

By: Anchia, Simmons

H.B. No. 638

A BILL TO BE ENTITLED

AN ACT

relating to annuity payments to surviving spouses and designated beneficiaries of persons wrongfully imprisoned.

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

SECTION 1. Section 103.053, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.053. ANNUITY COMPENSATION GENERALLY; STANDARD ANNUITY PAYMENTS. (a) A person entitled to compensation under Section 103.001(a) is entitled to standard annuity payments under this section unless the person elects to receive alternative annuity payments under Section 103.0535.

(a-1) Standard annuity payments are~~[7]~~ 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) Standard ~~[The]~~ annuity payments ~~[under this section]~~ are payable in equal monthly installments for the life of the claimant.

(c) Annuity payments under this chapter ~~[and]~~ must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller. Annuity ~~[(c) The annuity]~~ payments under this chapter may not be accelerated, deferred, increased, or decreased. A person entitled to annuity payments under this chapter, including a claimant's spouse or designated beneficiary entitled to payments under Section

1 103.0535, [~~The applicant~~] may not sell, mortgage or otherwise  
2 encumber, or anticipate the payments, wholly or partly, by  
3 assignment or otherwise.

4 SECTION 2. Subchapter B, Chapter 103, Civil Practice and  
5 Remedies Code, is amended by adding Sections 103.0535 and 103.0536  
6 to read as follows:

7 Sec. 103.0535. ALTERNATIVE ANNUITY COMPENSATION. (a) A  
8 person entitled to compensation under Section 103.001(a) may elect  
9 to receive reduced alternative annuity payments under this section  
10 instead of standard annuity payments.

11 (b) Alternative annuity payments are payable throughout the  
12 life of the claimant and are actuarially reduced from the standard  
13 annuity payments to their actuarial equivalent under the option  
14 selected under Subsection (c).

15 (c) A claimant may select one of the following options,  
16 which provide that:

17 (1) after the claimant's death, the alternative  
18 annuity payments are payable to and throughout the life of the  
19 claimant's spouse;

20 (2) after the claimant's death, three-fourths of the  
21 initial alternative annuity payment amount is payable to and  
22 throughout the life of the claimant's spouse;

23 (3) after the claimant's death, one-half of the  
24 initial alternative annuity payment amount is payable to and  
25 throughout the life of the claimant's spouse;

26 (4) if the claimant dies before 180 monthly  
27 alternative annuity payments have been made, the remainder of the

1 180 payments are payable to the claimant's spouse or designated  
2 beneficiary; or

3 (5) if the claimant dies before 120 monthly  
4 alternative annuity payments have been made, the remainder of the  
5 120 payments are payable to the claimant's spouse or designated  
6 beneficiary.

7 (d) An election under this section must be made not later  
8 than the 45th day after the date on which the claimant files with  
9 the comptroller the application required by Section 103.051 on a  
10 form prescribed by the comptroller that:

11 (1) identifies the claimant's spouse or designated  
12 beneficiary according to Section 103.0536; and

13 (2) specifies the option selected under Subsection  
14 (c).

15 (e) A claimant who elects to receive alternative annuity  
16 payments under this section that are payable to the claimant and the  
17 claimant's spouse and survives the claimant's spouse is entitled to  
18 an increase in the amount of the claimant's monthly annuity  
19 payments so that the claimant's monthly payments equal the monthly  
20 payments the claimant would have received had the claimant not  
21 elected to receive the alternative annuity payments. The claimant  
22 is entitled to the increased payments beginning the month after the  
23 month in which the claimant's spouse dies and ending on the date of  
24 the claimant's death.

25 Sec. 103.0536. DESIGNATED BENEFICIARY. (a) A claimant who  
26 selects a designated beneficiary to receive the remainder of the  
27 alternative annuity payments payable under Section 103.0535(c)(4)

1 or (5) may designate:

2 (1) one designated beneficiary to receive the  
3 remainder of the annuity payments;

4 (2) two or more designated beneficiaries to receive  
5 the remainder of the annuity payments in equal amounts; or

6 (3) a primary designated beneficiary to receive the  
7 remainder of the annuity payments and an additional beneficiary.

8 (b) If a designated beneficiary designated under Subsection  
9 (a)(2) dies before the remainder of the annuity payments are paid,  
10 the comptroller shall recalculate the payments so that the  
11 remaining designated beneficiaries receive the remainder of the  
12 annuity payments in equal amounts.

13 (c) An additional beneficiary designated under Subsection  
14 (a)(3) takes the place of the primary beneficiary if the primary  
15 beneficiary dies before the remainder of the annuity payments are  
16 paid. A claimant may select not more than four additional  
17 beneficiaries and shall determine the order in which the additional  
18 beneficiaries are to succeed the primary beneficiary. The remainder  
19 of the annuity payments under this subsection are paid to one  
20 beneficiary at a time until the beneficiary dies or the remaining  
21 annuity payments are paid. If each additional beneficiary dies  
22 before the remainder of the annuity payments are paid, the  
23 remainder of the annuity payments are payable to the claimant's  
24 estate.

25 (d) A designated beneficiary under this section must be a  
26 dependent of the claimant. For purposes of this subsection,  
27 "dependent" includes a claimant's spouse, minor child, and any

1 other person for whom the claimant is legally obligated to provide  
2 support, including alimony.

3 SECTION 3. Section 103.151(b), Civil Practice and Remedies  
4 Code, is amended to read as follows:

5 (b) The comptroller shall begin making annuity payments [~~to~~  
6 ~~a claimant~~] under Section 103.053(a) or 103.0535 on the first  
7 anniversary of the date of payment of the compensation due under  
8 Section 103.052.

9 SECTION 4. Sections 103.154(a) and (b), Civil Practice and  
10 Remedies Code, are amended to read as follows:

11 (a) Except as provided by Subsection (c), compensation  
12 payments [~~to a person~~] under this chapter terminate if, after the  
13 date the claimant [~~person~~] becomes eligible for compensation under  
14 Section 103.001, the claimant [~~person~~] is convicted of a crime  
15 punishable as a felony. Annuity payments to a claimant's spouse or  
16 designated beneficiary under this chapter terminate if, after the  
17 date the spouse or designated beneficiary begins receiving annuity  
18 payments, the spouse or designated beneficiary is convicted of a  
19 crime punishable as a felony. Payments [~~Compensation payments~~]  
20 terminate under this subsection on the date of the felony  
21 [~~subsequent~~] conviction. If annuity payments to a designated  
22 beneficiary are terminated under this subsection, the remainder of  
23 the annuity payments are payable under Section 103.0536 as if the  
24 beneficiary died on the date of termination.

25 (b) Except as provided by Sections 103.0535 and 103.0536:

26 (1) annuity [~~Annuity~~] payments to a person under this  
27 chapter [~~Section 103.151(b)~~] terminate on the date of the person's

1 death; and

2           (2) [~~Any~~] payments scheduled to be paid after that  
3 date are credited to the state and may not be paid to any other  
4 person, including the person's surviving spouse, heirs, devisees,  
5 or beneficiaries under the person's will, or to the person's estate.

6           SECTION 5. (a) Not later than December 1, 2015, the  
7 comptroller shall develop and make available the form described by  
8 Section 103.0535(d), Civil Practice and Remedies Code, as added by  
9 this Act.

10           (b) A person entitled to compensation under Section  
11 [103.001\(a\)](#), Civil Practice and Remedies Code, who started receiving  
12 annuity payments before the effective date of this Act may elect to  
13 receive any remaining payments as alternative annuity payments  
14 under Section 103.0535, Civil Practice and Remedies Code, as added  
15 by this Act, by filing the form described by Section 103.0535(d),  
16 Civil Practice and Remedies Code, as added by this Act, with the  
17 comptroller not later than the 45th day after the date the  
18 comptroller makes the form available. The value of alternative  
19 annuity payments elected under this section must be actuarially  
20 equivalent to the remaining value of the annuity payments the  
21 person would receive absent the election.

22           SECTION 6. This Act takes effect September 1, 2015.