

- SUBJECT:** Modifying the calculated amount of certain hospital or physician liens
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Leach, Davis, Dutton, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith
- 0 nays
- WITNESSES:** For — Laura Tamez, Texas Trial Lawyers Association; Kevin Glasheen; Nancy Powell; (*Registered, but did not testify:* Ware Wendell, Texas Watch; Calvin Tillman)
- Against — Cesar Lopez, Texas Hospital Association
- BACKGROUND:** Property Code sec. 55.002(a) establishes that a hospital has a lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must be admitted to the hospital not later than 72 hours after the accident.
- Under Property Code sec. 55.003(a), the hospital or emergency medical services lien attaches to:
- a cause of action for damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services;
 - a judgment of a Texas court or the decision of a public agency in a proceeding brought by the injured individual or by another person entitled to bring the suit to recover damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services; and
 - the proceeds of a settlement of a cause of action or a claim by the injured individual or another person entitled to make the claim, arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services.

Under Property Code sec. 55.004, a hospital or emergency medical services lien is for the lesser of:

- the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization; or
- 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement described by sec. 55.003(a).

Concerns have been raised regarding the potential for disparate results when using the current calculation method for the amount of hospital and emergency medical services liens on causes of action or claims of an individual who receives services for injuries related to another person's negligence, as the calculation method can result in lien amounts larger than the amount a jury would reasonably award the injured person.

DIGEST:

CSHB 2064 would modify the method for determining the amount of a hospital lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person.

The hospital lien would be for the lesser of:

- the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization less the pro rata share of attorney's fees and expenses the injured individual incurred in pursuing the claim;
- 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement described by Property Code sec. 55.003(a) less the pro rata share of attorney's fees and expenses the injured individual incurred in pursuing the claim; or
- the amount awarded by the trier of fact for the services provided to the injured individual by the hospital less the pro rata share of

attorney's fees and expenses the injured individual incurred in pursuing the claim.

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, 2021. The bill would apply only to a lien for services provided to an injured individual on or after the effective date.