

By: White

H.B. No. 1359

A BILL TO BE ENTITLED

AN ACT

relating to monuments and memorials for Texas heroes and penalties for unauthorized removal, relocation, or alteration of a monument or memorial; creating a criminal offense.

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

SECTION 1. This Act may be cited as the Texas Hero Protection Act.

SECTION 2. Section 2166.501, Government Code, is amended to read as follows:

Sec. 2166.501. MONUMENTS AND MEMORIALS. (a) A monument or memorial for ~~[Texas]~~ heroes of the Confederate States of America or the Texas War for Independence or to commemorate another event or person of historical significance to Texans and this state may be erected on land owned or acquired by the state or, if a suitable contract can be made for permanent preservation of the monument or memorial, on private property or land owned by the federal government, another state of the United States, or a foreign country ~~[or other states]~~.

(b) The graves of Texas heroes ~~[Texans]~~ described by Subsection (a) may be located and marked.

(c) The Texas Historical Commission ~~[commission]~~ shall maintain a monument or memorial erected by this state to commemorate the centenary of Texas' independence.

(d) Before the erection of a new monument or memorial, the

1 Texas Historical Commission [~~commission~~] must approve [~~obtain the~~
2 ~~approval of the Texas Historical Commission regarding~~] the form,
3 dimensions, and substance of, and inscriptions or illustrations on,
4 the monument or memorial.

5 SECTION 3. Sections 2166.5011(a) and (c), Government Code,
6 are amended to read as follows:

7 (a) In this section, "monument or memorial" means a
8 permanent monument, memorial, or other item officially designated
9 as an item of historical significance by a governmental entity
10 [~~designation~~], including a statue, portrait, plaque, seal, symbol,
11 building name, or street name, that:

12 (1) is located on state property or other property
13 described by Section 2166.501(a); and

14 (2) honors a hero [~~citizen~~] of this state described by
15 Section 2166.501(a) for military, [~~or~~] war-related, or other
16 historical service.

17 (c) A monument or memorial may be removed, relocated, or
18 altered in a manner otherwise provided by this code as necessary to
19 accommodate construction, repair, or improvements to the monument
20 or memorial or to the surrounding [~~state~~] property on which the
21 monument or memorial is located. Any monument or memorial that is
22 permanently removed under this subsection must be relocated to a
23 prominent location that is approved by the legislature, the Texas
24 Historical Commission, or the State Preservation Board or approved
25 as otherwise provided by state or federal law.

26 SECTION 4. Subchapter K, Chapter 2166, Government Code, is
27 amended by adding Section 2166.5012 to read as follows:

1 Sec. 2166.5012. CRIMINAL OFFENSE. (a) A person commits an
2 offense if the person intentionally removes, relocates, or alters a
3 monument or memorial in a manner that violates Section 2166.5011(b)
4 or (c).

5 (b) An offense under Subsection (a) is punishable by:

6 (1) a fine in an amount not less than \$50 and not to
7 exceed \$1,000; and

8 (2) confinement in jail for a term of not less than
9 three days and not to exceed one year.

10 SECTION 5. Article 42.01, Code of Criminal Procedure, is
11 amended by adding Section 12 to read as follows:

12 Sec. 12. In addition to the information described by
13 Section 1, the judgment should reflect affirmative findings entered
14 pursuant to Article 42.01991.

15 SECTION 6. Chapter 42, Code of Criminal Procedure, is
16 amended by adding Article 42.01991 to read as follows:

17 Art. 42.01991. FINDING REGARDING OFFENSE RELATED TO
18 MONUMENT OR MEMORIAL. (a) In the trial of an offense described by
19 Section 802.004, Government Code, the judge shall make an
20 affirmative finding of fact and enter the affirmative finding in
21 the judgment in the case if the judge determines that the offense
22 was committed by a defendant who is a member of a public retirement
23 system.

24 (b) A judge that makes the affirmative finding described by
25 this article shall make the determination and enter the order
26 required by Section 802.004(i), Government Code.

27 SECTION 7. Section 22.085, Education Code, is amended by

adding Subsection (a-1) and amending Subsections (c) and (e) to read as follows:

(a-1) A school district, open-enrollment charter school, or shared services arrangement shall discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that the employee or applicant has been convicted of an offense under Section 2166.5012, Government Code.

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if the district, school, or shared services arrangement obtains information described by Subsection (a) or (a-1) through a criminal history record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must ensure that an entity that the district, school, or shared services arrangement contracts with for services has obtained all criminal history record information as required by Section [22.0834](#).

(e) The State Board for Educator Certification may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described by

1 Subsection (a) or (a-1).

2 SECTION 8. Subchapter Z, Chapter 51, Education Code, is
3 amended by adding Section 51.980 to read as follows:

4 Sec. 51.980. EMPLOYEES AND APPLICANTS CONVICTED OF CERTAIN
5 OFFENSE. (a) In this section, "employee" means any person employed
6 by an institution of higher education in an executive,
7 administrative, or clerical capacity, as a professor or instructor,
8 or in any similar capacity.

9 (b) An institution of higher education shall discharge or
10 refuse to hire an employee or applicant for employment if the
11 institution of higher education obtains information through a
12 criminal history record information review that the employee or
13 applicant has been convicted of an offense under Section 2166.5012,
14 Government Code.

15 (c) An institution of higher education may not allow a
16 person who is an employee of or applicant for employment by an
17 entity that contracts with the institution to serve at the
18 institution if the institution obtains information described by
19 Subsection (b) through a criminal history record information review
20 concerning the employee or applicant.

21 (d) The Texas Higher Education Coordinating Board may
22 impose a sanction on an institution of higher education that does
23 not discharge an employee or refuse to hire an applicant the
24 institution knows or should have known, through a criminal history
25 record information review, has been convicted of an offense
26 described by Subsection (b).

27 SECTION 9. Section 141.001(a), Election Code, is amended to

1 read as follows:

2 (a) To be eligible to be a candidate for, or elected or
3 appointed to, a public elective office in this state, a person must:

4 (1) be a United States citizen;

5 (2) be 18 years of age or older on the first day of the
6 term to be filled at the election or on the date of appointment, as
7 applicable;

8 (3) have not been determined by a final judgment of a
9 court exercising probate jurisdiction to be:

10 (A) totally mentally incapacitated; or

11 (B) partially mentally incapacitated without the
12 right to vote;

13 (4) have not been finally convicted of any ~~a~~ felony
14 or of an offense under Section 2166.5012 from which the person has
15 not been pardoned or otherwise released from the resulting
16 disabilities;

17 (5) have resided continuously in the state for 12
18 months and in the territory from which the office is elected for six
19 months immediately preceding the following date:

20 (A) for a candidate whose name is to appear on a
21 general primary election ballot, the date of the regular filing
22 deadline for a candidate's application for a place on the ballot;

23 (B) for an independent candidate, the date of the
24 regular filing deadline for a candidate's application for a place
25 on the ballot;

26 (C) for a write-in candidate, the date of the
27 election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made;

(6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and

(7) satisfy any other eligibility requirements prescribed by law for the office.

SECTION 10. Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. INELIGIBILITY FOR OFFICE OR EMPLOYMENT

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "Employee" means an individual who is an officer or employee of a governmental entity.

(2) "Governmental entity" means a state agency in the executive, judicial, or legislative branch of state government or a political subdivision of this state, including a special-purpose district or authority.

Sec. 620.002. PROHIBITED EMPLOYMENT. (a) A governmental entity shall discharge or refuse to hire an employee or applicant for employment if the governmental entity obtains information through a criminal history record information review that the employee or applicant has been convicted of an offense under Section 2166.5012, Government Code.

(b) A governmental entity may not allow a person who is an

employee of or applicant for employment by a person that contracts with the entity to serve at the entity if the entity obtains information described by Subsection (a) through a criminal history record information review concerning the employee or applicant.

SECTION 11. Subchapter A, Chapter 802, Government Code, is amended by adding Section 802.004 to read as follows:

Sec. 802.004. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) This section applies only to a person who:

(1) is a member or an annuitant of a public retirement system; and

(2) either:

(A) holds or has held an elective or appointed office included in the coverage of that public retirement system; or

(B) is employed or has been employed in a position included in the coverage of that public retirement system.

(b) To the extent ordered by a court under Subsection (i), a person is not eligible to receive a full service retirement annuity from a public retirement system if the person is finally convicted of an offense under Section 2166.5012.

(c) To the extent ordered by a court under Subsection (i), the public retirement system shall suspend making full annuity payments to a person who is not eligible to receive a full service retirement annuity under Subsection (b) on receipt by the retirement system of notice and terms of the person's conviction.

(d) The public retirement system shall resume making full

annuity payments if the person made ineligible for a full annuity under Subsection (b):

(1) is subsequently found to be not guilty of the offense; or

(2) meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code.

(e) The public retirement system as applicable shall:

(1) for a person whose full annuity payments are resumed under Subsection (d), reimburse the person for any portion of the annuity payments withheld during a period of suspension; or

(2) restore the full eligibility of a person convicted of an offense described by Subsection (b) to receive a service retirement annuity, including the restoration of all service credits accrued by the person before the conviction, if the person satisfies the condition under Subsection (d)(1) or (2).

(f) Except as provided by Subsection (g), a person who is not eligible to receive a full service retirement annuity under Subsection (b) is entitled to request and receive a refund of the person's retirement annuity contributions, not including any interest earned on those contributions. A person who accepts a refund under this subsection terminates the person's membership in the public retirement system.

(g) Benefits payable to an alternate payee under Chapter 804, including a spouse or dependent child, are not affected by a person's ineligibility to receive a full service retirement annuity under Subsection (b).

(h) The governing body of a public retirement system shall

1 adopt rules and procedures to implement this section.

2 (i) A court shall:

3 (1) determine and order as applicable for a person
4 convicted of an offense described by Subsection (b) the amount by
5 which the person's:

6 (A) service retirement annuity payments are to be
7 reduced; or

8 (B) accrued service credits are to be reduced;
9 and

10 (2) notify the affected public retirement system of
11 the terms of a conviction ordered under Subdivision (1).

12 SECTION 12. Section 2166.502, Government Code, is repealed.

13 SECTION 13. On the effective date of this Act, the duties
14 imposed on the Texas Facilities Commission under Section 2166.501,
15 Government Code, immediately before the effective date of this Act
16 are transferred to the Texas Historical Commission.

17 SECTION 14. This Act takes effect September 1, 2017.