

## **BILL ANALYSIS**

Senate Research Center  
80R874 KFF-D

S.B. 262  
By: Ellis  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law authorizes compensation for wrongful imprisonment in an amount of \$25,000 per year imprisoned, capped at \$500,000 total. Individuals who are wrongfully imprisoned face numerous obstacles upon release from prison. There is a general lack of state services to help these people overcome these obstacles. Results from a study of wrongfully convicted people found that, due to such obstacles, 28 percent were unemployed, 43 percent were earning less money than before they entered prison, 44 percent lacked adequate housing, and 54 percent did not have health insurance. Texas can take an important step towards helping the victims of wrongful imprisonment rebuild their lives by increasing this compensation.

As proposed, S.B. 262, in accordance with the Governor's Criminal Justice Advisory Council 2006 Recommendations, raises the amount a person receives upon release from prison due to the person's wrongful imprisonment from \$25,000 to \$50,000 per year imprisoned, or \$100,000 per year imprisoned if the person is sentenced to death. The bill also eliminates the \$500,000 cap on the amount that a wrongfully imprisoned person is authorized to receive.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 103.002, Civil Practice and Remedies Code, as follows:

Sec. 103.002. New Heading: CHOICE OF COMPENSATION METHOD; DOUBLE RECOVERY PROHIBITED. (a) Creates this subsection from existing text. Authorizes persons entitled to compensation under Section 103.001 (regarding wrongful imprisonment) to proceed by following the provisions for administratively awarded compensation under Subchapter B (Administrative Proceeding), by filing suit under Subchapter C (Filing Suit), or by proceeding under both Subchapters B and C. Deletes existing text prohibiting the seeking of compensation under both subchapters. Makes nonsubstantive changes.

(b) Requires the court to reduce the compensation amount awarded under Subchapter C by any amount that was paid or scheduled to be paid under Subchapter B before the date of the court award for the same wrongful imprisonment.

(c) Requires the comptroller of public accounts (comptroller) to reduce the compensation amount that a person is awarded under Subchapter B by any amount that was paid or scheduled to be paid as an award or settlement under Subchapter C for the same wrongful imprisonment before the date of the administrative award.

(d) Prohibits the court or comptroller from awarding additional compensation if the amount of reduction under Subsection (b) or (c) is equal to or greater than the amount of the compensation being reduced.

SECTION 2. Amends Section 103.003, Civil Practice and Remedies Code, as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. (a) Creates this subsection from existing text.

(b) Provides that filing an application under Subchapter B tolls the limitation period provided by Subsection (a)(2) and that is applicable to a suit filed under Subchapter C by the same person for the same wrongful imprisonment until the date the comptroller makes a determination under Section 103.051(c) (relating to eligibility for compensation and the amount owed).

SECTION 3. Amends Section 103.052, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Entitles a person who meets the requirements of Section 103.001 to \$50,000 multiplied times the number of years served in prison, except as provided by Subsection (a-1). Deletes existing text capping the amount at \$25,000 per year or \$500,000 if the time served is 20 years or more. Makes a nonsubstantive change.

(a-1) Entitles a person sentenced to death who meet the requirements of Section 103.001 to compensation in an amount equal to \$100,000 times the number of years served in prison, expressed as a fraction to reflect partial years.

SECTION 4. Amends Section 103.153(b), Civil Practice and Remedies Code, to make a conforming change.

SECTION 5. Repealer: Section 103.105(c) (regarding the \$500,000 limit on damages assessed under Subchapter C), Civil Practice and Remedies Code.

SECTION 6. (a) Makes application of Section 103.052, Civil Practice and Remedies Code, as added by this Act, prospective.

(b) Applies the changes made by this Act to Section 103.105, Civil Practice and Remedies Code, to any actions commenced on or after the Act's effective date and any actions pending on the effective date and in which the trial, new trial, or retrial following motion, appeal, or otherwise, begins on or after that effective date.

(c) Makes application of this Act to certain trials and retrials prospective.

SECTION 7. Applies the changes made by this Act to Sections 103.002 and 103.003, Civil Practices and Remedies Code, without regard to whether a person has filed an application under Subchapter B, Chapter 103, Civil Practices and Remedies Code, or commenced an action Subchapter C, Chapter 103, Civil Practices and Remedies Code, before the Act's effective date.

SECTION 8. Effective date: upon passage or September 1, 2007.