

SUBJECT: Giving comptroller access to criminal records of wrongfully imprisoned

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 22 ayes — Zerwas, Longoria, C. Bell, Buckley, Capriglione, Cortez, S. Davis, Hefner, Howard, Miller, Minjarez, Muñoz, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, J. Turner, VanDeaver, Walle, Wu

0 nays

5 absent — G. Bonnen, M. González, Jarvis Johnson, Rose, Wilson

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1803:*

For — None

Against — Ed Heimlich, Honor Quest

On — (*Registered, but did not testify:* Chris Conradt and Leonard Higgins, Comptroller of Public Accounts)

BACKGROUND: Civil Practice and Remedies Code sec. 103.001 entitles a person to compensation from the state if the person was wrongfully imprisoned for a crime in Texas and received a pardon or relief under a writ of habeas corpus on the basis of innocence. Such persons are entitled to compensation of \$80,000 for each year served in prison and a monthly annuity also based on the years in prison. Sec. 103.154 requires payments to terminate if the person is convicted of a felony after becoming eligible for the compensation.

Government Code sec. 411.109(a) gives the comptroller access to criminal history record information maintained by the Department of Public Safety for enforcement and administration of certain tax laws.

DIGEST: CSSB 1151 would give the comptroller access to criminal history record information maintained by the Department of Public Safety (DPS) if necessary to enforce or administer Civil Practice and Remedies Code ch. 103, which deals with compensation to persons wrongfully imprisoned.

The authority would include criminal history record information that related to a person who was receiving, was scheduled to receive, or was applying to receive compensation under those provisions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY: CSSB 1151 would improve the efficiency of the process governing compensation to those wrongfully imprisoned by giving the comptroller more timely information about felony convictions.

Currently, the comptroller checks with the Texas Department of Criminal Justice (TDCJ) monthly to determine if any of the approximately 90 exonerees who are receiving compensation payments had been admitted to prison because they were convicted of a felony. This process is cumbersome and can result in a delay in the comptroller finding out about felony convictions since there is time lag after conviction and before entering TDCJ. If a delay occurs, a payment could be made to an exoneree in error. In this situation, the individual would be prohibited from receiving any other state funds and a demand letter asking for the return of funds would be mailed to the inmate in TDCJ.

CSSB 1151 would address this by giving the comptroller access to criminal history information at an earlier point in the process. This would enable the comptroller to track cases, identify convictions, and terminate payments if required. This would save the state money and ensure current law was followed.

The comptroller currently has access to criminal history information for

other purposes and would use the access provided by the bill in the same responsible manner that has not resulted in any problems. Those accessing the information under the bill would be trained through DPS and subject to auditing and restrictions. This would ensure the security of information and would prevent misinterpretation of criminal record information.

**OPPONENTS
SAY:**

Interpreting criminal records can be complicated, and allowing direct access to the information could result in mistakes in determining if an exoneree had been convicted of a felony. Such a mistake could result in a payment to an exoneree being stopped in error. The current practice of using admittance to TDCJ as an indicator is a better approach for determining felonies.