

SUBJECT: Allowing the wrongfully convicted to pass annuity payments to spouses

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

WITNESSES: For — Charles Chatman; Cornelius Dupree; Selma Dupree; Ed Heimlich; Johnnie Lindsey; Johnny Pinchback; Sandra Pinchback; Cory Session; Billy Smith; James Waller; David Wiggins; (*Registered, but did not testify*: Sarah Pahl, Texas Criminal Justice Coalition)

Against — None

BACKGROUND: Under Civil Practice and Remedies Code, ch. 103 an individual who is pardoned or granted relief under a writ of habeas corpus after being wrongfully convicted is entitled to compensation for the individual's time served.

Under sec. 103.53, claimants receive their payments as an annuity payments based on the present value of the amount to which they are entitled. However, under current law, claimants do not have an option that would allow their spouses or heirs to receive payments after the claimant's death.

DIGEST: CSHB 638 would allow an individual entitled to compensation for wrongful imprisonment to select alternative annuity payments that would allow the claimant's spouse and/or dependent to receive payments after the claimant's death.

Under the alternative annuity payments, the claimant would have several options for continued payment after death, including:

- making a percentage (100 percent, 75 percent, or 50 percent) of the

- annuity payment payable to the claimant's spouse; or
- if the claimant died before 180 or 120 monthly alternative annuity payments were made, making the remainder of those payments payable to the claimant's spouse or designated beneficiary.

Alternative annuity payments would be actuarially reduced according to the claimant's selection.

The claimant would be required to make a selection within 45 days of applying for compensation. The comptroller would be required to develop a form for this selection and make it available by December 1, 2015.

Under the bill, if a claimant elected to receive alternative annuity payments and then survived his or her spouse, the claimant's monthly annuity payments would be increased to the amount that the claimant would have received if he or she had selected standard annuity payments.

If a claimant selected either the 180-month or 120-month option, the claimant could designate:

1. one beneficiary to receive the remainder of the payments;
2. two or more beneficiaries to receive the remainder of payments in equal amounts; or
3. a primary beneficiary to receive the remainder of the payments and an additional beneficiary to take the place of the primary beneficiary if the primary beneficiary died before the remainder of the payments were paid.

Under the second option, if one of the beneficiaries died before the remainder of the payments were paid, the comptroller would recalculate the payments so that the remaining beneficiaries received the remainder of the payments in equal amounts.

Under the third option, a claimant could not select more than four additional beneficiaries and would determine the order in which they would succeed the primary beneficiary. If each of the beneficiaries died

before the remainder of the payments were paid, the remainder would be payable to the claimant's estate.

Only dependents of the claimant could be designated beneficiaries.

Under the bill, if a spouse or designated beneficiary was convicted of a felony, the payments would be terminated. If the spouse or designated beneficiary's payments were terminated, the remainder of the payments would be payable to any other beneficiaries or the claimant's estate.

The bill would take effect September 1, 2015. A claimant who started receiving annuity payments before that date could elect to receive any remaining payments as alternative annuity payments by filling out the form provided by the comptroller within 45 days of the form becoming available. The amount of the claimant's payments would be reduced accordingly.