

1-1 By: Anchia, Simmons (Senate Sponsor - Ellis) H.B. No. 638
 1-2 (In the Senate - Received from the House May 11, 2015;
 1-3 May 12, 2015, read first time and referred to Committee on State
 1-4 Affairs; May 21, 2015, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to annuity payments to surviving spouses and designated
 1-20 beneficiaries of persons wrongfully imprisoned.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 103.053, Civil Practice and Remedies
 1-23 Code, is amended to read as follows:

1-24 Sec. 103.053. ANNUITY COMPENSATION GENERALLY; STANDARD
 1-25 ANNUITY PAYMENTS. (a) A person entitled to compensation under
 1-26 Section 103.001(a) is entitled to standard annuity payments under
 1-27 this section unless the person elects to receive alternative
 1-28 annuity payments under Section 103.0535.

1-29 (a-1) Standard annuity payments are~~[r]~~ based on a present
 1-30 value sum equal to the amount to which the person is entitled under
 1-31 Sections 103.052(a)(1) and (b).

1-32 (b) Standard ~~The~~ annuity payments ~~[under this section]~~
 1-33 are payable in equal monthly installments for the life of the
 1-34 claimant.

1-35 (c) Annuity payments under this chapter ~~and~~ must be based
 1-36 on a five percent per annum interest rate and other actuarial
 1-37 factors within the discretion of the comptroller. Annuity
 1-38 ~~[(c) The annuity]~~ payments under this chapter may not be
 1-39 accelerated, deferred, increased, or decreased. A person entitled
 1-40 to annuity payments under this chapter, including a claimant's
 1-41 spouse or designated beneficiary entitled to payments under Section
 1-42 103.0535, [The applicant] may not sell, mortgage or otherwise
 1-43 encumber, or anticipate the payments, wholly or partly, by
 1-44 assignment or otherwise.

1-45 SECTION 2. Subchapter B, Chapter 103, Civil Practice and
 1-46 Remedies Code, is amended by adding Sections 103.0535 and 103.0536
 1-47 to read as follows:

1-48 Sec. 103.0535. ALTERNATIVE ANNUITY COMPENSATION. (a) A
 1-49 person entitled to compensation under Section 103.001(a) may elect
 1-50 to receive reduced alternative annuity payments under this section
 1-51 instead of standard annuity payments.

1-52 (b) Alternative annuity payments are payable throughout the
 1-53 life of the claimant and are actuarially reduced from the standard
 1-54 annuity payments to their actuarial equivalent under the option
 1-55 selected under Subsection (c).

1-56 (c) A claimant may select one of the following options,
 1-57 which provide that:

1-58 (1) after the claimant's death, the alternative
 1-59 annuity payments are payable to and throughout the life of the
 1-60 claimant's spouse;

1-61 (2) after the claimant's death, three-fourths of the

2-1 initial alternative annuity payment amount is payable to and
 2-2 throughout the life of the claimant's spouse;

2-3 (3) after the claimant's death, one-half of the
 2-4 initial alternative annuity payment amount is payable to and
 2-5 throughout the life of the claimant's spouse;

2-6 (4) if the claimant dies before 180 monthly
 2-7 alternative annuity payments have been made, the remainder of the
 2-8 180 payments are payable to the claimant's spouse or designated
 2-9 beneficiary; or

2-10 (5) if the claimant dies before 120 monthly
 2-11 alternative annuity payments have been made, the remainder of the
 2-12 120 payments are payable to the claimant's spouse or designated
 2-13 beneficiary.

2-14 (d) An election under this section must be made not later
 2-15 than the 45th day after the date on which the claimant files with
 2-16 the comptroller the application required by Section 103.051 on a
 2-17 form prescribed by the comptroller that:

2-18 (1) identifies the claimant's spouse or designated
 2-19 beneficiary according to Section 103.0536; and

2-20 (2) specifies the option selected under Subsection
 2-21 (c).

2-22 (e) A claimant who elects to receive alternative annuity
 2-23 payments under this section that are payable to the claimant and the
 2-24 claimant's spouse and survives the claimant's spouse is entitled to
 2-25 an increase in the amount of the claimant's monthly annuity
 2-26 payments so that the claimant's monthly payments equal the monthly
 2-27 payments the claimant would have received had the claimant not
 2-28 elected to receive the alternative annuity payments. The claimant
 2-29 is entitled to the increased payments beginning the month after the
 2-30 month in which the claimant's spouse dies and ending on the date of
 2-31 the claimant's death.

2-32 Sec. 103.0536. DESIGNATED BENEFICIARY. (a) A claimant who
 2-33 selects a designated beneficiary to receive the remainder of the
 2-34 alternative annuity payments payable under Section 103.0535(c)(4)
 2-35 or (5) may designate:

2-36 (1) one designated beneficiary to receive the
 2-37 remainder of the annuity payments;

2-38 (2) two or more designated beneficiaries to receive
 2-39 the remainder of the annuity payments in equal amounts; or

2-40 (3) a primary designated beneficiary to receive the
 2-41 remainder of the annuity payments and an additional beneficiary.

2-42 (b) If a designated beneficiary designated under Subsection
 2-43 (a)(2) dies before the remainder of the annuity payments are paid,
 2-44 the comptroller shall recalculate the payments so that the
 2-45 remaining designated beneficiaries receive the remainder of the
 2-46 annuity payments in equal amounts.

2-47 (c) An additional beneficiary designated under Subsection
 2-48 (a)(3) takes the place of the primary beneficiary if the primary
 2-49 beneficiary dies before the remainder of the annuity payments are
 2-50 paid. A claimant may select not more than four additional
 2-51 beneficiaries and shall determine the order in which the additional
 2-52 beneficiaries are to succeed the primary beneficiary. The remainder
 2-53 of the annuity payments under this subsection are paid to one
 2-54 beneficiary at a time until the beneficiary dies or the remaining
 2-55 annuity payments are paid. If each additional beneficiary dies
 2-56 before the remainder of the annuity payments are paid, the
 2-57 remainder of the annuity payments are payable to the claimant's
 2-58 estate.

2-59 (d) A designated beneficiary under this section must be a
 2-60 dependent of the claimant. For purposes of this subsection,
 2-61 "dependent" includes a claimant's spouse, minor child, and any
 2-62 other person for whom the claimant is legally obligated to provide
 2-63 support, including alimony.

2-64 SECTION 3. Section 103.151(b), Civil Practice and Remedies
 2-65 Code, is amended to read as follows:

2-66 (b) The comptroller shall begin making annuity payments [~~to~~
 2-67 a claimant] under Section 103.053(a) or 103.0535 on the first
 2-68 anniversary of the date of payment of the compensation due under
 2-69 Section 103.052.

3-1 SECTION 4. Sections 103.154(a) and (b), Civil Practice and
3-2 Remedies Code, are amended to read as follows:

3-3 (a) Except as provided by Subsection (c), compensation
3-4 payments ~~[to a person]~~ under this chapter terminate if, after the
3-5 date the claimant ~~[person]~~ becomes eligible for compensation under
3-6 Section 103.001, the claimant ~~[person]~~ is convicted of a crime
3-7 punishable as a felony. Annuity payments to a claimant's spouse or
3-8 designated beneficiary under this chapter terminate if, after the
3-9 date the spouse or designated beneficiary begins receiving annuity
3-10 payments, the spouse or designated beneficiary is convicted of a
3-11 crime punishable as a felony. Payments ~~[Compensation payments]~~
3-12 terminate under this subsection on the date of the felony
3-13 ~~[subsequent]~~ conviction. If annuity payments to a designated
3-14 beneficiary are terminated under this subsection, the remainder of
3-15 the annuity payments are payable under Section 103.0536 as if the
3-16 beneficiary died on the date of termination.

3-17 (b) Except as provided by Sections 103.0535 and 103.0536:
3-18 (1) annuity ~~[Annuity]~~ payments to a person under this
3-19 chapter ~~[Section 103.151(b)]~~ terminate on the date of the person's
3-20 death; and

3-21 (2) ~~[Any]~~ payments scheduled to be paid after that
3-22 date are credited to the state and may not be paid to any other
3-23 person, including the person's surviving spouse, heirs, devisees,
3-24 or beneficiaries under the person's will, or to the person's estate.

3-25 SECTION 5. (a) Not later than December 1, 2015, the
3-26 comptroller shall develop and make available the form described by
3-27 Section 103.0535(d), Civil Practice and Remedies Code, as added by
3-28 this Act.

3-29 (b) A person entitled to compensation under Section
3-30 103.001(a), Civil Practice and Remedies Code, who started receiving
3-31 annuity payments before the effective date of this Act may elect to
3-32 receive any remaining payments as alternative annuity payments
3-33 under Section 103.0535, Civil Practice and Remedies Code, as added
3-34 by this Act, by filing the form described by Section 103.0535(d),
3-35 Civil Practice and Remedies Code, as added by this Act, with the
3-36 comptroller not later than the 45th day after the date the
3-37 comptroller makes the form available. The value of alternative
3-38 annuity payments elected under this section must be actuarially
3-39 equivalent to the remaining value of the annuity payments the
3-40 person would receive absent the election.

3-41 SECTION 6. This Act takes effect September 1, 2015.

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