

BILL ANALYSIS

C.S.H.B. 90
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In April 2022, Texas national guardsman Bishop Evans was commissioned to serve on Operation Lone Star and died while attempting to save two migrants in the Rio Grande. Following his death, the House Committees on Defense & Veterans Affairs and Homeland Security & Public Safety held a joint hearing on the matter. Throughout the hearing, the benefit disparity became evident for guardsmen under state active duty orders, as the Evans family was guaranteed no line-of-duty death benefit for the loss of a relative. C.S.H.B. 90 seeks to address the following issues for Texas military forces serving under state active duty orders: the line-of-duty death benefit disparity in comparison to other state and government employees; confusion around workers' compensation coverage for service related travel; and the imbalance in workers' compensation benefits when compared to first responders, such as expedited case provision and supplemental coverage for post-traumatic stress disorder.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Military Department in SECTION 4 of this bill and to the commissioner of workers' compensation in SECTION 8 of this bill.

ANALYSIS

C.S.H.B. 90 amends the Government Code and Labor Code to expand the benefits available for members of the Texas military forces and their survivors.

C.S.H.B. 90 extends to the qualifying survivors of a Texas military forces member who died while on state active duty the eligibility for financial assistance from the state if the Texas Military Department certifies to the Employees Retirement System of Texas that the circumstances of the individual's death entitle an eligible survivor to the payment of such assistance under state law. The bill requires the department to adopt rules providing the circumstances under which the member's death entitles an eligible survivor to this financial assistance and provides that the survivors eligible to receive the assistance are the surviving spouse, a surviving child if there is no surviving spouse, or the surviving parent if there is neither a surviving spouse or surviving child. The bill makes certain provisions relating to the administration of financial assistance for the survivors of certain law enforcement officers, firefighters, and others applicable also with respect to the assistance for the survivors of members of the Texas military forces. These provisions of the bill apply only to a death that occurs on or after the bill's effective date.

C.S.H.B. 90, with respect to workers' compensation benefits for members of the Texas military forces, does the following:

- establishes that a member's travel to or from their duty location is considered to be in the course and scope of their employment;
- makes post-traumatic stress disorder (PTSD) a compensable injury for members on state active duty if it is based on a diagnosis that the PTSD is caused by one or more events occurring in the course and scope of the member's state active duty and the preponderance of evidence indicates that the event or events were a producing cause of the PTSD;
- establishes that the date of injury for PTSD is the date on which the member knew or should have known that the PTSD may be related to their state active duty; and
- requires an insurance carrier to accelerate and give priority to a claim for medical benefits by a member who sustains a serious bodily injury on state active duty and further provides the following with respect to the member's claim:
 - the workers' compensation division of the Texas Department of Insurance must accelerate, under rules adopted by the commissioner of workers' compensation, a contested case hearing requested by or an appeal submitted by the member regarding the denial of a claim;
 - the member must provide notice to the division and independent review organization that the contested case or appeal involves a member of the Texas military forces; and
 - that the purpose of these provisions is to ensure that the member's claim is accelerated by an insurance carrier to the full extent authorized by current law.

These provisions apply only to a claim based on a compensable injury that occurs on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 90 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute extend eligibility to receive state financial assistance to the survivors of a member of the Texas military forces on state active duty. However, whereas the introduced did so by adding these members to the list of public servants whose survivors are eligible for such assistance, the substitute sets out new provisions applicable specifically to these members and their survivors. In doing so, the substitute includes a requirement not in the introduced for the Texas Military Department to certify that the circumstances of the member's death entitle an eligible survivor for assistance and a requirement for the department to adopt rules establishing the qualifying circumstances. As a result of establishing new, standalone provisions applicable to members of the Texas military forces, the substitute also revises existing provisions regarding the administration of the financial assistance to account for the new statutory provisions.

Similarly, whereas both the introduced and the substitute provide workers' compensation coverage for certain PTSD-related claims for members of the Texas military forces on state active duty and for the expedited provision of medical benefits for certain injuries sustained by these members, the substitute does so by establishing new provisions applicable only to these members, while the introduced added these members into existing provisions. In doing so, the substitute omits the provision from the introduced entitling a member to a review of a medical dispute in a contested care hearing and, if applicable, to judicial review of a final decision.