

By: Moody

H.B. No. 359

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 L to read as follows:

SUBCHAPTER L. RESTRICTION ON DISCHARGE AFTER CERTAIN INJURIES

Sec. 614.201. 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. 614.202. APPLICABILITY. This subchapter does not apply
5 to an employer that is a municipality that has adopted Chapter 143,
6 Local Government Code.

7 Sec. 614.203. RESTRICTION ON DISCHARGE. (a) This section
8 applies to a peace officer, detention officer, county jailer, or
9 firefighter who sustains a compensable injury under Title 5, Labor
10 Code.

11 (b) An employer may not discharge, indefinitely suspend, or
12 terminate from employment a peace officer, detention officer,
13 county jailer, or firefighter described by Subsection (a) based on
14 the person's inability to perform the duties for which the person
15 was elected, appointed, or employed because of the person's injury
16 before the person is certified as having reached maximum medical
17 improvement unless the report of a designated doctor under Section
18 408.0041, Labor Code, indicates that the person is unable to return
19 to work.

20 Sec. 614.204. REMEDIES; BURDEN OF PROOF. (a) An employer
21 that violates Section 614.203 is liable for reasonable damages
22 incurred by the peace officer, detention officer, county jailer, or
23 firefighter as a result of the violation in an amount not to exceed
24 \$100,000.

25 (b) A peace officer, detention officer, county jailer, or
26 firefighter discharged, indefinitely suspended, or terminated from
27 employment in violation of Section 614.203 is entitled to

1 reinstatement in the officer's, jailer's, or firefighter's former
2 position of employment.

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

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

10 (1) damages allowed by Subsection (a); and

11 (2) reinstatement authorized under Subsection (b).

12 SECTION 2. The changes in law made by this Act apply only to
13 a discharge, indefinite suspension, or termination from employment
14 in violation of Section 614.203, Government Code, as added by this
15 Act, that occurs on or after the effective date of this Act. A
16 discharge, indefinite suspension, or termination that occurs
17 before the effective date of this Act is governed by the law in
18 effect on the date the discharge, indefinite suspension, or
19 termination occurred, and the former law is continued in effect for
20 that purpose.

21 SECTION 3. This Act takes effect September 1, 2019.