

BILL ANALYSIS

Senate Research Center
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S.B. 850
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State law authorizes peace officers to use deadly force when the officer reasonably believes it necessary to assist in an arrest or to prevent escape after arrest. These provisions protect officers from further liability for using force. It is ambiguous, however, if Texas military personnel have the same authority to use deadly force when deployed on state-sponsored operations.

When Texas military personnel are mobilized by Presidential deployment, they are authorized to use force by federal statute. If, however, the same personnel are deployed as part of a state operation, such as border security operation Strong Safety in 2014, the extent to which military personnel are authorized to use force appears limited to self-defense. Interested parties contend that while Texas military personnel deployed on a federal mission are legally protected to use force, state military personnel may be vulnerable to lawsuits while performing state operations. S.B. 850 therefore creates parity with federal law, enabling state forces to effectively protect the border regardless of which level of government deploys them.

As proposed, S.B. 850 amends current law relating to a public duty justification for conduct of a service member of the Texas military forces.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 437, Government Code, by adding Section 437.2235, as follows:

Sec. 437.2235. PUBLIC DUTY JUSTIFICATION. Provides that Section 9.21 (Public Duty), Penal Code, applies to conduct of a service member of the Texas military forces ordered into service of this state by proper authority that is performed in the service member's official capacity.

SECTION 2. Effective date: upon passage or September 1, 2015.