

United Methodist Advocacy in Pennsylvania

January 30, 2020

This month, January 2020, marks the beginning of the second year of a 2-year Legislative Session. Lawmakers did not waste much time after returning from the winter holidays break. Legislative activity was fairly robust.

Human Trafficking was an issue that received heavy attention. Several bills were passed—as described in the first item of this report. More legislation is anticipated in this area. I will be carefully following this issue.

Next month the governor will present his budget proposal for fiscal year 2020-21. Once this occurs, budgetary matters take center stage and take up more time as springtime progresses.

And with 2020 being an important state election year, political ideology will likely become palpable.

Some of the legislation, below, is still in process. I would encourage anyone who is especially interested in any of these topics to contact your representatives to express your thoughts. Lawmakers will usually lend an ear to their own constituents.

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Anti-Human Trafficking Bills

On January 22, the state House unanimously approved a package of seven bills intended to combat human trafficking.

One of the bills was **Senate Bill 60**, Buyer Beware, targeting the buyer in the supply-and-demand chain of the trafficking system. The House approved the Senate bill without amendment, sending it to Gov. Tom Wolf to be signed.

The governor's spokesman, J.J. Abbott said Wolf plans to sign HB60—likely making it the first bill to be enacted in 2020.

HB60 was sponsored by Sen. Kristin Phillips-Hill (R-York), increasing penalties on traffickers and those who would buy sex or labor from those in servitude. It also increases prison sentences to a minimum of 40 years for offenders if a victim of sexual servitude is a minor.

The other approved bills in the package will move to the Senate:

- **House Bill 161**, making trafficking infants a first-degree felony.
- **House Bill 2178**, requiring a court to consider whether a household member has been convicted of human trafficking prior to awarding child custody to a party.
- **House Bill 2177**, expanding the list of sexual offenses that require offenders to attend a Department of Corrections counseling program.
- **House Bill 2176**, expanding activities that constitute the crime of unlawful contact with a minor.
- **House Bill 2175**, expanding the list of offenses where an expert may testify about the dynamics of sexual violence.
- **House Bill 2174**, prohibiting defendants from introducing evidence of a human trafficking victim's past sexual victimization in a trafficking case.

Rally in Support of Closing State Care Centers

On January 7, the Pennsylvania Coalition for Inclusive Community conducted a rally in the Main Capitol Rotunda calling for an end to state institutions for individuals with intellectual and developmental disabilities. They oppose Senate Bill 906 that would delay the Wolf administration's planned closure of White Haven State Center in Luzerne County and Polk State Center in Venango County.

Amy Millar, speaking on behalf of Vision for Equality, explained that the coalition supports the plan to close the two care centers and transition the residents to community settings. "We believe in community for all and institutions are not the resolution."

Jamie Ray-Leonetti, associate director of policy for the Institute on Disabilities at Temple University, said that she and her husband both have disabilities, are thriving in an independent living environment, and are active members of their community. She stated, "The four walls of an institution have no purpose but to limit. In 2020 we are better than that and we must be better than that."

Tom Carasiti, community advisor for Vision for Equality, said his son has benefited from being in a community setting. "Our legislators want to roll back our progress... Senate Bill 906 wastes and diverts almost a quarter billion dollars. We want that money to support community inclusion."

Several other advocates also spoke in favor of the plan to close the White Haven and Polk Centers and transition the residents to community care settings.

Legal Effort to Prevent Closing Care Centers

On January 21, a federal lawsuit was filed in U.S. Middle District Court by parties attempting to halt the closure of two Pennsylvania Department of Human Services facilities for individuals with intellectual disabilities, White Haven State Center in Luzerne County and Polk State Center in Venango County. The suit seeks an injunction to halt the shut downs.

The action is part of attempts to prevent the closures as ordered by the Wolf administration. The governor's office believes the closures will cut costs without diminishing services. The residents of the facilities would be transitioned to other care settings.

The lawsuit was filed on behalf of eleven plaintiffs living at the two centers. It would require that the plaintiffs not be discharged or transferred from their current residence unless their families or guardians consent to such a move.

Rep. Tarah Toohil (R-Luzerne) said the lawsuit is trying to preserve choice of care for center residents. Furthermore, Toohil said, "It shouldn't be two sides pitted against each other," referring to advocacy efforts by supporters of the centers and those seeking more state funding for community placement services.

Legislation passed and sent to the governor's desk on January 27, Senate Bill 906, also aims to delay the closures.

State Care Centers Bill Goes to Governor

On January 27, the state Senate voted 28-21 to approve **Senate Bill 906**, following amendments made in the House. The bill now goes to Gov. Tom Wolf, who will likely veto the legislation.

SB906 would delay the closure of two state facilities serving individuals with intellectual disabilities, White Haven State Center in Luzerne County and Polk State Center in Venango County.

The bill would delay the closures for five years or until a special task force studies all the state facilities and makes recommendations regarding closures. "Senate Bill 906 is a bipartisan, bicameral piece of legislation that will allow Pennsylvania families to choose the best level of care for their loved ones with intellectual disabilities..." said SB906 prime sponsor Sen. John Yudichak (I-Luzerne).

The governor's office believes the closures will cut costs without diminishing services. The residents of the facilities, operated by the PA Department of Human Services, would be transitioned to other care settings. "Gov. Wolf supports expanding community based care and agrees with the vast majority of disability experts that we should be moving away from institutionalization of these individuals," said Wolf spokesman J.J. Abbott.

The 120-year-old Polk Center currently serves 194 residents on a 2,000-acre campus. White Haven Center, a former Tuberculosis Sanitarium opened in 1901, was purchased by the state and transitioned to a school for the developmentally disabled in 1956. A few years later, it became a fully state-run center. It serves 112 on a 192-acre campus. Currently, the DEP operates two other intermediate care centers: Ebensburg State Center in Cambria County and Selinsgrove Center in Snyder County. All four facilities serve a population of approximately 750 individuals.

Cell Phone Use While Driving

On January 15, the state House approved **House Bill 37**, by a 120-74 vote, to prohibit the use of hand-held interactive wireless communication devices (cell phones) while operating a motor vehicle—including texting. Such uses would be a "secondary offense," meaning that law enforcement cannot stop a driver solely for using a cell phone while driving.

Opponents of the bill argued that the change would reduce safety, because police would have to pull over a driver for another offense before charging a driver with prohibited cell phone use or texting while driving. Supporters of the bill argued that the police don't need to be given additional reasons to pull someone over, particularly when an officer can't distinguish between allowable use of the phone, such as for GPS, and prohibited use.

HB37 would ban using a cell phone while a person is operating a motor vehicle on a trafficway. Adults may use a phone if no part of their bodies are supporting or holding the device. However, minors are not allowed to use a cell phone under any circumstances when their vehicle is on a trafficway. Minors may use phones as a GPS if it is affixed to the vehicle, to call law enforcement or when the vehicle is outside of the roadway.

The penalty for violation of the law will be a \$150 fine, but no points on a person's driving record. Revenue from the fine will go to the Motor License Fund.

The bill now goes to the Senate.

DEP Fines Pipeline Company

On January 3, the Pennsylvania Department of Environmental Protection (DEP) announced it had fined ETC Northeast Pipeline (ETC) \$30.6 for violations related to the 2018 Revolution Pipeline explosion and fire.

DEP found that ETC had not stabilized a number of areas along the Beaver County section of the pipeline which, following a Sept. 10, 2018 landslide in Center Township, prompted additional slides that resulted in a section of pipeline separating, allowing gas to escape from the pipeline and ignite. It caused a fire that burned several acres of forested areas; destroyed a single-family home, a barn, and numerous vehicles; resulted in the evacuation of nearby residents; and caused six high voltage electric transmission towers to collapse.

The investigation also found that ETC failed to properly implement or maintain hundreds of best management practice controls to address storm water runoff, and during construction of the pipeline, ETC had illegally impacted numerous streams and wetlands along the length of the pipeline right of way.

As part of the settlement and what DEP said is ETC's corrective action plan, DEP will lift the nearly year-long suspension of construction operations it imposed. Environmental groups and pipeline critics appreciated the fine, but not the resumption of construction. Industry groups were supportive of the decision.

Oil and Gas Industry Bill

On January 15, **Senate Bill 790** passed its second consideration in the state House and is awaiting third consideration and possible final passage.

SB790 would create a new Conventional Oil and Gas Wells Act, with provisions separate from those governing unconventional wells (fracking wells). The bill's sponsor, Senate President Pro Tem Joe Scarnati (R-Jefferson) contends that Act 13 of 2012 updated the state's Oil and Gas Act to deal with the uniqueness of the much larger unconventional industry, but placed additional burdens on the smaller conventional producers, creating a critically negative impact on the conventional oil and gas industry.

However, the Wolf administration argues that it has worked with the General Assembly to address many of the issues of concern for the conventional oil and gas industry through regulatory changes. Furthermore, the provisions within SB790 undermine core environmental protection principles and present a risk to the health and safety of Pennsylvania, its environment and its citizens.

The governor has promised to veto SB790 if it gets to his desk.

Prescription Drug Costs Transparency Legislation

On January 23, Auditor General Eugene DePasquale held a press conference in the Capitol Media Center to urge the passage of pharmacy benefit manager (PBM) legislation and increased transparency in prescription costs.

A pharmacy benefit manager is a third-party administrator of prescription drug programs for commercial health plans, self-insured employer plans, Medicare Part D plans, the Federal Employees Health Benefits Program, and state government employee plans.

DePasquale noted the three largest PBMs have reported revenue worth hundreds of billions of dollars and said that "Pennsylvania taxpayers paid \$2.86 billion to PBMs for services provided to Medicaid enrollees in 2017," which is a 100 percent increase in four years. He questioned what taxpayers received in return for this increase.

The Auditor General identified four bills approved by the House relating to PBMs:

- **HB 944**, giving the Office of the Auditor General the ability to review contracts between PBMs and managed care organizations.
- **HB 943**, prohibiting gag clauses on pharmacists.
- **HB 941**, requiring PBMs to comply with payment disclosure.
- **HB 942**, addressing the makeup of the Pharmaceutical and Therapeutics Committee at the Department of Human Services.

DePasquale emphasized the importance of promoting transparency and accountability to reduce prescription costs, and urged the Senate to pass the bills.

Attempt to Strengthen PFA Orders

On January 14, Rep. Anita Kulik (D-Allegheny) was joined by legislators and supporters in the Main Rotunda to urge passage of **House Bill 588**, Alina’s Law, and advocate for additional protections for victims of domestic violence. Rep. Kulik is the prime sponsor of HB588

Rep. Kulik explained this legislation would provide an extra layer of security for protection from abuse (PFA) orders. She noted that PFA orders are “simply a piece of paper” that are sometimes ignored. HB588 provides for court-ordered electronic monitoring in certain cases and Kulik cited a task force in Ohio that found that “expansion in use of electronic monitoring reduces the rates in which offenders commit new crimes.”

As an example, Kulik referenced the Sheykhet family. Alina Sheykhet was 20 years old when she was killed by her boyfriend on October 8, 2017, even though she had a PFA order. Rep. Kulik said more than 10 million people suffer from domestic violence and that in Pennsylvania more than 1,600 have died from domestic violence over the last two years.

HB588 gives judges the ability to impose electronic monitoring if the defendant poses a threat. She expressed hope that Alina Sheykhet’s story will drive the fight against domestic violence.

Lawsuit Against 3D-Printed Guns

On January 23, Attorneys General in twenty states and the District of Columbia filed a lawsuit challenging a federal regulation that could allow blueprints for making guns on 3D printers to be posted on the internet.

New York Attorney General Tish James argued that posting the blueprints would allow anyone to go online and use the downloadable files to create unregistered and untraceable assault-style weapons that could be difficult to detect.

The lawsuit was filed in U.S. District Court in Seattle.

Proponents have argued there is a constitutional right to publish the material, but critics counter that making the blueprints readily accessible online could lead to an increase in gun violence and put weapons in the hands of criminals who are legally prohibited from owning them.

The state attorneys general argue the federal government is breaking the law and say deregulation will “make it far easier for individuals ineligible to possess firearms under state or federal law to obtain a deadly weapon without undergoing a background check,” according to the lawsuit. They also argue that the Commerce Department lacks the power to properly regulate 3D-printed guns.

The states supporting the suit are California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, as well as the District of Columbia.

Suicide Prevention Findings

On January 14, the PA Suicide Prevention Task Force released a report. Since August the task force has conducted ten public listening sessions, hearing from more than 800 people. The report’s recommendations, culled from the listening sessions, are intended to inform the state’s suicide prevention strategy.

Recommendations include:

- Addressing the stigma associated with mental health and mental health treatment.
- Providing resources to address mental health as a public health issue.
- Reducing barriers to mental health treatment, such as cost and insurance coverage.
- Improving suicide and attempted suicide data collection.
- Improving mental health care.
- Using schools as a suicide prevention tool.
- Passing so-called “Red Flag” legislation.

A four-year plan to be developed by the task force, based on these recommendations, is expected to be completed in the first quarter of this year.

Mental Health Initiative

On January 2, at the state Capitol, Governor Tom Wolf announced the launch of a statewide mental health initiative, Reach Out PA: Your Mental Health Matters.

According to an accompanying press release, the initiative is aimed at expanding the state's support of mental health and related health care priorities in Pennsylvania. The governor announced several actions the administration will undertake for commonwealth agencies to bolster the effort. The governor was joined by mental health advocates, social workers, educators, military veterans, and cabinet secretaries in making the announcement.

According to a 2017 study from the University of Southern California, approximately 1 million adult Pennsylvanians struggled with serious psychological distress at least once in 2015. Of those adults, more than 27 percent had an unmet need for mental health care. That population includes 42 percent who did not receive mental health care because they could not afford it.

"The steps I'm outlining today are just the beginning of what I plan to grow into a large-scale effort to combat mental health issues in Pennsylvania," Gov. Wolf said. "We've seen success with a multi-pronged attack against the opioid crisis. Reach Out PA will do the same with mental health."

SCI Retreat to Close

On January 17, Gov. Tom Wolf announced that he will order the closure of state prison SCI Retreat in Luzerne County, as recommended by the Department of Corrections.

The Wolf administration has been seeking to reduce costs since earlier this year, when it was determined that Corrections is running \$140 million over budget. The administration believes the closing will save \$20 million this year and \$40 million next year.

Suspended Driver's License Amnesty Proposal

On January 15, the state House Transportation Committee approved moving **House Bill 80** to the full House. HB80 would provide a one-year amnesty for an estimated 40,000 motorists with a driver's license suspended under certain circumstances.

The amnesty would apply to drivers whose licenses were suspended because they failed to respond to a Vehicle Code citation or summons and who accumulated additional suspensions for driving violations while under suspension. The provision would not apply to suspensions for other reasons, for example DUI.

If enacted, this would be the first time an amnesty would be offered for driving license suspensions, said Rep. Jake Wheatley (D-Allegheny), the bill sponsor. Rep. Wheatley said people get caught in a situation where they face a repeated cycle of license suspensions, fines and penalties covering decades, because they need to drive a car to get to a job or medical appointment.

According to the provision, PennDOT would restore an individual's driving privileges once one has completed the underlying license suspension, paid the original penalty (a payment plan and court-ordered public service are allowed) and submitted proof of court certification that the individual has satisfied the amounts owed for violations.

Counties' Legislative Priorities

On January 14, at a news conference in the Capitol Rotunda, the County Commissioners Association of Pennsylvania (CCAP) announced five key legislative priorities for 2020 related to county government.

The top priority is **funding for mental health services**. Community-based mental health services were deemed to be critical to the well-being of communities. Bradford County commissioner Ed Bustin said, "For too many years, state funding for mental health services has lagged far behind needs. Mental health base funds for expanded services, beds and diversions must be increased."

The other four recommended priorities are:

- Improved emergency medical services.
- Diversifying the county tax base.
- Expanding rural broadband access.
- Funding adult probation services.

According to a press release in conjunction with the news conference, CCAP is the voice of county government, being a statewide nonprofit, nonpartisan association representing all 67 counties in Pennsylvania. It advocates for favorable state and federal legislation, programs and policies on behalf of counties.

County governments are responsible for many important public services, including human services (mental health, intellectual disabilities, juvenile justice, children and youth, long-term care, drug and alcohol services, housing), emergency management and 911 services, administration of court and corrections systems, elections, maintenance of county bridges, and the county property assessment rolls. Counties are also involved in environmental and land use planning, protection of open space and community and economic development.

\$4 Million to Promote U.S. Census

On January 13, Michael Gerber, a state Department of Community and Economic Development official, said in an announcement at the state Capitol that the Wolf administration would do its best with a \$4 million appropriation for a media campaign to support the 2020 U.S. Census.

The funding is provided under an election reform law, Act 77 enacted last October. However, the state Census Count Commission had sought \$12.5 for the work. It is hoped that private fundraising will help fill the gap.

The campaign will include production of posters, flyers and aid to grassroots outreach groups supporting the census. The goal is to promote an accurate count in Pennsylvania. Some population groups tend to be suspicious of the census.

Second Lady Gisele Fetterman announced she will soon launch a statewide tour to stress the importance of an accurate census count, especially for hard-to-count populations, including minorities, senior citizens and residents of rural areas. The tour stops will include Philadelphia, Allegheny, Centre, Erie, Lancaster and Luzerne counties.

Pennsylvania receives \$26.8 billion in federal aid annually for a wide range of purposes, including human services, Medicaid, education, disease prevention, school lunches, heating assistance and transportation. Federal officials use the census data to distribute that money. Having a population undercount among specific populations or in geographic areas will lead to a decline in federal funding for the next decade.

Three Criminal Justice Bills

On January 13, its first voting day of 2020, the state House passed **House Bill 726**, by a vote of 102-91. The bill, sponsored by Rep. Tony DeLuca (D-Allegheny), for crimes committed with firearms, requires the court to impose the mandatory sentence required by statute consecutively to any other sentence imposed by the court.

Opponents of the bill argued that sentencing should be up to the judge, who can evaluate each case separately and determine the most appropriate penalties.

The House unanimously passed **House Bill 44**, seeking to permit state Department of Corrections officers to provide a written statement, or testify, before the Pennsylvania Board of Probation and Parole regarding whether an inmate should be paroled. The legislation was sponsored by Rep. Pam Snyder (D-Greene).

The House also approved **House Bill 916**, by vote of 142-51, requiring courts to evaluate repeat DUI offenders for the suitability of a monitoring program as a condition of bail. Rep. Tod Stephens (R-Montgomery), sponsor of the bill, claimed that DUI offenders who wore a monitoring device for at least 90 days were 50 percent less likely to repeat than those who were otherwise sentenced.

HB44, HB726 and HB916 now move to the Senate.

Johnson-Harrell Sentenced

On January 23, former state representative Movita Johnson-Harrell was sentenced in Philadelphia on charges of felony theft.

Johnson-Harrell resigned her seat in December and pleaded guilty after being arrested and charged with stealing more than \$500,000 from a non-profit known as Motivations Education & Consultation Associates, or MECA. According to the PA Attorney General's Office, she used the money for vacations, designer clothing, luxury car payments, real estate and personal expenses.

She pleaded guilty to theft by unlawful taking, theft by deception and perjury and a misdemeanor charge of tampering with public records. She pleaded no contest to two other misdemeanor charges.

Johnson-Harrell will spend three months in Philadelphia County Prison, followed by eight-and-a-half months of house arrest. She will then spend nearly a year on parole and then two years on probation.

The offenses occurred before Johnson-Harrell became a state lawmaker, prosecutors said. Johnson, a Philadelphia Democrat, spent less than a year in office before stepping down after her arrest. She was notable as the first Muslim woman to be elected to the state House.

Turzai Will Not Seek Re-Election

On January 23, Speaker of the Pennsylvania House of Representative, Rep. Mike Turzai (R-Allegheny) announced he would not seek re-election. He noted that it was time for others to take over and said that he'd like to be in the private sector to help create the jobs he's tried to foster while in office.

Rep. Turzai came to the House by way of a special election victory in 2001, and has served as Speaker of the House since he was first elected to the post on Jan. 6, 2015.

Two Health Insurance Cancer Coverage Bills

On January 29, the state Senate passed two bills related to cancer treatment, House Bill 427 and Senate Bill 595, expanding insurance coverage. The bills now move to the state House.

HB427 would require that health insurance plans covering treatments for Stage IV metastatic cancers would be prohibited from excluding or limiting drugs for patients if the drugs are FDA-approved and consistent with best treatment practices. Specifically, a patient with Stage IV advanced metastatic cancer cannot be required to first fail on one drug before an insurance plan will cover the use of a different drug.

Sen. Mario Scavello(R-Monroe) said Stage IV metastatic cancer means cancer has spread to new parts and organs within a patient's body, so "time is of the essence." SB427 seeks to eliminate the loss of precious time that can occur if an insurer requires a series of medicines to be tried, with those drugs failing, before the insurer will cover advanced therapies.

SB595 would extend mandated insurance coverage to ultrasound screening and magnetic resonance imaging if a mammogram demonstrates heterogeneous or dense breast tissue, as established by the American College of Radiology's Breast Imaging Reporting and Data System standards. The bill would also extend coverage if a woman is believed to be at increased risk for breast cancer, as deemed medically necessary by the woman's physician.

Dai Morgan