

CHAPTER 40

S.B. No. 359

AN ACT

relating to the provision of a defense by a municipality or a special purpose district in certain suits against peace officers, fire fighters, or emergency medical personnel.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 507, Acts of the 66th Legislature, 1979 (Article 1269s, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. An incorporated city or town or special purpose district shall provide a peace officer, fire fighter, or emergency medical personnel employed by it with legal counsel without cost to the peace officer, fire fighter, or emergency medical personnel, on the employee's [officer's] request, to defend the employee [officer] against a suit for damages by a party other than a governmental entity if the claim involves an official act of the peace officer, fire fighter, or emergency medical personnel in the scope of the employee's [officer's] authority. The city, town, or special purpose district may provide counsel already employed by it or may employ and pay private counsel to defend the employee [officer] against the claim. In this Act, "peace officer" has the meaning given in Article 2.12, Code of Criminal Procedure[~~1965, as amended~~].

Sec. 2. If the municipality or district fails to provide counsel as required by Section 1 of this Act, the employee [officer] may recover from it the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit covered by Section 1 of this Act and determines that the employee [officer] is without fault or finds that the employee [officer] acted with a reasonable good faith belief that his actions were proper.

SECTION 2. This Act takes effect September 1, 1987, and applies to a suit against a fire fighter or emergency medical personnel employed by a municipality or a special purpose district filed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 17, 1987, by a viva-voce vote. Passed the House on April 15, 1987, by a non-record vote.

Approved April 29, 1987.

Effective Sept. 1, 1987.