

By: Sanford

H.B. No. 3259

A BILL TO BE ENTITLED

AN ACT

relating to the employment of certain peace officers, detention officers, county jailers, or firefighters who are injured in the course and scope of duty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 614, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. RESTRICTION ON DISCHARGE AFTER CERTAIN INJURIES

Sec. 614.221. DEFINITIONS. In this subchapter:

(1) "County jailer" has the meaning assigned by Section 1701.001, Occupations Code.

(2) "Detention officer" has the meaning assigned by Section 411.048(a).

(3) "Employer" means the governmental entity that appoints or employs a peace officer, detention officer, county jailer, or firefighter or that the officer, jailer, or firefighter is elected to serve.

(4) "Firefighter" means a member of a fire department who performs a function listed in Section 143.003(4), Local Government Code, without regard to whether the individual is subject to a civil service system or program.

(5) "Maximum medical improvement" has the meaning assigned by Section 401.011, Labor Code.

(6) "Peace officer" means an individual elected,

1 appointed, or employed to serve as a peace officer for a
2 governmental entity under Article 2.12, Code of Criminal Procedure,
3 or other law.

4 Sec. 614.222. APPLICABILITY. This subchapter does not
5 apply to an employer that is:

6 (1) a municipality that has adopted Chapter 143, Local
7 Government Code; or

8 (2) a county in which a civil service system has been
9 created under Chapter 158, Local Government Code.

10 Sec. 614.223. RESTRICTION ON DISCHARGE. (a) This section
11 applies to a peace officer, detention officer, county jailer, or
12 firefighter who sustains a compensable injury under Title 5, Labor
13 Code.

14 (b) An employer may not discharge, indefinitely suspend, or
15 terminate from employment a peace officer, detention officer,
16 county jailer, or firefighter described by Subsection (a) based on
17 the person's inability to perform the duties for which the person
18 was elected, appointed, or employed because of the person's injury
19 before the person is certified as having reached maximum medical
20 improvement unless the report of the person's treating doctor under
21 Title 5, Labor Code, including Section 504.053 of that code,
22 indicates that the person is permanently restricted from returning
23 to perform the duties for which the person was elected, appointed,
24 or employed.

25 (c) A dispute regarding the ability of a peace officer,
26 detention officer, county jailer, or firefighter described by
27 Subsection (a) to perform the duties for which the person was

1 elected, appointed, or employed shall be adjudicated in the manner
2 provided by Chapter 410, Labor Code.

3 Sec. 614.224. REMEDIES; BURDEN OF PROOF. (a) An employer
4 that violates Section 614.223 is liable for reasonable damages
5 incurred by the peace officer, detention officer, county jailer, or
6 firefighter as a result of the violation in an amount not to exceed
7 \$100,000.

8 (b) A peace officer, detention officer, county jailer, or
9 firefighter discharged, indefinitely suspended, or terminated from
10 employment in violation of Section 614.223 is entitled to
11 reinstatement in the officer's, jailer's, or firefighter's former
12 position of employment.

13 (c) The burden of proof in a proceeding under this section
14 is on the peace officer, detention officer, county jailer, or
15 firefighter.

16 (d) Sovereign immunity to suit and from liability is waived
17 and abolished to the extent of liability created by this section,
18 and a current or former peace officer, detention officer, county
19 jailer, or firefighter may sue an employer for:

- 20 (1) damages allowed by Subsection (a); and
21 (2) reinstatement authorized under Subsection (b).

22 SECTION 2. The changes in law made by this Act apply only to
23 a discharge, indefinite suspension, or termination from employment
24 in violation of Section 614.223, Government Code, as added by this
25 Act, that occurs on or after the effective date of this Act. A
26 discharge, indefinite suspension, or termination that occurs
27 before the effective date of this Act is governed by the law in

1 effect on the date the discharge, indefinite suspension, or
2 termination occurred, and the former law is continued in effect for
3 that purpose.

4 SECTION 3. This Act takes effect September 1, 2021.