

By: VanDeaver, Cain

H.B. No. 318

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of certain employment discrimination regarding an employee who is a volunteer emergency responder.

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

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 24 to read as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER
EMERGENCY RESPONDERS

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Emergency" means an emergency declared by the president, the governor, a county judge, or a mayor.

(2) "Emergency medical services" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Emergency medical services volunteer" has the meaning assigned by Section 773.003, Health and Safety Code.

(4) "Emergency service organization" means any entity established to provide for the public:

(A) fire prevention and suppression;

(B) hazardous materials response operations; or

(C) emergency medical services.

(5) "Employee" means an individual who is employed by an employer for compensation.

(6) "Employer" means a person who employs 20 or more employees. The term includes the state or a political subdivision

1 of the state.

2 (7) "Political subdivision" means a county,
3 municipality, special district, or authority of this state.

4 (8) "Volunteer emergency responder" means an
5 individual who is an active participant in an emergency service
6 organization but who does not receive compensation for the
7 individual's services. The term includes an emergency medical
8 services volunteer and a volunteer firefighter.

9 (9) "Volunteer fire department" has the meaning
10 assigned by Section 614.101, Government Code.

11 (10) "Volunteer firefighter" means an individual who
12 is a member of a volunteer fire department.

13 Sec. 24.002. DISCRIMINATION PROHIBITED; LIMITATION. (a)
14 Except as provided by this chapter, an employer may not terminate or
15 suspend the employment of, or in any other manner discriminate
16 against, an employee who is a volunteer emergency responder and who
17 is absent from or late to the employee's employment because the
18 employee is responding to an emergency in the employee's capacity
19 as a volunteer emergency responder.

20 (b) Notwithstanding Subsection (a), an employee who is a
21 volunteer emergency responder is not entitled under this chapter to
22 be absent from the employee's employment for more than 14 days in a
23 calendar year unless the employee's absence is approved by the
24 employer.

25 Sec. 24.003. NOTICE TO EMPLOYER. An employee who is a
26 volunteer emergency responder and who may be absent from or late to
27 employment because the employee is responding to an emergency as a

1 volunteer emergency responder shall make a reasonable effort to
2 notify the employer that the employee may be absent or late. If the
3 employee is unable to provide the notice due to the extreme
4 circumstances of the emergency or inability to contact the
5 employer, the employee shall submit to the employer, on the
6 employer's request, a written verification of participation in an
7 emergency activity that:

8 (1) is signed by the supervisor, or the designee of the
9 supervisor, of the entity for which the affected volunteer
10 emergency responder provides services or the applicable emergency
11 service organization; and

12 (2) states that the volunteer emergency responder
13 responded to an emergency and provides information regarding the
14 emergency.

15 Sec. 24.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME.

16 (a) An employer may reduce the wages otherwise owed to the employee
17 for any pay period because the employee took time off during that
18 pay period for an absence authorized by this chapter.

19 (b) In lieu of reducing an employee's wages under Subsection
20 (a), an employer may require an employee who is a volunteer
21 emergency responder to use existing vacation leave time, personal
22 leave time, or compensatory leave time for an absence authorized by
23 this chapter, except as otherwise provided by a collective
24 bargaining agreement.

25 (c) This section does not affect an employee's right to
26 wages or leave time under Section 661.905, Government Code.

27 Sec. 24.005. LIABILITY; REINSTATEMENT. An employee whose

1 employment is suspended or terminated in violation of this chapter
2 is entitled to:

3 (1) reinstatement to the employee's former position or
4 a position that is comparable in terms of compensation, benefits,
5 and other conditions of employment;

6 (2) compensation for wages lost during the period of
7 suspension or termination; and

8 (3) reinstatement of any fringe benefits and seniority
9 rights lost because of the suspension or termination.

10 Sec. 24.006. CIVIL ACTION. (a) An employee whose employer
11 violates this chapter may bring a civil action against the employer
12 to enforce rights protected by this chapter.

13 (b) An action under this section must be brought in the
14 county in which the place of employment is located not later than
15 the first anniversary of the date of the violation.

16 SECTION 2. Chapter 24, Labor Code, as added by this Act,
17 applies only to a cause of action that accrues on or after the
18 effective date of this Act. A cause of action that accrued before
19 the effective date of this Act is governed by the law applicable to
20 the cause of action immediately before the effective date of this
21 Act, and that law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2021.