

Legal Hot Topics & The Texas Legislature



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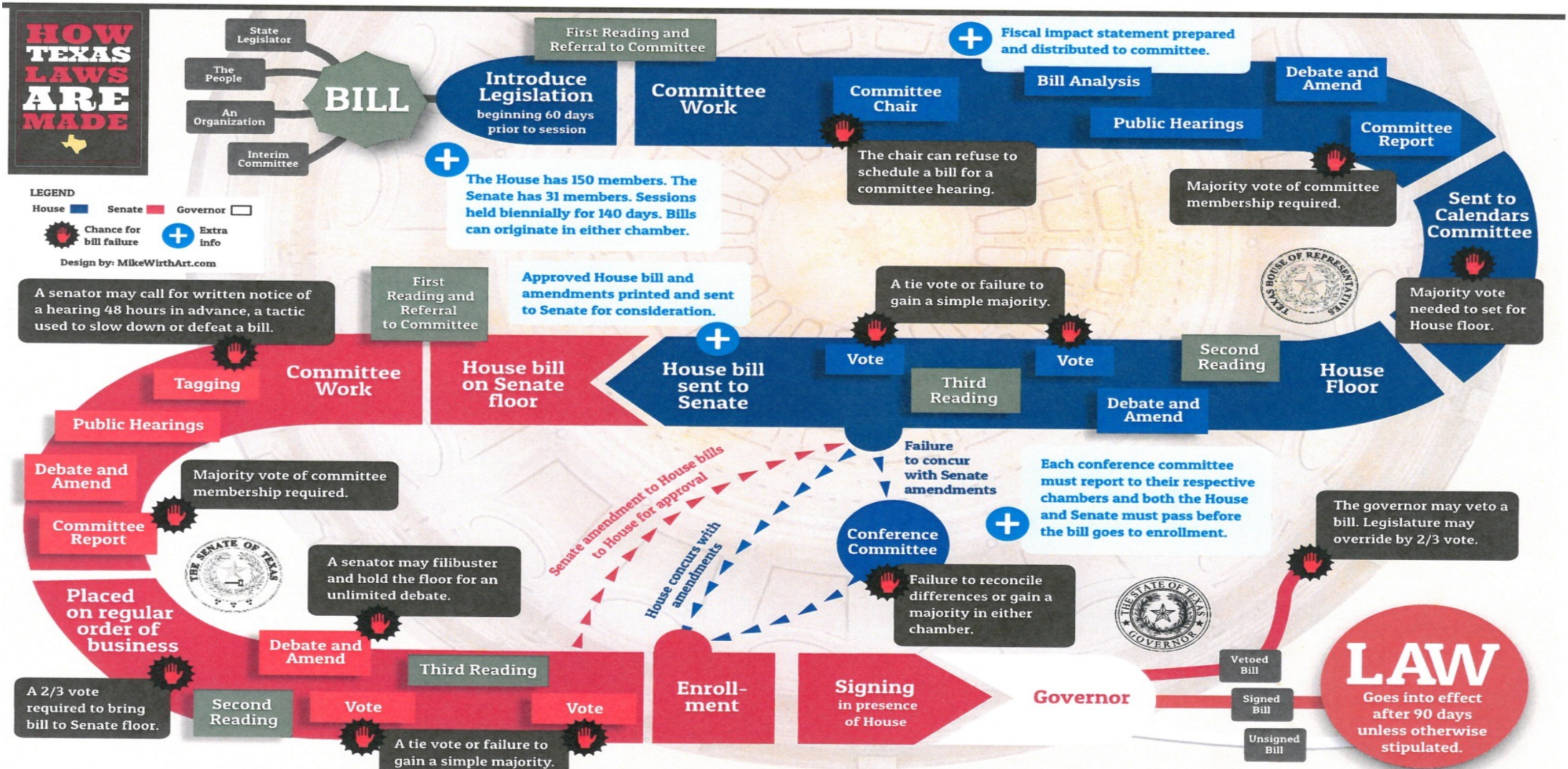


2021 Legislative Session

- Bills filed = 7,385 (approx.)
- Bills tracked by THA = 1,453
- Bills passed:
 - HBs = 587 (13%)
 - D's = 182
 - R's = 404
 - SBs = 486 (22%)
 - D's = 182
 - R's = 304
- Gov. Abbott
 - Vetoed 21 bills
 - Signed 1034 bills
 - 105 bills filed without signature



Legislative Process in Reality



Issues Related to Reproductive Healthcare

- *Dobbs v. Jackson Women's Health Organization*
- Selected Texas Laws Regulating and/or Prohibiting Abortion
 - Texas Health & Safety Code
 - Chapters 170, 170A, 171, 245, 697
 - Texas Family Code, Ch. 33
 - Texas Civil Statutes, Art. 4512.1-4512.6 (1925)
- Federal Regulations
 - EMTALA
 - HIPAA



Issues
Related to
Reproductive
Healthcare

Definition of “abortion” in Texas

Implications for Texas Hospitals



Visitation & Patient Rights

- HB 2211 amended visitation policies for hospitals during periods of disaster related to infectious disease.
- Require at least one visitor be allowed with the patient but recognizes potential federal restrictions and includes flexibility to require health screenings and other protective measures and includes a provision to ensure an attending physician could prohibit visitation of a patient for five-day increments, depending on the issues faced in the facility.
- More legislation on this and patient-rights/patient autonomy expected in 2023.



Hospital Charges

- HB 2064 amends existing law to allow attorneys' fees and expenses to be deducted from certain amounts an injured patient receives from an at-fault party to recoup the costs of health care provided.
- Might use some of the hospital reimbursement to cover the patients' attorneys' fees and expenses.
- Senate reviewing issues related to “paid and incurred,” as related to hospital charges.
- **Stay tuned to these issues!**



Price Transparency

SB 1137 codifies a federal rule which requires hospitals to post on the internet, in machine-readable format, a list of standard charges for all payors comprised of:

- gross charges;
- payer-specific negotiated charges (negotiated rates);
- de-identified minimum and maximum negotiated charges (the highest and lowest rates a hospital has negotiated with all third-party payors for an item or service); and discounted cash prices.

HHSC posted informal rules on July 18. THA did review and comment. Formal rules are expected before finalization.

Centers for Medicare and Medicaid Services requires hospitals to display, in an easy-to-understand format, detailed pricing information for 300 “shoppable” items and services.



Price Transparency

Hospitals should compliance with both the federal CMS hospital price transparency rule effective since the beginning of 2021, as well as the new requirements of SB 1137.

SB 1137 differs from the CMS rule in four principal ways that have an operational impact:

- use a HHSC template to post their standard charges. Hospitals should monitor HHSC's rulemaking and look to THA for more information on the template.
- HHSC-defined internet posting requirements on accessibility and searchability.
- Annual report to HHSC regarding the 230 shoppable services.
- new state law penalties that vary based on gross revenue.



Hospital Operations

Senate Bill 1225 (effective 9/1/21)

Public hospitals, hospital districts and any other entities considered governmental bodies should revise their policies and procedures so that they do not suspend compliance with the TPIA for more than a total of 14 consecutive calendar days due to a catastrophe and to state that remote work does not constitute a catastrophe.



Senate Bill 1203 (effective 9/1/21)

A business entity may adopt provisions in its governing documents to *provide flexibility during an emergency period for things like establishing a quorum and meeting notices*. These provisions must be adopted in accordance with the entity's normal processes outside of an emergency period, i.e., in advance of an emergency.



Hospital Operations

Senate Bill 1203 (effective 9/1/21) (cont.)

Also added provisions to the Business Organizations Code regarding requirements for actions undertaken using written consent. Boards should consult with their council to ensure bylaws and policies are up-to-date to ensure actions taken by written consent will withstand challenge or scrutiny.



Firearms

HB 1927 makes sweeping changes to the law related to carrying handguns in public, eliminating for the first time the requirement that eligible persons obtain a license to carry in most public places.

The law does, however, make changes to signage requirements that are intended to put persons on notice of places where handguns are not permitted, and therefore allow prosecution of persons who violate those prohibitions.

The prohibition on guns in hospitals remains, though it has been moved from Penal Code section 46.035 to section 46.03.

In order to avoid certain defenses to prosecution and ensure that the prohibition is enforceable against a person who brings a handgun into the hospital, the hospital will be required under new section 46.15(o) to post a sign at each entrance to the premises.



Firearms

Hospitals and other businesses that wish to exclude handguns on their premises should carefully review the signage provisions to ensure that they can maintain that prohibition.

Non-hospital premises should incorporate signage compliant with the new language found in section 30.05 of the Penal Code to cover carriers who do not have a license. It is not clear that this language can replace existing signage posted pursuant to sections 30.06 and 30.07 (which apply to license holders) or if it should be posted in addition to 30.06 and 30.07 language. In order to ensure that a property owner maximizes its ability to exclude handguns from its premises if it chooses to do so, the owner should consider posting all three versions of signage described in sections 30.05, 30.06, and 30.07.

Hospitals will need to incorporate the new signage requirements of Penal Code section 46.15(o) and will need to maintain the signage required under Penal Code sections 30.06 and 30.07.



Body Cameras

Additional entities and service providers are utilizing body cameras.

Many times, these providers wear their body cameras into hospitals, and many of those have refused to turn those cameras off after requests from hospital personnel.

Hospitals should be aware of this issue and adjust policies accordingly. The severity of this issue will vary between areas and seems to be driven by the service providers. Texas law is currently silent on this issue.



2023

What should we expect through 2023?

- Additional regulations regarding abortion in Texas
- Price Transparency
- Hospital Charges and Billing Practices
- Patient Autonomy
- Hospital Funding
- Trauma Funding
- Rural Hospital Designation



Questions?

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