001(a)(2)(B); or

18 (3) an order of dismissal described by Section
19 103.001(a)(2)(C) was signed [was granted relief as required by
20 Section 103.001, a person seeking compensation under this chapter
21 must file an application with the comptroller for compensation
22 under Subchapter B].

23 SECTION 5. Sections 103.051(a), (b-1), and (d), Civil
24 Practice and Remedies Code, are amended to read as follows:

25 (a) To apply for compensation under this subchapter, the
26 claimant must file with the comptroller's judiciary section:

27 (1) an application for compensation provided for that

1 purpose by the comptroller;

2 (2) a verified copy of the pardon, ~~[or]~~ court order,
3 motion to dismiss, and affidavit, as applicable, justifying the
4 application for compensation;

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

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

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

15 (6) if the claimant is applying for compensation under
16 Section 103.052(a)(2), a certified copy of each child support order
17 under which child support payments became due during the time the
18 claimant served in prison and copies of the official child support
19 payment records described by Section 234.009, Family Code, for that
20 period.

21 (b-1) In determining the eligibility of a claimant, the
22 comptroller shall consider only the verified copies of documents
23 ~~[copy of the pardon or court order]~~ filed ~~[by the claimant]~~
24 Subsection (a)(2) ~~[(a)]~~. If the filed documents do ~~[pardon or~~
25 ~~court order does]~~ not clearly indicate on their ~~[its]~~ face that the
26 person is entitled to compensation under Section 103.001(a)(2)
27 ~~[pardon or the court order was granted or rendered on the basis of~~

1 ~~the claimant's actual innocence of the crime for which the claimant~~
2 ~~was sentenced~~], the comptroller shall deny the claim. The
3 comptroller's duty to determine the eligibility of a claimant under
4 this section is purely ministerial.

5 (d) If the comptroller denies the claim, the comptroller
6 must state the reason for the denial. Not later than the 30th
7 ~~10th~~ day after the date the denial is received, the claimant must
8 submit an application to cure any problem identified. Not later
9 than the 45th day after the date an application is received under
10 this subsection, the comptroller shall determine the claimant's
11 eligibility and the amount owed.

12 SECTION 6. Section 103.054, Civil Practice and Remedies
13 Code, is amended to read as follows:

14 Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If
15 requested by the claimant before the seventh anniversary of the
16 relevant date described by Section 103.003 ~~[the claimant received~~
17 ~~the pardon or was granted relief as required by Section 103.001]~~,
18 tuition for up to 120 credit hours, including tuition charged under
19 Section 54.0513, Education Code, or any other law granting an
20 educational institution discretion to set the tuition rate, and any
21 mandatory fees associated with attendance at the institution,
22 charged by a career center or public institution of higher
23 education shall be paid on behalf of the claimant.

24 SECTION 7. Chapter 103, Civil Practice and Remedies Code,
25 is amended by adding Subchapter C to read as follows:

26 SUBCHAPTER C. FEES

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

1 (a) A person, including an attorney, may not charge or collect a
2 fee for preparing, filing, or curing a claimant's application under
3 Section 103.051 unless the fee is based on a reasonable hourly rate.

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

8 (c) An attorney may not collect a fee for preparing, filing,
9 or curing a claimant's application under Section 103.051 before a
10 final determination is made by the comptroller that the claimant is
11 eligible or ineligible for compensation under 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) the total dollar amount sought for fees;

20 (2) the number of hours the person worked preparing,
21 filing, or curing the application; and

22 (3) the name of the applicant.

23 (c) A fee report under this section is public information
24 subject to Chapter 552, Government Code.

25 SECTION 8. Section 501.091, Government Code, as added by
26 Chapter 1389 (S.B. 1847), Acts of the 81st Legislature, Regular
27 Session, 2009, is amended by amending Subsection (a) and adding

1 Subsection (d) to read as follows:

2 (a) In this section, "wrongfully imprisoned person" means a
3 person who:

4 (1) has served in whole or in part a sentence in a
5 facility operated by or under contract with the department; and

6 (2) has:

7 (A) received a pardon for innocence for the crime
8 for which the person was sentenced; [~~or~~]

9 (B) [~~otherwise~~] been granted relief on the basis
10 of actual innocence of the crime for which the person was sentenced;
11 or

12 (C) been granted relief in accordance with a writ
13 of habeas corpus and:

14 (i) the state district court in which the
15 charge against the person was pending has entered an order
16 dismissing the charge; and

17 (ii) the district court's dismissal order
18 is based on a motion to dismiss in which the state's attorney states
19 that no credible evidence exists that inculcates the defendant and,
20 either in the motion or in an affidavit, the state's attorney states
21 that the state's attorney believes that the defendant is actually
22 innocent of the crime for which the person was sentenced.

23 (d) The department shall provide information to wrongfully
24 imprisoned persons as required by Section 103.002, Civil Practice
25 and Remedies Code.

26 SECTION 9. Section 501.091, Government Code, as added by
27 Chapter 180 (H.B. 1736), Acts of the 81st Legislature, Regular

1 Session, 2009, is repealed.

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

9 SECTION 11. Section 103.001(a)(2)(C), Civil Practice and
10 Remedies Code, as added by this Act, applies to a person who has
11 received an order of dismissal signed on or after September 1, 2009.

12 SECTION 12. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2011.

ADOPTED

MAY 18 2011

Antony Spaw
Secretary of the Senate

BY: *Robyn Ellis*

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 417 (senate committee printing) by
2 striking all below the enacting clause and substituting the
3 following:

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

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

8 SECTION 2. Section 103.001, Civil Practice and Remedies
9 Code, is amended by amending Subsection (a) and adding Subsections
10 (d) and (e) to read as follows:

11 (a) A person is entitled to compensation if:

12 (1) the person has served in whole or in part a
13 sentence in prison under the laws of this state; and

14 (2) the person:

15 (A) has received a full pardon on the basis of
16 innocence for the crime for which the person was sentenced; [~~or~~]

17 (B) has been granted relief in accordance with a
18 writ of habeas corpus that is based on a court finding or
19 determination that the person is actually innocent of the crime for
20 which the person was sentenced; or

21 (C) has been granted relief in accordance with a
22 writ of habeas corpus and:

23 (i) the state district court in which the
24 charge against the person was pending has entered an order
25 dismissing the charge; and

26 (ii) the district court's dismissal order
27 is based on a motion to dismiss in which the state's attorney states
28 that no credible evidence exists that inculpatates the defendant and,
29 either in the motion or in an affidavit, the state's attorney states

1 that the state's attorney believes that the defendant is actually
2 innocent of the crime for which the person was sentenced [~~on the~~
3 ~~basis of actual innocence of the crime for which the person was~~
4 ~~sentenced~~].

5 (d) Subject to this section, a person entitled to
6 compensation under Subsection (a) is also eligible to obtain group
7 health benefit plan coverage through the Texas Department of
8 Criminal Justice as if the person were an employee of the
9 department. This subsection does not entitle the person's spouse
10 or other dependent or family member to group health benefit plan
11 coverage. Coverage may be obtained under this subsection for a
12 period of time equal to the total period the claimant served for the
13 crime for which the claimant was wrongfully imprisoned, including
14 any period during which the claimant was released on parole or to
15 mandatory supervision or required to register under Chapter 62,
16 Code of Criminal Procedure. A person who elects to obtain coverage
17 under this subsection shall pay a monthly contribution equal to the
18 total amount of the monthly contributions for that coverage for an
19 employee of the department.

20 (e) Notwithstanding Section 103.053(c), annuity payments
21 may be reduced by an amount necessary to make the payments required
22 by Subsection (d), and that amount shall be transferred to an
23 appropriate account as provided by the comptroller by rule to fund
24 that coverage.

25 SECTION 3. Subchapter A, Chapter 103, Civil Practice and
26 Remedies Code, is amended by adding Section 103.002 to read as
27 follows:

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

29 In this section:

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

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

3 (3) "Wrongfully imprisoned person" has the meaning
4 assigned by Section 501.091, Government Code, as added by Chapter
5 1389 (S.B. 1847), Acts of the 81st Legislature, Regular Session,
6 2009.

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

10 (1) guidance on how to obtain compensation under this
11 chapter; and

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

16 (c) The department must provide the information required
17 under Subsection (b):

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

20 (2) as soon as practicable after the department has
21 reason to believe that the person is entitled to compensation under
22 Section 103.001(a).

23 SECTION 4. Section 103.003, Civil Practice and Remedies
24 Code, is amended to read as follows:

25 Sec. 103.003. LIMITATION ON TIME TO FILE. A person seeking
26 compensation under this chapter must file an application with the
27 comptroller for compensation under Subchapter B not ~~[Not]~~ later
28 than the third anniversary of the date:

29 (1) the person on whose imprisonment the claim is
30 based received a ~~[the]~~ pardon as provided by Section
31 103.001(a)(2)(A);

1 (2) the person's application for a writ of habeas
2 corpus was granted as provided by Section 103.001(a)(2)(B); or

3 (3) an order of dismissal described by Section
4 103.001(a)(2)(C) was signed [~~was granted relief as required by~~
5 ~~Section 103.001, a person seeking compensation under this chapter~~
6 ~~must file an application with the comptroller for compensation~~
7 ~~under Subchapter B~~].

8 SECTION 5. Section 103.051, Civil Practice and Remedies
9 Code, is amended by amending Subsections (a), (b-1), and (d) and
10 adding Subsection (f) to read as follows:

11 (a) To apply for compensation under this subchapter, the
12 claimant must file with the comptroller's judiciary section:

13 (1) an application for compensation provided for that
14 purpose by the comptroller;

15 (2) a verified copy of the pardon, ~~or~~ court order,
16 motion to dismiss, and affidavit, as applicable, justifying the
17 application for compensation;

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

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

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

28 (6) if the claimant is applying for compensation under
29 Section 103.052(a)(2), a certified copy of each child support order
30 under which child support payments became due during the time the
31 claimant served in prison and copies of the official child support

1 payment records described by Section 234.009, Family Code, for that
2 period.

3 (b-1) In determining the eligibility of a claimant, the
4 comptroller shall consider only the verified copies of documents
5 [~~copy of the pardon or court order~~] filed [~~by the claimant~~] under
6 Subsection (a)(2) [~~(a)~~]. If the filed documents do [~~pardon or~~
7 ~~court order does~~] not clearly indicate on their [~~its~~] face that the
8 person is entitled to compensation under Section 103.001(a)(2)
9 [~~pardon or the court order was granted or rendered on the basis of~~
10 ~~the claimant's actual innocence of the crime for which the claimant~~
11 ~~was sentenced~~], the comptroller shall deny the claim. The
12 comptroller's duty to determine the eligibility of a claimant under
13 this section is purely ministerial.

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

21 (f) To apply for coverage through the Texas Department of
22 Criminal Justice under Section 103.001(d), the claimant must file
23 with the department:

24 (1) an application for coverage provided for that
25 purpose by the department; and

26 (2) a statement by the comptroller that the
27 comptroller has determined the claimant to be eligible for
28 compensation under this subchapter.

29 SECTION 6. Section 103.054, Civil Practice and Remedies
30 Code, is amended to read as follows:

31 Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If

1 requested by the claimant before the seventh anniversary of the
2 relevant date described by Section 103.003 [~~the claimant received~~
3 ~~the pardon or was granted relief as required by Section 103.001~~],
4 tuition for up to 120 credit hours, including tuition charged under
5 Section 54.0513, Education Code, or any other law granting an
6 educational institution discretion to set the tuition rate, and any
7 mandatory fees associated with attendance at the institution,
8 charged by a career center or public institution of higher
9 education shall be paid on behalf of the claimant.

10 SECTION 7. Chapter 103, Civil Practice and Remedies Code,
11 is amended by adding Subchapter C to read as follows:

12 SUBCHAPTER C. FEES

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

14 (a) A person, including an attorney, may not charge or collect a
15 fee for preparing, filing, or curing a claimant's application under
16 Section 103.051 unless the fee is based on a reasonable hourly rate.

17 (b) An attorney may enter into a fee agreement with a
18 claimant for services related to an application under Section
19 103.051 only after the attorney has disclosed in writing to the
20 claimant the hourly rate that will be charged for the services.

21 (c) An attorney may not collect a fee for preparing, filing,
22 or curing a claimant's application under Section 103.051 before a
23 final determination is made by the comptroller that the claimant is
24 eligible or ineligible for compensation under this chapter.

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

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

- 1 (1) the total dollar amount sought for fees;
2 (2) the number of hours the person worked preparing,
3 filing, or curing the application; and
4 (3) the name of the applicant.

5 (c) A fee report under this section is public information
6 subject to Chapter 552, Government Code.

7 SECTION 8. Section 501.091, Government Code, as added by
8 Chapter 1389 (S.B. 1847), Acts of the 81st Legislature, Regular
9 Session, 2009, is amended by amending Subsection (a) and adding
10 Subsection (d) to read as follows:

11 (a) In this section, "wrongfully imprisoned person" means a
12 person who:

13 (1) has served in whole or in part a sentence in a
14 facility operated by or under contract with the department; and

15 (2) has:

16 (A) received a pardon for innocence for the crime
17 for which the person was sentenced; ~~[or]~~

18 (B) been granted relief in accordance with a writ
19 of habeas corpus that is based on a court finding or determination
20 that the person is actually innocent of the crime for which the
21 person was sentenced; or

22 (C) been granted relief in accordance with a writ
23 of habeas corpus and:

24 (i) the state district court in which the
25 charge against the person was pending has entered an order
26 dismissing the charge; and

27 (ii) the district court's dismissal order
28 is based on a motion to dismiss in which the state's attorney states
29 that no credible evidence exists that inculcates the defendant and,
30 either in the motion or in an affidavit, the state's attorney states
31 that the state's attorney believes that the defendant is actually

1 innocent of the crime for which the person was sentenced [~~otherwise~~
2 ~~been granted relief on the basis of actual innocence of the crime~~
3 ~~for which the person was sentenced~~].

4 (d) The department shall provide information to wrongfully
5 imprisoned persons as required by Section 103.002, Civil Practice
6 and Remedies Code.

7 SECTION 9. Subchapter C, Chapter 1551, Insurance Code, is
8 amended by adding Section 1551.115 to read as follows:

9 Sec. 1551.115. PARTICIPATION BY WRONGFULLY IMPRISONED
10 PERSONS. Subject to Section 103.001, Civil Practice and Remedies
11 Code, a person who is entitled to compensation under Chapter 103,
12 Civil Practice and Remedies Code, is eligible to obtain health
13 benefit plan coverage under the group benefits program in the
14 manner and to the extent that an employee of the Texas Department of
15 Criminal Justice would be entitled to coverage, except that this
16 section does not entitle the person's spouse or other dependent or
17 family member to coverage.

18 SECTION 10. Section 501.091(a), Government Code, as added
19 by Chapter 180 (H.B. 1736), Acts of the 81st Legislature, Regular
20 Session, 2009, is repealed.

21 SECTION 11. Section 103.001(a)(2)(C), Civil Practice and
22 Remedies Code, as added by this Act, applies to a person who has
23 received an order of dismissal signed on or after September 1, 2009.

24 SECTION 12. Sections 103.001(d) and (e) and 103.051(f),
25 Civil Practice and Remedies Code, and Section 1551.115, Insurance
26 Code, as added by this Act, apply to a person the comptroller of
27 public accounts has determined to be eligible for compensation as
28 provided by Section 103.051(b), Civil Practice and Remedies Code,
29 on or after September 1, 2011.

30 SECTION 13. Subchapter C, Chapter 103, Civil Practice and
31 Remedies Code, as added by this Act, applies only to an attorney's

1 fee agreement entered into on or after January 1, 2012. An
2 attorney's fee agreement entered into before January 1, 2012, is
3 governed by the law as it existed immediately before the effective
4 date of this Act, and that law is continued in effect for that
5 purpose.

6 SECTION 14. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB417 by Anchia (Relating to claims for compensation for wrongful imprisonment.), As
Passed 2nd House

The bill would have a negative fiscal implication to the State based on the future number of persons seeking compensation for wrongful imprisonment; however, the future number of persons seeking compensation is unknown so the fiscal impact of the bill cannot be determined.

The bill would amend various sections of the Civil Practice and Remedies Code to amend the processes related to providing compensation to persons who have been wrongfully imprisoned. The bill would add conditions of eligibility for compensation for wrongful imprisonment. A person who has been granted relief in accordance with a writ of habeas corpus that is based on a court finding that the person is innocent or the state district court charge against the person has been dismissed and the dismissal order is based on a state's attorney's motion to dismiss as a result of the existence of no credible evidence and the state's attorney's belief that the person is innocent of the crime, would be eligible for compensation for wrongful imprisonment. A person seeking compensation would be required to file not later than the third anniversary of the date the person received a pardon; the date the person's application for a writ of habeas corpus was granted; or an order of dismissal was signed. The bill would repeal Section 501.091 of the Government Code and would replace it with a new Section 501.091 to align the statute with the revisions to the Civil Practice and Remedies Code.

The bill would amend the Civil Practice and Remedies Code to require that a person entitled to compensation for wrongful imprisonment is eligible for group health insurance as if the person were a Department of Criminal Justice (TDCJ) employee. The claimant would be eligible to receive coverage for a period of time equal to the period of time the claimant served for the crime for which the claimant was wrongfully imprisoned and the claimant's dependents or family members would not be eligible for coverage. The claimant would be required to pay a monthly contribution equal to the amount of monthly contribution for the same coverage paid by a TDCJ employee. The bill would amend the Government Code and the Insurance Code, to correspond with the revision to the Civil Practice and Remedies Code.

The bill would outline the procedures required for a claimant to apply for coverage under the TDCJ health insurance plan. The bill would require a statement by the Comptroller that the claimant is eligible for compensation.

The bill could increase the number of applications for compensation. Compensation is currently paid at \$80,000 multiplied by the number of years of wrongful imprisonment and \$25,000 per year for time served on parole or as a registered sex offender. Compensation also includes compensation for child support payments owed by the person. Since the number of persons who may apply for compensation and health benefits based on the provisions of the bill and the conditions of the potential compensation cannot be determined, the impact of the bill cannot be determined.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, KJG, GG, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 13, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: HB417 by Anchia (Relating to claims for compensation for wrongful imprisonment.),
Committee Report 2nd House, Substituted

The bill would have a negative fiscal implication to the State based on the future number of persons seeking compensation for wrongful imprisonment; however, the future number of persons seeking compensation is unknown, therefore, the fiscal impact of the bill cannot be determined.

The bill would amend various sections of the Civil Practice and Remedies Code to amend the processes related to providing compensation to persons who have been wrongfully imprisoned. The bill would add a condition of eligibility for compensation for wrongful imprisonment. A person who has been granted relief in accordance with a writ of habeas corpus; and the state district court charge against the person has been dismissed; and the dismissal order is based on a state's attorney's motion to dismiss as a result of the existence of no credible evidence and the state's attorney's belief that the person is innocent of the crime, would be eligible for compensation for wrongful imprisonment. The bill would repeal Section 501.091 of the Government Code and would replace it with a new Section 501.091 to align the statute with the revisions to the Civil Practice and Remedies Code.

The bill could increase the number of applications for compensation. Compensation is currently paid at \$80,000 multiplied by the number of years of wrongful imprisonment and \$25,000 per year for time served on parole or as a registered sex offender. Compensation also includes compensation for child support payments owed by the person. Since the number of persons who may apply for compensation based on the provisions of the bill and the conditions of the potential compensation cannot be determined, the impact of the bill cannot be determined.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, KJG, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 10, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: HB417 by Anchia (Relating to claims for compensation for wrongful imprisonment.), As
Engrossed

No significant fiscal implication to the State is anticipated.

The bill would require the Department of Criminal Justice to provide wrongfully imprisoned persons with guidance in obtaining compensation and information regarding advocacy groups. The bill would provide parameters for fee agreements between attorneys and wrongfully imprisoned persons. The Texas Department of Criminal Justice anticipates no significant fiscal impact from the bill.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, KJG, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 23, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

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

IN RE: HB417 by Anchia (relating to claims for compensation for wrongful imprisonment.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would require the Department of Criminal Justice to provide wrongfully imprisoned persons with guidance in obtaining compensation and information regarding advocacy groups. The bill would also limit fee agreements between attorneys and wrongfully imprisoned persons and would require the Comptroller of Public Accounts to establish the maximum hourly rate for these fee agreements by January 1, 2012. The bill would increase a claimant's application for remedy for a claim denied by the Comptroller of Public Accounts to 30 days. The Texas Department of Criminal Justice and the Comptroller of Public Accounts anticipate no significant fiscal impact from this bill.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, JT, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 10, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

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

IN RE: HB417 by Anchia (Relating to provision of notice regarding and limitation of attorney's fees for services provided in connection with the making of a wrongful imprisonment claim.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require the Department of Criminal Justice to provide wrongfully imprisoned persons with guidance in obtaining compensation and information regarding advocacy groups. The bill would also limit fee agreements between attorneys and wrongfully imprisoned persons and would require the Comptroller of Public Accounts to establish the maximum hourly rate for these fee agreements by January 1, 2012. The Texas Department of Criminal Justice and the Comptroller of Public Accounts anticipate no significant fiscal impact from this bill.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 696 Department of Criminal Justice

LBB Staff: JOB, JT, GG, AI