CIVIL PRACTICE AND REMEDIES CODE

TITLE 5. GOVERNMENTAL LIABILITY

CHAPTER 103. COMPENSATION TO PERSONS WRONGFULLY IMPRISONED

SUBCHAPTER A. ELIGIBILITY; NOTICE OF ELIGIBILITY

Sec. 103.001. CLAIMANTS ENTITLED TO COMPENSATION AND HEALTH BENEFITS COVERAGE. (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;

(B) has been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the person is actually innocent 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 that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced.

(b) A person is not entitled to compensation under Subsection (a) for any part of a sentence in prison during which the person was also serving a concurrent sentence for another crime to which Subsection (a) does not apply.

(c) If a deceased person would be entitled to compensation under Subsection (a)(2) if living, including a person who received a posthumous pardon, the person's heirs, legal representatives, and estate are entitled to lump-sum compensation under Section 103.052.

(d) Subject to this section, a person entitled to

compensation under Subsection (a) is also eligible to obtain group health benefit plan coverage through the Texas Department of Criminal Justice as if the person were an employee of the department. The person's spouse and dependents may be included in the person's coverage as if the person were an employee of the department. Coverage may be obtained under this subsection for a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully imprisoned, including any period during which the claimant was released on parole or to mandatory supervision or required to register under Chapter 62, Code of Criminal Procedure. A person who elects to obtain coverage under this subsection shall pay a monthly contribution equal to the total amount of the monthly contributions for that coverage for an employee of the department.

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

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1107 (S.B. 1686), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1107 (S.B. 1686), Sec. 2, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 315 (H.B. 1455), Sec. 1, eff. September 1, 2023.

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 1389 (S.B. 1847), 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 chapter; and

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

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 3, eff. June 17, 2011.

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

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

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

(3) an order of dismissal described by Section 103.001(a)(2)(C) was signed.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 4, eff. June 17, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROCEEDING

Sec. 103.051. APPLICATION PROCEDURE. (a) To apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

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

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

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

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

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

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

(b) The comptroller shall determine:

(1) the eligibility of the claimant; and

(2) the amount of compensation owed to an eligible claimant.

(b-1) In determining the eligibility of a claimant, the

comptroller shall consider only the verified copies of documents filed under Subsection (a)(2). If the filed documents do not clearly indicate on their face that the person is entitled to compensation under Section 103.001(a)(2), the comptroller shall deny the claim. The comptroller's duty to determine the eligibility of a claimant under this section is purely ministerial.

(c) The comptroller must make a determination of eligibility and the amount owed as required by Subsection (b) not later than the 45th day after the date the application is received.

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

(e) If the comptroller denies a claim after the claimant submits an application under Subsection (d), the claimant may bring an action for mandamus relief.

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

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

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

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1190 (H.B. 814), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1388 (S.B. 1719), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 5.003, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1107 (S.B. 1686), Sec. 3, eff. September 1, 2011.

Sec. 103.052. LUMP-SUM COMPENSATION. (a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

(1) $80,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years; and

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

(b) A person who, after serving a sentence in a Texas prison for which the person is entitled to compensation under Subsection (a)(1), was released on parole or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, is entitled to compensation in an amount equal to $25,000 multiplied by the number of years served either on parole or as a registered sex offender, expressed as a fraction to reflect partial years.

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

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1190 (H.B. 814), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 5, eff. September 1, 2009.

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 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 annuity payments are payable in equal monthly installments for the life of the claimant.

(c) Annuity payments under this chapter must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller. 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 103.0535, may not sell, mortgage or otherwise encumber, or anticipate the payments, wholly or partly, by assignment or otherwise.

Added by Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 6, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 689 (H.B. 638), Sec. 1, eff. September 1, 2015.

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

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

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

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

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

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

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

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

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

(d) An election under this section must be made not later than the 45th day after the date:

(1) on which the claimant files with the comptroller the application required by Section 103.051; or

(2) on which the claimant experiences one of the following life-changing events:

(A) marriage or divorce of the claimant;

(B) the addition of a dependent of the claimant; or

(C) the death of a dependent, spouse, or beneficiary of the claimant.

(d-1) An election under Subsection (d) must be made on a form prescribed by the comptroller that:

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

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

(e) A claimant who elects to receive alternative annuity payments under this section that are payable to the claimant and the claimant's spouse and survives the claimant's spouse is entitled to an increase in the amount of the claimant's monthly annuity payments so that the claimant's monthly payments equal the monthly payments the claimant would have received had the claimant not elected to receive the alternative annuity payments. The claimant

is entitled to the increased payments beginning the month after the month in which the claimant's spouse dies and ending on the date of the claimant's death.

Added by Acts 2015, 84th Leg., R.S., Ch. 689 (H.B. 638), Sec. 2, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 621 (S.B. 1151), Sec. 1, eff. June 10, 2019.

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

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

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

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

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

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

(d) A designated beneficiary under this section must be a

dependent of the claimant. For purposes of this subsection, "dependent" includes a claimant's spouse, minor child, and any other person for whom the claimant is legally obligated to provide support, including alimony.

Added by Acts 2015, 84th Leg., R.S., Ch. 689 (H.B. 638), Sec. 2, eff. September 1, 2015.

Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the seventh anniversary of the relevant date described by Section 103.003, tuition for up to 120 credit hours, including tuition charged under Section 54.0513, Education Code, or any other law granting an educational institution discretion to set the tuition rate, and any mandatory fees associated with attendance at the institution, charged by a career center or public institution of higher education shall be paid on behalf of the claimant.

Added by Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 6, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 6, eff. June 17, 2011.

SUBCHAPTER C. FEES

Sec. 103.101. FEES LIMITED; PREREQUISITES TO FEE AGREEMENT. (a) A person, including an attorney, may not charge or collect a fee for preparing, filing, or curing a claimant's application under Section 103.051 unless the fee is based on a reasonable hourly rate.

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 7,

eff. June 17, 2011.

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

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

(1) the total dollar amount sought for fees;

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

(3) the name of the applicant.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 7, eff. June 17, 2011.

SUBCHAPTER D. PAYMENTS AND LIMITATIONS

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

(b) The comptroller shall begin making annuity payments under Section 103.053(a) or 103.0535 on the first anniversary of the date of payment of the compensation due under Section 103.052.

(c) If appropriated funds are insufficient to pay the amount due a claimant and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, money shall be paid under the procedure described by Section 103.152.

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1190 (H.B. 814), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 7, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 689 (H.B. 638), Sec. 3, eff. September 1, 2015.

Sec. 103.152. PAYMENT OF COMPENSATION. (a) Not later than November 1 of each even-numbered year, the comptroller shall provide a list of claimants entitled to payment under Subchapter B and the amounts due for each claimant to the governor, the lieutenant governor, and the chair of the appropriate committee in each house of the legislature so that the legislature may appropriate the amount needed to pay the amount owed to each claimant and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, on the claimant's behalf.

(b) Not later than September 1 of the year in which an appropriation under this chapter has been made by the legislature, the comptroller shall pay the required amount to each claimant and the state disbursement unit, as defined by Section 101.0302, Family Code.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 180, Sec. 12(3), eff. September 1, 2009.

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1190 (H.B. 814), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 12(3), eff. September 1, 2009.

Sec. 103.153. EMPLOYEES NOT LIABLE AFTER PAYMENT OF COMPENSATION. (a) In this section, "employee" and "governmental

unit" have the meanings assigned by Section 101.001.

(b) A person who receives compensation under this chapter may not bring any action involving the same subject matter, including an action involving the person's arrest, conviction, or length of confinement, against any governmental unit or an employee of any governmental unit.

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Sec. 103.154. TERMINATION OF PAYMENTS. (a) Except as provided by Subsection (c), compensation payments under this chapter terminate if, after the date the claimant becomes eligible for compensation under Section 103.001, the claimant is convicted of a crime punishable as a felony. Annuity payments to a claimant's spouse or designated beneficiary under this chapter terminate if, after the date the spouse or designated beneficiary begins receiving annuity payments, the spouse or designated beneficiary is convicted of a crime punishable as a felony. Payments terminate under this subsection on the date of the felony conviction. If annuity payments to a designated beneficiary are terminated under this subsection, the remainder of the annuity payments are payable under Section 103.0536 as if the beneficiary died on the date of termination.

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

(1) annuity payments to a person under this chapter terminate on the date of the person's death; and

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

(c) This section does not apply to compensation for child support payments and interest on child support arrearages to be paid on a person's behalf under this chapter to the state disbursement unit, as defined by Section 101.0302, Family Code.

Added by Acts 2001, 77th Leg., ch. 1488, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1190 (H.B. 814), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 9, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 689 (H.B. 638), Sec. 4, eff. September 1, 2015.