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H.B. No. 90

A BILL TO BE ENTITLED

AN ACT

relating to benefits for certain members of the Texas military forces and survivors of members of the Texas military forces.

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

SECTION 1. This Act may be cited as the Bishop Evans Act.

SECTION 2. Section 615.004(a), Government Code, is amended to read as follows:

(a) A finding that assistance is payable to an eligible survivor of an individual listed under Section 615.003 or 615.024 is not a declaration of the cause, nature, or effect of a death for any other purpose.

SECTION 3. Section 615.021(b), Government Code, is amended to read as follows:

(b) Payment of assistance may not occur under this subchapter unless an individual is eligible under Subsection (a) or Section 615.024.

SECTION 4. Subchapter B, Chapter 615, Government Code, is amended by adding Section 615.024 to read as follows:

Sec. 615.024. PAYMENT TO SURVIVORS OF MEMBERS OF TEXAS MILITARY FORCES. (a) In this section, "state active duty," "Texas military forces," and "Texas National Guard" have the meanings assigned by Section 437.001.

(b) Notwithstanding Section 615.003 or 615.021, a survivor of an individual who is a member of the Texas military forces is

1 eligible to receive a lump sum payment described by Section 615.022
2 and monthly assistance described by Section 615.023, as applicable,
3 which are the exclusive benefits available under this chapter, if:

4 (1) the individual died on or after March 6, 2021,
5 while on state active duty;

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

10 (3) the survivor is:

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

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

17 (i) the surviving spouse of the individual;

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

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

22 (c) The Texas Military Department shall adopt rules
23 providing the circumstances under which the death of an individual
24 described by Subsection (b) entitles an eligible survivor to the
25 payment of assistance under this chapter.

26 SECTION 5. Sections 615.045(a), (c), and (d), Government
27 Code, are amended to read as follows:

1 (a) Records of individuals listed by Section [615.003](#) or
2 described by Section 615.024 and of survivors eligible for benefits
3 under this chapter that are in the custody of the Employees
4 Retirement System of Texas, an administering firm as defined by
5 Section [1551.003](#), Insurance Code, a carrier as defined by Section
6 [1551.007](#), Insurance Code, or another governmental agency acting
7 with or on behalf of the retirement system are confidential and not
8 subject to public disclosure, and the retirement system,
9 administering firm, carrier, or governmental agency is not required
10 to accept or comply with a request for a record or information about
11 a record or to seek an opinion from the attorney general, because
12 the records are exempt from the provisions of Chapter [552](#), except as
13 otherwise provided by this section.

14 (c) The records of individuals listed by Section [615.003](#) or
15 described by Section 615.024 and of eligible survivors remain
16 confidential after release to a person as authorized by this
17 section. The records of individuals listed by Section [615.003](#) or
18 described by Section 615.024 and of eligible survivors may become
19 part of the public record of an administrative or judicial
20 proceeding related to an appeal filed under this chapter, unless
21 the records are closed to public access by a protective order issued
22 under applicable law.

23 (d) The retirement system has sole discretion in
24 determining whether a record is subject to this section. For
25 purposes of this section, a record includes any identifying
26 information about any person, living or deceased, who is or was:

27 (1) an individual listed in Section [615.003](#) or

1 described by Section 615.024; or

2 (2) a survivor, heir, or beneficiary of an individual
3 listed in Section [615.003](#) or described by Section 615.024.

4 SECTION 6. Subchapter [C](#), Chapter [401](#), Labor Code, is
5 amended by adding Section 401.027 to read as follows:

6 Sec. 401.027. APPLICABILITY TO CERTAIN MEMBERS OF TEXAS
7 MILITARY FORCES. (a) In this section, "state active duty," "state
8 training and other duty," and "Texas military forces" have the
9 meanings assigned by Section [437.001](#), Government Code.

10 (b) For purposes of this subtitle, the travel of a member of
11 the Texas military forces to or from the member's duty location
12 while serving on state active duty and engaged in authorized duty
13 under written orders or while on state training and other duty is
14 considered to be in the course and scope of the member's employment.

15 SECTION 7. Section [501.001](#), Labor Code, is amended by
16 adding Subdivisions (5-a) and (6-a) to read as follows:

17 (5-a) "Post-traumatic stress disorder" has the
18 meaning assigned by Section [504.019](#).

19 (6-a) "State active duty" and "Texas military forces"
20 have the meanings assigned by Section [437.001](#), Government Code.

21 SECTION 8. Subchapter [B](#), Chapter [501](#), Labor Code, is
22 amended by adding Sections 501.027, 501.028, and 501.029 to read as
23 follows:

24 Sec. 501.027. COVERAGE FOR POST-TRAUMATIC STRESS DISORDER
25 FOR MEMBERS OF TEXAS MILITARY FORCES. (a) Post-traumatic stress
26 disorder suffered by a member of the Texas military forces on state
27 active duty is a compensable injury under this subtitle only if it

1 is based on a diagnosis that:

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

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

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

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

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

23 (c) The division shall accelerate, under rules adopted by
24 the commissioner of workers' compensation, a contested case hearing
25 requested by or an appeal submitted by a member of the Texas
26 military forces to which this section applies regarding the denial
27 of a claim for medical benefits, including all health care required

1 to cure or relieve the effects naturally resulting from a
2 compensable injury described by Subsection (a). The member shall
3 provide notice to the division and independent review organization
4 that the contested case or appeal involves a member of the Texas
5 military forces.

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

12 SECTION 9. (a) In this section, "state active duty" and
13 "Texas military forces" have the meanings assigned by Section
14 [437.001](#), Government Code.

15 (b) Notwithstanding any other law, a survivor of an
16 individual who was a member of the Texas military forces and who, on
17 or after the date the governor directed the Department of Public
18 Safety to initiate Operation Lone Star under Chapter [437](#),
19 Government Code, but before the effective date of this Act, died
20 while on state active duty is, subject to the requirements of
21 Section 615.024, Government Code, as added by this Act, eligible
22 for the benefits described by that section.

23 (c) The changes in law made by this Act relating to a claim
24 for workers' compensation benefits by a member of the Texas
25 military forces apply only to a claim for workers' compensation
26 benefits based on a compensable injury that occurs on or after the
27 effective date of this Act. A claim based on a compensable injury

1 that occurs before that date is governed by the law in effect on the
2 date that the compensable injury occurred, and the former law is
3 continued in effect for that purpose.

4 SECTION 10. This Act takes effect September 1, 2023.