



## SECTION TWO

# HOW A BILL BECOMES LAW

The process by which a piece of legislation becomes law is a relatively uncomplicated chain of events that you must understand before you can expect to be effective in influencing the state legislative system. Probably the most important aspect of this process is the identification of the many points of access to a bill before it becomes a law. The advocates of a particular piece of legislation must succeed at every step along the way in order to realize their goal. On the other hand, the opponents of a bill need only succeed at one point in the process to achieve their objective. Whether your ultimate goal is the defeat or passage of a bill will determine the strategy you use. Either is appropriate as long as there is support for your argument and resources available to make your case.

### **Introduction of Bills**

Every member of the state legislature has the power to introduce a bill. In most legislatures, members can file bills prior to the convening of the legislature and continue to file them until a cut-off date specified in the legislature's rules.

After an idea is drafted into bill form, it is introduced and assigned a number. This step is known as the bill's "first reading," which means that the clerk announces the title and number of the bill to the full house or senate. Although the

alphanumeric numbering system for bills differs from state to state, some of the more common notations include SB (senate bill) or SR (senate resolution) and HB (house bill), HR (house resolution), or AB (assembly bill).

Whether you are considering having a bill introduced or planning to oppose a particular piece of legislation, this first stage of the process is an important one. In choosing a sponsor (author) for legislation you want to have introduced, it is imperative to proceed with caution. Be careful to choose a sponsor/author who is respected and who is regarded as having expertise in the subject matter. A senior member of the committee to which the bill will likely be assigned is usually an excellent choice for a sponsor/author of your legislation. Other factors you should consider in order for a bill to successfully pass this first stage include making certain that your sponsor/author will stand behind and work for the bill, and carefully choosing the house in which to introduce it, since there may be less resistance in one house than in the other.

Other elements to be considered at this stage of the legislative process are possible co-sponsors (co-authors) of the legislation and committee jurisdiction. You and your chapter will benefit by identifying and obtaining both majority and minority supporters of the bill at the time of introduction. When a bill is drafted,

the committee referral may influence its content or progress. It is wise to draft a bill so that it is clearly within the jurisdiction of a preferred committee, thus avoiding split or joint jurisdiction.

If the bill being introduced has the potential to unjustly and adversely affect the practice of emergency medicine, your first step is to contact the sponsor of the bill. In lobbying against the legislation, one may either try to persuade the sponsor to “kill” the bill or accept amendments that will make it acceptable to emergency physicians. Although sometimes not easy, it is far better to intervene in the early stages rather than waiting until the bill us up for a vote in the full House or Senate.

## **Referral to Committee**

After introduction, a bill usually is referred to one of the standing committees for consideration. In some states, the speaker in the House and normally the president or a special committee in the Senate automatically refer all bills introduced to a committee. In a few states, a bill sometimes will not be referred to committee.

Whether you are supporting or opposing a bill, the committee assignment is critical, as one committee might favor one bill over another. If you are endorsing a particular piece of legislation, getting a bill assigned to the most favorable committee becomes very important. If you are opposing the bill, you should try to persuade the speaker, the president, or the special committee (those who have responsibility for referring the bill to committee) to assign the bill to the committee that will look unfavorably on its intent, cost, or ramifications.

## **Committee Considerations**

Probably the most important step in the legislative process is committee consideration of a bill. In most states, bills referred to a committee are considered or “heard” by the full committee or subcommittee. Major pieces of legislation usually will have a hearing during which testimony is taken. At this point, the role and power of the committee chair usually determine a bill’s fate.

Some type of notice usually will be given when, and if, a hearing is to be held on a bill. If you are endorsing or supporting a particular bill, it is important for you to work closely with the bill’s sponsor. It is also imperative that you learn as much as possible about the relative power of the committee chairperson and the members of the committee to which your bill is assigned.

Whether the committee holds a hearing or not, it has a number of options available with respect to the bill’s fate. The committee can simply sit on a bill. If you oppose the legislation, chapter members can offer to testify against the bill, explaining why the emergency medicine community foresees problems with it. With this added opinion from the medical community, the legislature may decide to sit on the bill, thus eliminating it from further consideration.

Before testifying for or against a bill, investigate who the interested stakeholders may be. It is best to know in advance your opponents and their arguments. Unanticipated consequences can develop even when you testify in favor of a bill, so remember to do your homework. Typical allies such as state medical societies, other medical specialties, and state hospital associations often share similar interests, but this is not always the case.

The bill also may be reported out of committee, with either a favorable or negative recommendation. The terminology for these reports varies from state to state, so you will need to learn the local language used by your state legislators. You and your chapter should work with the legislators and staff who write the reports, because the report language is sometimes used when the corresponding regulations are developed.

## **Floor Debate and Amendments**

If permitted, the entire House usually debates a bill, and floor amendments are offered at this stage. In most cases, if a committee reports a bill out favorably, the bill is scheduled for consideration. Once scheduled for consideration, the bill usually will be included on a calendar that indicates when it will likely come up for consideration. In most states, bills may be amended at this time. In some, the

introduction of amendments may be difficult at this point. Legislative rules and customs vary a great deal from state to state at this stage of the legislative process, known as “second reading.”

Again, it is important for you to learn, in some detail, how your legislature operates if you are to be successful in your efforts. It is important to know what the formal rules provide, when they are followed, and when they are not. Following procedures based on an in-depth parliamentary knowledge can assist you and your chapter in the passage or defeat of a bill. This knowledge can protect the legislation from defeat or amendment on technical grounds. Parliamentary maneuvers are even more critical and can be quite effective in preventing the passage of a bill.

### **Final Vote**

Following floor consideration, a bill is put to a final vote, sometimes known as “third reading.” In some states, a majority of the total membership of the house is required to pass a measure. In others, only a majority of those voting is necessary. Rules usually provide for a way to reconsider, but whether that actually occurs depends largely on the customs and traditions of your state. If defeated in one house, a bill is usually considered “dead” for the session.

### **Consideration by the Second House**

If a bill passes the first house, it goes to the second house, where it must go through the same process again. Nebraska is the exception to this rule, of course, because it has only one house. If the bill survives the second house, without amendments being added, it goes on to the governor. If the second house amends the bill, the first house may go along with changes, in which case the bill goes to the governor. However, if the two chambers disagree on the amendments added in the second house, a conference committee is formed to resolve the differences between them. The conference committee usually consists of members of both houses.

The way conference committees are formed and the customs they follow vary by state. For the most part, conference committees

are quite powerful and can undo much of what has been accomplished up to this stage of the legislative process. The committee appointments are critical because the members write the conference report, which then must be passed by both houses. The success of your efforts depends on the conference report. To the extent possible, assist the legislators and their staff who are writing the conference report. Usually the two houses can only accept or reject a conference committee’s report, even though the report may substantially alter the bill. In many cases, the choice is between accepting what the conference committee has done or having nothing at all.

If the legislation is opposed by the chapter but manages to clear the committee structure of the first house, the same effort is usually repeated in the second. If the chapter is supporting the legislation, the conference committee process is especially critical to final passage of the bill.

### **The Governor**

One way or another, a bill that survives the legislative gamut goes to the governor for consideration. The governor of a state has several options when considering the fate of a bill: (1) The governor may sign the bill, in which case it becomes law; (2) the governor may permit the bill to become law without a signature, because there is a specified number of days for the bill to be signed or vetoed (and if the governor does neither, it becomes law as if it had been signed); or (3) the governor may veto the bill.

When the governor vetoes a bill, it is returned, along with the veto message, to the legislature. However, a bill still can be enacted into law if both houses have enough votes (usually two-thirds majority) to override the veto. One other possibility exists in certain states. If the legislature adjourns before the time by which a governor has to sign, the bill expires (thereby preventing return of the bill along with the veto message). In other words, the bill “dies” if the governor chooses not to sign it. This maneuver is known as a “pocket” veto. Finally, some state governors may select particular items from appropriation bills and veto only those items (a “line item” veto).

The following chart depicts the legislative movement of a bill, from introduction to signing by the governor. Although some details of this process will vary from state to state, many of the steps are the same for any state legislature.

