

By: Raymond

H.B. No. 321

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to leave for junior college district or university system  
3 employees who are physically assaulted while on duty.

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

5 SECTION 1. Subchapter Z, Chapter 51, Education Code, is  
6 amended by adding Section 51.9611 to read as follows:

7 Sec. 51.9611. ASSAULT LEAVE FOR EMPLOYEES OF JUNIOR COLLEGE  
8 DISTRICT OR UNIVERSITY SYSTEM. (a) In this section, "university  
9 system" has the meaning assigned by Section 61.003.

10 (b) Except as provided by Subsection (f), an employee of a  
11 junior college district or university system, including an employee  
12 of a component institution of a university system, who is  
13 physically assaulted during the performance of the employee's  
14 regular duties is entitled to the number of days of paid leave  
15 necessary for the employee to recuperate from any physical injury  
16 that results from the assault. Notwithstanding any other law,  
17 during the period the employee is assigned to assault leave, the  
18 employee is entitled to be paid at a rate equal to the employee's  
19 regular rate of pay, except that the amount of pay must be reduced  
20 by the amount of any workers' compensation insurance benefits to  
21 which the employee is entitled.

22 (c) On the employee's submission of a claim for assault  
23 leave, the junior college district or university system shall  
24 immediately assign the employee to assault leave. After an

1 investigation of the employee's claim and any determination that  
2 the employee was not entitled to all or part of the assault leave  
3 taken, the district or system may change the employee's assault  
4 leave status and charge the assault leave to which the employee was  
5 not entitled against:

6 (1) any of the employee's accrued leave; or

7 (2) the employee's pay if the employee does not have  
8 sufficient accrued leave.

9 (d) For purposes of this section, an employee is physically  
10 assaulted if the person engaging in the conduct causing injury to  
11 the employee:

12 (1) could be prosecuted for assault for that conduct;

13 or

14 (2) could not be prosecuted for assault for that  
15 conduct only because the person's age or mental capacity makes the  
16 person a nonresponsible person for purposes of criminal liability.

17 (e) Leave provided under this section is in addition to any  
18 other leave provided to an employee under a policy adopted under  
19 Section 51.961 or otherwise provided to an employee. Except as  
20 provided by Subsection (c)(1), leave taken under this section may  
21 not be deducted from any accrued leave.

22 (f) The leave period provided by this section may not extend  
23 beyond the earlier of:

24 (1) the date the employee's employment with the  
25 district or system is suspended or ends; or

26 (2) the second anniversary of the date of the assault.

27 (g) A junior college district or university system is

1 entitled to reimbursement for the cost of paid leave provided under  
2 this section. The Texas Higher Education Coordinating Board shall  
3 reimburse the district or system in the appropriate amount from  
4 appropriations available for that purpose. If a district or system  
5 receives reimbursement under this subsection for leave to which the  
6 employee was not entitled, as determined under Subsection (c), the  
7 district or system shall reimburse the coordinating board for the  
8 amount received for that leave.

9         SECTION 2. Section 51.9611, Education Code, as added by  
10 this Act, applies only to leave based on conduct that occurs on or  
11 after the effective date of this Act. Leave based on conduct that  
12 occurs before the effective date of this Act is governed by the law  
13 in effect on the date the conduct occurred, and that law is  
14 continued in effect for that purpose.

15         SECTION 3. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2009.