



# Legislative UPDATE

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## **Austin Court Shoots Down AG in Licensed Carry Lawsuit**

In 2016, the attorney general’s office filed a [lawsuit](#) against the City of Austin to require licensed carry at city hall, even though a municipal court is housed there. More specifically, the Austin city hall houses the city’s “community court.” According to its website, the court’s purpose is “to collaboratively address the quality of life issues of all residents in the downtown Austin community through the swift, creative sentencing of public order offenders.” The court “seeks to hold people responsible while also offering help to change behavior.”

The court is held in city hall, and state law prohibits any firearm in “a building or portion of a building” that houses a “court or offices utilized by the court.”



Because of that, the city took the position that the entire building is off-limits to license holders carrying handguns. Even though no sign is required, the city posted a “no guns” sign (a handgun with a slash through it – see photo to the left) on the window, and a guard posted at a metal detector provides verbal notice that firearms aren’t allowed.

The attorney general’s lawsuit asked the court to order the city to remove its sign and authorize licensed carry in city hall. It also sought civil penalties from the city. In 2018, the district court judge in *Paxton v. City of Austin* disagreed, concluding that the attorney general has no jurisdiction to investigate, seek an injunction, or seek civil penalties for

the display of any sign other than a “30.06” sign or verbal notice under that section. (The 30.06 sign is one that a business must use if it chooses to prohibit concealed carry on its premises. It is also used by a city, but only for the sole purpose of prohibiting licensed carry in a meeting room in which a meeting subject to the Open Meetings Act is being held.)

In a [letter](#) explaining her decision, the judge dismissed the attorney general’s arguments based on the plain language of the law. Her conclusions can be summarized as follows:

1. Texas Government Code Section 411.209 provides that: “[A] political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a license to carry a handgun, that a license holder carrying a handgun...is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun [where all firearms are prohibited or carry by a license holder is prohibited, such as a court, polling place, or school activity.]”
2. The section above refers only to Section 30.06 signs.
3. The plain language of the section above does not grant the attorney general any authority whatsoever to investigate or enforce against any other type of sign relating to firearms.
4. The section above does not prohibit a city from giving notice by a sign providing a gun with a slash through it (or presumably a “no firearms allowed” sign) that all firearms are prohibited under state law. (Such as the prohibition against anyone carry any firearm – licensed or not – onto the premises of a building with a court or offices utilized by the court.)
5. The city’s argument that the entire building that contains a court or offices utilized by the court is off limits to anyone – licensed or not – carrying a firearm is correct because “premises” is defined Penal Code Section 46.035(f)(3) law to mean “a building or portion of a building.”
6. Number (5), above, is true because the prohibition against carry in a building or portion of a building is a criminal offense, and means that a person with a firearm can’t go into any portion of the building housing a court or offices utilized by a court.
7. A building or portion of a building that houses a court or offices utilized is off limits at all times to anyone – licensed or not – who is carrying a firearm (not just when court is in session).

What are the practical effects of the above ruling? Based on the advice of a city’s attorney, a city may wish to rely on the court’s letter, which is better-reasoned than attorney general opinions on the subject. That reliance would mean that a license holder may not carry a handgun into a building that houses a court or offices utilized by a court. No signage is necessary. However, some cities – like the City of Austin did – may deem it appropriate to post a sign of some type notifying the license holder that a building houses a court or court office.

What would the signs mentioned above look like? The sign certainly shouldn’t be a 30.06 sign because that type of sign would mean that the attorney general has authority over them and can

sue the city. A better option might be a gun with a slash through it or a “no firearms allowed sign.” Even better might be quoting the Penal Code section prohibiting carry into the building:

*This building houses courts and court offices.  
All weapons are prohibited pursuant to Penal Code Section 46.03(a)(3).  
An offense under that section is a third degree felony.*

The above analysis relates only to courts and court offices, but it might also be relevant to the prohibition against carrying on the premises of a school sponsored activity or polling place during early voting or on Election Day.

For more information, see the League’s comprehensive paper titled “[Stay on Target: Cities and Firearms.](#)”

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