

**SUBJECT:** Paid injury leave for state peace officers assaulted on duty

**COMMITTEE:** County Affairs — favorable, without amendment

**VOTE:** 8 ayes — R. Allen, W. Smith, Casteel, Coleman, Laney, Naishtat, Olivo, Otto

0 nays

1 absent — Farabee

**WITNESSES:** For — Mike Smith, Texas Department of Public Safety Officers Association

Against — None

On — Trent Anderson, Pete Flores, Texas Parks and Wildlife Law Enforcement Division

**BACKGROUND:** Peace officers, licensed by the Texas Commission on Law Enforcement, must meet certain minimum requirements, complete a full-time Basic Peace Officer Certification course, and pass a peace officer licensing exam.

Under Code of Criminal Procedure, ch. 661, the State Office of Risk Management allows injured state law enforcement officers to receive workers' compensation when accrued sick days and annual leave are depleted or an officer has taken seven days of unpaid leave. Workers' compensation benefits include 70 percent of average weekly pay up to \$537 a week and medical benefits.

**DIGEST:** HB 1428 would enable the Public Safety Commission and the director of the Department of Public Safety, the Parks and Wildlife Commission, and the Texas Alcoholic Beverage Commission to compensate peace officers under their jurisdiction assaulted on duty because of the nature of their duties with injury leave, including full pay and benefits, for up to one year, without using sick days, compensatory time, or any type of unpaid leave allowed under Code of Criminal Procedure, ch. 659.

The bill would not apply to injuries during transportation to or from the officer's designated headquarters or the site of an assignment. To qualify for injury leave, an officer would have to submit evidence of a medical examination and a recommendation for a specific period of leave from a state-licensed physician.

An officer could simultaneously be on injury leave and receive workers' compensation benefits, but would not be eligible for disability retirement benefits during the injury leave period.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. It would retroactively affect peace officers who sustained injuries from an assaultive offense on or after December 1, 2004.

**SUPPORTERS  
SAY:**

HB 1428 would give peace officers the assistance they deserve to recover from on-duty assaults without penalty. Under these circumstances, injured peace officers should not be forced to exhaust earned leave time, take unpaid absences, or receive reduced pay. Many officers may not have sick days or compensatory days to exhaust. For example, 40 percent of Parks and Wildlife officers, having less than five years experience, have not accumulated any sick leave. Other state officers should be allowed to apply their accumulated leave toward their retirement instead.

Unlike most state employees, law enforcers are sworn to prevent and intervene in criminal activity, risking harm to themselves. To that end, their state benefits should equal if not exceed that of other state employees. Most municipal police departments, for example, do not penalize officers on leave due to an on-duty assault.

The extent to which peace officers expose themselves to danger is quickly evolving in many areas of the state. A peace officer often responds to emergencies alone, as the officer may be the only law enforcer within 100 square miles of a county. For example, in December of 2004, a game warden in Potter County was injured when responding to a 911 call from a woman who had been shot by a man for not helping him dispose of a body of another man he had killed. Shortly after the warden arrived at the crime scene and addressed the wounded woman, the male perpetrator, under the influence of alcohol and cocaine, shot the warden six times. While the Potter County incident was isolated, emergencies related to drug

smuggling near the Mexican border and to methamphetamine labs in rural areas are not.

HB 1428 would have no fiscal implication, as benefits for injured officers would not be increased but maintained at normal, full-time employee levels.

**OPPONENTS  
SAY:**

State employees already receive adequate compensation and leave. Under Chapter 661.092, at the discretion of an agency's administrative head, a state employee may be granted emergency leave without penalty. In addition, the federal Family Medical Leave Act guarantees job security for up to 12 weeks leave.

HB 1428 could encourage other state employees to seek to bypass workers compensation requirements. If peace officers were granted special consideration, other state emergency responders might demand the same. Furthermore, the inherent danger of peace officer duties is apparent, while other state employees may place themselves at risk unexpectedly. The dangerous nature of one's work, whether or not it is specified in a job description, should not justify more than the standard benefits.