

SUBJECT: Payment of child support on behalf of persons wrongfully imprisoned

COMMITTEE: Juvenile Justice and Family Issues —favorable, without amendment

VOTE: 5 ayes — Dutton, Eiland, Farrar, Gonzalez Toureilles, Hernandez

0 nays

4 absent — Bolton, Farias, Strama, Vaught

WITNESSES: For — Sally Emerson, Texas Family Law Foundation; Roy Getting, Texas Fathers Alliance; Sudhir Joshi; Chris Mire; Drew Montz, Texas Parents Alliance; Doug Woodburn, Texas Family Law Foundation

Against — None

BACKGROUND: Under the Civil Practices & Remedies Code, ch. 103, people who are wrongfully convicted in Texas may petition the courts for compensation for time served. Compensation is set in an amount equal to either:

- \$25,000 for each full year served in prison, adjusted to reflect partial years; or
- \$500,000 if the time served is 20 years or more.

In addition, if the trier of fact finds that the petitioner is entitled to compensation, the petitioner is entitled to:

- expenses incurred by the petitioner in connection with all associated criminal proceedings and appeals and in connection with obtaining the petitioner's discharge from imprisonment, including any fine or court costs paid and reasonable attorney's fees, including reasonable attorney's fees for prosecuting the lawsuit;
- wages, salary, or other earned income lost as a direct result of the arrest, prosecution, conviction, or wrongful imprisonment; and
- medical and counseling expenses incurred by the petitioner as a direct result of the arrest, prosecution, conviction, or wrongful imprisonment.

DIGEST:

HB 814 would amend Code of Civil Procedure, ch. 103 to allow a wrongfully convicted person to apply for funds to cover child support payments that became due but were not paid during the time the claimant served in prison.

A claimant applying for or bringing suit for compensation for child support payments that accrued during a period of wrongful conviction would have to file with the comptroller or submit to the court as evidence certified copies of each child support order and copies of the official child support payment records for that period, as provided under sec. 234.009, Family Code.

HB 814 would amend sec. 103.105(c), Civil Practice & Remedies Code, to provide that child support payments that became due and interest on arrearages that accrued during the time served in prison would not be counted toward the \$500,000 ceiling for compensation for wrongful conviction.

HB 814 would amend Civil Practice & Remedies Code, sec. 104.154 to provide that compensation for child support would not terminate upon the conviction for a felony or the death of the person wrongfully convicted.

The comptroller would include the amount to be paid to the state child support disbursement unit in the report on claimants provided in each even-numbered year to the governor, the lieutenant governor, and the chair of the appropriate state committee of each house.

The bill would take effect on September 1, 2007, and would apply only to an action or application for compensation for wrongful conviction that was pending or commenced on or after the effective date.

SUPPORTERS
SAY:

HB 814 would ensure that children who were due child support received the payments they deserved. At the same time, it would prevent the state from awarding compensation to the wrongfully convicted, then going after the same person for child support. It would be fundamentally unfair to penalize a person who was wrongfully incarcerated and thus prevented from working and earning money to pay court-ordered child support. According to the Legislative Budget Board, the bill would have no significant fiscal implication to the state.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

According to the fiscal note, HB 814 could result in additional payments for wrongful conviction estimated at \$589,000 in the first biennium and \$229,000 for the next biennium in general revenue funds.