

1-1 By: Patterson, et al. (Senate Sponsor - Huffman) H.B. No. 90
 1-2 (In the Senate - Received from the House April 12, 2023;
 1-3 April 13, 2023, read first time and referred to Committee on
 1-4 Finance; May 17, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 16, Nays 1;
 1-6 May 17, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22		X		
1-23	X			
1-24	X			
1-25	X			

1-26 COMMITTEE SUBSTITUTE FOR H.B. No. 90 By: Huffman

1-27 A BILL TO BE ENTITLED
 1-28 AN ACT

1-29 relating to benefits for certain members of the Texas military
 1-30 forces and survivors of members of the Texas military forces.
 1-31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-32 SECTION 1. This Act may be cited as the Bishop Evans Act.
 1-33 SECTION 2. Subchapter C, Chapter 56B, Code of Criminal
 1-34 Procedure, is amended by adding Section 56B.109 to read as follows:
 1-35 Sec. 56B.109. COMPENSATION FOR CERTAIN SURVIVORS OF MEMBERS
 1-36 OF TEXAS MILITARY FORCES. (a) In this section, "state active
 1-37 duty," "Texas military forces," and "Texas National Guard" have the
 1-38 meanings assigned by Section 437.001, Government Code.
 1-39 (b) The attorney general shall award a lump sum payment in
 1-40 accordance with Subsection (c) to a claimant on behalf of an
 1-41 individual who is a victim of border crime and a member of the Texas
 1-42 military forces if:
 1-43 (1) the individual died on or after March 6, 2021, but
 1-44 before September 1, 2023, while on state active duty;
 1-45 (2) the individual's death was in connection with
 1-46 operations initiated to address criminal activity in the border
 1-47 region; and
 1-48 (3) the claimant is:
 1-49 (A) if the individual is a member of the Texas
 1-50 National Guard, a beneficiary designated by the individual on the
 1-51 individual's United States Department of Defense Form DD-93; or
 1-52 (B) if the individual is not a member of the Texas
 1-53 National Guard or there is no beneficiary described by Paragraph
 1-54 (A):
 1-55 (i) the surviving spouse of the individual;
 1-56 (ii) a surviving child of the individual,
 1-57 if there is no surviving spouse; or
 1-58 (iii) the surviving parent of the
 1-59 individual, if there is no surviving spouse or child.
 1-60 (c) For purposes of Subsection (b), the lump sum payment

2-1 amount payable to an eligible claimant is:
2-2 (1) if there is a claimant described by Subsection
2-3 (b)(3)(A) or (B)(i), \$500,000 paid to the claimant; or
2-4 (2) if there is no claimant described by Subsection
2-5 (b)(3)(A) or (B)(i), \$500,000, in equal shares:
2-6 (A) paid to each claimant described by Subsection
2-7 (b)(3)(B)(ii); or
2-8 (B) paid to each claimant described by Subsection
2-9 (b)(3)(B)(iii) if there is no claimant described by Subsection
2-10 (b)(3)(B)(ii).
2-11 (d) This section may not be construed to limit the
2-12 assistance or compensation a claimant may otherwise receive under
2-13 this chapter.
2-14 (e) For purposes of this section, a beneficiary designated
2-15 by an individual on the individual's United States Department of
2-16 Defense Form DD-93 is a "claimant."
2-17 SECTION 3. Section 615.004(a), Government Code, is amended
2-18 to read as follows:
2-19 (a) A finding that assistance is payable to an eligible
2-20 survivor of an individual listed under Section 615.003 or 615.024
2-21 is not a declaration of the cause, nature, or effect of a death for
2-22 any other purpose.
2-23 SECTION 4. Section 615.021(b), Government Code, is amended
2-24 to read as follows:
2-25 (b) Payment of assistance may not occur under this
2-26 subchapter unless an individual is eligible under Subsection (a) or
2-27 Section 615.024.
2-28 SECTION 5. Subchapter B, Chapter 615, Government Code, is
2-29 amended by adding Section 615.024 to read as follows:
2-30 Sec. 615.024. PAYMENT TO SURVIVORS OF MEMBERS OF TEXAS
2-31 MILITARY FORCES. (a) In this section, "state active duty," "Texas
2-32 military forces," and "Texas National Guard" have the meanings
2-33 assigned by Section 437.001.
2-34 (b) Notwithstanding Section 615.003 or 615.021, a survivor
2-35 of an individual who is a member of the Texas military forces is
2-36 eligible to receive a lump sum payment described by Section 615.022
2-37 and monthly assistance described by Section 615.023, as applicable,
2-38 which are the exclusive benefits available under this chapter, if:
2-39 (1) the individual died while on state active duty;
2-40 (2) the Texas Military Department certifies to the
2-41 Employees Retirement System of Texas that the circumstances of the
2-42 individual's death entitle an eligible survivor to the payment of
2-43 assistance under this chapter; and
2-44 (3) the survivor is:
2-45 (A) if the individual is a member of the Texas
2-46 National Guard, a beneficiary designated by the individual on the
2-47 individual's United States Department of Defense Form DD-93; or
2-48 (B) if the individual is not a member of the Texas
2-49 National Guard or there is no beneficiary described by Paragraph
2-50 (A):
2-51 (i) the surviving spouse of the individual;
2-52 (ii) a surviving child of the individual,
2-53 if there is no surviving spouse; or
2-54 (iii) the surviving parent of the
2-55 individual, if there is no surviving spouse or child.
2-56 (c) The Texas Military Department shall adopt rules
2-57 providing the circumstances under which the death of an individual
2-58 described by Subsection (b) entitles an eligible survivor to the
2-59 payment of assistance under this chapter.
2-60 SECTION 6. Sections 615.045(a), (c), and (d), Government
2-61 Code, are amended to read as follows:
2-62 (a) Records of individuals listed by Section 615.003 or
2-63 described by Section 615.024 and of survivors eligible for benefits
2-64 under this chapter that are in the custody of the Employees
2-65 Retirement System of Texas, an administering firm as defined by
2-66 Section 1551.003, Insurance Code, a carrier as defined by Section
2-67 1551.007, Insurance Code, or another governmental agency acting
2-68 with or on behalf of the retirement system are confidential and not
2-69 subject to public disclosure, and the retirement system,

3-1 administering firm, carrier, or governmental agency is not required
 3-2 to accept or comply with a request for a record or information about
 3-3 a record or to seek an opinion from the attorney general, because
 3-4 the records are exempt from the provisions of Chapter 552, except as
 3-5 otherwise provided by this section.

3-6 (c) The records of individuals listed by Section 615.003 or
 3-7 described by Section 615.024 and of eligible survivors remain
 3-8 confidential after release to a person as authorized by this
 3-9 section. The records of individuals listed by Section 615.003 or
 3-10 described by Section 615.024 and of eligible survivors may become
 3-11 part of the public record of an administrative or judicial
 3-12 proceeding related to an appeal filed under this chapter, unless
 3-13 the records are closed to public access by a protective order issued
 3-14 under applicable law.

3-15 (d) The retirement system has sole discretion in
 3-16 determining whether a record is subject to this section. For
 3-17 purposes of this section, a record includes any identifying
 3-18 information about any person, living or deceased, who is or was:

3-19 (1) an individual listed in Section 615.003 or
 3-20 described by Section 615.024; or

3-21 (2) a survivor, heir, or beneficiary of an individual
 3-22 listed in Section 615.003 or described by Section 615.024.

3-23 SECTION 7. Subchapter C, Chapter 401, Labor Code, is
 3-24 amended by adding Section 401.027 to read as follows:

3-25 Sec. 401.027. APPLICABILITY TO CERTAIN MEMBERS OF TEXAS
 3-26 MILITARY FORCES. (a) In this section, "state active duty," "state
 3-27 training and other duty," and "Texas military forces" have the
 3-28 meanings assigned by Section 437.001, Government Code.

3-29 (b) For purposes of this subtitle, the travel of a member of
 3-30 the Texas military forces to or from the member's duty location
 3-31 while serving on state active duty and engaged in authorized duty
 3-32 under written orders or while on state training and other duty is
 3-33 considered to be in the course and scope of the member's employment.

3-34 SECTION 8. Section 501.001, Labor Code, is amended by
 3-35 adding Subdivisions (5-a) and (6-a) to read as follows:

3-36 (5-a) "Post-traumatic stress disorder" has the
 3-37 meaning assigned by Section 504.019.

3-38 (6-a) "State active duty" and "Texas military forces"
 3-39 have the meanings assigned by Section 437.001, Government Code.

3-40 SECTION 9. Subchapter B, Chapter 501, Labor Code, is
 3-41 amended by adding Sections 501.027, 501.028, and 501.029 to read as
 3-42 follows:

3-43 Sec. 501.027. COVERAGE FOR POST-TRAUMATIC STRESS DISORDER
 3-44 FOR MEMBERS OF TEXAS MILITARY FORCES. (a) Post-traumatic stress
 3-45 disorder suffered by a member of the Texas military forces on state
 3-46 active duty is a compensable injury under this subtitle only if it
 3-47 is based on a diagnosis that:

3-48 (1) the disorder is caused by one or more events
 3-49 occurring in the course and scope of the member's state active duty;
 3-50 and

3-51 (2) the preponderance of evidence indicates that the
 3-52 event or events were a producing cause of the disorder.

3-53 (b) For purposes of this subtitle, the date of injury for
 3-54 post-traumatic stress disorder suffered by a member of the Texas
 3-55 military forces is the date on which the member knew or should have
 3-56 known that the disorder may be related to the member's state active
 3-57 duty.

3-58 Sec. 501.028. EXPEDITED PROVISION OF MEDICAL BENEFITS FOR
 3-59 CERTAIN INJURIES SUSTAINED BY CERTAIN MEMBERS OF TEXAS MILITARY
 3-60 FORCES ON STATE ACTIVE DUTY. (a) This section applies only to a
 3-61 member of the Texas military forces who sustains a serious bodily
 3-62 injury, as defined by Section 1.07, Penal Code, on state active
 3-63 duty.

3-64 (b) An insurance carrier shall accelerate and give priority
 3-65 to a claim for medical benefits by a member of the Texas military
 3-66 forces to which this section applies, including all health care
 3-67 required to cure or relieve the effects naturally resulting from a
 3-68 compensable injury described by Subsection (a).

3-69 (c) The division shall accelerate, under rules adopted by

4-1 the commissioner of workers' compensation, a contested case hearing
4-2 requested by or an appeal submitted by a member of the Texas
4-3 military forces to which this section applies regarding the denial
4-4 of a claim for medical benefits, including all health care required
4-5 to cure or relieve the effects naturally resulting from a
4-6 compensable injury described by Subsection (a). The member shall
4-7 provide notice to the division and independent review organization
4-8 that the contested case or appeal involves a member of the Texas
4-9 military forces.

4-10 Sec. 501.029. INTENT OF EXPEDITED PROVISION OF MEDICAL
4-11 BENEFITS FOR CERTAIN INJURIES SUSTAINED BY CERTAIN MEMBERS OF TEXAS
4-12 MILITARY FORCES. The purpose of Section 501.028 is to ensure that a
4-13 claim for medical benefits by an injured member of the Texas
4-14 military forces to which this section applies is accelerated by an
4-15 insurance carrier to the full extent authorized by current law.

4-16 SECTION 10. (a) The changes in law made by this Act to
4-17 Chapter 615, Government Code, relating to the death of a member of
4-18 the Texas military forces applies only to a death that occurs on or
4-19 after the effective date of this Act. For purposes of that chapter,
4-20 the death of a member of the Texas military forces that occurs
4-21 before the effective date of this Act is governed by the law in
4-22 effect on the date the death occurred, and the former law is
4-23 continued in effect for that purpose.

4-24 (b) The changes in law made by this Act relating to a claim
4-25 for workers' compensation benefits by a member of the Texas
4-26 military forces apply only to a claim for workers' compensation
4-27 benefits based on a compensable injury that occurs on or after the
4-28 effective date of this Act. A claim based on a compensable injury
4-29 that occurs before that date is governed by the law in effect on the
4-30 date that the compensable injury occurred, and the former law is
4-31 continued in effect for that purpose.

4-32 SECTION 11. This Act takes effect September 1, 2023.

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