

By: Blanco

S.B. No. 1128

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the service of and certain benefits for members of the  
3 Texas military forces, including tuition assistance at  
4 postsecondary educational institutions.

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

6 SECTION 1. This Act shall be known as The Texas Guardsman  
7 Bill of Rights.

8 SECTION 2. Section 437.005, Government Code, is amended by  
9 adding Subsection (a-1) to read as follows:

10 (a-1) If the governor or adjutant general activates the  
11 Texas National Guard to state active duty, the order activating the  
12 Texas National Guard must include a defined end date for the  
13 activation.

14 SECTION 3. Subchapter A, Chapter 437, Government Code, is  
15 amended by adding Section 437.0051 to read as follows:

16 Sec. 437.0051. DWELL TIME REQUIREMENTS. (a) In this  
17 section:

18 (1) "Dwell time" means the period that a service  
19 member spends in the service member's home station between  
20 activations.

21 (2) "Long-term state active duty" means state active  
22 duty that lasts longer than 270 days.

23 (b) Except as provided by Subsection (c), the governor or  
24 adjutant general may not activate a member of the Texas military

1 forces to long-term state active duty unless the member has been  
2 given dwell time as follows:

3 (1) the time required by federal law;

4 (2) 12 months for a member of the state military forces  
5 who has served for more than 270 consecutive days on:

6 (A) state active duty; or

7 (B) active duty under Title 10 or Title 32,  
8 United States Code;

9 (3) 12 months from the date of completion of initial  
10 entry training for a member who has completed the member's initial  
11 entry training; or

12 (4) 24 months for a member of the state military forces  
13 who has had consecutive activations under the authority of any of  
14 the following:

15 (A) Title 10, United States Code;

16 (B) Title 32, United States Code; or

17 (C) Section [437.005](#).

18 (c) A member of the Texas military forces may be activated  
19 for long-term state active duty before the expiration of the dwell  
20 time required by this section if the member voluntarily waives the  
21 requirement.

22 SECTION 4. Subchapter E, Chapter 437, Government Code, is  
23 amended by adding Sections 437.2125, 437.2126, 437.2127, and  
24 437.2128 to read as follows:

25 Sec. 437.2125. MATERNITY CONVALESCENT LEAVE. (a) A  
26 service member of the Texas military forces serving on state active  
27 duty who becomes a parent after a qualifying birth event, as defined

1 by rule of the adjutant general, is entitled to not more than six  
2 weeks of maternity convalescent leave equivalent to the maternity  
3 convalescent leave provided under the federal Military Parental  
4 Leave Program. Leave taken under this subsection does not count  
5 against the service member's leave balance. A service member  
6 entitled to leave under this subsection may request the leave for a  
7 period of less than six weeks.

8 (b) A service member may request an extension of the  
9 maternity convalescent leave provided under Subsection (a) for an  
10 additional period not to exceed six weeks if:

11 (1) the service member's medical provider submits a  
12 written recommendation for the extension;

13 (2) the additional leave is necessary to address a  
14 diagnosed medical condition; and

15 (3) the service member's commanding officer approves  
16 the extension.

17 (c) Leave granted under this section must be taken  
18 immediately after a qualifying birth event, beginning on the first  
19 full day after the date the service member is discharged or released  
20 from the hospital or facility where the birth occurred. The leave  
21 may only be taken in one increment.

22 (d) A service member may take leave under this section  
23 consecutively with other leave, including primary or secondary  
24 caregiver leave under Section 437.2126 or 437.2127. The service  
25 member must take leave under this section before taking other  
26 leave.

27 (e) A service member may not transfer leave under this

1 section to another service member.

2 (f) A service member forfeits leave granted under this  
3 section on separation from active service.

4 (g) A commanding officer may not disapprove a request for  
5 leave under Subsection (a).

6 Sec. 437.2126. PRIMARY CAREGIVER LEAVE. (a) A service  
7 member of the Texas military forces serving on state active duty who  
8 is designated as a primary caregiver in connection with a  
9 qualifying birth event, as defined by adjutant general rule, or  
10 adoption is entitled to not more than six weeks of primary caregiver  
11 leave equivalent to the primary caregiver leave provided under the  
12 federal Military Parental Leave Program. Leave taken under this  
13 subsection does not count against the service member's leave  
14 balance.

15 (b) A service member entitled to leave under this section  
16 may request the leave for a period of less than six weeks.

17 Sec. 437.2127. SECONDARY CAREGIVER LEAVE. (a) A service  
18 member of the Texas military forces serving on state active duty who  
19 is designated as a secondary caregiver in connection with a  
20 qualifying birth event, as defined by adjutant general rule, or  
21 adoption is entitled to not more than three weeks of secondary  
22 caregiver leave equivalent to the secondary caregiver leave  
23 provided under the federal Military Parental Leave Program. Leave  
24 taken under this subsection does not count against the service  
25 member's leave balance.

26 (b) A service member entitled to leave under this section  
27 may request the leave for a period of less than three weeks.

1       Sec. 437.2128. PROVISIONS APPLICABLE TO PRIMARY AND  
2 SECONDARY CAREGIVER LEAVE. (a) The amount of leave a service  
3 member is granted under Section 437.2126 or 437.2127 is reduced by  
4 one day for each day that maternity convalescent leave is extended  
5 for the service member under Section 437.2125(b).

6       (b) Leave granted under Section 437.2126 or 437.2127 must  
7 begin before the first anniversary of the date of the qualifying  
8 birth event or adoption. The leave may only be taken in one  
9 increment.

10       (c) A service member may take leave under Section 437.2126  
11 or 437.2127 consecutively with other leave, including maternity  
12 convalescent leave under Section 437.2125. The service member is  
13 required to take leave under those sections after maternity  
14 convalescent leave under Section 437.2125 and before any other type  
15 of leave.

16       (d) A service member may not transfer leave under Section  
17 437.2126 or 437.2127 to another service member. A service member  
18 may not take leave under those sections consecutively with other  
19 leave taken immediately before separation or retirement from  
20 service or consecutively with an administratively authorized  
21 absence of duty.

22       (e) A service member is not entitled to leave under Section  
23 437.2126 or 437.2127 for:

24               (1) a qualifying birth event in which the child is  
25 placed for adoption with another person; or

26               (2) a qualifying birth event or adoption of a child for  
27 whom the designated secondary caregiver's parental rights are

1 terminated.

2 (f) Leave granted under Section 437.2126 or 437.2127  
3 terminates on the death of the child. A service member who is  
4 eligible for leave under those sections whose child dies while the  
5 service member is on the leave may be transitioned to emergency  
6 leave that counts against the service member's leave balance.

7 (g) A service member who separates from active state service  
8 forfeits leave granted under Section 437.2126 or 437.2127.

9 SECTION 5. Sections 437.226(c), (d), (e), (f), (g), and  
10 (i), Government Code, are amended to read as follows:

11 (c) The adjutant general shall grant assistance for tuition  
12 and mandatory fees under this section to eligible service members,  
13 in an amount not to exceed the amount provided in the General  
14 Appropriations Act. The adjutant general may apportion the number  
15 of assistance awards among the components of the Texas military  
16 forces necessary to meet the recruitment and retention needs of  
17 those components. The number of assistance awards made to members  
18 of the Texas State Guard may not exceed 45 [~~30~~] for any semester or  
19 term unless the adjutant general finds a compelling need for  
20 additional awards to members of the Texas State Guard.

21 (d) Assistance for tuition and mandatory fees may be awarded  
22 under this section for tuition and mandatory fees charged for any  
23 undergraduate or graduate course for any semester or term at an  
24 institution of higher education or private or independent  
25 institution of higher education, including a vocational or  
26 technical course.

27 (e) A service member may not receive assistance for tuition

1 under this section for more than 15 [~~12~~] semester credit hours in  
2 any semester or term.

3 (f) A service member may not receive assistance for tuition  
4 and mandatory fees under this section for more than 5 academic years  
5 or 15 [~~10~~] semesters or terms, whichever occurs first for the  
6 service member.

7 (g) Before each semester or term, the department must  
8 certify to the appropriate public and private institutions of  
9 higher education a list of the service members to whom the adjutant  
10 general has awarded assistance for tuition and mandatory fees under  
11 this section for that semester or term. The amount of assistance  
12 awarded by the adjutant general under this section may not exceed  
13 the amount of money available to fund the assistance awards.

14 (i) From money appropriated for purposes of this section,  
15 the department shall authorize the comptroller to make a grant to a  
16 service member attending a private or independent institution of  
17 higher education to whom the adjutant general has awarded  
18 assistance for tuition and mandatory fees for the semester or term  
19 under this section. The amount of a grant under this subsection is  
20 an amount equal to the average amount of reimbursement the  
21 department estimates will be paid per student for the same semester  
22 or term under Subsection (h).

23 SECTION 6. Sections 54.345(b) and (c), Education Code, are  
24 amended to read as follows:

25 (b) An institution of higher education shall exempt a person  
26 certified by the adjutant general as described by Subsection (a)  
27 from the payment of tuition for the semester credit hours for which

1 the person enrolls, not to exceed 15 [~~12~~] semester credit hours. If  
2 the person is not charged tuition at the rate provided for other  
3 Texas residents, the amount of the exemption may not exceed the  
4 amount of tuition the person would be charged as a Texas resident  
5 for the number of semester credit hours for which the person  
6 enrolls, not to exceed 15 [~~12~~] semester credit hours.

7 (c) An institution of higher education shall exempt a person  
8 who receives an exemption from tuition under Subsection (b) from  
9 the payment of all mandatory fees for any semester or term in which  
10 the person receives the tuition exemption.

11 SECTION 7. The adjutant general shall adopt rules required  
12 by Sections 2 through 4 of this Act not later than January 1, 2024.

13 SECTION 8. The changes in law made by Sections 2 through 4  
14 of this Act apply only to an order to state active duty that is  
15 issued on or after the effective date of this Act. An order to state  
16 active duty that is issued before the effective date of this Act is  
17 governed by the law in effect on the date the order is issued, and  
18 the former law is continued in effect for that purpose.

19 SECTION 9. Sections 5 and 6 of this Act apply beginning with  
20 the 2023 fall semester.

21 SECTION 10. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2023.