

By: Guillen

H.B. No. 3278

A BILL TO BE ENTITLED

AN ACT

relating to the right of a subpoenaed witness to reinstatement of employment.

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

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 140 to read as follows:

CHAPTER 140. RIGHT OF SUBPOENAED WITNESS TO REINSTATEMENT
OF EMPLOYMENT

Sec. 140.001. DISCRIMINATION PROHIBITED. An employer may not discharge or penalize a permanent employee because the employee is served or complies with a subpoena issued by a state or the United States or any political subdivision of a state in any legal proceeding.

Sec. 140.002. RIGHT TO REINSTATEMENT. An employee who is discharged or penalized in violation of Section 140.001 is entitled to reinstatement of the same employment the employee held when subpoenaed and to the same compensation and benefits.

Sec. 140.003. DAMAGES. An employer who violates Section 140.001 is liable to the employee for:

(1) damages in an amount equal to one year's compensation at the rate at which the employee was compensated when served with the subpoena; and

(2) reasonable attorney's fees.

Sec. 140.004. LIMITATION PERIOD. An action for damages

1 under this chapter must be brought not later than the second
2 anniversary of the date on which the subpoena was served.

3 Sec. 140.005. DEFENSES; EXCEPTIONS. (a) It is a defense to
4 an action brought under this chapter that the employer's
5 circumstances changed while the employee served as a witness to the
6 extent that reinstatement was impossible or unreasonable.

7 (b) To establish a defense under this section, an employer
8 must show that the employee was discharged or penalized because of
9 circumstances other than the service of the subpoena on the
10 employee or the employee's compliance with the subpoena.

11 (c) It is an exception to the application of this chapter
12 that:

13 (1) the employee is subpoenaed in the employee's own
14 criminal matter; or

15 (2) the employee voluntarily testifies as a paid
16 expert witness.

17 SECTION 2. This Act takes effect September 1, 2003, and
18 applies only to a person served with a subpoena on or after that
19 date. A person served with a subpoena before the effective date of
20 this Act is governed by the law in effect when the subpoena was
21 served, and the former law is continued in effect for that purpose.