

Vernon's Texas Statutes and Codes Annotated [Currentness](#)

Civil Practice and Remedies Code ([Refs & Annos](#))

Title 5. Governmental Liability

▢ [Chapter 103. Compensation to Persons Wrongfully Imprisoned \(Refs & Annos\)](#)

→ [Subchapter A. Eligibility; Notice of Eligibility \(Refs & Annos\)](#)

→ **§ 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 inculpatates 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. This subsection does not entitle the person's spouse or other dependent or family member to group health benefit plan coverage. 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.

→ [§ 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\(a\)](#).

→ **§ 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 [FN1] 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.

[FN1] V.T.C.A., Civil Practice & Remedies Code § 103.051 et seq.

→ **§§ 103.004 to 103.006. Redesignated as V.T.C.A., Civil Practice & Remedies Code §§ 103.103 to 103.105 and amended by Acts 2001, 77th Leg., ch. 1488, § 1, eff. June 15, 2001**

→ **§§ 103.004 to 103.006. Redesignated as V.T.C.A., Civil Practice & Remedies Code §§ 103.103 to 103.105 and amended by Acts 2001, 77th Leg., ch. 1488, § 1, eff. June 15, 2001**

→ **§§ 103.004 to 103.006. Redesignated as V.T.C.A., Civil Practice & Remedies Code §§ 103.103 to 103.105 and amended by Acts 2001, 77th Leg., ch. 1488, § 1, eff. June 15, 2001**

→ **§ 103.007. Deleted by Acts 2001, 77th Leg., ch. 1488, § 1, eff. June 15, 2001**

Subchapter B. Administrative Proceeding

→ **§ 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 veri-

ifying 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.

→ § 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.

→ § 103.053. Annuity Compensation

(a) A person entitled to compensation under [Section 103.001\(a\)](#) is entitled to annuity payments, 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) The annuity payments under this section are payable in equal monthly installments for the life of the claimant and must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller.

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

→ § 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.

Subchapter C. Fees (Refs & Annos)

→ § 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.

→ § 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.

Subchapter C. Filing Suit [Repealed]

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

→ §§ 103.101 to 103.105. Repealed by Acts 2009, 81st Leg., ch. 180, § 12(2), eff. Sept. 1, 2009

Subchapter D. Payments and Limitations

→ § 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, [\[FN1\]](#) 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 to a claimant under [Section 103.053\(a\)](#) 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](#).

[\[FN1\]](#)

→ § 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 [\[FN1\]](#) 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., ch. 180, § 12\(3\)](#).

[FN1] [V.T.C.A., Civil Practice & Remedies Code § 103.051 et seq.](#)

→ **§ 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.

→ **§ 103.154. Termination of Payments**

(a) Except as provided by Subsection (c), compensation payments to a person under this chapter terminate if, after the date the person becomes eligible for compensation under [Section 103.001](#), the person is convicted of a crime punishable as a felony. Compensation payments terminate under this subsection on the date of the subsequent conviction.

(b) Annuity payments to a person under [Section 103.151\(b\)](#) terminate on the date of the person's death. Any 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](#).

END OF DOCUMENT