

1-1 By: Duncan, Ellis, Shapiro S.B. No. 2014
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 9, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 9, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2014 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to compensation of persons wrongfully imprisoned.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. This Act shall be known as the Tim Cole Act.
1-13 SECTION 2. Section 103.001, Civil Practice and Remedies
1-14 Code, is amended by adding Subsection (c) to read as follows:
1-15 (c) If a deceased person would be entitled to compensation
1-16 under Subsection (a)(2) if living, including a person who received
1-17 a posthumous pardon, the person's heirs, legal representatives, and
1-18 estate are entitled to lump-sum compensation under Section 103.052.
1-19 SECTION 3. Section 103.003, Civil Practice and Remedies
1-20 Code, is amended to read as follows:
1-21 Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than
1-22 the third anniversary of the date the person on whose imprisonment
1-23 the claim is based received the pardon or was granted relief [~~found~~
1-24 ~~not guilty~~] as required by Section 103.001, a person seeking
1-25 compensation under this chapter must ~~+~~
1-26 ~~[(1)]~~ file an application with the comptroller for
1-27 compensation under Subchapter B ~~+, or~~
1-28 ~~[(2)]~~ ~~file suit against the state for compensation~~
1-29 ~~under Subchapter C].~~
1-30 SECTION 4. Subsection (a), Section 103.051, Civil Practice
1-31 and Remedies Code, as amended by Chapters 1190 (H.B. 814) and 1388
1-32 (S.B. 1719), Acts of the 80th Legislature, Regular Session, 2007,
1-33 is reenacted and amended to read as follows:
1-34 (a) To apply for compensation under this subchapter, the
1-35 claimant must file with the comptroller's judiciary section:
1-36 (1) an application for compensation provided for that
1-37 purpose by the comptroller;
1-38 (2) a verified copy of the pardon or court order
1-39 justifying the application for compensation; ~~and~~
1-40 (3) a statement provided by the Texas Department of
1-41 Criminal Justice and any county or municipality that incarcerated
1-42 the person on whose imprisonment the claim is based in connection
1-43 with the relevant sentence verifying the length of incarceration;
1-44 (4) if applicable, a statement from the Department of
1-45 Public Safety verifying registration as a sex offender and length
1-46 of registration;
1-47 (5) if applicable, a statement from the Texas
1-48 Department of Criminal Justice verifying the length of time spent
1-49 on parole; and
1-50 (6) if the claimant is applying for compensation under
1-51 Section 103.052(a)(2), a certified copy of each child support order
1-52 under which child support payments became due during the time the
1-53 claimant served in prison and copies of the official child support
1-54 payment records described by Section 234.009, Family Code, for that
1-55 period.
1-56 SECTION 5. Section 103.052, Civil Practice and Remedies
1-57 Code, is amended to read as follows:
1-58 Sec. 103.052. LUMP-SUM AND CERTAIN OTHER [AMOUNT AND TIMING
1-59 OF] COMPENSATION. (a) A person who meets the requirements of
1-60 Section 103.001 is entitled to compensation in an amount equal to:
1-61 (1) \$80,000 [~~\$50,000~~] multiplied by the number of
1-62 years served in prison, expressed as a fraction to reflect partial
1-63 years; and

2-1 (2) compensation for child support payments owed by
 2-2 the person on whose imprisonment the claim is based that became due
 2-3 and interest on child support arrearages that accrued during the
 2-4 time served in prison but were not paid.

2-5 ~~[(a-1) Notwithstanding Subsection (a)(1), a person~~
 2-6 ~~sentenced to death who meets the requirements of Section 103.001 is~~
 2-7 ~~entitled to compensation in an amount equal to \$100,000 multiplied~~
 2-8 ~~by the number of years served in prison, expressed as a fraction to~~
 2-9 ~~reflect partial years.]~~

2-10 (b) A person who, after serving a sentence in a Texas prison
 2-11 for which the person is entitled to compensation under Subsection
 2-12 (a)(1), was released on parole or required to register as a sex
 2-13 offender under Chapter 62, Code of Criminal Procedure, is entitled
 2-14 to compensation in an amount equal to \$25,000 multiplied by the
 2-15 number of years served either on parole or as a registered sex
 2-16 offender, expressed as a fraction to reflect partial years [A
 2-17 person who is owed an amount of compensation under Subsection
 2-18 (a)(1) or (a-1) equal to or greater than \$50,000 shall be paid that
 2-19 compensation in two equal annual installments].

2-20 (c) On application by the claimant in a manner prescribed by
 2-21 the board of trustees of the Employees Retirement System of Texas, a
 2-22 claimant who is entitled to compensation under Section 103.001(a)
 2-23 may participate in the group benefits program under Chapter 1551,
 2-24 Insurance Code, and is automatically covered by the basic coverage
 2-25 for annuitants provided under that chapter. A claimant who
 2-26 participates in the group benefits program is entitled to receive
 2-27 state contributions for the full cost of the premiums. Eligibility
 2-28 to participate in the group benefits program under this subsection
 2-29 does not extend to the claimant's dependents [If requested by the
 2-30 claimant, the Texas Department of Mental Health and Mental
 2-31 Retardation shall provide appropriate counseling for one year to
 2-32 the claimant at a mutually agreed-on location at no charge to the
 2-33 claimant].

2-34 (d) The amount of compensation under Subsection (a)(2) to
 2-35 which a person is entitled shall be paid on the person's behalf in a
 2-36 lump-sum payment to the state disbursement unit, as defined by
 2-37 Section 101.0302, Family Code, for distribution to the obligee
 2-38 under the child support order.

2-39 (e) If requested by the claimant, up to 120 hours of tuition
 2-40 at a career center, community college, or state university shall be
 2-41 paid on behalf of the claimant.

2-42 SECTION 6. Subchapter B, Chapter 103, Civil Practice and
 2-43 Remedies Code, is amended by adding Section 103.053 to read as
 2-44 follows:

2-45 Sec. 103.053. ANNUITY COMPENSATION. (a) A person entitled
 2-46 to compensation under Section 103.001(a) is entitled to annuity
 2-47 payments, based on a present value sum equal to the amount to which
 2-48 the person is entitled under Sections 103.052(a)(1) and (b).

2-49 (b) The annuity payments under this section are payable in
 2-50 equal monthly installments for the life of the claimant and must be
 2-51 based on a five percent per annum interest rate and other actuarial
 2-52 factors within the discretion of the comptroller.

2-53 (c) The annuity payments may not be accelerated, deferred,
 2-54 increased, or decreased. The applicant may not sell, mortgage or
 2-55 otherwise encumber, or anticipate the payments, wholly or partly,
 2-56 by assignment or otherwise.

2-57 SECTION 7. Section 103.151, Civil Practice and Remedies
 2-58 Code, is amended to read as follows:

2-59 Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION.
 2-60 (a) The comptroller shall make the compensation [first
 2-61 installment payment] due a claimant under Section 103.052 [an
 2-62 applicant] and the lump-sum payment, if any, to be paid to the state
 2-63 disbursement unit, as defined by Section 101.0302, Family Code,
 2-64 under Subchapter B, to the extent that funds are available and
 2-65 appropriated for that purpose, not later than the 30th day after the
 2-66 date the comptroller grants the application. A claim for lump-sum
 2-67 compensation payable under Section 103.052(a) or (b) shall survive
 2-68 the death of the claimant in favor of the heirs, legal
 2-69 representatives, and estate of the claimant.

3-1 (b) The comptroller shall begin making annuity payments to a
3-2 claimant under Section 103.053(a) on the first anniversary of the
3-3 date of payment of the compensation due under Section 103.052 [~~pay~~
3-4 ~~the amount of the second installment payment on the first~~
3-5 ~~anniversary of the date of the first installment~~].

3-6 (c) If appropriated funds are insufficient to pay the amount
3-7 due a claimant [~~an applicant~~] and the amount to be paid to the state
3-8 disbursement unit, as defined by Section 101.0302, Family Code,
3-9 money shall be paid under the procedure described by Section
3-10 103.152.

3-11 SECTION 8. Subsection (a), Section 103.152, Civil Practice
3-12 and Remedies Code, is amended to read as follows:

3-13 (a) Not later than November 1 of each even-numbered year,
3-14 the comptroller shall provide a list of claimants entitled to
3-15 payment under Subchapter B [~~or C~~] and the amounts due for each
3-16 claimant to the governor, the lieutenant governor, and the chair of
3-17 the appropriate committee in each house of the legislature so that
3-18 the legislature may appropriate the amount needed to pay the amount
3-19 owed to each claimant and the amount to be paid to the state
3-20 disbursement unit, as defined by Section 101.0302, Family Code, on
3-21 the claimant's behalf.

3-22 SECTION 9. Subsection (b), Section 103.154, Civil Practice
3-23 and Remedies Code, is amended to read as follows:

3-24 (b) Annuity [~~Except as provided by Subsection (c),~~
3-25 ~~compensation~~] payments to a person under Section 103.151(b) [~~this~~
3-26 ~~chapter~~] terminate on the date of the person's death. Any payments
3-27 scheduled to be paid after that date are credited to the state and
3-28 may not be paid to any other person, including the person's
3-29 surviving spouse, heirs, devisees, or beneficiaries under the
3-30 person's will, or to the person's estate.

3-31 SECTION 10. The following provisions of the Civil Practice
3-32 and Remedies Code are repealed:

- 3-33 (1) Section 103.002;
- 3-34 (2) Subchapter C, Chapter 103; and
- 3-35 (3) Subsection (c), Section 103.152.

3-36 SECTION 11. (a) The change in law made by this Act applies
3-37 only to an application for compensation for wrongful imprisonment
3-38 that is filed on or after the effective date of this Act. An
3-39 application filed or action commenced under Chapter 103, Civil
3-40 Practice and Remedies Code, before the effective date of this Act is
3-41 governed by the law in effect immediately before the effective date
3-42 of this Act, and that law is continued in effect for that purpose.

3-43 (b) Notwithstanding Section 103.003, Civil Practice and
3-44 Remedies Code, as amended by this Act, a person who received
3-45 compensation under Chapter 103, Civil Practice and Remedies Code,
3-46 before September 1, 2009, is entitled to annuity payments under
3-47 Section 103.053, Civil Practice and Remedies Code, as added by this
3-48 Act, based on a present value sum equal to the amount the person
3-49 would receive under Subdivision (1), Subsection (a), Section
3-50 103.052, and Subsection (b), Section 103.052, Civil Practice and
3-51 Remedies Code, as amended by this Act, if the person were to receive
3-52 compensation under those sections on September 1, 2009. The
3-53 comptroller of public accounts shall begin making payments to a
3-54 claimant under this section not later than the 30th day after the
3-55 date the comptroller determines the claimant is eligible to receive
3-56 compensation under this section.

3-57 SECTION 12. This Act takes effect September 1, 2009.

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