

BILL ANALYSIS

Senate Research Center
88R29873 RDS-D

C.S.H.B. 90
By: Patterson et al. (Huffman)
Finance
5/15/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To ensure that Texas military forces serving on active duty have a line-of-duty death benefit, 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 an imbalance in workers' compensation benefits when compared to first responders.

H.B. 90 would make the death benefit retroactive for certain eligible families who had service members die in the line-of-duty. Additionally, the bill adds death benefits for certain Texas military forces troops who died while attending training events and service-related traveling.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 90 amends current law relating to benefits for certain members of the Texas military forces and survivors of members of the Texas military forces.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Military Department in SECTION 5 (Section 615.024, Government Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 9 (Section 501.028, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Bishop Evans Act.

SECTION 2. Amends Subchapter C, Chapter 56B, Code of Criminal Procedure, by adding Section 56B.109, as follows:

Sec. 56B.109. COMPENSATION FOR CERTAIN SURVIVORS OF MEMBERS OF TEXAS MILITARY FORCES. (a) Defines "state active duty," "Texas military forces," and "Texas National Guard."

(b) Requires the attorney general to award a lump sum payment in accordance with Subsection (c) to a claimant on behalf of an individual who is a victim of border crime and a member of the Texas military forces if:

(1) the individual died on or after March 6, 2021, but before September 1, 2023, while on state active duty;

(2) the individual's death was in connection with operations initiated to address criminal activity in the border region; and

(3) the claimant is:

(A) if the individual is a member of the Texas National Guard, a beneficiary designated by the individual on the individual's United States Department of Defense Form DD-93; or

(B) if the individual is not a member of the Texas National Guard or there is no beneficiary described by Paragraph (A):

(i) the surviving spouse of the individual;

(ii) a surviving child of the individual, if there is no surviving spouse; or

(iii) the surviving parent of the individual, if there is no surviving spouse or child.

(c) Provides that the lump sum payment amount payable to an eligible claimant, for the purposes of Subsection (b), is:

(1) if there is a claimant described by Subsection (b)(3)(A) or (B)(i), \$500,000 paid to the claimant; or

(2) if there is no claimant described by Subsection (b)(3)(A) or (B)(i), \$500,000, in equal shares:

(A) paid to each claimant described by Subsection (b)(3)(B)(ii); or

(b) paid to each claimant described by Subsection (b)(3)(B)(iii) if there is no claimant described by Subsection (b)(3)(B)(ii).

(d) Prohibits this section from being construed to limit the assistance or compensation a claimant is authorized to otherwise receive under Chapter 56B (Crime Victims' Compensation).

(e) Provides that a beneficiary designated by the individual on the individual's United States Department of Defense Form DD-93 is, for purposes of this section, a "claimant."

SECTION 3. Amends Section 615.004(a), Government Code, to provide that a finding that assistance is payable to an eligible survivor of an individual listed under Section 615.024 is not a declaration of the cause, nature, or effect of a death for any other purpose.

SECTION 4. Amends Section 615.021(b), Government Code, to prohibit payment of assistance from occurring under Subchapter B (Payments to Eligible Survivors) unless an individual is eligible under certain statutes, including Section 615.024.

SECTION 5. Amends Subchapter B, Chapter 615, Government Code, by adding Section 615.024, as follows:

Sec. 615.024. PAYMENT TO SURVIVORS OF MEMBERS OF TEXAS MILITARY FORCES. (a) Defines "state active duty," "Texas military forces," and "Texas National Guard."

(b) Provides that a survivor of an individual who is a member of the Texas military forces, notwithstanding Section 615.003 (Applicability) or 615.021 (Eligible Survivors), is eligible to receive a lump sum payment described by Section 615.022 (Payment to Survivors) and monthly assistance described by Section 615.023 (Payment to Surviving Minor Child), as applicable, which are the exclusive benefits available under Chapter 615 (Financial Assistance to Survivors of Certain Law Enforcement Officers, Fire Fighters, and Others), if:

(1) the individual died while on state active duty;

(2) the Texas Military Department (TMD) certifies to the Employees Retirement System of Texas (ERS) that the circumstances of the individual's death entitle an eligible survivor to the payment of assistance under this chapter; and

(3) the survivor is:

(A) if the individual is a member of the Texas National Guard, a beneficiary designated by the individual on the individual's United States Department of Defense Form DD-93; or

(B) if the individual is not a member of the Texas National Guard or there is no beneficiary described by Paragraph (A):

(i) the surviving spouse of the individual;

(ii) a surviving child of the individual, if there is no surviving spouse; or

(iii) the surviving parent of the individual, if there is no surviving spouse or child.

(c) Requires TMD to adopt rules providing the circumstances under which the death of an individual described by Subsection (b) entitles an eligible survivor to the payment of assistance under this chapter.

SECTION 6. Amends Sections 615.045(a), (c), and (d), Government Code, as follows:

(a) Provides that records of individuals described by Section 615.024 and of survivors eligible for benefits under this chapter that are in the custody of ERS, an administering firm as defined by Section 1551.003 (General Definitions), Insurance Code, a carrier as defined by Section 1551.007 (Definition of Carrier), Insurance Code, or another governmental agency acting with or on behalf of ERS are confidential and not subject to public disclosure, and ERS, the administering firm, the carrier, or the governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the provisions of Chapter 552 (Public Information), except as otherwise provided by Section 615.045 (Records).

(c)-(d) Makes conforming changes to these subsections.

SECTION 7. Amends Subchapter C, Chapter 401, Labor Code, by adding Section 401.027, as follows:

Sec. 401.027. APPLICABILITY TO CERTAIN MEMBERS OF TEXAS MILITARY FORCES. (a) Defines "state active duty," "state training and other duty," and "Texas military forces."

(b) Provides that the travel of a member of the Texas military forces to or from the member's duty location while serving on state active duty and engaged in authorized duty under written orders or while on state training and other duty, for purposes of Subtitle A (Texas Workers' Compensation Act), is considered to be in the course and scope of the member's employment.

SECTION 8. Amends Section 501.001, Labor Code, by adding Subdivisions (5-a) and (6-a) to define "post-traumatic stress disorder," "state active duty," and "Texas military forces."

SECTION 9. Amends Subchapter B, Chapter 501, Labor Code, by adding Sections 501.027, 501.028, and 501.029, as follows:

Sec. 501.027. **COVERAGE FOR POST-TRAUMATIC STRESS DISORDER FOR MEMBERS OF TEXAS MILITARY FORCES.** (a) Provides that post-traumatic stress disorder suffered by a member of the Texas military forces on state active duty is a compensable injury under Subtitle C (Workers' Compensation Insurance Coverage for Certain Government Employees) only if it is based on a diagnosis that:

(1) the disorder is caused by one or more events occurring in the course and scope of the member's state active duty; and

(2) the preponderance of evidence indicates that the event or events were a producing cause of the disorder.

(b) Provides that the date of injury for post-traumatic stress disorder suffered by a member of the Texas military forces, for purposes of this subtitle, is the date on which the member knew or should have known that the disorder may be related to the member's state active duty.

Sec. 501.028. **EXPEDITED PROVISION OF MEDICAL BENEFITS FOR CERTAIN INJURIES SUSTAINED BY CERTAIN MEMBERS OF TEXAS MILITARY FORCES ON STATE ACTIVE DUTY.** (a) Provides that this section applies only to a member of the Texas military forces who sustains a serious bodily injury, as defined by Section 1.07 (Definitions), Penal Code, on state active duty.

(b) Requires an insurance carrier to accelerate and give priority to a claim for medical benefits by a member of the Texas military forces to which this section applies, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (a).

(c) Requires the division of workers' compensation of the Texas Department of Insurance (division) to accelerate, under rules adopted by the commissioner of workers' compensation, a contested case hearing requested by or an appeal submitted by a member of the Texas military forces to which this section applies regarding the denial of a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (a). Requires the member to provide notice to the division and independent review organization that the contested case or appeal involves a member of the Texas military forces.

Sec. 501.029. **INTENT OF EXPEDITED PROVISION OF MEDICAL BENEFITS FOR CERTAIN INJURIES SUSTAINED BY CERTAIN MEMBERS OF TEXAS MILITARY FORCES.** Provides that the purpose of Section 501.028 is to ensure that a claim for medical benefits by an injured member of the Texas military forces to which this section applies is accelerated by an insurance carrier to the full extent authorized by current law.

SECTION 10. (a) Makes application of the changes made by this Act to Chapter 615, Government Code, prospective.

(b) Makes application of this Act to claims for workers' compensation benefits prospective.

SECTION 11. Effective date: September 1, 2023.