

**SUBJECT:** Allowing service members to retain private counsel, file civil actions

**COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment

**VOTE:** 9 ayes — Leach, Davis, Dutton, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

**SENATE VOTE:** On final passage, April 9 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** For — None

Against — None

On — Monie Ullis, Texas Military Department

**BACKGROUND:** Government Code sec. 437.204 specifies that an employer may not terminate the employment of an employee who is a member of the state military forces of any state because the employee is ordered to authorized training or duty. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence.

A violation of this section is an unlawful employment practice, and a person injured by a violation may file a complaint with the Texas Workforce Commission civil rights division under ch. 437, subch. I.

The Servicemembers Civil Relief Act (50 U.S.C. secs. 3901-4043) and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. secs. 4301-4335) provide service members with relief from certain civil obligations while on duty and employment protections, respectively.

Some have noted the lack of a state law to enforce the state and federal employment protections afforded to military members entering active duty

or training.

DIGEST:

SB 484 would allow certain service members to retain private legal counsel and file a civil action in a district court in Texas if the service member was aggrieved by a violation of or was denied a benefit or protection guaranteed under certain state or federal laws relating to civil relief and employment protections for military members.

This provision would apply to service members of the Texas military forces who were ordered to state active duty or to state training and other duty by the governor, the adjutant general, or another proper authority and who were entitled to the same benefits and protection provided to persons performing services in the uniformed services and in the military service of the United States under federal law.

A court could award to a service member who prevailed in an action under the bill any appropriate declaratory or equitable relief, other appropriate relief, including monetary damages, and costs of the action and reasonable attorney's fees. The bill would not limit any remedy or relief available to a service member under other law, including a remedy or relief under Government Code sec. 437.204(b) or ch. 437, subch. I, or consequential and punitive damages.

The bill would take effect September 1, 2021, and would apply to a service member of the Texas military forces ordered to state active duty or state training and other duty on or after that date.