Submissions to the Shared State Legislation Committee should be sent to CSG staff at least eight weeks in advance of the next scheduled SSL committee meeting in order to be considered for that meeting’s docket. Submissions received after this deadline will be held for a later meeting. The status of any item on this docket is listed as reported by the submitting state’s legislative Internet Web site or by telephone from state legislative service agencies and legislative libraries. Abstracts of the legislation on SSL dockets and in SSL volumes are usually compiled from bill digests and state legislative staff analysis.

CSG COMMITTEE ON
SHARED STATE LEGISLATION

2017 CYCLE
DOCKET BOOK B

May 13, 2016
Lexington, Kentucky

This docket and referenced legislation may be downloaded from www.csg.org/ssl.
SSL PROCESS

With the goal of sharing innovations in state policy, the CSG’s Shared State Legislation (SSL) Committee identifies, curates and disseminates state legislation on topics of major interest to state leaders. Committee members include two state legislators and one state legislative staff person appointed from each member jurisdiction. No private sector entities or other stakeholders are permitted to serve on CSG’s SSL Committee.

SSL Committee members meet several times a year to consider legislation. The items chosen by the SSL Committee are published online at www.csg.org/ssl after every meeting and are then compiled into an annual Shared State Legislation volume. The volumes are usually published in December.

**The consideration or dissemination of such legislation by the SSL Committee does not constitute an endorsement nor will CSG advocate for the enactment of any such legislation in any member jurisdictions.**

SSL Committee members, other state officials, and their staff, CSG Associates and CSG staff may submit legislation directly to the SSL Program. The committee also considers legislation from other sources, but only when that legislation is submitted through a state official. Other sources include public interest groups and members of the corporate community who are not CSG Associates.

It takes many bills or laws to fill the dockets of a one year-long SSL cycle. Items should be submitted to CSG at least eight weeks in advance to be considered for placement on the docket of a scheduled SSL meeting. Items submitted after that date are typically held for a later meeting.

Committee members prefer to consider legislation that has been enacted into law by at least one state. Legislation that addresses a single, specific topic is preferable to omnibus legislation that addresses a general topic or references many disparate parts of a state code. Occasionally, committee members will consider and adopt uniform or “model” legislation or an interstate compact. In this case, the committee strongly prefers to examine state legislation that enacts the uniform or model law, or compact. **The SSL Committee does not draft or create “model” legislation.**

In order to facilitate the selection and review process on any submitted legislation, it is particularly helpful to include information on the status of the legislation, an enumeration of other states with similar provisions, and any summaries or analyses of the legislation.

Legislation and accompanying materials may be submitted to the Shared State Legislation Program, The Council of State Governments, 2760 Research Park Drive, P.O. Box 11910, Lexington, Kentucky 40578-1910, (859) 244-8000, fax (859) 244-8001, or ssl@csg.org.
SSL CRITERIA

(1) Does this bill:
   
   a) Address a current state issue of national or regional significance;
   
   b) Provide a benefit to bill drafters;
   
   c) Provide a clear, innovative and practical structure and approach; and

(2) Did this legislation become law?

The word “Act” as used herein refers to both proposed and enacted legislation. Attempts are made to ensure that items presented to the SSL Committee are the most recent versions. However, interested parties should contact the originating state for the ultimate disposition of any docket entry in question, including substitute bills and amendments. Furthermore, the SSL Committee does not guarantee that entries presented on its dockets or in a Shared State Legislation volume represent the exact versions of those items as enacted into law, if applicable.
PRESENTATION OF DOCKET ENTRIES

Docket ID#
Title
State/source
Bill/Act

Summary: [These are typically excerpted from bill digests, committee summaries, and related materials which are contained in or accompany the legislation.]

Status: [Action taken on item in source state.]

Comment: [Contains references to other bills or information about the entry and issues the members should consider in referring the entry for publication in SSL. Space may also be used to note reaction to an item, instructions to staff, etc.]

Disposition of Entry: [Action taken on item by the SSL Committee.]

SSL Committee Meeting: (A)(B)(C)

( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff:

*Item was deferred from the previous SSL cycle
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2. Commerce & Labor
3. Education
4. Energy
5. Environment
6. Government
7. Health
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Summary:
The bill allows West Virginians to drink raw milk through animal-sharing agreements. The bill would let people strike agreements to share milk-producing animals and drink raw milk. It would maintain a ban on selling or distributing raw milk. People would have to sign a document acknowledging the health risks. Animals would need to have passed health tests within the last year.


Comments: From Food Safety News (March 8, 2016)
A law permitting shared animal ownership agreements as the legal vessel for consuming raw milk has been signed into law in West Virginia by Gov. Earl Ray Tomblin.

Last year, the Democratic governor vetoed a similar bill, saying it would pose a serious health risk to public health because unpasteurized milk, aka raw milk, contains bacteria especially dangerous to children, pregnant women, and people with compromised immune systems.

But this year, after seeing Senate Bill 387 pass the West Virginia Senate 22 to 12 on Feb. 5, and then gain House approval on Feb. 23 by a vote of 88 to 11 with one not voting, Tomblin signed the bill into law on March 4. His office said oversight requirements were included in HB 387 that were sufficient to satisfy his concerns.

Local health officials, however, expressed disappointment with the governor’s flip-flop.

“I cannot understand why we would knowingly put people health at risk, Dr. Michael Brume, Kanawha-Charleston Health Department officer, told local media.

Shared animal ownership, otherwise known as herd sharing agreements, becomes effective in 90 days in West Virginia. All other sales of raw milk will remain illegal in the Mountain State. Anyone purchasing a herd or cow share must sign an agreement acknowledging the “inherent dangers of consuming raw milk.”

The “responsible party” is prohibited from distributing, selling or re-selling raw milk obtained pursuant to a shared ownership agreement. The agreements must be filed with the state Commissioner of Agriculture and contain specific information. People signing shared herd agreements and their physicians must agree to report illnesses that develop from consuming raw milk.

The West Virginia law also requires some testing and standards requirements and gives the Commissioner of Agriculture power to impose administrative fines up to $100. The commissioner and Department of Health and Human Resources are also empowered to promulgate additional rules.
Primary sponsor of the new animal ownership law was state Sen. Robert Karnes, R-Tallmansville.

The U.S. Centers for Disease Control and Prevention recently updated its consumer warnings about raw milk.

“Raw milk can carry harmful bacteria and other germs that can make you very sick or even kill you. While it is possible to get foodborne illnesses from many different foods, raw milk is one of the riskiest of all,” according to the CDC.

“Many people who chose raw milk thinking they would improve their health instead found themselves or their loved ones sick in a hospital for several weeks fighting for their lives from infections caused by germs in raw milk. For example, a person can develop severe or even life-threatening diseases, such as Guillain-Barré syndrome, which can cause paralysis, and hemolytic uremic syndrome, which can result in kidney failure and stroke.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.   ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This bill would, beginning January 1, 2018, prohibit the administration of medically important antimicrobial drugs, as defined, to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive pursuant to a veterinarian-client-patient relationship, as specified, and would prohibit the administration of a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency.

The bill would require the Department of Food and Agriculture, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, to develop antimicrobial stewardship guidelines and best management practices on the proper use of medically important antimicrobial drugs and would require the department to gather information on medically important antimicrobial drug sales and usage, antimicrobial resistant bacteria, and livestock management practice data.

The bill would require information provided pursuant to those provisions to be held confidential, as specified. The bill would authorize the department to request and receive copies of veterinary feed directives from certain persons to implement the bill’s provisions. The bill would make a first violation of the bill’s provisions subject to a civil penalty of up to $250 for each day a violation occurs, and would make second and subsequent violations subject to an administrative fine of $500 for each day a violation occurs, except as specified.

Status: Signed into law on October 10, 2015.

Comments: From the San Jose Mercury News (October 10, 2015)
California became the first state in the nation Saturday to ban the routine use of bacteria-fighting drugs in livestock when Gov. Jerry Brown signed a bill to clamp down on the practice blamed for breeding "superbugs" that spawn deadly infections in humans.

The Centers for Disease Control and Prevention estimates that more than 2 million people are sickened and at least 23,000 die each year from antibiotic-resistant infections, and scientists say widespread use of the drugs in livestock is a leading cause of the problem.

"The science is clear that the overuse of antibiotics in livestock has contributed to the spread of antibiotic resistance and the undermining of decades of life-saving advances in medicine," Brown said in a signing statement.

Starting in 2018 when the new law takes effect, farmers and ranchers will be prohibited from regularly giving low doses of antibiotics to healthy farm animals to prevent illness or to speed up growth before the animals are slaughtered -- practices that are common now.

Giving low doses of antibiotics to large numbers of animals for a long period of time causes bacteria to develop immunity to the treatment. Some bacteria are naturally more able to
withstand the drugs than others, and over time, they continue to breed resistant strains as the weaker ones die off.

Large corporations such as McDonald's have already announced plans to phase-out their use of antibiotics in meat and poultry production. Brown noted in his signing message such voluntary efforts are an example for the industry to follow. But California is the third-largest producer of livestock in the U.S., behind Iowa and Texas, so the law is expected to send a signal to the market and become a model for other states.

"By 2050, more people will die from antibiotic-resistant bacteria than from cancer," said Sen. Jerry Hill, D-San Mateo, the author of Senate Bill 27, quoting a research study. "I heard that statistic, realized nothing was being done and knew I needed to take action to stop this from becoming our reality."

Farmers first gave antibiotics to chickens in the 1950s when they realized small doses of tetracycline -- a drug used to treat chlamydia and some Staphylococcus infections in humans -- could make hens grow bigger, faster.

By the mid-1970s, the Food and Drug Administration had grown concerned about antibiotic resistance and planned to ban over-the-counter sales of the drugs for use in livestock. But heavy lobbying by farmers and drug makers forced the agency to delay and ultimately drop those plans.

"The federal government has been so dysfunctional and so unable to address important public health issues that problems like these must now be handled by the states," said Michael Blackwell, chief veterinary officer for the Humane Society of the United States. "This legislation is a critically important first step for the nation."

Once the legislation takes effect, farmers and ranchers may only obtain the drugs through a licensed veterinarian to treat an infection, control the spread of a disease or administer to an animal after surgery. Senate Bill 27 also requires the state to coordinate with the FDA to track sales of antibiotics to ensure compliance with the law.

Assembly Appropriations Committee analysts estimate it will cost the state $5.5 million over the next two years to prepare to implement the bill and another $4.3 million annually thereafter to continue training, inspections and tracking. It's unclear how much the bill will cost an average farmer or rancher.

Last year, the California Farm Bureau Federation and other trade groups for farmers and ranchers opposed a measure that would have prohibited sales of livestock given routine antibiotics, and the bill died in the Assembly Committee on Agriculture.

Hill had better luck this year because he struck the right balance between halting the overuse of antibiotics and making sure farmers could still get the drugs to care for sick animals, said Noelle Cremers, director of natural resources and commodities for the farm bureau, which didn't take a position on the bill.
"Humans need antibiotics for life-saving purposes, and so do livestock," Cremers said. "We wanted to make sure that California's policy on this issue would address the issue of resistance without cutting off access."

The Natural Resources Defense Council and other environmental groups opposed an earlier version of the bill that they felt didn't have strong enough protections to prevent use of the drugs for nontherapeutic purposes. But once Hill agreed to the amendments they sought, the groups became strident supporters.

Avinash Kar, senior attorney with the Natural Resources Defense Council's Health Program, called the bill "a game changer."

"By reining in the misuse of these miracle drugs," Kar said, "it helps ensure that life-saving antibiotics will be effective when we need them most."

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Creates the Fantasy Contests Act (the Act), which applies to fantasy contests with an entry fee offered in Virginia. The bill defines "fantasy contest" as any online fantasy or simulated game or contest in which (i) the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominately by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, the point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.

The bill requires a fantasy contest operator, as a condition for registration, to establish procedures that include ensuring that players who are the subject of a fantasy contest are restricted from entering a fantasy contest that is determined, in whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. The bill requires operators of fantasy contests to register annually with the Department of Agriculture and Consumer Services and to contract with a testing laboratory to verify the procedures for fantasy contests. The bill sets forth penalties for violation of the Act. The bill provides that fantasy contests conducted in accordance with these measures are not illegal gambling.

Status: Signed into law on March 7, 2016.

Comments: From Cnet.com (March 7, 2016).
Virginia on Monday became the first state to approve regulations outlining how daily fantasy sports websites can operate legally within its borders.

Virginia Gov. Terry McAuliffe signed into law the "Fantasy Contests Act," a bill that distinguishes daily fantasy sports sites like DraftKings and FanDuel from gambling sites. McAuliffe's approval comes amid a flurry of legislative debate over whether such sites constitute illegal gambling.

DraftKings applauded the new law.

"Today, Virginia became the first state in the nation this year to put in place a thoughtful and appropriate regulatory framework to protect the rights of fantasy players," DraftKings said in a statement. "We thank Governor McAuliffe for his leadership and advocacy and are hopeful that other states across the country will follow Virginia's lead. We will continue to work actively to replicate this success with dozens of legislatures and are excited to continue these efforts."

The daily fantasy sports industry has experienced huge growth in recent years, generating an estimated $2.6 billion in entry fees in 2015 alone, according to Eilers Research. But that rapid growth has led to questions about the legality of such contests, which offer cash prizes to
contestants who compete in abbreviated daily versions of the traditional season-long fantasy sports leagues.

The new law is a home run for sites like DraftKings and FanDuel, which are fighting for their survival as many states have found the industry to be in violation of state gambling laws. Laws in at least six states prohibit their residents from playing daily fantasy sports games. Supporters argue that building hypothetical rosters from real sports players and accumulating points based on their performance is a game of skill, not chance, and not subject to laws that govern games such as poker.

But several states disagree. New York Attorney General Eric Schneiderman issued cease-and-desist letters to the companies in November, arguing that the games are illegal because they depend on factors outside of players' control. Texas Attorney General Ken Paxton has expressed a similar view, while Nevada regulators have said the sites can't operate in that state without a gaming license.

In its fight for survival, the industry has launched a lobbying effort to support bills introduced in statehouses across the country that would exempt website operators from state gambling laws.

According to the Wall Street Journal, since the beginning of the year, 16 states have introduced bills to create legal protections for operators, nearly all of them with the backing of the operators themselves.

Virginia's new law stipulates that all players be 18 years or older and bans employees and immediate relatives from participating in contests. Websites must also keep the funds of its players separate from the company's operational funds. They must also pay a $50,000 fee to operate in the state and submit to an annual audit of their operations.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
        ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The Revised Uniform Athlete Agents Act updates the 2000 version of the act adopted by Idaho in 2001 due to the increased occurrences of improper activity and benefits between student athletes and agents and for the ever-evolving sports commercial marketplace. The act governs relations among student athletes, athlete agents, and educational institutions. It further protects the interest of student athletes and academic institutions by regulating the activities of athlete agents. The 2015 revision updates the definition of "athlete agent"; requires reciprocal agent licensing; and enhances notice requirements to educational institutions.

The Revised Uniform Athlete Agents Act (2015) is an update of the Uniform Athlete Agents Act of 2000, which has been enacted in 42 states. The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The Revised Act makes numerous changes to the original act, including expanding the definition of “athlete agent” and “student athlete;” providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

Status: Signed into law on March 24, 2016.

Comments: From the Associated Press (July 15, 2015)
An organization that works to standardize state laws is strengthening an act that bars sports agents from illegally luring college athletes into contracts. The Uniform Law Commission approved changes to the Uniform Athlete Agents Act during its annual meeting Wednesday in Williamsburg, Virginia. Revisions include a broader definition of who qualifies as an agent and a higher recommended financial penalty for violations.

There are also changes to how agents register with states to comply with the law -- including the possible creation of an interstate registration agency -- and more notification requirements by agents such as informing schools before contacting athletes or people close to them.

Revision committee chairman Dale G. Higer says commission members will now work to get legislatures in their state to adopt the updated act.

The ULC, created in 1892 to build uniformity among state laws in handling common concerns, first adopted the act in 2000. The law has been enacted in 40 states along with the District of Columbia and the Virgin Islands, though its structure and penalties can vary from state to state.

"Many states have amended the old act, and it's getting so it's not as uniform as it should be," said Higer, a commission member and attorney from Boise, Idaho. "We're hoping that with the new act, we'll bring states back to a uniform law that is more robust than the old one."

The revisions come after a roughly two-year effort, following numerous stories nationally of college athletes receiving gifts from agents or runners working on their behalf that ultimately
violated NCAA rules. Notably, Georgia-based agent Terry Watson and four others face criminal charges in North Carolina for providing thousands of dollars in cash and benefits to three former Tar Heels football players in 2010.

The revisions include expanding the act to include financial advisers, business managers, marketers or others who try to sign athletes by providing gifts or services that jeopardize their eligibility.

The revisions also include an effort to streamline the agent registration process with states, including outlining a structure for a possible central agency to handle the process and share detailed background information provided by agents across state lines. The interstate commission would need at least five states to join for it to take shape.

The act leaves states to determine whether a violation is a felony or misdemeanor, but it increases the recommended fine for a violation from up to $25,000 in the 2000 version to $50,000.

"The elements of transparency and accountability in this language are extremely important," said Paul Pogge, an associate athletic director at North Carolina who participated in the revision process. "This will help ensure that student-athletes have accurate information necessary to make educated decisions about professional representation, while also better protecting ethical professionals from the unscrupulous actions of others in the industry."

In a sign of how schools are desperate for help in dealing with unethical agent conduct, athletics officials from 66 schools in 32 states -- including power-conference programs such as Arkansas, Florida, Notre Dame, Oklahoma State, Stanford and Texas A&M -- and five NFL agents signed on to a 2013 memo pushing for stronger penalties and a broader reach in the law's update.

For example, it is a Class I felony to violate the North Carolina law, meaning a maximum sentence of 15 months for each count, and violations also could carry civil penalties of up to $25,000. But Orange County district attorney Jim Woodall -- who is leading the UNC prosecution -- has said anyone who doesn't have a criminal record must be put on probation if they plead guilty to or are convicted of a Class I felony.

Yet some misdemeanors can lead to jail time for someone with the same record, he said. “A Class I felony is almost like putting handcuffs on us,” Woodall said.

The North Carolina Secretary of State office began its investigation in summer 2010 after the NCAA launched a probe into violations at UNC. Five people were indicted in September 2013, though charges were later dismissed against an ex-UNC tutor. A sixth person -- who was also connected to eligibility issues for Cincinnati Bengals star receiver A.J. Green while he was at Georgia in 2010 -- was arrested in May.
From the Uniform Law Commission:
With the immense amount of money at stake for a wide variety of professional athletes and those who represent them, the commercial marketplace in which athlete agents operate is extremely competitive. While seeking to best position one’s clients and to maximize their potential income is both legal and good business practice, the recruitment of a student athlete while he or she is still enrolled in an educational institution can and will cause substantial eligibility problems for both the student athlete and the educational institution, which in turn lead to severe economic sanctions and loss of scholarships for the institution. The problem becomes worse where an unethical agent misleads a student, especially where the athlete is not aware of the possible effect of signing the agency agreement or where agency is established without notice to the athletic director of the institution. In an effort to address these problems, the Uniform Law Commission (ULC) drafted the Uniform Athlete Agents Act (UAAA), which was approved in 2000.

The UAAA provided for the uniform registration and certification of individuals who sought to represent student athletes who were or may have been eligible to participate in intercollegiate sports. Agents who were issued a valid certificate of registration or licensure in one state were able to cross-file that application (or a renewal thereof) in all other states that have adopted the act. Individuals who applied for registration as agents were required to disclose their training, experience, and education, whether they or an associate had been convicted of a felony or crime of moral turpitude, had been administratively or judicially determined to have made false or deceptive representations, had their agent’s license denied, suspended, or revoked in any state, or had been the subject or cause of any sanction, suspension, or declaration of ineligibility.

In addition, the UAAA required athlete agency contracts to contain the amount and method of calculating an agent’s compensation, the name of any unregistered person receiving compensation because the athlete signed the agreement, a description of reimbursable expenses and services to be provided, and warnings of the notice requirements imposed under the act. The UAAA further required both athlete agents and student athletes to give notice of the contract to the athletic director of an affected educational institution within 72 hours of signing the agreement, or before the athlete's next scheduled athletic event, whichever occurred first.

The UAAA also prohibited agents from providing materially false or misleading information, promises or representations, with the purpose of getting a student athlete to enter into an agency contract and prohibited providing anything of value to a student athlete or another person before that athlete enters into an agency contract. The UAAA provided that an athlete agent may not intentionally initiate contact with a student athlete unless registered, refuse or willfully fail to keep or permit inspection of required records, fail to register where required, provide materially false or misleading information in an application for registration or renewal thereof, predate or postdate an agency contract, or fail to notify a student athlete (prior to signing) that signing an agency contract may make the student athlete ineligible to participate in that sport, and imposed criminal penalties for violations of this prohibited conduct. The UAAA also provided educational institutions with a civil cause of action for damages resulting from a breach of specified duties.

The UAAA was revised in 2015 and is now known as the Revised Uniform Athlete Agents Act (RUAAA). The purposes of the RUAAA include providing enhanced protection for student athletes.
and educational institutions, creating a uniform body of agent registration information for use by state agencies, and simplifying the regulatory environment faced by legitimate athlete agents.

While retaining other portions of the UAAA, the RUAAA makes the following changes:

- “Athlete agent” is further defined to include an individual who, for compensation or the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes, and an individual who gives something of value to a student athlete or another person in anticipation of representing the athlete for a purpose related to the athlete’s participation in athletics.

- Two alternatives for athlete agent registration are provided. Alternative A includes a true reciprocal registration requirement in that if an individual is issued a certificate of registration by one state, the registration is in good standing and no disciplinary proceedings are pending against the registration, and the law in that state is the same or more restrictive as the law in another state, the other state would be required to register the individual. Alternative B would adopt an interstate compact when the act is enacted by at least five states. The compact would create the Commission on Interstate Regulation of Athlete Agents to provide a single registration site where an individual could register to act as an athlete agent in the states that are members of the compact.

- Additional requirements are added for the signing of an agency contract. The contract must now contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered. The contract must also be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete’s sport.

- An agent is required to notify the educational institution at which a student athlete is enrolled before contacting a student athlete. A violation of this notice requirement is subject to civil penalties. The revised act also contains a provision that requires an athlete agent with a preexisting relationship with a student athlete who enrolls at an educational institution and receives an athletic scholarship to notify the institution of the relationship if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit or solicit the athlete to enter an agency contract or the agent actually recruited or solicited the student athlete to enter a contract.

- Criminal penalties are added for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking. Student athletes are also given a right of action against an athlete agent in violation of the act.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:

Ticket Web Robots: Ticket bots or web robots are software programs used to interfere with or disrupt the operation of ticket sales over the Internet or to buy up a substantial portion of the available tickets for later private resale. Interference by ticket bots includes gaining unauthorized priority access to purchasing tickets and reducing access of the general public to online ticket sales at the intended, original price. Commonly affected ticket sales include those for concerts, sporting events, and other entertainment events.

Consumer Protection Act: The Washington Consumer Protection Act (CPA) declares that unfair and deceptive practices in trade or commerce are illegal. The CPA allows a person injured by an unfair or deceptive practice to bring a private cause of action for damages. The Office of the Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state. Under the CPA, "person" includes natural persons, corporations, trusts, unincorporated associations, and partnerships.

A person may not:
- use software to interfere with or disrupt the operation of ticket sales over the Internet; or
- sell software that is advertised for profit with the express purpose of interfering with or disrupting the operation of ticket sales over the Internet.

A "ticket seller" is a person that makes admission tickets available at an initial presale or sale to the general public, either directly or indirectly.

The use or sale of software with the purpose to interfere with or disrupt the operation of Internet ticket sales is found to be an unfair or deceptive act in trade or commerce and an unfair method of competition for the purposes of applying the CPA.

The use or sale of applicable software is only a violation of the CPA if the user or seller knows or should know that the purpose of the software is to interfere with or disrupt ticket sales over the Internet.

Status: Signed into law on April 28, 2015.

Comments: From the Seattle Times (July 10, 2015)
Ngai Kwan, ticketing manager for Seattle Theatre Group (STG), was scanning the ticketing screen as a Paramount show was about to go on sale. It wasn’t expected to sell out, so she wasn’t surprised to see normal, steady sales for the first minute. Then, suddenly, the entire house locked up — that is, every seat was now in someone’s purchasing cart.

“It was like, ‘What’s going on, what’s going on?’ ” said Kwan. “It was happening so fast.”
Josh LaBelle, STG’s executive director, nodded, saying: “Humans can’t do that.”
For Kwan and LaBelle, this strange phenomenon is a sign of “ticket bots,” a common scourge of arts and entertainment presenters that sell tickets online. “Bots” is a term for software designed to beat website security in order to buy tickets in bulk, then resell them on a third-party website.

Ticket resale, at its pricier end called “ticket scalping,” is legal in Seattle. But bot critics argue that computerized purchasing prevents ordinary users from getting the seats they want, forcing them to buy from a third party at exorbitant prices. With a new state law outlawing bots going into effect in late-July, ticket sellers are gearing up to take legal action against bot users in future sales.

The law affects ticket sales in general, from sporting events to theatrical performances, concerts and exhibitions. Bots are also banned in 13 other states, including Oregon and California. It doesn’t mean an end to online-ticket scalping, but LaBelle is hopeful that it will make the problem more manageable. He estimates that 35 to 40 percent of tickets for hot shows are often purchased by bots.

“What we’ve done with bots is hopefully taken a big link out of the chain here, making it harder for [scalpers] to get their hands on inventory,” he said.

**How ticket bots hurt consumers**

As Washington Attorney General Bob Ferguson sees it, bots pose a twofold problem for consumers. “It’s maddening … you want to buy a ticket for a show and this device impedes the consumer’s ability to do that,” said Ferguson, who originally proposed the law to the state legislature. “It’s not just that they’re excluded from the event, but that they have to pay two or three times face value in order to attend the event,” he added.

A patron who wants to buy tickets to “Wicked” at the Paramount and does a Google search for “Wicked Seattle” will see, among the top results, a site called paramount.theatre-seattle.com — which, despite its name, is not affiliated with the theater. The highest-priced orchestra-level seat on that site might sell for upward of $600. But a scroll down to the Paramount’s own site, stgpresents.org, the fifth search result, shows that an equivalent ticket would have cost $134. Similarly misleading ads pop up on a search for “Benaroya Hall,” which has also experienced ticket scalping for large events.

This sort of thing concerns Bernie Griffin, managing director of the 5th Avenue Theatre, who observes that some patrons may then assume that going to the theater is too expensive for them. The 5th Avenue, she said, still tries to seat patrons who have purchased tickets from brokers.

“We always try our best to say, please go to the official website,” she said. “But if it’s a sold-out show, it’s a challenge.”

For theater tickets, resellers use URLs like “seattle-theatre.com” and, in the Paramount’s case, the name of the theater itself, acknowledging only in fine print that it isn’t affiliated with the venue.
Resellers often buy top spots on Google Ad searches so that they’re the first option on a search — for nonprofit companies like Seattle Theatre Group and 5th Avenue, it’s a challenge to compete for that spot.

“It’s not cheap, so it’s all part of what we have to do to alert the consumer to who is really the authentic ticket sale, and even that’s not always effective,” said LaBelle.

**Hot activity, bot activity**

Not all ticket scalping is done by bots, but bots make the process for scalpers much easier. Usually, websites block bulk purchasing by computers by looking for trademark signs that humans aren’t on the other end of the screen — a common test is the “Captcha” method that requires users to enter a set of letters and numbers displayed on the screen.

But this technology doesn’t catch every robot. In 2010, four people were indicted for programming a way around Captcha to get into ticketing websites, making $25 million over several years. A bot is designed to get past these obstacles so that computers can buy up tickets.

LaBelle and Kwan also suspect that bots may put many tickets in their sales cart, while speculating on prices on other sites, controlling a kind of “stock market” on tickets while the tickets are withheld from human users.

How can presenters like STG tell that a bot is at work? Bot-enabled purchases are repetitive. Unceasing. Inhuman.

“They don’t take a break, they don’t take lunch,” said Kwan. “They can keep doing this for hours and hours and hours until they’re blocking every sale.”

LaBelle hopes that by keeping track of suspicious sales, he will have enough material to hand to the attorney general’s office or a private attorney. It’s then up to lawyers to track down the original buyer and prove that software was used to get around website security to buy the tickets.

If identified, a bot user can face an injunction or, if the state brings the case, civil penalties of up to $2,000 per violation.

If the court decides that every single ticket bought by a bot equals one “violation,” then “damages could add up quickly” for a bot user, explained Peter Lavallee, communications director for the attorney general.

The Seattle Times attempted to contact a number of ticket resellers Friday afternoon, but none were immediately available for comment.

Supporters of the law point to the fact that it makes bot activity explicitly illegal as a violation of the Washington Consumer Protection Act. Before the law’s approval by Gov. Jay Inslee in April, this was murky because ticket reselling in general is legal. Now, lawyers can take civil action against this specific activity.
“That’s frustrating for consumers and frankly it’s not fair for consumers,” said Ferguson.

“My hope is that the change in the state law will hopefully curb the bad behavior on some level and, number two, send the message that we intend to follow up on the law.”

LaBelle recognizes that it will be “trial and error” to trace the bots online, but says he’s committed to pursuing suspect sales. He hopes this will improve patron access to value-priced tickets.

“They’re going to feel better about their experience and come back to us,” he said. “It’s worth it.”

From The Council of State Governments, The Current State (March 14, 2016):

Frustration and disappointment are often part of the ticket-buying process for people who want to see their favorite megastars live in concert.

Single ladies might have a better chance at getting into one of the upcoming Beyoncé concerts than couples and groups, and Adele fans might have more than lost love to cry about when they’re left empty-handed without a ticket to one of her shows this fall.

Tickets for a February Bruce Springsteen concert at the First Niagara Center in Buffalo, N.Y., sold out just hours after going on sale, upsetting thousands of fans, according to the state’s attorney general. Springsteen tickets were immediately posted on resale sites at huge markups. Blame it, at least partly, on bots, software that allows scalpers to quickly snag large quantities of tickets online. Bots may be a trivial concern compared to the working class woes that define classic Springsteen songs, and missing the opportunity to join a sardine pack of fans for an ear-splitting sing-along could be considered a first-world problem. But bots are a headache that states and the federal government have grappled with for years.

About a dozen states have laws that ban ticket bots, and a bill that would prohibit the software was introduced in Congress last year. Meanwhile, online ticket sellers such as Ticketmaster continuously work to stay ahead of this technology.

In January, New York Attorney General Eric T. Schneiderman said since taking office in 2011 he’s heard complaints from residents of his state about not being able to obtain affordable tickets. So, several years ago he decided to investigate the concert and sports ticket industry. The results were released in a 43-page report titled “Obstructed View: What’s Blocking New Yorkers from Getting Tickets.”

“We think this report is going to open up the shadowy area of overcharging and enable us to take action both through voluntary conduct of companies and, hopefully, through legislative steps,” Schneiderman said at a press conference in January.

Ticketmaster estimated that “bots have been used to buy more than 60 percent of the most desirable tickets for some shows,” according to a May 2013 story in The New York Times. The
estimate was repeated in the report by the New York Attorney General’s Office, which discovered through its own investigation that at least tens of thousands of tickets were being purchased by bots every year.

Third-party brokers resell the tickets on sites such as StubHub and TicketsNow at an average 49 percent above face value, and sometimes at more than 1,000 percent above face value, the report said.

Ticket scalping—whether it’s done online or on a street corner—is a complex issue, and scalping laws vary widely from state to state. In recent years, however, much emphasis has been placed on bots, the piece of the scalping puzzle that can give scalpers an unfair advantage online.

In New York, it is illegal to use bots to bypass the security measures on ticket vendors’ websites. Currently, violators could face civil sanctions, but Schneiderman has suggested that the legislature act to impose criminal sanctions on bot users.

In April 2015, Washington Gov. Jay Inslee signed a bill that bans ticket bot software—joining 12 other states that prohibit ticket bots—and makes it a violation of the state Consumer Protection Act to sell software to circumvent, interfere with or evade any security measure or access-control system on a ticket seller’s website.

“Outlawing ticket bots will keep more fans’ hard-earned money in their pockets, instead of fattening the wallets of scalpers trying to game the system,” said Washington Attorney General Bob Ferguson in a news release.

California law prohibits the use of ticket bots and makes it a misdemeanor, punishable by up to six months in jail and fines of up to $2,500, according to a story published Sept. 23, 2013, in the Los Angeles Times. The newspaper reported that Ticketmaster supported the bill signed by California Gov. Jerry Brown in 2013 and issued a statement that called the legislation “an important step in combating nefarious scalping practices.”

StubHub emailed a statement regarding bot legislation: “The issue of bot technology on the primary ticket market clearly provides an unfair advantage in securing tickets over the average fan. StubHub has, and always will, continue to support legislation prohibiting the use of bots. In the states where bots are prohibited (California, Florida, Indiana, Maryland, Minnesota, Oregon, Pennsylvania, New York, North Carolina, Tennessee, Vermont, Virginia and Washington), the laws should strongly be enforced by the appropriate agencies and entities who abuse the law should be penalized.”

StubHub also referenced federal legislation that U.S. Rep. Marsha Blackburn of Tennessee introduced in February 2015. StubHub said the Better On-line Ticket Sales Act of 2014, known as the Bots Act, “would establish a federal framework prohibiting the use of bots in the United States. StubHub is committed to working with industry partners to build awareness around this issue.”
No federal law exists regarding ticket bot technology. The Bots Act would prohibit the sale or use of ticket bots; the bill calls the practice unfair and deceptive.

“I am pleased to be working on a bipartisan basis with the Tennessee delegation on this important legislation,” said Blackburn in a news release dated Feb. 4, 2015. “Scalpers have been taking advantage of computer hacking software (bots) to circumvent restrictions put in place by online ticketing agents for years. They purchase tickets in mass quantities and sell them at a considerably marked up rate, which hurts fans of live entertainment who get priced out of the market. The live entertainment industry goes to great lengths to build relationships with its fans and ensure that they will have access to shows.”

Blackburn joined U.S. Reps. Steve Cohen, Scott DesJarlais and Jim Cooper, all of Tennessee, to sponsor the Bots Act, which would allow for Federal Trade Commission enforcement, criminal sanctions and other actions against online scalpers.

Ticketmaster, which is owned by Live Nation Entertainment, continues to work on its bot-fighting skills. A white box appears on the screen after Ticketmaster users have selected tickets, with a statement that urges buyers to join the cause: “Help battle the bots!”

That’s as sci-fi as things get. A user simply has to check the box next to the sentence, “I’m not a robot.”

Behind the scenes, however, advanced technology looks for signs of humanity, such as the way the mouse moves on the screen, according to a story by The New York Times published Feb. 11, 2016.

Still, Joe Berchtold, chief operating officer of Live Nation Entertainment, told The New York Times that when Adele tickets went on sale about nine million people sought about 400,000 available tickets on Ticketmaster.

So, even if bots are taken out of the equation, other music fans will remain.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
“Decanting” is the term used to describe the distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel. Decanting can be a useful strategy for changing the outdated terms of an otherwise irrevocable trust, but can also be abused to defeat the settlor’s intent. The Uniform Trust Decanting Act allows a trustee to reform an irrevocable trust document within reasonable limits that ensure the trust will achieve the settlor’s original intent. The act prevents decanting when it would defeat a charitable or tax-related purpose of the settlor.

Status: Signed into law on March 8, 2016.

Comments:
From the Uniform Law Commission:
“Decanting” is the term used to describe the distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel. Decanting can be a useful strategy for changing the outdated terms of an otherwise irrevocable trust, but can also be abused to defeat the settlor’s intent. Because decanting is an exercise of the trustee’s discretion and does not require beneficiaries to consent, certain tax penalties that would otherwise apply can be avoided. Every state allows decanting in some form, but only some states have statutes governing decanting, and those vary widely.

The Uniform Trust Decanting Act includes one stricter set of rules that applies when the settlor gave the trustee limited discretion over distributions, and another more liberal set of rules that applies when the trustee has expanded discretion. In both cases, the person exercising the decanting power is subject to all applicable fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

When the trustee has limited discretion over distributions, decanting is permitted for administrative or tax purposes, but the beneficial interests under the second trust instrument must be substantially similar to the beneficial interests under the first trust. In other words, the trustee may not exercise the decanting power to reduce or eliminate the interest of any beneficiary. However, if the trustee already has expanded discretion to reduce or eliminate the interest of beneficiaries under the terms of the first trust, UTDA provides more flexibility.

One common reason for decanting is to provide for a beneficiary who becomes disabled after the settlor executed the first trust. If the settlor did not anticipate the possibility of disability, the beneficiary may be ineligible for governmental benefits that would otherwise be available. Section 13 of the UTDA gives additional flexibility to trustees in those cases.

The UDTA limits decanting when it would defeat a charitable or tax-related purpose of the settlor, and Section 14 provides for prior notice to the state official that is responsible for protecting charitable interests. Section 16 prohibits decanting for the purpose of adjusting trustee compensation without the unanimous consent of the beneficiaries or court approval.
In summary, the UDTA provides a more complete set of rules for decanting than currently exists in any state. It is appropriate for states that have adopted the uniform Trust Code and for states that have a non-uniform trust law statute.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Exempts financial institutions that provide financial services to marijuana related businesses, researchers and laboratories from any criminal law of this state that has element that may be proven by substantiating that person provides financial services to person who lawfully possesses, delivers or manufactures marijuana or marijuana derived products.

Marijuana is federally classified as a Schedule 1 drug, thus offering financial services to marijuana businesses introduces difficulties to financial institutions. Even with the legalization of marijuana in Oregon, businesses in the marijuana industry are still to find financial institutions to serve their needs. Currently, Oregon criminal laws treat financial institutions as conspirators by association with their marijuana business clients. Moreover, state-chartered financial institutions maintain federal depository insurance and need to be in compliance with Federal requirements and criminal concerns. Guidance issued by the U.S. Department of Justice (referred to as the Cole Memorandum) and by the federal Financial Crimes Enforcement Network (FinCEN) requires due diligence and monitoring requirements for financial institutions servicing businesses in the marijuana industry. However, the guidelines do not provide protection from potential criminal actions.

House Bill 4094 is intended to provide financing and other financial services for Oregon’s legal marijuana businesses by exempting the financial institutions providing such services from certain Oregon criminal laws. The measure also requires the OLCC, OHA, and Department of Revenue to provide information on the license and permits holders in the marijuana programs they regulate when requested by a financial institution so that the financial institutions can comply with federal guidelines disseminating, releasing or make this information available to others.

Status: Signed into law on April 4, 2016.

Comments: From the Portland Tribune (February 26, 2016)
The Oregon Senate approved legislation Friday that removes criminal liability for providing financial services to marijuana-related businesses.

Entrepreneurs who have taken advantage of the state's new legalized recreational pot laws have had to rely on cash transactions, raising security issues and concerns about how to collect taxes on sales without the convenience of a checkbook and a bank account.

State and federal laws largely restrict banks and credit unions from providing financial services to pot-related businesses because the federal government still classifies weed as a Schedule 1 drug. That classification is defined as the most dangerous drugs at high risk for abuse in the Controlled Substance Act of 1970.

The emergency bill passed Friday in the Senate 18-to-6, and Feb. 16 in the House of Representatives, 56-to-3. It will remove criminal liability for providing banking services under Oregon law, though it gives no protection against federal prosecution.
The bill by Rep. Tobias Read, D-Beaverton, also allows the Oregon Liquor Control Commission and the Oregon Health Authority to provide financial institutions with confidential information on license and permit holders in the marijuana industry. The information would otherwise be exempt from public disclosure.

OLLC regulates recreational pot, while the Oregon Health Authority oversees the medical program.

Read said the bill would reduce the risk and liability to financial institutions and direct the Department of Consumer and Business Services to study other ways to overcome obstacles to accessing financial services.

Some financial institutions, such as Maps Credit Union in Salem, have already taken the risk of serving marijuana businesses. Maps serves cannabis dispensaries, said Kevin Cole, the institution's chief financial officer.

The legislation still can't protect banks and credit unions from lawsuits leveraging federal statutes against organized crime. Such lawsuits have sought to stop the cannabis industry in other states such as Colorado.

The Legislature passed a resolution last year urging Congress to lift restrictions on providing financial services to the marijuana industry and to declassify marijuana as a Schedule 1 drug. Sen. Jeff Merkley, D-Oregon, and Rep. Earl Perlmutter, D-Colorado, last year introduced the Marijuana Businesses Access to Banking Act to allow legal marijuana businesses to access banking services. The legislation found some support in the House but has yet to receive any action in the Senate.

From Stateline.org (March 22, 2016)
Tim Cullen’s marijuana business brought in millions of dollars last year, but he’s had a hard time finding a bank to take the money. He’s cycled through 14 checking accounts in six years. Recently, he said, a bank shut down all his personal accounts, including college savings for his 3-year-old daughter.

Federal law prohibits banks and credit unions from taking marijuana money. So here in Colorado, everyone involved with the state’s legal cannabis industry has a banking problem. Businesses can’t get loans, customers have to pay in cash, and state tax collectors are processing bags of bills.

Some community financial institutions have become more open to serving the cannabis industry since the U.S. Treasury and Justice departments said they won’t go after institutions that keep a close eye on their clients and report suspected wrongdoing, such as funding gang activity. But the big banks refuse to touch the industry, and banking challenges are only going to grow as legal marijuana expands. Nationwide, sales hit $5.4 billion in 2015, according to The ArcView Group, an analysis and investment firm that specializes in the legal cannabis industry.
Twenty-three states allow medical use of marijuana and four also allow recreational use. Voters in Arizona, California, Massachusetts and Nevada may legalize adult use this fall, and Vermont’s Senate recently approved a bill that would do so.

States are looking to Colorado — which legalized medical marijuana in 2000, and adult use in 2012 — for answers to the banking problem, but the state has few to offer. “We don’t truly think we’ll see a solution unless there’s a federal solution,” said Andrew Freedman, Colorado’s director of marijuana coordination, who’s also known as the state’s pot czar.

**An Unbanked Industry**

Cullen has been an unofficial spokesman for Colorado’s cannabis industry ever since he bumped into a CNN camera crew while picking up one of the state’s first retail marijuana licenses, he said. It helps that he’s a clean-cut former high school biology teacher who designed his stores with his mom in mind.

But even Cullen’s squeaky-clean operation makes banks uneasy. The company’s current account, with a credit union, only covers basic services such as direct deposit for the company’s 70-odd employees and sending tax payments to the state, Cullen said.

An ATM sits in the corner of each of his three stores, because his business can’t process credit or debit card payments (credit card companies, like banks, may refuse to touch marijuana money). Every day an armored car swings by to pick up the day’s revenue — all cash — and takes it away to be deposited.

About 40 percent of Colorado cannabis businesses lack bank accounts altogether, according to the office of U.S. Rep. Ed Perlmutter, a Democrat who has pushed to improve banking for the cannabis industry. State officials would not comment on that number.

Freedman said a growing number of marijuana businesses seem to be obtaining bank accounts, judging by the declining share of tax revenue that businesses are paying in cash. But the services they’re able to access are limited and costly — “which means a lot of people prefer to keep as much as they can in cash,” he said.

All the cash floating around makes cannabis businesses targets for crime, Freedman says. Since Colorado fully legalized marijuana in January 2014, the Denver Police Department has logged over 200 burglaries at marijuana businesses, as well as shoplifting and other crimes. The loose cash also makes it harder for the state to track businesses’ finances to make sure they are obeying the law and paying their taxes. And in order to get a bank account, some businesses will funnel their cash through a shell company, Cullen said. “It starts to look a lot like money laundering.”

As Cullen’s experience shows, accounts can also be tenuous. Sometimes, a financial institution will change its mind about taking marijuana money. Or it might learn of a client’s ties to the marijuana industry. Mark Goldfogel, a consultant, said his bank closed accounts he’d held for 14 years after he revealed who his marijuana clients were.
Not Much States Can Do
Colorado’s attempts to solve the problem have shown other states how few options they have. In May 2014, lawmakers authorized a new class of financial institution called a cannabis credit co-operative, which wouldn’t have to acquire and maintain deposit insurance. But no such institutions have been formed so far, partly because the Federal Reserve isn’t likely to approve them.

Later that year, lawmakers authorized a credit union for the cannabis industry. But the Fed denied the credit union access to a master account, which is necessary for transferring money, and the National Credit Union Administration refused to insure its deposits. “Even transporting or transmitting funds known to have been derived from the distribution of marijuana is illegal,” the Federal Reserve Bank of Kansas City said during a court case the credit union brought and recently lost.

Without a master account, the credit union can’t fully function, said Mike Elliott, head of the Marijuana Industry Group, a trade association in Colorado. “It can be a vault. But we don’t need a vault,” he said.

Officials in other states that allow marijuana have run up against the same barriers. Tax officials in California have floated the idea of a state-run bank, for instance, as have officials in Alaska. But such an institution would still have to use federal wiring services, said George Runner of the California State Board of Equalization.

California already has trouble collecting taxes on medical marijuana, Runner said. “We’ve had folks come in with hundreds of thousands of dollars” in cash to make a payment. Other than increasing security at tax collection offices, there’s not much his office can do about it.

The cannabis industry’s banking problems would vanish if Congress were to take marijuana off the federal government’s list of most dangerous drugs. Last November, U.S. Sen. Bernie Sanders of Vermont, who is running for the Democratic presidential nomination, became the latest lawmaker to propose the change.

But that’s a remote possibility. Perlmutter has introduced a bill — twice — that would take a smaller step, and stop federal regulators from penalizing financial institutions for serving the cannabis industry. He hasn’t been able to get a hearing, let alone move the bill out of committee. Perlmutter and his allies in Congress are now trying to cut off funding for federal enforcement actions against banks and credit unions that serve cannabis businesses.

Finding a Way
The Fed and other regulatory agencies have made it clear that states can’t create new financial institutions for the cannabis industry. But because the Obama administration has indicated that it will look the other way when existing institutions serve cannabis clients, businesses like Cullen’s do have some options.

Vermont’s Department of Financial Regulation has researched the services available to the state’s four medical marijuana dispensaries and found some good news. The state’s largest credit
union serves one dispensary and says it would serve more. Although the credit union doesn’t offer marijuana businesses much more than depository accounts, federal regulators confirmed the accounts are insured.

Vermont state Sen. Joe Benning, a Republican who co-sponsored the Senate proposal to legalize marijuana for adult use, said the state’s financial institutions should be able to handle the cannabis industry’s expansion — at least initially. “You’re not going to have to be bringing in wheelbarrows full of cash to make deposits,” he said.

In other states, new services have emerged to eliminate cash transactions. In Washington and Oregon, an intermediary company called PayQwick electronically transfers money between marijuana growers, sellers, customers and their financial institutions. PayQwick also files all the paperwork the Treasury Department requires, taking a burden off banks.

Tax collection offices are doing what they can to manage cash collections. Offices in Oregon and Colorado have invested in extra security, such as safety glass and security cameras; businesses are also hiring security guards to help them make their deposits safely.

Auditing cash-only cannabis businesses is tough, but not impossible. In Colorado, the Department of Revenue relies on the state’s system for tracking legally grown and sold marijuana plants, Freedman said.

Still, the situation is far from ideal for businesses or for states. It’s temporary, too; nobody knows how the next president will enforce federal marijuana policies.

While Colorado waits for Congress to act, state officials will keep meeting with bank and credit union boards and explaining the nuances of federal law, Freedman said. That slow, institution-by-institution campaign may be states’ best hope for getting marijuana money off the streets. “I think it’s going to get better. It certainly couldn’t be worse,” Cullen said of the cannabis industry’s banking problem. He takes the sunny view that as more states legalize the drug, it will become something federal lawmakers will no longer be able to ignore.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
02-37B-06 Employment and Economic Independence of Individuals with Disabilities

Florida

Bill/Act: HB 7003

Summary:

This bill (Chapter 2016-3, L.O.F.) addresses the employment and economic independence of individuals with disabilities. Specifically, this bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS) to provide information and outreach to individuals and employers;
- Modifies the state’s equal employment policy to provide enhanced executive branch agency employment opportunities for individuals who have a disability;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability; and
- Creates the Florida Unique Abilities Partner Program to recognize businesses that employ or support the independence of individuals who have a disability.

State Employment of Individuals Who Have a Disability

House Bill 7003 expands employment opportunities for applicants who have a disability. The bill adds “individuals who have a disability” as an underrepresented group that state agencies must consider in its hiring decisions. Such agencies must develop a plan for addressing the employment of individuals who have a disability and report their agency employment rates annually. The bill further requires the Department of Management Services to develop and implement job-related programs for individuals who have a disability and train human resources personnel to support the employment of these personnel.

Financial Literacy for Individuals with Developmental Disabilities

The Department of Financial Services is required to develop material on financial literacy for individuals with developmental disabilities and post the material on its website. The financial literacy program, intended to promote economic independence, must include:

- Financial education
- Identification of available financial and health benefit programs and services
- Job training programs and employment opportunities
- The impact of earnings and assets on eligibility for federal and state financial and health benefit programs

Florida Unique Abilities Partner Program

The bill creates the Florida Unique Abilities Partner Program to provide public recognition to business entities that employ one or more individuals who have a disability or that provide financial or in-kind support to local and national disability organizations.

Status: Signed into law on January 21, 2016.
The Florida Senate approved legislation Friday aimed at helping people with disabilities become economically independent, completing what Senate President Andy Gardiner called a "trifecta" of bills headed to Gov. Rick Scott.

The measure (HB 7003) would encourage state agencies to employ more people with disabilities, recognize businesses that hire them and establish a program to teach them financial literacy.

It joins another bill (SB 672), passed by both the House and Senate earlier this week, creating personal learning scholarship accounts to boost educational opportunities for children with developmental disabilities or, as Gardiner calls them, "unique abilities."

The bills are the top legislative priority of Gardiner, an Orlando Republican whose son has Down syndrome.

Along with a measure that sets new state water policies -- a top priority of House Speaker Steve Crisafulli, R-Merritt Island -- the bills are headed to Scott, who is expected to sign them in a ceremony on Thursday.

In part, the bill passed Friday would require certain state agencies to commit to improving employment opportunities for people with disabilities.

The requirement would apply to the Agency for Persons with Disabilities, the Department of Economic Opportunity, the Division of Vocational Rehabilitation and Division of Blind Services at the Department of Education, and the Executive Office of the Governor.

"We need to lead by example, and so we are going to do that," Gardiner told reporters. "We also need to recognize businesses that are doing it, and track it and make sure that individuals with unique abilities are getting jobs, which is obviously a priority of us and the governor."

The bill also directs the Department of Management Services to develop mandatory training programs for human resources personnel and to help other state agencies with their strategies for hiring and retaining employees with disabilities.

Sen. Jeremy Ring, the Margate Democrat who sponsored the employment bill in the Senate, said the measure follows naturally from the education bill.

"Those educational opportunities have very little meaning if the opportunity for (students with disabilities) to compete in the adult world doesn't exist," he said.

Ring also noted that the bill includes language by Sen. Nancy Detert, R-Venice, and Sen. Dorothy Hukill, R-Port Orange, creating a program to recognize businesses that employ or support the independence of people with disabilities and a financial literacy program for those individuals, with a goal of encouraging financial independence.

The bill also requires the Department of Economic Opportunity to develop a logo for the program and maintain a website that provides a list of businesses with the designation.
"All of it is key to having jobs," Gardiner said. "That bill that comes out of here today really sets a tone where agencies will have to report to us what their policies are going to be in hiring individuals with unique abilities."

**Disposition of Entry:**

SSL Committee Meeting: 2017 B

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Comments/Note to staff
Gov. David Ige signed a bill on May 6 making Hawaii the first state in the nation to require accommodations for the hearing and visually impaired at movie theaters throughout the state.

Requires a public accommodation that owns, leases, leases to, or operates a motion picture theater in more than two locations in the State to provide open movie captioning during at least two showings per week of each motion picture that is produced and offered with open movie captioning. Requires a public accommodation that owns, leases, leases to, or operates a motion picture theater in the State to provide, upon request, audio description of any motion picture that is produced and offered with audio description.

The new law, HB1272, mandates movie theaters with more than two locations statewide to provide open captioning during at least two showings per week of each film produced with captions. It also requires the theaters to provide audio descriptions of any film produced with and offering descriptive audio. The measure will take effect Jan. 1, 2016, and sunset Jan. 1, 2018.

Rep. James Tokioka, the bill’s introducer, said the measure will bring Hawai‘i closer to achieving the full inclusion of local deaf and blind communities that was first initiated by the Americans with Disabilities Act of 1990.

HB1272 will provide equal access to persons who are deaf, hard of hearing, blind or have poor vision through reasonable accommodations at movie theaters. It will also assist seniors who are hard of hearing, as well as individuals who are learning English as a second language.

Status: Signed into law on May 6, 2015.

Disposition of Entry:
SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary:
House Bill 1312 allows veteran-owned businesses to register directly with the state of Indiana instead of the federal government. This registration allows veteran-owned businesses to receive greater consideration during the state’s contracting process.

This bill defines "veteran", for the purpose of qualifying as a veteran owned small business by the Indiana Department of Administration (IDOA), as an individual who previously:
   (1) Served on active duty in any branch of the armed forces of the United States or their reserves,
   (2) the National Guard, or
   (3) the Indiana National Guard; and received an honorable discharge from service.

The bill also includes in the definition of "veteran" for the purpose of qualifying as a veteran owned small business by the IDOA an individual who is serving in any branch of the armed forces of the United States or their reserves, the National Guard, or the Indiana National Guard. The bill requires that a business seeking to qualify as a small business owned and operated by veterans have current certification as a veteran owned small business by the IDOA. It also removes the requirement that a veteran be a resident of Indiana for at least one year before making an offer to bid on a state contract. It provides that certain information submitted by an applicant for certification as a veteran owned small business is confidential.

Status: Signed into law on March 22, 2016.

Disposition of Entry:
SSL Committee Meeting: 2017 B
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   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
To combat the manufacture of methamphetamine, the bill makes new restrictions on the sale of pseudoephedrine or ephedrine.

Under the bill, a Hoosier with an existing relationship with a pharmacy is allowed to buy as much pseudoephedrine as currently allowed by law. If not, a pharmacist can offer a different product that manufacturers claim meth makers can’t easily use to make the drug. A third option is a small packet of tablets for an acute situation.

If the person refuses those options he or she can get a prescription. Those prescriptions will also now be tracked by the state's prescription drug tracking system.

The bill does allow a pharmacist to override the rules requiring customers be a patient of record if the pharmacist uses his or her professional judgment to determine the person is not seeking the medicine for inappropriate reasons. An example of this would be when an allergy sufferer is out-of-town and in need of Sudafed, Claritin D or other medicine.

Pharmacy Board: The bill requires the Indiana Board of Pharmacy to adopt emergency rules that are effective July 1, 2016, concerning:
(1) Professional determinations made; and
(2) A relationship on record with the pharmacy; concerning the sale of ephedrine or pseudoephedrine.

The bill allows the Pharmacy Board to:
(1) Review professional determinations made; and
(2) Discipline a pharmacist who violates a rule concerning a professional determination made; concerning the sale of ephedrine or pseudoephedrine.

Indiana State Police: The bill requires the Pharmacy Board, in consultation with the State Police (ISP), to declare a product to be an extraction-resistant or a conversion-resistant form of ephedrine or pseudoephedrine.

Pseudoephedrine/Ephedrine via Prescription: The bill specifies that a person who is denied the sale of a nonprescription product containing pseudoephedrine or ephedrine is not prohibited from obtaining pseudoephedrine or ephedrine pursuant to a prescription.

Pharmacist Determination: The bill provides that a pharmacist or pharmacy technician may determine that the purchaser has a relationship on record with the pharmacy, in compliance with rules adopted by the Pharmacy Board. The bill allows a pharmacist to deny the sale of ephedrine or pseudoephedrine on the basis of the pharmacist's professional judgment, and provides the pharmacist with civil immunity for making such a denial.
Relationship on Record: The bill provides that a purchaser who has a relationship on record with the pharmacy may purchase pseudoephedrine or ephedrine. The bill allows the pharmacist to provide certain pseudoephedrine or ephedrine products to a purchaser who does not have a relationship on record with the pharmacy or for whom the pharmacist has made a professional judgment that there is not a medical or pharmaceutical need.

Miscellaneous Changes: The bill adds ephedrine and pseudoephedrine to the definition of "controlled substance" for purposes of the Indiana Scheduled Prescription Electronic Collection and Tracking (INSPECT) program.

Status: Signed into law on March 21, 2016.

Comments: From the Ball State Daily (March 31, 2016)
After leading the nation in meth lab seizures for two years, Indiana passed a law attempting to cut down on meth labs — by limiting access to a common cold medicine that can be used to make meth.

On March 21, Gov. Mike Pence signed Senate Bill 80, a bill that empowers pharmacists to deny the sale of products containing pseudoephedrine, the active ingredient in Sudafed, and ephedrine, which is what pseudoephedrine breaks down to in the body. Pence also signed two other bills that require certain meth felonies to be logged in a database so meth offenders cannot purchase pseudoephedrine.

When Senate Bill 80 takes effect in July, pharmacists will be protected from lawsuits if they deny a customer pseudoephedrine without prescription because they suspect the customer is “smurfing,” or buying it to sell to a meth cook.

“If someone has an allergy, if they have a cold, they can still get medicine,” the bill’s co-author Sen. Randall Head said. “But if you are trying to smurf, the pharmacist has the authority and more legal coverage to block that sale and keep you from getting that necessary ingredient.”

“Smurfing” is when people canvass pharmacies to buy pseudoephedrine and bring it back to a meth cook. By federal law, consumers are allowed to purchase only a certain amount of medicine containing pseudoephedrine in a given year and the purchases are tracked, so meth cooks hire smurfs instead of buying the medicine themselves.

The only active ingredient in some types of Sudafed is pseudoephedrine. Even with the restriction, individuals can still purchase enough to take two Sudafed 12-Hour caplets every day for 36 weeks out of the year.

Certain types of Sudafed, or its generic versions, are the only medicines that can be used to make meth, Delaware County Prosecutor Jeffrey Arnold said.

“Most people who think they take pseudoephedrine don’t even take it,” he said. “They think anything they take related to allergy or cold is pseudoephedrine — it’s not.”
Sudafed is located behind the counter, but does not require a prescription.

Other over-the-counter allergy medicines, like Zyrtec D, have pseudoephedrine but they are combined with other active ingredients that prevent it from being used in meth-making. The Indiana law was inspired by an ordinance in Fulton County that cut down pseudoephedrine sales.

When pharmacists were given more authority in Fulton County, pseudoephedrine sales dropped 50 percent from June 2015 to December.

Head, who represents Fulton County, brought the bill to the statehouse along with co-author Sen. James Merritt.

Head said it was one of the last bills the legislature passed, and there were changes to the bill the night before to help allergy sufferers get their medicine after pushback from drug companies and consumer groups.

Head thinks this new law is “huge,” because in the past, bills to make pseudoephedrine prescription-only have not gotten any traction. This is a step forward and a compromise, he said.

“We’ve criminalized meth and criminalized dealing and sent a lot of people to prison but aren’t putting a dent in the problem,” he said. “Doing this is huge. [We’re] giving pharmacists the power to tell people they aren’t going to get Sudafed. They can’t tell every smurf, but they can tell a lot of them.”

According to the law, customers who have a relationship on record with the pharmacy can get pseudoephedrine without a prescription. For those who do not have a relationship on record, the pharmacist can make a professional judgement on whether or not to sell them the product.

If the pharmacist denies sale, the customer is free to get a prescription or purchase alternative products. The Indiana Board of Pharmacy will make rules to define what a relationship on record is and how pharmacists will make their determinations.

EFFECT ON PHARMACISTS
The Indiana Pharmacy Alliance, which represents pharmacists in the state of Indiana, supports the new law. However, they would not have supported a prescription mandate.

Indiana Pharmacy Alliance Executive Vice President Randy Hitchens said this law will put more scrutiny on the sale of the product.

“Retailers selling this product in Indiana, a few haven’t been paying really close attention to who is buying this stuff,” he said.

Hitchens said the law will allow pharmacists to be “good Samaritans” as they evaluate patients. In practice, if a pharmacy customer wants to buy large quantities of pseudoephedrine, the pharmacist can request a doctor’s name to call for a prescription.
“You don’t need 100-pack of a product like this,” Hitchens said. “Someone using for meth is going to be walking out of the store.”
He said the IPA isn’t concerned about pharmacists’ safety if they deny sale of pseudoephedrine to people who may be criminals, because they deal with much more dangerous drugs behind the counter every day.

REGULATIONS AND SMURFING
This is not the first time Indiana lawmakers have tried to pass legislation to cut down on meth labs.

Past efforts to combat meth-making in Indiana have “exacerbated it,” Delaware County Prosecutor Jeffrey Arnold said.

Since 2012, in Indiana, pharmacists are required to track all pseudoephedrine sales in the NPLEx database. Per federal law, consumers can buy 61.2 grams of pseudoephedrine in one year, and must present an ID purchase. That can amount to about 510, 120 mg Sudafed 12-Hour pills.
Arnold said that law led to the smurfing issue.

“When they started that, it sounded like a hell of an idea. But the problem was that started creating smurfing,” Arnold said. “The numbers have continued to go up. How can you argue that is effective?” Right now, Delaware County leads Indiana in meth lab busts — by a long shot — with 234 clandestine meth labs seized in 2015, outpacing the second-highest county by about four times, according to data from the Indiana State Police.

Those numbers have increased in the recent past. In 2012, Delaware County had 62 meth lab busts. It increased in 2013 to 109; and in 2014 to 148.

Arnold attributes the number to increased law enforcement efforts in Delaware county — and the exponential nature of smurfing.

It’s estimated that every one meth cook with smurfs will teach 10 people how to cook meth. “Over the years, the meth cookers have taught the smurfs how to cook; they go out and get their own smurfs; it keeps on rolling,” Arnold said.

WILL IT BE ENOUGH?
Sen. Head said that pharmacists have already been able to deny pseudoephedrine to customers, but this law will give them explicit protection from lawsuits.

Arnold also thinks many pharmacists are already trying to stop smurfs.

“I also know for a fact that here, when pseudoephedrine comes in, most of the box stores are sold out the day it comes in,” Arnold said. “They turn people away or suggest to those they suspect that they are out.”
He said the new law is better than nothing, and it will bring the issue to the forefront, which is a
start, but he maintains that the only thing that can impact the cooking of meth is a prescription
requirement on pseudoephedrine.

“The cost [of a mandate] is miniscule compared to the collateral damage of cooking,” Arnold
said. “Nobody seems to understand that in Indianapolis. Anybody who says that it’s too much of
an inconvenience really doesn’t understand the big picture at all. I think it’s because if it’s not in
your backyard, you just don’t really know.”

Representative Sue Errington, who represents Delaware County, balances the wants of officials
like Arnold and Mayor Dennis Tyler, who has call for prescription mandate, with the wants of
her constituents.

She said people have reached out to her in the past, opposing pseudoephedrine moving to a
prescription, and she has concerns about low-income constituents who may have to pay a copay
to visit the doctor to get a prescription.

Errington hopes the law is enough and that it will bring some relief to Delaware County.
“I hope it is [enough], and once we use the system, then everybody will be satisfied,” she said.
“But if not, we’ll be back next year.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
The bill requires manufacturers to disclose if toxic chemicals that can cause harmful health effects are in products designed for children. The measure adopts a list of 66 chemicals identified as of concern and sets up a new working group to advise the health commissioner on possible additions to the list.

This act requires a manufacturer of a children’s product to notify the Department of Health (DOH) if the children’s product contains a chemical of high concern to children. The act lists 66 chemicals of high concern to children. DOH may adopt by rule additional chemicals of high concern to children if DOH determines that accredited research demonstrates that the chemical: (1) harms child development; causes cancer, genetic damage, or reproductive harm; disrupts the endocrine system; damages the nervous system, immune system, or organs; or is a persistent bioaccumulative toxic; and (2) has been found to be present in blood, breast milk, human tissue, the home environment, or the natural environment.

Under the act, beginning on July 1, 2016, and biennially thereafter, a manufacturer of a children’s product containing a chemical of high concern to children shall notify DOH of the presence of the chemical in the product. Notice is not required for an intentionally added chemical that does not exceed the practical quantification level or for a chemical present in a product as a contaminant at a de minimis level. DOH shall specify the format for notice. DOH shall post on its website information submitted by a manufacturer. Trade secrets and confidential business information shall not be public. If a chemical in a product is a trade secret, DOH shall post the class of the chemical and its health effects. DOH may enter reciprocal data sharing agreements with states that collect similar data. A manufacturer shall pay a fee of $200.00 to DOH for each notice provided. The fees fund the costs to DOH to run the program.

The act establishes a Chemicals of High Concern to Children Working Group to provide DOH with advice and recommendations regarding the requirements for chemicals of high concern to children. The act authorizes DOH, upon recommendation of the Working Group, to adopt by rule requirements for the sale of a children’s product containing a chemical of high concern to children upon a determination that: (1) children will be exposed to a chemical of high concern to children in the children’s product; and (2) there is a probability that, due to the degree of exposure or frequency of exposure to a chemical of high concern to children, exposure could result in an adverse health impact. Under a rule, DOH could limit or prohibit the sale of the children’s product or require labeling of the product. No prohibition on sale of a product shall take effect sooner than two years from adoption of the rule.

A violation of the requirements of the act is deemed a violation of the Consumer Protection Act. A violation is subject to a civil penalty of not more than $10,000.00 per violation. The Attorney General shall have the same rights and authorities for enforcement under the Consumer Protection Act to enforce the requirements of this act. There is no private right of action under this act.
The act defines “child” or “children” as an individual under 12 years of age. “Children’s product” is defined as a consumer product marketed for use by, marketed to, sold, offered for sale, or distributed to children in Vermont, including toys, children’s cosmetics, children’s jewelry, products to help a child with teething or sleep, products for the feeding of a child; children’s clothing, and child car seats. The act includes exemptions from the terms “consumer product” and “children’s products,” including products VT LEG #301413 v.2 primarily used or purchased for industrial or business use, food, beverages, tobacco, pesticides, drugs, biologics, medical devices, supplements, ammunition, firearms, hunting and fishing equipment, aircraft, motor vehicles, batteries, consumer electronic products, interactive software, snow sporting equipment, inaccessible components of a consumer product, used products; and product packaging.

**Status:** Signed into law on June 10, 2014.

**Comments:** From the VTDigger (June 10, 2014)
Gov. Peter Shumlin on Tuesday signed into law a program to regulate toxic chemicals in children’s products.

“It enables parents of all Vermon ters, to make informed choices when buying products for their children,” Shumlin said at a bill signing outside Seventh Generation’s Burlington headquarters.

Shumlin pointed to Seventh Generation, the manufacturer of environmentally safe household products, as an example of “toxic-free” business practices the law hopes to encourage by requiring manufacturers to report toxic chemicals in their products.

“This is a basic consumer right to know bill,” he said.

The Vermont Department of Health will list potentially harmful chemicals on its website starting July 1, 2016. The department will have full authority to regulate these chemicals, including requiring manufacturers to label or remove them from their products for children.

Exposure to certain toxic chemicals can cause cancer, developmental disorders, brain damage and respiratory problems. Tens of thousands of these chemicals in consumer products are untested and unregulated.

“I am still appalled at how many toxic chemicals we still allow manufactures to put into everyday products,” said Paul Burns, executive director of the Vermont Public Interest Research Group. VPIRG was one of several public health groups pushing lawmakers to take action on the issue this year.

“These are products that we buy on store shelves day after day,” he said. “And they include products that are targeted specifically to children, even toys.”

Lauren Hierl, political director for the Vermont Conservation Voters, has been pushing for years for the regulation of toxic chemicals in consumer products.
“As a parent, for the first time, I’ll be able to go on the Department of Health’s website and figure out does this product contain harmful chemicals that I don’t want my children exposed to,” she said. “And ultimately we’re on the path to getting the chemicals out of our products all together.”

Other states, such as Maine, Washington state and California, are starting similar programs.

Vermont’s law is modeled on Washington’s reporting program, but further regulates chemicals. Shumlin, who is the head of the Democratic Governors Association, said it is important that other governors pass similar laws. He said states should not wait for a Congress that has “trouble doing anything” to reform the federal Toxic Substances Control Act, a largely ineffective toxic chemical regulatory program.

Sen. Ginny Lyons, D-Chittenden, the law’s lead sponsor, said Maine has spent $644 million to treat health issues related to toxic chemical exposure.

“This bill sets us in a new direction,” she said. “It sets us in a direction for health care savings. And its sets us in a direction for saving our next generation.”

The regulation is an incentive to move toward a more sustainable economy, some businesses say.

“Regulating the use of toxic chemicals in consumer products will create a stronger, healthier and more sustainable economy,” said Andrea Cohen, executive director of the trade group Vermont Businesses for Social Responsibility, in a statement.

“Giving consumers more information about dangerous chemicals found in products they purchase will expand the market in Vermont for clean, green and safe products.”

Only manufacturers that intentionally add these chemicals to their products will be required to comply with the law. They will have to report a list of chemicals used in their products to the state starting July 1, 2016. The state will increase the number of chemical requiring manufacturers to report every two years.

Children’s products are defined as “any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to children” in the state, such as toys, cosmetics, jewelry, products used for sucking or teething, clothing, and child car seats.

There are several exemptions in the law for snow sport equipment, secondhand products, and electronics. Manufactures can request a waiver.

A panel of appointed representatives from the scientific, business and public health communities will make recommendations to the health commissioner on which chemicals should be regulated.

It remains unclear how much it will cost the state to administer the program. Businesses will pay a biannual reporting fee for each chemical in their product that the health department finds may be harmful.
The health department will report back to lawmakers next session with an estimated cost of the program.

Health Commissioner Harry Chen was not at the bill signing but said in a statement his department is ready to implement the law.

“Our using good science to inform Vermonters of, and protect them from, toxic chemicals is the right thing to do,” he said in a statement.

From the Office of Governor Peter Shumlin (June 10, 2014)
Gov. Peter Shumlin today signed into law a bill requiring manufacturers of products with toxic chemicals that can cause harmful health effects to disclose when those chemicals are present in children’s products. The new law identifies some chemicals of particular concern.

“This law now allows Vermont parents and all consumers to make choices about the type of chemicals in products they buy,” the Governor said. “Preventing potential exposure to toxic chemicals is the best way to protect adults and children, as well as the environment. The first step in prevention -- and the point of this law -- is to make people aware of toxic chemicals in children’s products.”

Commissioner of Health, Harry Chen, M.D., said, “The Department of Health supports and is ready to implement the law. Using good science to inform Vermonters of, and protect them from, toxic chemicals is the right thing to do.”

The law will give scientists data about the number of products that contain chemicals of concern, and the amount of chemicals in products. The Department will provide that information on a website that consumers will be able to use to assist in making purchasing decisions. Eventually, some of the chemicals of concern could be banned for sale in Vermont for use in children’s products or require a label before they can be sold.

“Vermont has taken a proactive stance to deal with the issue of toxics in our products systematically, rather than chemical by chemical,” said Natural Resources Secretary Deb Markowitz. “We will continue to work with the Health Department to make sure Vermonters’ environmental concerns are addressed.”

To date, Vermont has restricted the use of bisphenol A (BPA), some phthalates, some polybrominated diphenyl ether flame retardants (PBDEs), and some chlorinated phosphate (‘‘Tris’’) flame retardants in children’s products and a limited number of consumer products.

The Governor said chemical regulation should be a national enterprise, not a state-by-state endeavor. The federal Toxic Substances Control Act (TSCA) allows the federal Environmental Protection Agency to regulate the use of chemicals but the TSCA has not been as effective at limiting exposure to toxic chemicals in consumer products as Gov. Shumlin or the Vermont Legislature desires, leading to this state action. Similar programs have been enacted in
Washington and Maine for chemicals in children’s products. California has a program that includes all consumer products.

The law lists 66 chemicals of high concern to children and provides the authority for chemicals to be added or removed through rulemaking. Manufacturers who intentionally add these chemicals to their children’s products will have to notify the Vermont Department of Health.

Manufacturers must begin to submit disclosures biennially to the Health Department starting July 1, 2016. In 2017, and biennially thereafter, the Commissioner of Health shall review the list and recommend at least two chemicals of high concern to children for consideration by a working group. The working group will include scientists, health experts, industry representatives and other stakeholders appointed by the Governor.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Summary:
This Act adds electronic smoking devices to the Clean Indoor Air Act and prohibits the use of electronic smoking devices in all public places where smoking is prohibited under current law.

It allows emissions produced by electronic smoking devices in a vapor establishment if: 1) 80% of its revenue is made through the sale of electronic smoking devices and substances used within electronic smoking devices; and 2) the vapor establishment does not share indoor common space with other businesses unless there are closed doors to the indoor common space except for ingress and egress. It prohibits anyone under the age of 18 from entering vapor establishments that have emissions produced by electronic smoking devices and requires such establishments to post signs that prohibit minors in the business.

Status: Signed into law on July 7, 2015.

Comments: From The News Journal (July 7, 2015)
E-cigarettes officially can no longer be smoked inside Delaware's restaurants, malls, bars, and other locations after Gov. Jack Markell signed a bill Tuesday banning their use indoors.

The legislation, passed by lawmakers in the spring, adds e-cigarette devices to Delaware's Clean Indoor Air Act, but exempts vape shops from such a ban. The measure takes effect in 90 days. Under the legislation, vape shops are exempt if 80 percent of revenue came from the sale of e-cigarettes and the shop does not share space with other establishments. The measure also says that minors are prohibited from entering the vape shops and requires the stores to post signs that anyone under 18 is not allowed inside.

Rep. Debra Heffernan, D-Bellefonte, praised the bipartisan effort to pass the legislation and said that Markell's signature is a guarantee for Delawareans' health.

"People in Delaware, at their workplace, or at restaurants and bars, deserve to breathe clean air free of second hand smoke or e-cigarette emissions," Heffernan said.

Last year lawmakers passed a measure that banned the sale of e-cigarettes to minors.

E-cigarettes are battery-powered devices that produce an odorless vapor that typically contains nicotine and flavorings. Supporters of the bill say e-cigarettes contain harmful chemicals. The devices are not yet regulated by the U.S. Food and Drug Administration.

Four states, including New Jersey, ban smoking e-cigarettes indoors.

The measure faced several amendments as lawmakers worked the legislation during the legislative session, which ended June 30. One would have exempted cigar shops from the ban, and another would have exempted taprooms and taverns. Both were defeated.
Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Increases the minimum age for sale, possession, consumption, or purchase of tobacco products or electronic smoking devices from eighteen to twenty-one. Defines "tobacco products" to include electronic smoking devices.

Note: The California Legislature passed similar legislation (SB 7, special session), but it has not yet been acted on by Gov. Jerry Brown.

The New Jersey Legislature passed similar legislation (AB 3254) in 2015, but it was vetoed by Gov. Chris Christie. New Jersey has already increased the smoking age from 18 to 19.

Status: Signed into law on June 19, 2015.

Comments: From Reuters (June 20, 2015)
Hawaii’s governor on Friday signed a bill raising the legal smoking age statewide to 21, the first U.S. state to do so.

The law takes effect on Jan. 1, 2016, and will also ban the sale, purchase or use of electronic cigarettes for those under the age of 21.

"Raising the minimum age as part of our comprehensive tobacco control efforts will help reduce tobacco use among our youth and increase the likelihood that our keiki (children) will grow up to be tobacco-free," Governor David Ige said in a statement.

Also on Friday, Ige signed a bill banning smoking and e-cigarette use at state parks and beaches, acts already banned in all city and county parks other than of Kaua'i County, according to his office.

Most U.S. states set the legal smoking age at 18, while a handful have set it higher at 19. Some cities and counties, including New York City and Hawaii County, have already raised the smoking age to 21.

Lawmakers in Washington state and California have also pushed to raise the legal smoking age to 21 in recent months.

Opponents of the bill have argued that it limits choice for people considered adults in other situations, like joining the military.

In Hawaii, roughly nine out of 10 smokers start before the age of 21 and many report receiving cigarettes from friends or relatives of legal age, according to the governor's office.

The Campaign for Tobacco Free Kids said that tobacco use kills 1,400 people and costs some $526 million in medical bills annually in Hawaii.
Cigarette smoking is the leading cause of preventable death in the United States, accounting for more than 480,000 deaths annually, or one of every five deaths overall, according to the U.S. Centers for Disease Control and Prevention (CDC).

Researchers have found that raising the minimum age to buy tobacco products to 21 or 25 years old would significantly reduce smoking and tobacco-related illnesses in the country and that a majority of U.S. adults support raising the legal age to 21.

Adult smoking rates in the country have dropped sharply to 18 percent of the population today from 42 percent in 1964.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Summary:
The Physical Therapy Licensure Compact is intended to increase public access to physical therapy services, to enhance the exchange of licensure, investigatory, and disciplinary information between member states, and to support spouses of relocating military members.

The Federation of State Boards of Physical Therapy (FSBPT) developed the Compact with the purpose of increasing consumer access to physical therapy services. The Compact allows a physical therapist or physical therapist assistant to obtain one license to practice from the Home State in order to practice in any other Compact state, as long as the physical therapist or physical therapist assistant notifies the state and complies with the practice laws of the state in which the patient is located at the time care and services are rendered.

The FSBPT is using the Council of State Government’s process to develop and implement the Compact. The process includes: 1) creating and convening an Advisory Board, composed of key stakeholders, state officials and issue experts, to guide the early policy analysis and to make recommendations; 2) developing a Drafting Team, composed of Compact and other subject matter experts to draft the Compact language; 3) facilitating the Compact in all states, seeking national enactment by all impacted states and relevant jurisdictions; 4) overseeing the transition to the new Compact, including the development of administrative processes and training states on the Compact; and 5) maintaining and enhancing the new Compact as it becomes operational.

The Governor of Oregon signed Compact legislation in March of 2016, making Oregon the first state to be a member of the Compact. The Compact becomes effective when ten states enact legislation to join the Compact. The FSBPT anticipates the Compact will be enacted by the conclusion of the 2017 legislative session.

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:
(1) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
(2) Enhance the states’ ability to protect the public’s health and safety;
(3) Encourage the cooperation of member states in regulating multi-state physical therapy practice;
(4) Support spouses of relocating military members;
(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state’s practice standards.
Note: As of April 10, 2016, the compact language has also been passed by the Tennessee Legislature; however, Governor Bill Haslam has not yet acted on the measure. It has also been passed by the Arizona House.


Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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Comments/Note to staff
Summary:
SB 153 directs the Higher Education Department (HED) to work with New Mexico’s colleges and universities to apply skills and knowledge gained from military service to academic and career training credit. This legislation will provide a more unified approach from New Mexico’s colleges and universities to granting college credit for skills and training from military service.

Status: Signed into law on February 26, 2016.

Comments: From the Daily Lobo (March 7, 2016)
In February, Gov. Susana Martinez signed a piece of legislation that will make it easier for veterans and service members to earn college credit for the training they received in the military.

Senate Bill 153, which the House and Senate unanimously approved, was sponsored by Sen. Craig Brandt, R-Rio Rancho. Brandt, a veteran himself, said in a press release that SB 153 will help veterans achieve credit towards a degree — whether a bachelor’s or graduate degree — rather than just earning credits towards courses that count as electives.

“This will help our veterans get the core credits towards the education they need to continue to be productive members of our society,” Brandt said.

According to the fiscal impact report for the bill, the Higher Education Department “advises it will bear significant administrative costs in performing its responsibilities under this bill,” but it does not have an estimate for the necessary costs of the bill as of yet.

The same document states that, according to the Veteran Services Department, individuals who have undergone military service training essentially retake classes when they get to a higher education institution, as they take basic college courses through their training, resulting in unnecessary expenditures for veteran students, education institutions and the government.

SB 153 places the New Mexico Higher Education Department in charge of coming up with a uniform policy.

Joseph Cueto, the HED’s public information officer, says the department is currently working on implementing a statewide common course numbering system so that students can easily transfer credits between colleges and universities in New Mexico. The department is working on a similar policy for veterans’ ability to transfer credits used towards degrees.

“New Mexicans have always stood ready to answer our nation’s call to service,” Cueto said. “We have to do everything we can to support them when they come home.”
According to the website for the National Conference of State Legislatures, other states including Alaska, Missouri, Minnesota and Texas have created legislation that helps military experience translate into course credit for education. The bill stipulates that the HED must have a concrete policy to present to the Veterans Affairs Committee and Legislative Education Study Committee by Nov. 1.

UNM’s current system for granting veterans college credit follows guidelines laid out by the American Council on Education. The bill will help standardize the process of granting credits, not only providing veterans with more educational opportunities, but also ensuring that excess credit that doesn’t go toward a degree does not limit a veteran’s access to benefits by wasting them on transfer credits.

UNM Veterans Resource Center Program Coordinator Stephen Weinkauf, who served six years with the New Mexico Army National Guard, said he has seen multiple outcomes for veterans being awarded credits based on experience.

“I have seen some come in and actually be applied to a degree program, and that’s really depending on the job and what schools they’ve been to or actual trainings or schools that they have some sort of transcript from,” he said. “But I also know of a student who had a 20-year paramedic career that came to UNM and had to take his EMT Basic, so it goes both ways there.”

Weinkauf said he can see how the bill would help veterans pursuing a degree, such as combat medics using their experience for nursing programs.

UNM Associate Vice President of Enrollment Management Terry Babbitt said that the University always looks for ways to support veterans in their pursuit of a degree.

“We strongly support our veterans, and they are deserving of everything we can do to maximize their educational benefits,” Babbitt said. “We look forward to working with the Higher Education Department to implement these improvements.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary:
Senate Bill 672 extends the possibility of a college education for Floridians with developmental or intellectual disabilities and expands the opportunities available for K-12 students under the Gardiner Scholarship Program.

The bill establishes mechanisms for the statewide coordination of information about programs for students with disabilities, and for the approval of unique postsecondary education programs tailored to the needs of students with intellectual disabilities. Specifically the bill:

- Establishes a Florida Center for Students with Unique Abilities (center) at the University of Central Florida for statewide coordination of information regarding programs and services for students with disabilities and their parents.
- Requires rule adoption by the Board of Governors and the State Board of Education in consultation with the center.
- Establishes a process through which postsecondary institutions in Florida can voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP or program) for students with intellectual disabilities.
  - Creates a scholarship to provide financial aid to students who meet the student eligibility requirements and are enrolled in a program.
  - Outlines processes and application requirements for program approval and renewal.
  - Requires annual reporting of student and program performance measures and statutory and budget recommendations for improving program implementation.
  - Defines key terms including, but not limited to, FPCTP, eligible institution, eligible student, and the center.

Florida Postsecondary Education Options
SB 672 creates a process through which Florida colleges and universities may seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities. These programs are intended to assist such students in their transition to a college setting and to support their academic, vocational, and independent living education as the students prepare for gainful employment. In addition to structured advising and curriculum, the programs must provide maximal social and academic integration and allow students to enroll on at least a half-time basis. Currently, the only Florida program that also has federal financial aid approval is the Project Independence Program at Florida Panhandle Technical College in Chipley.

If participating students meet other eligibility criteria, they are eligible to receive federal Pell Grants, Supplemental Educational Opportunity Grants, and work-study stipends to offset tuition and fees for their coursework.

For a postsecondary program to be approved to offer an FPCTP, the program must identify the certificate or degree that the student will earn upon completion. The program must describe inclusive and experiential educational practices related to its curricular, assessment, and advising...
structures, including the provision of internship and employment opportunities. The bill includes sufficient funding for 10 postsecondary institutions to apply for FPCTP status for one or more programs.

SB 672 creates the Florida Postsecondary Comprehensive Transition Program Scholarship for students who enroll in an approved program, regardless of financial need. To be eligible, the student cannot be enrolled in a public school program or be eligible to receive financial aid through any other state student financial aid program. The scholarship is capped at a maximum annual award of $7,000, but will be prorated if the demand for the scholarship exceeds available funding.

Center for Students with Unique Abilities
The bill also creates the Florida Center for Students with Unique Abilities to serve as an information clearinghouse on postsecondary programs and services to support students who have disabilities and their parents.

Gardiner Scholarship Program
The bill clarifies and streamlines implementation, and tightens accountability, of the Gardiner Scholarship Program. Specifically the bill:

- Clarifies program implementation:
  - Renames the “Florida Personal Learning Scholarship Accounts Program” as the “Gardiner Scholarship Program,” and expands the definition of disability to include autism spectrum disorder, muscular dystrophy, and specified 3- and 4-year olds.
  - Expands and clarifies authorized uses, length of time to earn, and reversion of funds.
  - Expands the Department of Education’s (DOE) investigative authority and clarifies the Commissioner of Education’s authority regarding participation and fund recovery.

- Streamlines program implementation:
  - Requires funds to be prorated, allows earlier receipt of funds, and limits wait list time.
  - Requires the Florida Prepaid College Board to implement specified provisions regarding use of program funds for Florida’s prepaid plans.

- Tightens program accountability requirements:
  - Clarifies a scholarship funding organization’s (SFO) duty to review and prioritize applications. Requires SFOs to notify participants of ability to request a new or revised matrix of services and document each student’s eligibility before granting a program scholarship. Revises requirements for SFO payment transfer systems.
  - Authorizes a SFO administrative fee of 3% of the amount of each award, subject to conditions. Prohibits a SFO from charging an application fee. Prohibits administrative expenses and fees from being deducted from a student’s scholarship award.
  - Simplifies parent compliance statement and removes duplicate auditing requirements.

Status: Signed into law on January 21, 2016.

Comments: From FloridaPolitics (January 21, 2016)
A new program to help students with intellectual disabilities such as autism get into college or other postsecondary schools will be coordinated through a new center to be developed at the University of Central Florida.
The center startup money for such college programs and a scholarship program for such students was authorized by Senate Bill 672, a special project for Senate President Andy Gardiner, an Orlando Republican.

Sponsored by Niceville Republican Sen. Don Gaetz, the bill was one of the three priority measures that flew through the Florida Legislature and got Gov. Rick Scott’s signature Thursday. Gardiner and his wife Camille have an 11-year-old son, Andrew, with Down syndrome, and Gardiner has been working on bills related to disabled students for most of his career.

The bill also renames a state education scholarship program for students as young as 3, as the Gardiner Scholarship Program. It also expands that program, previously known as the Florida Personal Learning Scholarship Account Program.

The postsecondary education initiative creates a whole new level. It provides development money and scholarships for postsecondary programs that serve students with Down syndrome, autism, and other disabilities, and creates a clearinghouse to coordinate them. Consequently, Gardiner was at the Florida Board of Governors’ meeting at Florida State University Thursday to tout the bill shortly before it was signed. The bill, he said, “is important not just to me but to individuals all over the state of Florida that have unique abilities.”

The bill designates UCF to develop a clearinghouse center to approve and coordinate programs at other universities and colleges, public and private, and as a resource center for students and parents to learn about postsecondary education programs. “We have all these great programs all over the state, whether it’s FIU, most recently UCF, but we don’t have one location that can coordinate and bring it all together,” Gardiner said. “We’re going to create the program, the Florida Center for Students with Unique Abilities, at the University of Central Florida to serve as a coordinating office for all the locations around the state.”

The bill appropriates a total of $95.3 million in general revenue funds for 2016-17. Of that, $73.3 million is allocated for the Gardiner scholarship program (up from $55 million this year, The Florida Center for Students with Unique Abilities gets $8 million, including $1.5 million for the center itself, $3 million for startup and enhancement grants, and $3.5 million for scholarships.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary:
This bill requires a postsecondary educational institution that enrolls students who receive state financial aid to annually provide each student with certain information concerning the student's education loans. It provides that an eligible institution does not incur liability for any information provided to students.

Status: Signed into law on April 15, 2015.

Comments: From the Indianapolis Star (June 2, 2015)

Students going back to college this fall will be greeted by more than just new classes and textbooks.

They'll be getting more information about their student loans as well — all in the name of helping students make better decisions about their debt.

Under a law that takes effect July 1, colleges and universities will be required to provide students with specific information about their educational loans. The information will include:

- Loan totals: An estimate of the total amount of education loans the student has taken out.
- Total payoff amount: An estimate of the potential total amount the student will owe.
- Monthly repayment amounts: An estimate of the monthly repayment amounts that a "similarly situated borrower" might encounter, including principal and interest.
- Percent of borrowing limit reached: An estimate of how much more the student could borrow.

House Bill 1042, authored by Rep. Casey Cox, R-Fort Wayne, isn't expected to cost too much for universities to implement, but advocates say it could make a big difference for students and their financial situations.

"I am still paying my student loans from law school," Cox said.

He's not alone. Americans are saddled with some $1.3 trillion in student loan debt. And Cox worries that student debt could be the cause of the nation's next financial disaster.

In Indiana, students are graduating from four-year institutions with an average debt of $27,886. The state is 13th highest in the nation and tied with Illinois in the average loan debt for students.

The new state law aims to help students make decisions that will keep those numbers down.

It's modeled after a similar program at Indiana University's Bloomington campus, where higher education officials say federal Stafford Loan disbursements have dropped 11 percent, or $31 million, in the nine months since it was implemented.
"If students see the impact their loans will have, it may persuade them to make more payments," said Stephanie Wilson, communications director for the Indiana Commission for Higher Education.

The commission plans to provide colleges with a template letter for students; however HB 1042 does not require the commission to draft or monitor the annual letters. Beginning next year, participation in the program will be part of the standard agreement that institutions sign to be eligible for state financial aid.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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    ( ) next SSL mtg.  ( ) next SSL cycle
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Comments/Note to staff
Summary:
- This law will allow the Connecticut Department of Banking to exercise additional oversight and regulatory authority over every aspect of the student loan process by requiring the licensing of student loan servicers.
- Student loan servicers are intimately involved in the administrative actions surrounding student loans, including the repayment process. Oversight of businesses and individuals who provide these services to lenders will further protect Connecticut citizens from unfair lending and collection practices.

This act requires the banking commissioner, within available appropriations, to create the position of “student loan borrower ombudsman” in the Banking Department to provide timely assistance to “student loan borrowers” (borrowers). It establishes the ombudsman's duties and requires him or her, in consultation with the commissioner and within available appropriations, to implement and maintain a prescribed student loan borrower education course.

It also establishes a separate non-lapsing account in the Banking Fund, called the student loan ombudsman account, to be funded by student loan servicers' licensing and investigation fees and any other money required by law. The act requires the commissioner to use money in the account for the ombudsman position and the education course.

The act establishes licensure requirements and standards of conduct for student loan servicers. It exempts banks, credit unions, and certain of their subsidiaries from the servicer licensure requirements. The commissioner (1) must adopt regulations implementing the servicer provisions and (2) may conduct investigations and examinations and take enforcement action against violators.

The commissioner must also report annually, starting by January 1, 2016, to the Banking and Higher Education and Employment Advancement committees on, among other things, the implementation of the ombudsman position and the licensing and oversight of student loan servicers.

Status: Signed into law on July 2, 2015.

Comments: From WNTH (July 17, 2014)
Connecticut has become the first state to create a Student Loan Bill of Rights in an effort to help reduce the burden of debt most students acquire once they graduate.

Governor Malloy signed the bill into law on July 2nd, establishing an Office of Student Loan Ombudsman, which will regulate student loan servicers, and educate students and their parents through the loan process.
According to a 2013 study by the Project on Student Debt, Connecticut was recorded to have graduates with the sixth highest debt-load in the nation. Students were graduating with a debt average of about $30,191.

State Representative Matthew Lesser expressed the urgency of this bill for Connecticut’s students.

President Obama and Connecticut’s congressional delegation have called for strong action at the federal level to make student loans more affordable. Unfortunately, Congress has done nothing. With 64 percent of our state’s college students graduating with debt, Connecticut cannot afford to wait.”

The legislation will require student loan servicers to register with the Department of Banking and the Office of Student Loan Ombudsman. This way, any complaints filed by students against the loan servicers and their universities can be resolved more easily.

The program will also compile data in order to develop a student borrower education course. This aspect of the law will allow students to improve their financial literacy, making the loan process more understandable and manageable.

Representative Roberta Willis describes his confidence in the new law: “I am very pleased the Governor has signed our landmark student loan bill into law. As House Chair of the Higher Education and Employment Advancement Committee, I am confident that this now new law will help students and their parents refinance their loans at public or private colleges and universities, but equally important, it will make a college education easier to achieve for students.”

According to Senator Gary Winfield, student loans have grown to be the largest portion of household debt, second to mortgages. This legislation will help families manage debt, while allowing higher education to be more affordable and more accessible for Connecticut families.

From MarketWatch (January 10, 2016):
It’s not uncommon for student loan borrowers to have gripes about the often complicated process of paying back their loan.

A well-documented trail of complaints from borrowers, consumer advocates and government reports indicates that dealing with a student loan servicer — a borrowers’ main point of contact during the repayment process — can be challenging.

The situation is so challenging that even a banking regulator has struggled to figure it out. Bruce Adams, the general counsel for Connecticut’s department of banking, recounted his exasperation in dealing with a servicer over his wife’s student loans in a recent interview. After multiple calls to the company where he heard different answers to the same question, Adams, 43, had finally had enough.
“I expressed my frustration and said ‘I am a financial lawyer and I understand the words that you’re using. I don’t understand what you’re telling me,’” he said. “If it doesn’t make sense to me, how is it going to make sense to anyone who is not in this field?”

Adams told a version of this story to a room of lawmakers last year during a hearing on legislation to address the challenges facing student loan borrowers in the state. His story was pretty convincing, according to Democratic state representative Matt Lesser, who as co-chair of the banking committee in the Connecticut general assembly spearheaded the legislative effort.

“To hear the General Counsel for the state department of banking say ‘this is so infuriating, this is so complicated, I can’t figure it out,’ I think we all recognize that the average citizen in the state doesn’t stand a chance,” said Lesser, 32, sitting next to Adams at a conference table in the Connecticut Assembly’s legislative office building.

Connecticut’s student loan bill of rights, which was signed into law by the state’s Democratic governor, Daniel Malloy, last September, aims to level the playing field.

In a nationwide report released Thursday, Generation Progress, the youth-focused arm of the Center for American Progress, a left-leaning think tank, noted that Connecticut is the first state to pass a student loan bill of rights with an ombudsman, the servicer licensing requirement and other consumer protections for borrowers. The report highlighted Connecticut’s efforts as one of the ways states can take action on the student debt crisis without waiting for the federal government. Other states are attacking the student loan crisis in different ways, the report noted, including, working to help borrowers refinance their loans at lower interest rates, holding for-profit colleges accountable and reversing laws that penalized student loan borrowers behind on their payments by taking away their driver’s or professional license.

But Connecticut’s approach to the problem is one of the most comprehensive of any state, said Maggie Thompson, the campaign manager of CAP initiative Higher Ed, Not Debt and one of the authors of the report. Connecticut’s legislation includes three main components: The creation of a borrower education and information course so families can have a better sense of their obligations before they take on a loan, an ombudsman — paid for by fees levied on servicers — to help track and field complaints about the loan repayment process, and a requirement that servicers handling Connecticut borrowers’ loans be licensed by the state’s banking department to ensure they live up to basic consumer protections.

With that step, Connecticut is going further than the federal government and other states across the country in regulating servicers, the companies that often play the biggest role in a student loan borrower’s experience.

“States don’t want to wait for Washington, they want to get ahead of the problem,” Rohit Chopra, the former student loan ombudsman at the CFPB and a senior fellow at CAP, said in an interview.
Student loan servicing industry needs reform, advocates say
Consumer advocates have argued for years that the student loan servicing industry is in need of reform. They cite troubling practices they say are keeping borrowers from paying back their loans. In a September report from the CFPB, borrowers complained that servicers failed to post payments on time or applied payments to the interest of loans instead of to the principal, allowing additional interest to accrue.

Servicers also aren’t providing borrowers with enough information about their best options for repayment, consumer advocates say. Federal student loan borrowers have a variety of protections and payment plans to choose from, which should make it nearly impossible for a borrower to default. And yet, one in four student loan borrowers is in default or struggling to repay their loan, according to the CFPB. Servicers may be in part to blame — as borrowers’ main point of contact during the repayment process they’re not doing enough to help borrowers find the repayment plans that are right for them, advocates say.

“If you think about the role of the servicer, that is the face of the loan to the borrower,” Adams said. “Now if you stick in an intermediary and that company is not regulated, you’re just creating so much risk to the borrower.”

There isn’t a national standard regulating the student loan servicing industry yet. The CFPB, the Department of Education and the Department of Treasury issued a joint statement of principles in September laying out guidelines for how servicers should operate, indicating federal rules may be forthcoming. But Connecticut created its own in the meantime and other states could be poised to do the same in their coming legislative sessions.

“You are seeing more states looking at legislative options to enhance protections for borrowers and police the industry,” Chopra said. “The CFPB has indicated interest in doing rule making, but many states want to move at a much faster pace.”

So far, Connecticut is leading the charge on these efforts, but Lesser said he’s heard from lawmakers in other states interested in introducing similar legislation. In addition to the Bill of Rights, Lesser worked with his colleagues on the higher education committee to lower interest rates on state-sponsored student loans and to create a vehicle to allow borrowers to refinance their debt at lower interest rates, a step other states and localities are taking as well.

Lesser and his colleagues announcing the interest rate cut on state-sponsored student loans. Chopra said he’s not surprised state legislators are eager to address student loan debt, given that they’re often the first to hear about financial issues from their constituents. He noted that politicians at the local level were some of the first to sound the alarm on the predatory mortgage lending that contributed to the financial crisis.

How Connecticut created its student loan bill of rights
And indeed, the idea for the student loan bill of rights bubbled up from a coalition of advocacy groups led by Subira Gordon, a legislative analyst in the state’s department of African-American affairs. Gordon, 31, said they heard from struggling borrowers who didn’t know enough about their options when they first took on their loans or were grappling with servicers and in need of help. “There’s no one in this equation that’s looking out for the consumer,” Gordon said.
Gordon and Lesser hammered out a wish list of legislative fixes to help deal with the issues Gordon was seeing and the two worked with Adams to figure out which ones were feasible. Tackling Connecticut student loan borrowers’ challenges from a financial regulation perspective, instead of simply a higher education policy perspective, was important, Lesser said, because student debt both creates personal financial challenges for borrowers and has consequences for the economy more broadly.

In fact, the idea to regulate student loan servicers came in part from the state’s experience regulating mortgage servicers, who policy makers and consumer advocates say engaged in many of the same practices in the lead up to the financial crisis.

“One of the critical changes we had to make is to think about the student debt crisis as something that’s a systemic problem for the financial sector of the economy,” Lesser said.

**Does the Bill of Rights go far enough?**
The student loan bill of rights is a valiant effort at helping Connecticut borrowers better manage their debt, said Joshua Cohen, a Connecticut lawyer specializing in student loan issues. But he’s concerned they won’t be as effective as legislators hope. He’s confident the ombudsman and the licensing requirements will be effective at regulating servicers of private student loans, but he’s worried that the companies who service federal student loans will argue they won’t have to abide by the Connecticut statute because federal law pre-empts it. Cohen said he’s not sure that argument would hold up (the Dodd-Frank financial reform legislation passed in the wake of the financial crisis made it more difficult for federal government laws to pre-empt state laws regarding consumer protection), but he said it’s still a concern.

“Intent-wise it’s a good thing,” he said of the new laws. “But after reading the Connecticut statute, their new servicing license, I’m not really sure it’s going to do anything. I applaud the effort and let’s see it run its course.”

Even Lesser wonders how much of a dent the legislation will make in curbing certain predatory practices that leave borrowers in crippling debt. He recently heard from a constituent who was lured by a for-profit college in West Virginia into taking on roughly $100,000 worth of debt to earn an online degree “that’s completely worthless in the state,” he said.

The Connecticut’s package of laws doesn’t directly address that borrower’s problem. “We’ve started to take some steps in the right direction but there’s still a lot more work to be done,” said Gordon.

Still, Lesser, Gordon and Adams are hopeful the bill of rights will help Connecticut borrowers avoid being devastated by student debt and that it may inspire other states to better regulate the student loan industry. The stakes are high, if borrowers don’t find better ways to manage the $1.3 trillion in student loan debt, the consequences could be severe for the U.S. economy, Adams said.
“If you want to look at the worst case scenario, look at what happened with mortgage backed securities,” he said, referring to the predatory home loans that were packaged into investment vehicles which dropped precipitously in value when borrowers started to default on their mortgages — a major contributor to the financial crisis.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The measure creates the Oklahoma Private Student Loan Transparency and Improvement Act for the purpose of prohibiting a private education lender from the following acts:

- Offering or providing gifts to a cover education institution in exchange for any advantage or consideration for the lender;
- Using the name, emblem, mascot or logo associated with the covered education institution to market private education loans;
- Providing items of value to an employee of a covered education institution that serves on an advisory board, commission or group established by the private lender; and
- Imposing a fee for early repayment or prepayment.

Lastly, the measure requires a private education lender to disclose certain information to the borrower throughout the application process and establishes the timeline for accepting a loan and disbursement of funds.

Status: Signed into law on April 22, 2013.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Creates a mechanism for foster and homeless youth to lodge complaints if they feel their educational rights have been violated, including the right to stay at their school of origin, transfer partial credits to a new school and immediately enroll in a comprehensive school. Allows foster and homeless students to file a complaint under the California Department of Education's Uniform Complaint Procedure. Requires the state to inform foster and homeless youth every year of their ability to file a complaint, as well as identify a district contact person responsible for taking the complaints.

Status: Signed into law on October 11, 2015.

Comments: From the Mercury News (October 13, 2015)
Foster and homeless youth will have a new way to fight for their educational rights under a bill signed into law on Sunday by Gov. Jerry Brown.

Effective January 1, Assembly Bill 379 will offer up a mechanism for foster and homeless youth, who often are forced to move, to lodge complaints if they feel their educational rights have been violated. Among them are the right to stay at their school of origin, transfer partial credits to a new school and immediately enroll in a comprehensive school, according to a statement by Assemblyman Rich Gordon, D-Los Altos, who sponsored the bill. Unfortunately, these rights have been routinely ignored for over a decade, he added.

Under the new law, foster and homeless students can file a complaint under the California Department of Education's Uniform Complaint Procedure.

In addition, the law requires the state to inform foster and homeless youth every year of their ability to file a complaint, as well as identify a district contact person responsible for taking the complaints.

Disposition of Entry:
SSL Committee Meeting: 2017 B  
( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
( ) next SSL mtg.  ( ) next SSL cycle  
( ) Reject

Comments/Note to staff
Summary:
This bill requires all public school employees to receive 90 minutes of training each year on suicide prevention. The bill also requires all public schools to establish a suicide prevention committee. Furthermore, the bill requires local education agencies to create a suicide prevention policy. It also allows teachers to anonymously report concerns about students.

Status: Signed into law on June 8, 2015.

Comments: From Delaware Public Media (June 8, 2015)
Governor Jack Markell signed new teen suicide prevention legislation into law Monday at Gunning Bedford Middle School in New Castle.

House Bill 90 - sponsored by House Majority leader Valerie Longhurst (D-Bear) mandates that Delaware public school teachers complete 90 minutes of training on the signs of suicide. It also requires schools to establish a suicide prevention committee and local education agencies to create a suicide prevention policy.

Health and Social Services Secretary Rita Landgraf says the issue of teen suicide in the First State is particularly urgent after a rash of deaths in 2012 in Kent and Sussex Counties.

That prompted a Centers for Disease Control and Prevention investigation which found kids in those counties had limited access to afterschool activities, a lack of mental health resources at their disposal, and that the adults and peers in their lives had a general lack of understanding around mental illness.

Landgraf says this new law - with its focus on training the adults in kids’ lives - will help change that.

Cyndi McLaughlin lost her son, Jeremy, to suicide in 2001 when he was fifteen. McLaughlin says things might have ended differently if a teacher had felt empowered to report their concern that Jeremy was struggling with mental illness.

"I would have preferred someone said to me, 'Hey, this is what I saw, you might want to check into this,' rather than not report because they were afraid they might offend somebody by saying they thought my son had signs of mental illness," she said.

The new legislation allows teachers to anonymously report concerns about students.

McLaughlin added that it can be hard for parents to see warning signs, and that teachers often spend more time with children at school than families do at home.

House Majority Leader Valerie Longhurst, who sponsored the measure, said it focuses on teachers for precisely that reason.
"They’re the ones who are around the children and know what’s going on in their lives. And if we can only teach them how to look for the signs of teen suicide, then maybe we can prevent one child from committing suicide," she said.

The bill goes into effect later this month.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary: From the *Southern Illinoisan* (August 6, 2015)
Provides that all institutions of higher learning shall, at or near the time that an incoming student enrolls at the institution of higher learning, provide that student the opportunity to pre-authorize in writing the disclosure of certain private mental health information to a designated person. Provides that all institutions of higher learning shall prepare a form for the purpose of such pre-authorization. Provides that all institutions of higher learning shall create a policy and supporting procedures (rather than just a policy) to ensure that every new student is given the opportunity to complete and submit the authorization form if he or she so desires.

Provides that an institution of higher learning may disclose a student's mental information if a physician, clinical psychologist, or qualified examiner makes a determination that the student poses a clear danger to himself, herself, or others to protect the student or other person against a clear, imminent risk of serious physical or mental injury or disease or death being inflicted upon the person or by the student on himself, herself, or another.

Status: Signed into law on August 5, 2015.

Comments:
Illinois has a new law on the books allowing mental health information of college students to be shared with parents. In legislation signed Wednesday by Gov. Bruce Rauner, colleges and universities would only share information with a student's permission and if students were found to be a danger to themselves or others.

State Sen. Dave Koehler, D-Peoria, introduced the proposal after a Bartonville family lost their college-aged son to suicide last year. He said the state laws had prevented the student's college from telling the parents of their son's problems.

Under the plan, students will fill out a form upon enrolling at an institution to designate what mental health information can be released and to whom. The law says mental health information can be released only to the designated person if a qualified health examiner has decided the student is a clear danger to themselves or others.

Disposition of Entry:
SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
     ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This Act implements the legislative recommendations of the IEP Improvement Task Force created by the 147th General Assembly. The recommendations it implements are to:

- Provide more detailed and helpful information to parents about their rights and resources in the IEP process;
- Solicit the input of parents and children regarding the IEP process before IEP meetings occur;
- Provide advance notice to parents and children of documents that will be discussed at IEP meetings;
- Require the facilitation of parent councils to provide peer support for the parents of students with disabilities;
- Ensure that teachers, staff, and contract employees do not suffer retaliation for offering their candid opinions during the IEP process;
- Ensure that employment planning during the IEP process is consistent with Delaware’s employment first policy;
- Require a robust annual survey of parents and children to ensure that school districts and charter schools are adhering to state and federal law with respect to the IEP process.
- Ensure that charter schools are attentive to their responsibilities and available resources with respect to students with disabilities.
- Require that the Department of Education report to the General Assembly on the status of and possible alternatives to the IEP Plus computer system, which has been an impediment to the preparation of IEPs by teachers, staff, and contractors.

SA 3 made a number of changes to better implement the recommendations of the Individualized Education Program (IEP) Improvement Task Force. It added new emphasis to the law requiring that notices to parents must be in writing. It clarified that charter schools and school districts have similar obligations in educating students with disabilities and that charter schools have an ongoing obligation to have a designated staff person trained in the legal requirements of educating students with disabilities. It provided clearer protections to those advocating for students with disabilities by adding the protections existing under Delaware’s whistleblower laws. Finally, it added a specific task force recommendation that progress on transition-related goals be regularly reported.

Status: Signed into law on June 18, 2015.

Comments: From NewsWorks (February 2, 2015)
A bill introduced Monday would demystify the process Delaware students go through to receive special education services, according to its sponsors.

The bill comes less than a week after the introduction of a separate measure intended to expand special education offerings in the state.
Monday's legislation promises to make the IEP process easier to navigate for parents while making sure schools and districts play by the rules. For special needs students, an IEP--short for Individualized Education Program--determines what services the state must provide him or her.

"This legislation will improve the ability of parents and students to have input and assert themselves in the IEP process," said Attorney General Matt Denn in a statement. Denn served on the legislative task force whose recommendations led to the new bill.

The bill's sponsors include Senators Nicole Poore, D-Bear, and David Lawson, R-Marydel, and Representatives Debra Heffernan, D-Bellefonte, Joseph Miro, R-Pike Creek, and Deborah Hudson, R-Fairthorne.

States receiving federal money through the Individuals with Disabilities Education Act must provide a "free appropriate education" for students with special needs. There are various stipulations that attempt to define what constitutes a "free appropriate education." Monday's bill does not seek to further clarify the standards Delaware must meet, but instead looks at the way in which the state determines who qualifies for what services.

The legislation will, according to a release, create parent councils to support those going through the IEP process, protect teachers who offer candid assessments of their students' abilities, and ask for regular input from parents and students about the effectiveness of the IEP process. The bill's sponsors also singled out charter schools, saying their measure will make charters "more attentive to their responsibilities" when it comes to students with special needs.

The recent flurry of legislation comes less than a year after the U.S. Department of Education called out Delaware and two other states for coming up short on special education.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Exercise of Religious Beliefs by Student Organizations

Kansas

Bill/Act: SB 175

Summary:
SB 175 enacts law prohibiting a postsecondary educational institution from taking any action or enforcing any policy that would deny a religious student association any benefit available to any other student association or discriminate against a religious student association related to such benefits, due to the association’s requirement that leaders or members of the association adhere to or comply with the association’s sincerely held religious beliefs, comply with the association’s sincere religious standards of conduct, or be committed to furthering the association’s religious missions.

The bill creates a cause of action for a student or religious student association aggrieved by a violation of this provision. The aggrieved party may seek appropriate relief, including monetary damages. An aggrieved party also may assert such violation as a defense or counterclaim in a civil or administrative proceeding brought against the aggrieved party.

The bill defines “benefit,” “postsecondary educational institution,” “student,” and “religious student association.”


Comments: Wichita Eagle (March 15, 2016)
A bill that would allow campus religious groups to exclude members who do not adhere to the group’s beliefs could soon be headed to the governor’s desk. The bill would prevent the state’s universities from taking any action against student religious groups that restrict membership.

The Kansas House approved SB 175 by an initial vote of 80-39 Tuesday despite advice from the Kansas Board of Regents that the bill could jeopardize eligibility for federal financial aid because it would “require universities to recognize and fund student organizations that discriminate against protected classes” including on the basis of gender as forbidden by federal statute Title IX.

The bill will go up for a final vote Wednesday. It passed the Kansas Senate last year and would head straight to the governor’s desk if it gains final passage.

Supporters say the bill aims only at protecting campus faith groups’ freedom to exercise their religious beliefs, but opponents say it would allow for widespread discrimination at publicly funded universities.

The bill is a reaction to controversies in the state of California surrounding an Evangelical Christian group’s loss of recognition on California State University campuses for its refusal to adopt an “all comers” policy.

The bill forbids universities from taking any action against campus religious groups that require their leaders or members to adhere to the organization’s “sincerely held religious beliefs” or
comply with its “sincere religious standards of conduct.” It also gives student groups the ability to sue universities in court if the schools fail to follow these rules.

Democrats and a handful of moderate Republicans argued that these provisions could be abused to enable discrimination on the basis of sexual orientation, race, gender and for a number of other reasons.

“People died to end discrimination, and this bill legalizes it again,” said Rep. Diana Dierks, R-Salina.

Rep. Brandon Whipple, D-Wichita, offered a series of amendments that would have explicitly barred campus religious groups from using the legislation to discriminate, but all of them were voted down.

Rep. Joseph Scapa, R-Wichita, mocked opponents of the bill, such as the American Civil Liberties Union and National Organization of Women, as “liberal secular organizations.” Scapa said that if a Catholic or Jewish student group wants to make sure it is led by a member of that faith, “that’s common sense.”

Kansas State University’s office of general counsel wrote last year that the bill would protect a “religious student organization adhering to a religious belief that people of one race were inferior to the people of another race” and make universities vulnerable to lawsuits from such groups. Student governments of the University of Kansas, Kansas State University and Wichita State University have voiced opposition to the bill in the past.

House Speaker Ray Merrick, R-Stilwell, had halted the bill from advancing to the floor last session, saying at the time that lawmakers needed to focus on the state’s budget shortfall instead. The decision to revive it this year caught some of its opponents by surprise.

“Bigotry wrapped in religion is still bigotry,” said Tom Witt, executive director of Equality Kansas, a gay rights organization, rebutting claims from supporters that the bill is designed to prevent discrimination of religious groups.

“What they did today is they perverted the entire notion of non-discrimination by saying that taxpayer- and student-funded groups can discriminate against the very students who are paying for those groups. And they called that protection from discrimination,” Witt said. “This is a perversion of the entire concept of non-discrimination.”

The Kansas Catholic Conference supports the bill and disputes that it would lead to a loss of federal funding.

“The premise of the bill is simple,” executive director Michael Schuttloffel said in a statement.

“The Baptist Student Union should not be forced to have an atheist president by hostile university administrators. No student religious group should be forced to have leaders who reject
the group’s faith, but that is precisely what is happening in other states and we don’t want it to happen in Kansas.”

Rep. Chuck Weber, R-Wichita, the newest member of the Wichita delegation, speaking on the House floor for the first time, argued the bill would protect “the great silent majority out there of men and women who experience a same-sex attraction.”

Weber said lawmakers shouldn’t impose a choice on these individuals and argued that the bill would protect them from pressure from both sides.

“Men and women who experience a same-sex attraction are torn in our culture. They are pressured to either join in the gay agenda, whatever that may entail, or they are driven to isolation,” Weber said when asked to clarify his remarks. “And what I’m saying is there is a great number of men and women who experience a same-sex attraction who would like to work it out. And what the bill would do on campuses is allow them to do that without pressure one way or another.”

Weber said that a person struggling with this issue might seek out a chastity group to learn “that sexual relations are reserved for men and women in marriage” and that “without this bill there’s the potential that someone could come in and say, ‘that’s not what I believe.’ So people coming to understand what chastity’s all about, they wouldn’t be able to have the freedom to understand that point of view.”

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
House Bill 1358 is designed to strengthen the state’s regulatory oversight of gathering pipelines for produced water and crude oil. The bill includes enhancements for the prevention and detection of pipeline leaks and expands the state’s remediation and restoration program for land and water resources impacted by oil and gas development.

House Bill 1358 authorizes the North Dakota Industrial Commission to develop new rules involving the construction and operation of gathering pipelines. The bill includes $1.5 million to complete a study regarding construction standards and monitoring systems for gathering lines, which will guide the Industrial Commission’s consideration of new administrative rules. The study, to begin July 1, 2015, will be conducted by the University of North Dakota’s Energy and Environmental Research Center.

The bill also expands the state’s commitment to reclaim and restore land and water resources impacted by oil and gas development. With the governor’s signature today, an additional $1.5 million in state funding is available to reclaim private and public land and water resources adversely impacted by oil and gas development prior to Aug. 1, 1983.

Other pipeline safety enhancements in House Bill 1358 include:
- Operators of gathering pipelines are required to submit the results of independent pipeline inspections.
- Pipeline operators are required to provide the Industrial Commission with engineering specifications and drawings for all gathering pipelines.
- Pipeline operators must develop a plan for pipeline monitoring and leak detection.

Status: Signed into law on April 21, 2015.

Comments: From UPI (April 21, 2015)
New pipeline rules in North Dakota will give the oil-rich state stronger safeguards against leaks and improve remediation, Gov. Jack Dalrymple said.

Dalrymple signed a state bill into law that strengthens the state's regulatory oversight on pipelines for crude oil and so-called produced water.

"This legislation builds on our ongoing work to enhance pipeline safety in North Dakota," the governor said in a statement Monday. "With this bill's passage, North Dakota will require significantly more from pipeline builders and operators."

The governor in early April secured assistance from the federal Pipeline and Hazardous Materials Safety Administration to help fund university research in pipeline safety.
North Dakota is the No. 2 oil producer in the nation. The rate of growth in the state's Bakken shale reserve basin is more than existing pipeline infrastructure can handle, forcing many in the industry to turn to rail as an alternate transit method.

Dalrymple in March said rail traffic may drop off once new pipeline infrastructure comes online. Three pipelines -- Sandpiper, Dakota Access and Upland -- should be in service by 2018 and provide 895,000 barrels per day in new capacity.

North Dakota has experienced a series of minor leaks from its pipeline network since rising as a major oil producer.

North Dakota House Bill 1358 would strengthen oversight on pipeline leak detection and expand remediation measures in the event of a spill. It includes $1.5 million for university research into construction standards and monitoring systems.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Defers consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The legislation requires the Illinois Commerce Commission (ICC) to send notices to landowners in the proposed right-of-way of a transmission line. After the ICC approves a project, the utility company would have to notify landowners between three and 15 days before starting survey work or land use studies, allowing landowners to be aware and present during the activity.

In provisions concerning utilities seeking to construct high-voltage electric service lines, provides that for applications filed after the effective date of the amendatory Act, the Illinois Commerce Commission shall by registered mail notify each owner of record of land included in the right of way over which the utility seeks in its application to construct a high-voltage electric line. In provisions concerning the second notice that must be sent to owners of record undergoing land surveys or land use studies, provides that utilities may inform the property owner by telephone, electronic mail, or registered mail at least 3 days, but not more than 15 days of the date when land surveys and land use studies will first begin.

Status: Signed into law on August 18, 2015.

Comments: From the Illinois Business Journal (March 2016)
Last year, McCarter supported legislation that helps protect landowners in the path of a transmission line. Senate Bill 1726, which took effect last summer, requires the ICC to notify the landowners in the path of a proposed transmission line by registered mail.

“This law makes sure the correct landowners are notified ahead of time so that they can seek appropriate legal counsel,” said McCarter. “It also requires the transmission line company to notify the landowner when a land survey is conducted on a person’s property after the ICC certificate is issued.

Disposition of Entry:
SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The bill increases the criteria for the Site Evaluation Committee to consider when approving pipelines. It is in the public interest for the site evaluation committee to establish criteria or standards governing the siting of high pressure gas pipelines in order to ensure that the potential benefits of such systems are appropriately considered and unreasonable adverse effects avoided through a comprehensive, transparent, and predictable process. When establishing any criteria, standard, or rule for a high pressure gas pipeline or when specifying the type of information that a high pressure gas pipeline applicant shall provide to the committee for its decision-making, the committee shall rely upon the best available evidence.

1. Requires rules to be adopted governing the siting of high pressure gas pipelines and provides guidelines for such rules. The rules shall address the following:
   a. Impacts to natural, scenic, recreational, visual, and cultural resources.
   b. Health and safety impacts, including but not limited to, proximity to high pressure gas pipelines that could be mitigated by appropriate setbacks from any high pressure gas pipeline.
   c. Project-related sound and vibration impact assessment prepared in accordance with professional standards by an expert in the field.
   d. Impacts to the environment, air and water quality, plants, animals, and natural communities.
   e. Site fire protection plan requirements.
   f. Best practical measures to ensure quality construction that minimizes safety issues.
   g. Best practical measures to avoid, minimize, or mitigate adverse effects.
   h. Criteria to maintain property owners’ ability to use and enjoy their property.

2. Requires the site evaluation committee to consider intervention in Federal Energy Regulatory Commission proceedings involving siting of high pressure gas pipelines.

3. Allows terms and conditions contained to a certificate of site and facility to include the authority to require bonding.

Status: Signed into law on July 20, 2015.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
AB 405 creates exemptions from certain state taxes and certain state and local license, permit, and registration requirements for out-of-state businesses and out-of-state employees that perform work to repair or service infrastructure in Wisconsin that has been damaged in connection with a state of emergency declared by the Governor.

This bill provides that a business or employee that is not a state resident is exempt from certain licensing and other requirements for work performed in this state during a state of emergency declared by the governor. If a proper notice concerning the disaster relief work is given, such an out-of-state business or employee is exempt from all of the following with respect to the work:

1. Any applicable state or local government fee.
2. Any applicable state income, franchise, or withholding tax.
3. Any applicable state or local government license, certificate, registration, permit, or other credential or approval.
4. The use tax imposed on tangible personal property and services purchased outside of this state and brought into this state for disaster relief work.

The exemptions apply during a “disaster relief period” that begins 10 days before the start of a state of emergency and ends 60 days after the state of emergency ends. Under prior law, unchanged by the Act, a state of emergency may not last more than 60 days, unless extended by joint resolution of the Legislature.

Status: Signed into law on November 11, 2015.

AB 405 will help clear the way for emergency utility workers (utility employees from another state who will temporarily work in Wisconsin) to help Wisconsin citizens get critical infrastructure back online and get our lives and businesses back to normal as quickly as possible. When Gov. Walker signs this bill into law, Wisconsin will join 21 other states from around the country who have passed similar legislation.

AB 405 creates an exemption from income, sales and use taxes for “volunteer workers” helping in the state and creates an exemption to state or local fees, licenses, certificates, registration and permitting requirements that would otherwise be applicable to the emergency work. AB 405 will only go into effect when the Wisconsin governor declares a state of emergency or within 10 days before or 60 days after the declared state of emergency. If Wisconsin needed more than 60 days, the legislature may extend that period. AB 405 is for infrastructure work only. This bill will not benefit commercial or personal work that needs to be completed. By extending this opportunity only to infrastructure services, the state will not enable or benefit “storm chasers.”
Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
This act requires a producer of primary batteries to implement, on or before January 1, 2016, a plan to collect primary batteries for recycling or other approved disposition. If a producer fails to implement an Agency of Natural Resources (ANR)-approved stewardship plan on or before January 1, 2016, the producer and retailers shall be prohibited from selling the producer’s primary batteries in the State, except that a retailer may sell inventory acquired before January 1, 2016 or before expiration or revocation of a plan. The act allows a primary battery stewardship organization to assume the responsibilities, obligations, and liabilities of multiple primary battery producers if the organization does not create unreasonable barriers to participation and maintains a website listing all producers and brands covered by the organization’s approved plan. The act requires a primary battery producer or primary battery stewardship organization to report to ANR annually regarding implementation of an approved stewardship plan and to have the plan audited after five years of implementation to determine effectiveness. In addition, the act requires a primary battery producer or stewardship organization to pay an annual fee of $15,000.00 for operation under an approved stewardship plan.

A primary battery stewardship plan submitted by a producer or a stewardship organization must meet specified requirements. The plan must provide free collection of primary batteries from any person. A collection facility shall allow for collection of up to 100 batteries per consumer visit. All municipalities, all retailers that sell primary batteries, and all certified solid waste management facilities shall be allowed to opt to be a collection facility under a plan. At a minimum, a stewardship plan shall provide no fewer than two collection facilities in each county, and each collection facility shall provide for collection throughout the year. The stewardship plan shall include an education and outreach program regarding the availability and location of collection of primary batteries. The plan shall also include a reimbursement procedure and a collection rate performance goal for primary batteries subject to the plan. An approved stewardship plan shall have a term not to exceed five years.

The act also authorizes primary battery producers or stewardship organizations to seek reimbursement from other primary battery producers, rechargeable battery steward, or stewardship organizations for the costs of collecting batteries of those producers. The act establishes a reimbursement process, including the authority for a producer subject to a reimbursement request to request an independent audit of the requested reimbursement amount. If the audit indicates that the requested costs are reasonable, the producer subject to the request must pay the requested amount and the audit costs. If the audit indicates that the requested costs are unreasonable, the producer submitting the request pays the audit costs and is responsible for paying the requested reimbursement amount. The act authorizes a primary battery producer, a rechargeable battery steward, or a stewardship organization to bring a private cause of action against a producer, steward, or stewardship organization who fails to respond to a reimbursement request.

The act requires ANR to approve or deny a collection plan submitted by a primary battery producer or stewardship organization. ANR may also require amendment of a stewardship plan.
ANR shall post all stewardship plans on the Agency website for 30 days, and ANR shall establish a public input process for approval of a new or amended collection plan. The act requires ANR to approve or deny a registration of a stewardship organization. ANR shall maintain a website that includes a copy of all approved stewardship plans and lists all approved primary battery producers and the approved producer’s brands.

**Status:** Signed into law on May 22, 2014.

**Comments:** *E-Scrap News* (May 14, 2014).

Vermont has become the first state in the country to require producers to foot the bill, at least in theory, for the collection and recycling of alkaline batteries.

Despite industry opposition, the bill gained the approval of Vermont legislators May 9 and now awaits Gov. Peter Shumlin's signature before it becomes law.

Under House Bill 695, battery manufacturers, including Energizer, Panasonic and Rayovac, are mandated to coordinate collection and recycling of alkaline, or single-use, batteries in the Green Mountain State. Consumers will most likely see a slight hike in battery costs to offset anticipated expenses in rolling out and maintaining the program.

To ensure the program runs smoothly, producers will be tasked with creating a nonprofit group to oversee and manage efforts.

Jennifer Holliday, chairperson for the Vermont Product Stewardship Council and president of the board at Product Stewardship Institute (PSI), says the idea behind the original bill was to "take the path of least resistance."

Early on, that path drew support from the industry's three-company stewardship group, the Corporation for Battery Recycling (CBR), which strongly supported requiring producers of products containing batteries – toy makers, for instance – to also chip in on forming and funding the stewardship program.

When the bill's language was eventually revised to define producers as solely battery makers, however, CBR balked at the measure and lobbied unsuccessfully for its defeat.

"Our goal was to have a bill that was fair and we didn't think it was too big of a lift for the device makers to help out," Marc Boolish, director of technology at CBR-member Energizer, told *E-Scrap News*.

As it stands, the law will be reviewed a year after its 2016 launch to "assess how much of an issue this is and how to fix it, if this is an issue," Holliday said. Holliday added that the amount of batteries entering the market in products is "not huge, but probably not insignificant" and battery makers "will be dealing with some orphan waste" until a change is made to the law. Both Holliday and Boolish stated the battery industry and the state intend to work together in the future.
"We are really excited to have this law, but we're also fully anticipating to work with the battery industry and address any potential issues in the future," Holliday said.

Boolean added the bill "gets us to almost what we consider a level playing field and we plan on being engaged with the state of Vermont going forward to work with them and even to fix the problems." One of the biggest victories of the legislation, Boolean noted, was getting all battery makers on board, including Rayovac, which had left CBR shortly after its founding.

While no strict collection goals have been set, producers will be required to provide at least two collection locations in each of Vermont's 14 counties.

Going forward, Energizer and CBR's two other members – Panasonic and Duracell – will work to promote stewardship laws in states throughout the country, Boolean said. Rechargeable batteries, currently collected by the industry's Call2Recycle, could also be included in model legislation and that topic will be raised at this June's meeting held by PSI.

Scott Cassel, PSI's CEO, said the Vermont bill "is a step forward," but he said he hopes the June meeting will provide stakeholders with an opportunity to "come up with a refined model that can be implemented across the U.S. … with the input and concurrence of both single-use and rechargeable battery industries."

Cassel noted the topic of producers of battery-containing devices will also be discussed in shaping the model framework.

Read More: http://resource-recycling.com/node/4887

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
SB 1049 (Act 189) prohibits the approval of an electronic device manufacturer's recycling plan if the plan only provides electronic device owners with a mail-back option. The bill's aim is to make it more convenient for people to recycle their electronic devices.

Prohibits the approval of an electronic device manufacturer’s recycling plan that provides only a mail-back option for the collection, transportation, and recycling of a manufacturer’s covered electronic device. Authorizes the approval of an electronic device manufacturer’s recycling plan if a manufacturer of exclusively mobile covered electronic devices whose products are voluntarily accepted at no charge by at least fifty retail locations in the State submits a recycling plan that documents these locations.

Status: Signed into law on July 1, 2015.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
      ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
To amend the Vital Records Act of 1981 to require the Registrar to issue a new certificate of birth designating a new gender for any individual who provides a written request and a signed statement from a licensed healthcare provider that the individual has undergone a gender transition, and to require that an original certificate of birth be sealed when a new certificate of birth is issued; to repeal section 16-2502 of the District of Columbia Official Code to remove the publication notification requirement for a name change; and to amend section 16-2503 of the District of Columbia Official Code to authorize the Superior Court of the District of Columbia to issue decrees of gender or name change in specific circumstances.

Status: Signed into law on August 6, 2013.

Comments: Office of Councilmember Charles Allen
At the public hearing, the Committee received testimony that powerfully conveyed the need to update the District’s decades-old birth certificate law. A birth certificate preserves for posterity much of who we are – our basic identity, including our name, age, gender, and nationality. But for those among us whose birth certificate’s gender designation does not correspond with their identity, the birth certificate can be another vehicle for discrimination and victimization – outing transgender individuals while denying their identity and the basic right to have legal recognition of who they are. Before the JaParker Deoni Jones Birth Certificate Equality Amendment Act, a transgender resident who wished to change the gender designation on his or her birth certificate was required by law to comply with a number of burdensome and expensive steps. Those steps included undergoing surgery, obtaining a court order, and – if a name change was involved – announcing it through publication. Even after all those steps, the individual was issued an amended birth certificate, which was clearly marked as “amended” – alerting anyone who looks at it that a gender change has occurred. Bill 20-142 modernizes the law and stops birth certificates from being vehicles for discrimination. Specifically, the bill removes the surgery requirement; requires an administrative process through the Vital Records Registrar; requires the Registrar to provide a new – rather than an amended – birth certificate, thereby preserving the individual’s privacy; requires that original documents be held under seal; and removes the publication requirement for a name change. The bill also allows D.C. residents who were born elsewhere to petition the Superior Court for a legal order of gender change to support a name change in their birth jurisdiction. These changes reflect a step toward eliminating discrimination of transgender residents.

From The Washington Blade (July 11, 2013)
The D.C. Council on Wednesday gave final approval to a bill that supporters say will modernize and remove unnecessary hurdles in the process for transgender people to obtain a new birth certificate to reflect their gender.

The bill, which was written by Council member David Catania (I-At-Large), is called the JaParker Deoni Jones Birth Certificate Equality Amendment Act of 2013 in honor of the
transgender woman who was murdered in February 2012 while waiting for a bus in Northeast D.C.

“Today the Washington, D.C. City Council modernized the policy making it clearer and easier for transgender people to change the gender on their birth certificate,” the National Center for Transgender Equality said in a statement.

The birth certificate measure received support from at least two national groups – the National Center for Transgender Equality and the National Gay and Lesbian Task Force – which said the legislation would set a precedent for passing similar bills in other jurisdictions.

Among other things, the birth certificate bill repeals an existing city law that prevents transgender people from changing their birth certificate unless they undergo gender reassignment surgery. Transgender advocates and officials with the city’s Department of Health told a Council committee hearing earlier this year that gender reassignment surgery presents an unnecessary burden for many transgender people who can’t afford it or for whom it may not be medically safe.

Other experts testifying before a joint hearing of the Council’s Committee on Health and Committee on the Judiciary and Public Safety said for many transgender people, surgery isn’t necessary for them to transition to another gender.

The bill also eliminates what supporters said was an unnecessary and burdensome requirement that transgender people seeking to change their name to reflect their gender announce the change in a paid advertisement in a newspaper or other publication.

The legislation’s key provision changes the D.C. Vital Records Act of 1981 to require the city’s registrar to issue a new birth certificate designating a new gender for “any individual who provides a written request and a signed statement from a licensed healthcare provider that the individual has undergone a gender transition,” according to a statement released by the Committee on Health.


Issue Summary:
In recent years, several states have changed their laws to make it easier for transgendered people to update their legal records, including birth certificates, to reflect their gender identity.

Twelve states and the District of Columbia have removed the requirement that gender reassignment surgery must occur before amending a birth certificate (California, Connecticut, Hawaii, Iowa, Maryland, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Washington, and the District of Columbia). In most cases, the laws now require a physician statement that the individual has received appropriate clinical treatment for transition. Of these states, only Rhode Island issues an amended certificate that shows the amendment. The
others either issue a new certificate or an amended certificate that does not display the amendment.

The District of Columbia issues an amended birth certificate that does not show the amendment, while Hawaii issues a new certificate.

Other states continue to require proof of surgery in the form of a letter from a surgeon indicating that gender reassignment surgery has been completed. They also may require a court order for amending gender. In these states, gender-amended certificates showing that gender was amended are often issued instead of new certificates.

Idaho, Ohio, and Tennessee are the only three states that strictly prohibit gender amendments on birth certificates.

Illinois is currently considering a bill (HB 6073) that would eliminate the surgical requirement for a gender to be amended on a birth certificate. A similar bill failed in Colorado (HB 1185).

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a sex designation change. The law eliminates the requirement that someone must first undergo gender reassignment surgery before making the change.

Status: Signed into law on July 14, 2015.

Comments: From the Associated Press (July 13, 2015)
Gov. David Ige signed a bill Monday that will allow transgender men and women in Hawaii to more easily change the gender on their birth certificate.

The new law eliminates the requirement that someone must undergo gender reassignment surgery before officially making the switch.

"I know that this has been a tough issue," Ige said. "As all of you know, the birth certificate is one of those foundation documents."

Many in the transgender community can't afford or don't want to undergo costly surgeries. But having a birth certificate that reflects their gender expression is critical for school transcripts, job applications, health insurance and many other aspects of life, advocates said.

"With this new law, it's life-changing," said Tia Thompson, 30, of Honolulu, who was denied a birth certificate that reflects her female gender identity. "Words cannot express what's going on."

Thompson delayed applying for college because she wanted to apply as a woman, and she needs her birth certificate to indicate she's female, she said. Her goal is to play volleyball on a women's team.

"This is going to have a great impact on the university," said Camaron Miyamoto, coordinator at the Lesbian Gay Bisexual Transgender Student Services Office at the University of Hawaii at Manoa. He has said one student who transitioned from male to female was denied financial aid because she had not signed up for Selective Service, which is a requirement for men when they turn 18.

"There's a lot of students that ask, 'Why do they need to know?'" Miyamoto said.

But a birth certificate is a historical record, and allowing people to change it could affect couples contemplating a marriage or officiants performing the ceremony, opponents said. More than a dozen lawmakers voted against the bill, and some feared the state could end up issuing false documents that could help criminals skirt the law.

At least six other states have made similar changes to their birth certificate laws. Hawaii's law went into effect immediately.
"This is going to open doors to a lot of transgender rights," Thompson said. "We still have a long way to go, it's not over. This is one step."

**Disposition of Entry:**

SSL Committee Meeting: 2017 B  
( ) Include in Volume  
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( ) Defer consideration:  
  ( ) next SSL mtg.  ( ) next SSL cycle  
( ) Reject  

Comments/Note to staff
Committee note: Deferred due to questions regarding the final disposition of the bill.

**Summary:** This Act will allow any Delaware jurisdiction with a long-term residential vacancy rate above 3%, including a county, to form a land bank, where such jurisdiction determines that a land bank would help it address the problem of vacant and abandoned real property within its jurisdiction.

A land bank is a non-profit organization created by a political subdivision of the State, or through an intergovernmental agreement between two or more political subdivisions of the State, and would serve as the repository for vacant, abandoned and tax-delinquent properties that, left unaddressed, can contribute to crime, depress the local real estate market, and deplete the tax base of Delaware’s communities.

A land bank would have the authority to obtain such properties at sheriff’s sales instituted by the jurisdiction that established the land bank, where such properties have been abandoned by their owners because of unpaid property taxes or substantial liens arising from property code violations. The land bank would have the ability to do one or more of the following: (1) purchase liens from the local jurisdiction; or (2) acquire properties at a sheriff’s sale on credit from the local jurisdiction.

The land bank would retain the acquired properties until such time as a suitable and vetted buyer could be found who would be able to return the property to productive use. Funding for land banks created under this Act would come from governmental and private grants, private investments and property sale proceeds. Additionally, any land bank created under this Act could, at the election of the local jurisdiction, be funded through the allocation to the land bank of 50% of the real property taxes on the property for a 5 year period once the property returns to productive use or such other funding sources established by the local jurisdiction.

Through this Act, jurisdictions throughout Delaware would have the ability to alleviate the blight caused by vacant, abandoned and tax delinquent properties in the area, and revitalize communities by turning vacant spaces into vibrant places.

**Status:** Signed into law on August 11, 2015.

**Comments:** Delaware Public Media (August 11, 2015)

Delaware municipalities and counties will soon be able to operate their own land banks under new legislation signed today

One of the final bills passed in a marathon session that stretched into the early morning of July 1st, the law will allow those jurisdictions to buy and sell property if the long-term vacancy rate is over three percent.

The goal, state lawmakers say, is to take over and rehabilitate blighted areas.
“It’s incredibly important that we have the resources to come in and make significant changes and those significant changes are really going to turn neighborhoods in terms of crime, blight and we’ve got good, good people living in these neighborhood and they need help,” said Rep. Bryon Short (D-Brandywine Hundred), one of the sponsors of the bill.

Land banks will be funded through government grants and private investments.

Another sponsor, Sen. Bryan Townsend (D-Newark), says he thinks programs should be able to have a discernable effect within 12 to 18 months.

“I think that there could be rehabilitation prior to that, but this isn’t the kind of situation where the first house or the second house will magically change everything,” said Townsend. “It’s going to take time and make sure that everything is done in a coordinated way.”

The initiative had significant pushback when it was first introduced until lawmakers amended out provisions allowing land banks to have preferential bidding powers and the ability to buy multiple parcels in one action.

Wilmington City Council members are drafting an ordinance to create their own land bank in the near future.

The law takes effect in mid-September.

*Urban Land (Urban Institute)* (January 23, 2015).

From 1971 to 2008, only five states passed legislation enabling land banks; but in the last six years, another eight have done so. As vacancies and blight have plagued parts of the United States still recovering from recession and the mortgage foreclosure crisis, so too has land banking grown. There are now some 120 land banks and land-banking programs, with West Virginia joining the list in 2014.

“Many communities—large and small, urban and rural, from the Rust Belt to the Sun Belt—are facing a scale of vacancy and abandonment never seen before,” according to a new Center for Community Progress (CPC) report, *Take It to the Bank: How Land Banks Are Strengthening America’s Neighborhoods.*

“Problem properties,” says the report, “destabilize neighborhoods, attract crime, create fire and safety hazards, drive down property values, [and] drain local tax dollars,” apart from the human cost.

Land banks, often through state legislation, are generally granted special powers to overcome many of the legal and financial barriers—clouded titles, years of back taxes, and costly repairs—that might discourage responsible, private investment in neglected properties. Land banks aim to turn these properties from neighborhood liabilities into assets by transferring them to responsible ownership.
State attorneys general have started to recognize that “land banks can be a critical tool to deal with the mortgage foreclosure crisis,” points out CPC vice president Kim Graziani. The attorney generals in New York, Ohio, Illinois, and Michigan have given land banks some foreclosure settlement dollars to acquire problem properties.

New York Attorney General Eric Schneider, for example, awarded competitive grants worth $33 million to land banks for the demolition or rehabilitation of blighted structures. In Illinois, Attorney General Lisa Madigan awarded $70 million for community revitalization and housing counseling, including support for land banking and reuse efforts.

The Evolution of U.S. Land Banking
Frank Alexander, a cofounder of CPC and and author of Land Banks and Land Banking, has identified three generations of land banks, each generation characterized by more sophisticated reforms and enhanced powers. The first generation (St. Louis, Cleveland, Louisville, and Atlanta) shared a common catalyst—lack of market access to tax-delinquent properties—and all four amassed inventories consisting largely of discarded properties as a result of difficulties in the tax foreclosure process.

The second generation of land banks (Ohio and Michigan) recognized a need to move beyond a custodial role for problem properties to become more proactive partners in their transformation. Now the third generation of land-bank legislation has drawn upon the lessons of the first two, enabling land banks to operate on a multijurisdictional and regional level, develop self-financing mechanisms, and be linked to the tax foreclosure process.

Part of this third wave, the Cuyahoga County Land Bank in Cleveland, Ohio, founded in 2009, took root in one of the epicenters of the mortgage foreclosure crisis. Ohio’s 22 land banks have benefited from the state’s model legislation, which reformed the tax foreclosure process, granted the power to extinguish all public liens, and created a substantial source of funding.

The Cuyahoga Land Bank focuses on tax foreclosures, but it has become more selective, making strategic decisions on which tax-delinquent properties to acquire. CPC’s report lauds the information management platform and data-driven process the land bank uses to identify and manage eligible property.

Most properties are demolished with what the report indicates is remarkable efficiency, involving eight full-time staff, 90 contractors, and a big dose of technology. In 2013, the land bank tore down 851 properties. In fact, the land bank has developed a demolition guidebook it sells for $1,000 to other practitioners.

The land bank’s funding includes a unique and reliable source known as the Delinquent Tax and Assessment Collection (DTAC). County treasurers are authorized to redirect to land banks the excess penalties and interest generated by collection of delinquent taxes. Cuyahoga County allocates $7 million a year from DTAC to the land bank. This funding stream also provides debt service repayment should Ohio land banks float bonds or borrow.
The Cuyahoga Land Bank has developed a number of creative housing programs to promote affordable housing, homeownership, and preservation. Several of its homeownership programs are targeted at certain populations: owner-occupants, veterans, college graduates, and refugees. Graziani notes that land banks work in rural areas as well as urban and suburban locales. Three of the seven land banks the CPC report highlights are in rural or semirural counties. Graziani says although problem properties in rural areas may be on a smaller scale and more dispersed than in cities, they “can have a tremendous impact.”

An example of an older, less urban market taking a regional approach is the Macon–Bibb County Land Bank Authority, founded in 1996 and operating in a consolidated city county in Georgia. Though smaller in scale (an inventory of 96 properties, three full-time employees, and revenues of $404,000 in 2013), the land bank has worked to maximize its impact in neighborhood revitalization, affordable housing, and historic preservation. It has done so through a project-driven, neighborhood approach that leverages the talents and resources of nonprofit, private, and government partners. Recognizing it can’t do everything to restore a distressed neighborhood, the land bank concentrates on areas where it can leverage investments by its partners.

Its funding also is project based and comes from multiple sources. Over the years, the Macon Land Bank has secured funds from the U.S. Department of Housing and Urban Development (HUD); a community development block grant; HUD’s Neighborhood Stabilization Program; Habitat for Humanity; a local special purpose sales tax; and philanthropies. Local support includes $100,000 each from the city of Macon and Bibb County and additional funds from several city and county agencies.

Job Done or More to Come?
It is hard to say whether the number of land banks will continue to increase in the near term. It may take another economic downturn to spur additional action. A land bank is needed, says Graziani, when local government lacks the capacity, interest, and tools to acquire and dispose of such properties; in other words, she says, communities where the systems of tax collection and enforcement, housing and building code enforcement, and planning and community development are broken and disconnected.


Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Requires the examiner of drivers to accept a sworn statement from a victim services organization, an attorney, a member of the clergy, correctional institution staff, a medical or health professional, or a verification letter from a homeless service provider as documentary evidence of a homeless person's address. Requires the Director of Transportation's rules to direct the examiner of drivers to waive all fees for original or renewal identification cards for homeless individuals upon verification of homeless status. Establishes a working group to develop a plan to enable homeless individuals in the State to obtain necessary documentary evidence.

Status: Signed into law on May 8, 2015.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
A concurrent resolution urging Congress to propose the Regulation Freedom amendment to the United States Constitution to require Congress to approve certain federal regulations.

The Regulation Freedom amendment: “Whenever one quarter of the Members of the U.S. House or the U.S. Senate transmit to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House and Senate to adopt that regulation.”

Status: Filed with Secretary of State on April 7, 2015.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
House Bill No. 1441 provides that if a convention of the states is called pursuant to Article V of the United States Constitution, the Legislative Assembly or an official designated by the Legislative Assembly shall certify each delegate and alternate delegate from this state to the convention. The bill requires that each delegate execute an oath affirming that the delegate will not vote to allow consideration of, or vote to approve, any unauthorized amendment proposed for ratification to the United States Constitution. The bill also provides the definition of an "unauthorized amendment" and requires the Legislative Assembly to provide guidance to delegates upon request as to whether a proposed amendment is within the permitted subject matter of the convention.

Status: Signed into law on April 9, 2015.

Comments:
The measure would prevent a so-called “runaway convention” in which convention delegates stray from the topic authorized by their state legislatures. The bill prohibits delegates from considering or approving any amendments not previously authorized by the legislature.

Disposition of Entry:
SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Senate Bill 1432 requires that, in the event of a constitutional convention, the General Assembly would adopt a resolution and provide instructions to the delegates and alternates regarding the rules of procedure and any other instructions relating to the convention. The delegates would then be required to obey those limits or face immediate removal and a Class E felony offense for knowingly or intentionally voting outside the scope of the instructions.

Under Article V of the United States Constitution, if the legislatures of two-thirds of the states make application for such, Congress will call a convention for the purpose of proposing amendments to the U.S. Constitution. This bill establishes certain requirements in regard to delegates to an Article V convention.

Under this bill, an individual must satisfy the following requirements to be elected as a delegate or as an alternate delegate to an Article V convention:

1. The individual must be a resident of this state for at least one full year immediately prior to the election;
2. The individual must be a registered voter in this state;
3. The individual must be at least 18 years of age; and
4. The individual must not be registered or required to be registered as a lobbyist under state or federal law and an individual may not be elected as a delegate or as an alternate delegate if the individual holds an elected or appointed federal office.

Whenever an Article V convention is called, the general assembly must by joint resolution determine:

1. The method for which delegates will be elected;
2. The number of delegates allocated to represent Tennessee; and
3. An equal number of alternate delegates; under rules adopted jointly by the house of representatives and the senate.

Unless established otherwise by the rules and procedures of an Article V convention, it will be assumed that Tennessee has two delegates and two alternate delegates designated to represent Tennessee. If the general assembly is not in session during the time during which delegates to an Article V convention must be elected, the governor will call the general assembly into special session for the purpose of determining the method to elect delegates and alternate delegates.

An alternate delegate will act in the place of the alternate delegate's paired delegate when the alternate delegate's paired delegate is absent from the Article V convention or will replace the alternate delegate's paired delegate if the alternate delegate's paired delegate vacates the office. The general assembly could recall and replace a delegate by joint resolution at any time.
Under this bill, at the time delegates and alternate delegates are elected, the general assembly must adopt a joint resolution to provide instructions to the delegates and alternate delegates regarding the rules of procedure and any other matter relating to the Article V convention that the general assembly considers necessary. A delegate or alternate delegate will be subject to recall, such delegate's vote will be void, and such delegate will be subject to punishment for a Class E felony, if the delegate votes or attempts to vote outside the scope of:

1. The instructions established by the joint resolution described above; or
2. The limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

Also, under the circumstances described above in (1) and (2), the application of the general assembly to call an Article V convention for proposing amendments to the Constitution of the United States will cease to be a continuing application and will be treated as having no effect.

A delegate or an alternate delegate will not receive compensation, but will be eligible for reimbursement for expenses and mileage. Each delegate and alternate delegate, after election and before the delegate or alternate delegate may exercise any function as delegate or alternate delegate, must execute an oath in writing that the delegate or alternate delegate will:

1. Support the Constitution of the United States and the Constitution of Tennessee;
2. Faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the general assembly and as may be amended by the general assembly at any time; and
3. Otherwise faithfully discharge the duties of delegate or alternate delegate.

Status: Signed into law on May 22, 2014.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Duties of Article V convention delegates. Describes the duties of delegates and alternate delegates to a convention called under Article V of the Constitution of the United States. Provides that a vote cast by a delegate or an alternate delegate that is outside the scope of the instructions given by the general assembly is void. Provides that a delegate or alternate delegate who votes or attempts to vote outside the scope of the instructions given by the general assembly forfeits the delegate's appointment by virtue of that vote or attempt to vote. Provides that the call by the general assembly for an Article V convention is withdrawn if all delegates and alternate delegates vote or attempt to vote outside the scope of the instructions given by the general assembly. Provides that a delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of the instructions commits a Class D felony. Establishes an advisory group to evaluate whether a delegate or an alternate delegate has acted outside the scope of instructions.

Status: Signed into law on May 13, 2013.

Comments: From the Evansville Courier and Press (February 26, 2013)
Senate President Pro Tem David Long said he hopes legislation passed by his chamber Tuesday calling for a national constitutional convention will be a model for other states.

Senate President Pro Tem David Long, R-Fort Wayne, spoke Tuesday for his resolution that calls for a national constitutional convention to try to protect states' rights. The Senate passed the resolution and it now moves to the House. Two-thirds of states would need to pass similar measures to make the convention happen.

Senate Joint Resolution 18 would petition the U.S. Congress to call a constitutional convention, which is permissible under Article V of the Constitution. The convention would aim to limit the commerce and taxing powers of Congress.

It requires at least two-thirds of state legislatures to be on the same page for a convention to be called.

To date, there has never been a federal constitutional convention, although there have been numerous attempts each year by various states that have sought to cover topics from national defense to national spending.

Senate Minority Leader Tim Lanane, D-Anderson, said that there has been over 700 applications to call a constitutional convention, none of which have come to fruition.

"I do get concerned when we talk about state's rights," Lanane said. "I just think that it's a little bit of a dangerous road to go down at this time."
But proponents of the effort say that the convention is necessary because the federal government has overstepped its bounds. They cite the U.S. Supreme Court's ruling in favor of the federal health care law as an example of states' rights being violated.

But Sen. Mike Delph, R-Carmel, said he's concerned about a constitutional convention.

After giving an impassioned speech about the importance of the Constitution and states' rights, Delph said he was not voting for the resolution because he said the whole system is broken.

"It doesn't matter what the (U.S.) Constitution says if we don't follow it," Delph said.

The joint resolution passed 32-18.

SRJ 18 comes paired with two companion bills. Senate Bill 225 would set the requirements of a delegate to the convention, which include being a registered voter and resident of Indiana and not holding federal office or being a registered lobbyist. Democrats were not satisfied with the bill because it didn't require the General Assembly to pick bipartisan delegates.


SB 225 passed 38-12.

Senate Bill 224 would prevent what some senators called a "runaway convention."

The bill would set strict guidelines governing the delegates to the constitutional convention. A delegate would be charged with a Class D felony for voting contrary to the Indiana General Assembly's wishes. Delegates would also be paired with an alternate delegate that would take over if the original delegate were to go against legislative intent.

"We really have tried to box delegates in so they can't go rogue," Long said.

SB 224 passed 39-11.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Defer consideration:
    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
06-37B-07 Collection of Early Voting Ballots       Arizona
Bill/Act: **HB 2023**

**Summary:**
Stipulates eligibility for collection of early ballots and makes it a class 6 felony for an ineligible person to knowingly collect early ballots from another person. Exempts each of the following:
- (a) Election officials, United States Postal Service workers or another person authorized to carry United States mail engaged in official duties;
- (b) Elections held by special taxing districts formed to provide services to agricultural lands or crops;
- (c) A caregiver who provides medical or health care assistance to the voter;
- (d) A family member who is related to the voter by blood, marriage, adoption or legal guardianship; or
- (e) A member of the household who resides at the same residence as the voter.

**Status:** Signed into law on March 9, 2016.

**Comments:** From the *Arizona Capitol Times* (March 9, 2016)
Saying it will maintain election integrity, Gov. Doug Ducey on Wednesday signed legislation to make felons out of those who collect the ballots of others to bring them to the polls.

HB2023, which takes effect later this year, will allow judges to impose a presumptive one-year prison term and potential $150,000 fine for the current practice by civic and political groups of going out to see if people remembered to return the early ballots they had requested by mail.

Ducey’s signature came just hours after the measure gained final Senate approval on a party-line vote. And it came moments after state Republican Party Chairman issued a statement saying the change “restores the public’s respect for a process that had potentially dangerous implications and provided too much opportunity for fraud and tampering with an election.”

The governor’s own prepared comment echoed that sentiment.

“This bill ensures a secure chain of custody between the voter and the ballot box,” Ducey said. “We join 18 other states in this common-sense approach to maintaining the integrity of our elections.”

The partisan nature of the measure did not go unnoticed and uncommented.

Sen. Steve Farley, D-Tucson, said there has never been a documented case of anyone actually picking up someone else’s ballot and then failing to deliver it. “The problem we’re solving is that one party is better at collecting ballots than the other one,” he said. “The other one tried and they failed,” Farley continued. “And, therefore, it’s time to change the rules.”

The legislation is based on claims of fraud — or at least potential fraud.
“A lot of shenanigans happen down in my neck of the woods,” said Sen. Don Shooter, R-Yuma, referring to the area south of his home city.

Shooter said he got another email just Wednesday, ahead of the vote on this bill, from someone claiming to have evidence and witnesses of fraud.

“I’ve been told the way they do it is they collect the ballots early, they put them in a microwave with a bowl of water, steam them open, take the ballots,” he explained.

“If they like the way it’s voted they put them back in,” Shooter continued. “If they don’t like the way it’s voted, they lose that ballot.”

Sen. Martin Quezada, D-Phoenix, questioned Shooter about what happened.

“We did in fact report it to law enforcement,” Shooter responded.

“They reported it to the secretary of state’s office,” he continued, resulting in an inquiry more than a month later. “Nothing really happened other than the fact that they did a press release, I think, or something to that effect.”

That lack of any actual evidence also came up when the measure was first debated in the House. But here, too, it was brushed aside, with Rep. J.D. Mesnard, R-Chandler, saying it is irrelevant whether this is fraud or not.

“What is indisputable is that many people believe it’s happening,” he said in voting for the measure. “And I think that matters.”

That’s also the assessment of Tim Sifert, spokesman for the state GOP.

“It’s about the potential for fraud creating a lack of trust in the system,” he said. “And it’s not a good idea to simply ‘trust’ people handling thousands of ballots without credentials, oversight, identification.”

Republicans showed no interest in a proposal by Quezada to deal with at least part of the reason for ballot harvesting: the current requirement that ballots be received by election officials no later than 7 p.m. on Election Day.

Quezada said many people agree to give their ballots to others when they suddenly realize it’s too late to put them in the mail. He proposed changing the system to allow any ballot to be counted as long as it is postmarked by Election Day.

It was rejected.

The GOP majority also rebuffed a bid by Sen. Andrew Sherwood, D-Tempe, to reduce the penalty to a misdemeanor.
There are some exceptions to the penalties in HB 2023. They would not apply to family members, those living in the same household or certain caregivers who provide assistance to voters in various institutions.

Final Senate approval came over objections of Sen. Lynne Pancrazi, D-Yuma. She said that some rural residents of her district — including the area Shooter said was rife with “shenanigans,” don’t get home delivery of their mail.

Pancrazi that means having to go to the post office both to get the early ballot they requested as well as to return it. She said those who harvest ballots — something Pancrazi admitted she herself has done — are performing a public service.

That got no sympathy from Sen. Sylvia Allen, R-Snowflake.

“Are you concerned about going door to door to be reminded to send in their house payment, their electricity payment, their car payments, or remember the birthday of their grandmother they might be mailing a letter?” Allen said. “I don’t think so.”

But Sherwood said there’s one big difference: If someone forgets to drop a bill in the mail there’s always the alternative of paying online. He said there is no such option for voting.

This isn’t the first time the Republican-controlled Legislature has attempted to outlaw ballot harvesting.

Similar language was included in a 2013 measure making comprehensive changes in state election laws, though the penalty at that time was only a misdemeanor.

In that case foes got enough signatures to put the legislation on hold until voters could get the last word at the next general election in 2014. So lawmakers agreed to repeal the measure themselves ahead of that election rather than risk what would happen at the polls.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Summary:
This Act reorganizes the provision of many forensic sciences into a new Division of Forensic Science organized within the Department of Safety and Homeland Security. The proposed new Division of Forensic Science would consist of the operations previously organized in the Office of the Chief Medical Examiner within the Department of Health and Social Services.

The bill:
- Replaces the existing Medical Examiner’s office with a new Division of Forensic Science, and move the operation from the Dept. of Health and Social Services to the Dept. of Safety and Homeland Security.
- Sets up a ten-member Commission on Forensic Science, made up of representatives of the criminal justice system, academics and the General Assembly. The commission’s mission would be to provide oversight and support to the new department. The commission is modeled on similar panels overseeing the state’s 800-megahertz emergency communications network and the state’s 9-1-1 system. It would be charged with tasks, including reviewing the division’s staffing and budget needs, quality assurance procedures, evidence-handling protocols and accreditation.
- The commission also would be called upon to ensure the office’s professional independence.
- Ends the requirement that the office be headed by a certified pathologist and allow the secretary to appoint a division director with experience in forensic science. That person would, like other division chiefs, be subject to dismissal.

Status: Signed into law on June 24, 2014.

Comments: From the News Journal (June 24, 2014)
Gov. Jack Markell on Tuesday signed into law a measure abolishing the Office of the Chief Medical Examiner and replacing it with a new crime testing division under law enforcement control.

"Forensic science is at the core of our work in the criminal justice system," Markell said in a statement. "This legislation will help us create a structure for forensic science that can support the criminal justice community in a way that is expert, timely, professionally independent, and accountable."

Tuesday’s action came despite opposition from national groups including trial lawyers and the National Association of Medical Examiners, whose president, in a letter to lawmakers, complained that the legislation creates a "structural conflict of interest" by giving Department of Safety and Homeland Security control of forensic crime testing.

Opponents contend crime labs should be independent of law enforcement and prosecutors.

The Homeland Security Department also oversees the Delaware State Police.
Administration officials pushed the measure after the discovery earlier this year that drug evidence had gone missing from the state's Controlled Substances Laboratory, or had been tampered with, jeopardizing thousands of drug prosecutions.

Sen. Robert Marshall, a Wilmington Democrat, sponsored the legislation. "Senate Bill 241 answers the question Delawareans have been asking since this February when the scandal at the Medical Examiner's Office was revealed: 'Who is in charge?" Marshall said in a written statement on Tuesday. "That answer is the new division and the new director."

Two lab employees have been arrested in the probe into the missing evidence, which started disappearing in 2010. Delaware's chief medical examiner, Richard T. Callery, remains under investigation for the potential misuse of state resources to operate a private business as a forensic expert in out-of-state cases. Callery remains on paid suspension.

Lewis Schiliro, the Homeland Security secretary, said the medical examiner's office was often left without oversight and a change was necessary. "We had a chief medical examiner who simply wasn't around," Schiliro said. "He was off conducting a separate business. We simply cannot allow a lack of oversight to continue."

The legislation creates a new forensic science division within Homeland Security, with its own division director.

An advisory panel would help oversee the division. The panel's members would include law enforcement officials, forensic science experts, a prosecutor, a public defender and heads of the state Health and Homeland Security departments.

Enactment of the bill is unlikely to soothe concerns of some in the national community.

Nationally known defense lawyer Mark Geragos, president of the National Trial Lawyers Association, told lawmakers in a letter this week that placing forensic testing of evidence under law enforcement control is inappropriate.

"Shifting control over this function to an arm of law enforcement would create a significant conflict of interest and cast serious doubt on the integrity of such evidence," Geragos wrote.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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    ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Every indigent person accused of a crime has the Constitutional right to effective, conflict-free counsel funded by the state. In Delaware, the Public Defender's Office and the Office of Conflict Counsel are charged with the responsibility of providing counsel for indigent people accused of crimes. The Public Defender's Office is a publicly funded law firm representing about 83% of all indigent defendants in Delaware. The Office of Conflicts Counsel is comprised of a group of lawyers who are independent contractors. They represent clients who cannot be represented by the Public Defender's Office due to a legally recognized conflict of interest.

This bill modernizes the business model of the Public Defender's Office and the Office of Conflicts Counsel by consolidating their administrative functions while not compromising the interests of any client. The non-case related functions of both the Public Defender's Office and the Office of Conflicts Counsel will be handled by a Central Administration, all beneath the umbrella of an Office of Defense Services. In particular, the changes implemented by this bill will enhance the quality of representation by the lawyers contracting with the Office of Conflicts Counsel in the areas of IT support, training, client intake, early contact with clients and bill payments. This bill will ensure that all indigent persons accused of crime will be well represented. In addition to the modernization of the business model for delivery of indigent defense services, this bill changes the term of future Chief Defenders from 6 to 8 years.

Status: Signed into law on May 28, 2015.

Comments: From the *News Journal* (April 7, 2015)
Senate lawmakers have passed legislation that would rename and restructure the Delaware Public Defender's Office to be more inclusive of private attorneys who are called on to represent defendants when the office has a conflict of interest.

The legislation also would change the term length for the governor-appointed public defender from six years to eight years.

The bill passed the Senate with 20 "yes" votes and one "no" vote last week. It is now headed to the House.

When two or more people are arrested and cannot afford to pay for representation, the Public Defender's Office, a publicly funded law firm with about 70 attorneys, can represent only one of them. The office hires private attorneys, or conflict counsel, to represent the others.

Conflict counsel is hired in about 17 percent of the office's 50,000 cases each year, according to Public Defender Brendan O'Neill.

The legislation, if passed, would restructure the Public Defender's Office to create more oversight for the state's 27 conflict attorneys.
The office, which would be renamed the Office of Defense Services, would be divided into three parts – the Public Defender's Office, Office of Conflict Counsel and Central Administration.

By doing this, conflict counsel would have access to IT support, training and human resources. Defendants would also be able to go through the office's normal intake process.

"We think it is a step forward," O'Neill said.

O'Neill added that the changes will not cost additional money.

At first, the legislation also was going to change the term of the public defender to 12 years, to match judges in the state. However, discussion in the Judiciary Committee led to an amendment to make the term eight years.

"Eight years achieves the intent of the expansion," said Democratic Sen. Bryan Townsend, the bill's primary sponsor. "Public defenders can make decisions about defendants with an eye toward justice and not an eye toward public sentiment."

The length of term increase will likely not apply to O'Neill, who has been the office's leader since 2009. He is up for reappointment in June, but the increase would not take effect until July.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Bill/Act: **SB 20**

**Summary:**

Senate Bill 20 amends the Government Code and Education Code to make comprehensive changes to state agency contracting, purchasing, and accounting procedures. Among other provisions, the bill requires the state auditor to audit the performance of Health and Human Services Commission contracts in excess of $100 million in annual value. The bill requires the comptroller of public accounts to conduct, in cooperation with the governor's budget and policy staff, a study examining the feasibility and practicality of consolidating state purchasing functions into fewer state agencies or one state agency. The bill provides for the retention of contract and related documents by state agencies and restricts former state officers and employees who participated in procurement or contract negotiations with a person during their employment from accepting employment with that person for two years.

With respect to state agency accounting procedures, Senate Bill 20 requires the Texas Department of Information Resources under the Information Resources Management Act and related provisions to post all contract solicitation documents to the centralized statewide accounting and payroll system. The bill also requires state agencies to report contract and purchasing information in the uniform manner required by the comptroller and authorizes a state agency in the legislative branch to elect to participate in the enterprise resource planning system.

With respect to the State Purchasing and General Services Act, Senate Bill 20 provides for verification of the use of a best value standard in state agency contracting and procurement and expands the circumstances under which a vendor may be barred from participating in state contracts. The bill also establishes additional requirements for the training, continuing education, and certification of state agency purchasing personnel and adds ethics training to the requirements. The bill requires state agencies to review vendor performance after certain contracts are completed or terminated and to report the results of the review to the comptroller. Additionally, the bill authorizes the Texas Facilities Commission to participate in, sponsor, or administer a cooperative purchasing agreement. The bill requires a state agency contracting to purchase an information technology commodity item to use the list of items available for purchase through the Department of Information Resources and prohibits a state agency from entering into a contract to purchase a commodity item if the value of the contract exceeds $1 million. The bill establishes additional contract requirements for the purchase of information technology items by a state agency.

With respect to state contracting standards and oversight, Senate Bill 20 establishes ethics, reporting, and approval requirements for certain Texas Department of Transportation and higher education contracts. The bill requires state employees and officials involved in procurement and contract management for such an agency to disclose to the agency any potential conflict of interest with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor. The bill prohibits an applicable state agency from entering into a contract for the purchase of goods or services with a private vendor with whom certain persons have a financial interest. The bill provides for required posting of certain contracts, enhances contract and performance monitoring, and establishes additional requirements applicable to
contracts with a value in excess of $1 million or $5 million. The bill requires each applicable state agency to develop and comply with a purchasing accountability and risk analysis procedure and requires such a state agency that becomes a participant in the centralized accounting and payroll systems to use the systems to identify and record each contract entered into by the agency. The bill authorizes the comptroller to assess fees for training contract managers, provides for the comptroller's rating of vendors, requires a state agency to use the vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking system, and requires the comptroller to make the vendor performance tracking system available to the public.

With respect to institutions of higher education, Senate Bill 20 conditions an institution of higher education's purchasing authority on compliance with standards established by the bill and requires the disclosure of sponsors of contracted research in any public communication based on the results of the sponsored research.

Status: Signed into law on June 4, 2015.

Comments: From Law360.com (June 1, 2015)
The Texas House of Representatives on Sunday sent to the governor a bill intended to reform state contracts and strengthen contract oversight across state government, after a recent $110 million no-bid contract scandal that led to the resignation of a top state health official.

If signed into law, S.B. 20 would require better reporting on contracts, and state agency officials to disclose conflicts of interest in the process, making it illegal to enter into a contract with a private vendor with whom any official has a financial interest.

Each state agency would be forced to post online a list of every contract, the authority under which any no-bid contract is entered into without compliance with competitive bidding procedures, and the requests for proposals related to competitively bid contracts until the contract expires or is completed, according to the bill.

S.B. 20, authored by State Sen. Jane Nelson, R-Flower Mound, passed the Senate unanimously on Saturday, and passed the House Sunday by a vote of 140-2.

"Texas citizens rely on state contracts to receive services they need, and we must ensure that those contracts are awarded fairly and transparently," Nelson said in a statement. "This legislation will protect taxpayer resources and make our agencies more transparent."

S.B. 20 is a direct response to a $110 million contract handed out to Austin-based data analytics company 21CT, for software to detect Medicaid fraud.

In November, questions were raised about the handling of a contract between 21CT and the Texas Health and Human Services Commission, after the Austin American-Statesman uncovered a business relationship between HHSC chief counsel Jack Stick and a former contract lobbyist for 21CT, according to the agency.
Further reporting uncovered that 21CT’s contract was subject to a cooperative contracts program that establishes agreements with vendors based on legally required terms and conditions. Such contracts allow an agency to purchase technology from a sole, prequalified vendor with no competitive bidding, the agency said. The contract 21CT secured was for Medicaid fraud detection software in the Office of Inspector General, where Stick previously worked before becoming general counsel.

But the no-bid contract raised eyebrows, thanks to the size of the original agreement and the much larger size of an extension last fall. The criticism grew worse when it was revealed that the Department of Family and Protective Services issued a $452,000 purchase order for 21CT’s services on a child protection analysis project in September, and that Stick referred the company to DFPS, the HHSC said.

The agency has since canceled the contract with 21CT after the company had received about $20 million, and the project will be competitively bid, according to reports. Stick reportedly resigned in December.

Since that time, Gov. Greg Abbott has made ethics reform a key part of his administration. It was not immediately clear on Monday whether he planned to sign the bill into law.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
House Bill 105 amends the Campaign Reporting Act and the Lobbyist Regulation Act to require electronic filing of contribution and expenditure reports. The bill requires the Secretary of State’s office to maintain the filing data in an open and structured format so that it may be easily searched by the public and to provide for cross-checking and compliance monitoring.

The bill also requires lobbyists to report each expenditure of $75 or more, unlike the current language which allows cumulative reporting. Additionally, the bill requires lobbyists to report whether contributions came from the lobbyist’s employer or from the lobbyist on the lobbyist’s own behalf.

Status: Signed into law on February 29, 2016.

Comments: New Mexico in Depth (February 17, 2016)
New Mexico's campaign finance reporting system would become more user-friendly and require more donor information under a bill headed to Gov. Susana Martinez's desk.

House Bill 105 would require the Secretary of State to revamp the current reporting system to make it more automated and to allow people to download data directly from the system.

The Senate approved the bill unanimously Wednesday afternoon. The governor supports the bill, her spokesman said.

Sen. Daniel Ivey-Soto, D-Albuquerque, said the revisions are in part a response to a KOB-TV investigation comparing campaign contributions made by lobbyists with reporting by lawmakers. "I think every single one of us is interested in transparency and disclosure," he said.

New Mexico In Depth reported last fall that the current system doesn't require details about contributions made by lobbyists, such as which of their clients actually wrote the checks.

HB105 would require lobbyists to report who wrote the check for a campaign contribution. Because those contributions are typically reported ahead of lawmaker reports, the measure would create a notification for legislators and allow them to automatically add the contributions to their reports.

It also would create a database of standardized names and information about frequent contributors. It would prevent lobbyists from reporting cumulative expenses, requiring detailed reporting for any expense of more than $75. And it would allow downloads of the data, which the office began offering to some extent in January.

But the measure doesn't give the Secretary of State's office any extra money to implement the system. The House stripped almost $1 million from the original bill because of budget difficulties the state faces.
Some lawmakers questioned if the system can be implemented with no extra money. “There’s going to be some creativity with how they implement that," Ivey-Soto said.

While Ivey-Soto repeatedly commended the KOB reports, Senate Minority Leader Stuart Ingle, R-Portales, criticized the reports. Ingle said the reports focused on reports filed by lawmakers when it was lobbyist reports that caused the conflicts.

"The story, as usual, comes out one way and the retraction comes out another, which is usually nothing," Ingle said. "Some of the things that were said were totally incorrect and totally wrong, and they caused a tremendous amount of work for some of our treasurers but there was no fault found. None at all."

From the New Mexico Political Report (February 1, 2016).
The House panel that deals with elections issues passed a bill that supporters say would modernize the campaign finance reporting system. The unanimous vote in the House, Government, Elections and Indian Affairs Committee came after months of media attention on scandals involving campaign finance, some of which was caused by a confusing and outdated system of campaign finance reporting.

Rep. James Smith, R-Sandia Park, said that with the current system “most of the information is reported in what’s called PDF format, which is a non-searchable report. We can’t follow the money very well, is how I would put it.” He said this bill came from work on how to make the process more transparent, which involved working with the Secretary of State’s office.

Kari Fresquez, the Chief Information Officer at the Secretary of State’s office, was there to support the legislation on behalf of the Secretary of State’s office and spoke often of “modernization.” “I really like this bill. I think it goes a long way towards supporting transparency and accountability,” Fresquez said. She says that in the current model, there has been “no inter-connectivity” between different sections of the current system making it “extremely arduous to try to track the money from one to another.”

This means it is difficult to compare spending by lobbyists against campaign finance spending or spending by PACs compared to candidates spending.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary: Establishes a process to integrate certain health data and other data from publicly supported programs for population health research.

Status: Signed into law on January 11, 2016

Comments: New Jersey Spotlight (November 2, 2015)
One of the myriad uses for the ever-increasing amount of data collected by state agencies is to demonstrate the close connection between health and social problems.

It’s no wonder, then, that some healthcare providers want to use portions of that data to devise strategies to address multiple problems, such as the link between homelessness, mental illness, and addiction. Ultimately, researchers could gain a better understanding of how to help these people with both their housing and their health problems.

But state laws and regulations create barriers to sharing these data across different government departments.

Now, a proposed bill seeks to reduce these barriers by creating a statewide Integrated Population Health Database, intended to improve health research while maintaining the privacy of residents. Supporters say that there have already been some projects that show the potential benefits of sharing data, and that establishing a permanent database would make such projects easier to complete in the future.

Influential legislators from both major parties, including Senate President Stephen Sweeney (D-Cumberland, Gloucester, and Salem), have embraced the proposal. The bill, S-3220, is sponsored by Sen. Joseph F. Vitale (D-Middlesex), Sen. Kevin J. O’Toole (R-Bergen, Essex, Morris, and Passaic), and Sweeney.

Vitale said he sees the bill as building on an earlier law he sponsored by that created a Medicaid Accountable Care Organization demonstration project. This initiative has led to three organizations based in Camden, Newark, and Trenton that are bringing healthcare providers together to coordinate healthcare for low-income residents.

Vitale said the new bill is “ACO 2” in that it has the potential to improve coordination of work between healthcare providers and social-service providers outside of the healthcare system. Combining health and other data in one place would allow researchers to help develop “a holistic approach that really takes into account all of the complex factors that really impact all patients,” he said.

The database would include information from the state Departments of Health, Human Services, Community Affairs, Corrections, and Agriculture, among other data sources. The bill would create a governing board for the database that would include the Secretary of State (currently Lieutenant Governor Kim Guadagno); the attorney general; the health and
human services commissioners; Rutgers University’s chief information officer; and four appointees of the governor. The director of the Rutgers Center for State Health Policy would serve as a nonvoting board member.

While the database would include information about specific people, it would have identifying information removed.

Those interested in accessing the data would have to apply to the board, through a process that the board would be required to develop. Advocates foresee researchers, policymakers, certified Medicaid ACOs, and community groups being among those who would be interested in analyzing the data.

Dr. Jeffrey Brenner, executive director of the Camden Coalition Healthcare Providers, is a driving force behind the bill, which draws on work done in 10 other states. The Good Care Collaborative, an alliance supported by the coalition that seeks to improve Medicaid, is building support for the legislation.

Currently, researchers must seek to create data-sharing projects on an individual basis, noted Brenner, the medical director for Cooper University Health Care’s Urban Health Institute. That requires approaching a state commissioner for each approval, which can require extensive legal and administrative work before a project can be launched, he said.

“If you’re connecting datasets from two different departments, that’s going to be a five-year project, because you’re going to just get clogged down in all the systems” without a framework like the proposed database, Brenner said.

The bill “creates the opportunity to connect Labor Department data, food stamp data, healthcare data, incarceration data to do some much, much smarter work,” Brenner said.

Brenner pointed to work that his coalition -- which is a certified Medicaid ACO -- has already done with the Camden County Police Department. By combining the local hospital data with records of residents’ “encounters” with police, the coalition was able to identify several groups of city residents, which can allow for tailored healthcare responses. He drew a parallel between this approach and the market segmentation research that has proven effective for businesses seeking to engage potential customers.

Brenner noted that just like in healthcare -- where a small number of patients make a disproportionate share of hospital visits -- 6 percent of Camden residents are responsible for 28 percent of arrests and other encounters with police. They’re often the same people -- 200 residents made 10 or more hospital emergency-department visits and had six or more police encounters.

The coalition then used this data to determine that there were five different “subtypes” of residents within those 200 Camden residents, in much the same way as marketers divide consumers by different demographics. Those five subtypes were: nonviolent men with substance-use problems; people who were primarily involved with drugs with some history of
violent crime; women with substance-use problems; men with heavier histories of violent crimes; and the homeless.

“You can actually create strategies, you can create specific interventions, specific relationships, specific pathways,” that call for different healthcare and social-service responses, Brenner said.

“This is what we should be doing with data, which is taking behavioral data, social data, healthcare data, and beginning to understand the population … and build high-reliability interventions for them,” Brenner said.

Vitale also noted that many nonviolent drug users primarily would benefit from behavioral-health treatment, not jail time.

“It’s not going to cost the state any real money – if (any) at all – and it’s going to save potentially hundreds of thousands of dollars, if not more,” Vitale said of the benefits that could derive from developing the database.

Office of Senator Kevin O’Toole
S-3220, will establish the Integrated Population Health Database at Rutgers University’s Institute for Health, Health Care Policy and Aging Research to collect a wide range of information that would be used to improve health care delivery. It will develop an effective means for improving the health, safety, security, and well-being of high-risk residents and reduce the overall cost-efficiency of programs that address their medical needs.

“Layers of laws and bureaucratic hurdles significantly impede health data access and connections, while increasing costs,” O’Toole said. “Residents, especially those facing complex medical and social issues and those incurring the highest costs, rely on multiple public systems and services. Linking different datasets that already exist within these systems and programs is essential for a holistic understanding of patient needs.”

The law will create the integrated population health data system project. The iPHD will contain data collected by New Jersey administrative departments and agencies related to health and publicly supported programs. The legislation would establish the iPHD Governing Board, in but not of the Department of Health, to approve project-by-project analysis and research. The Camden Coalition of Healthcare Providers has pioneered the concept and practice of using data to improve services.

“Good care needs good data and the integrated population health database legislation is an opportunity to transform NJ’s health care delivery system,” said Dr. Brenner of the Camden Coalition of Healthcare Providers. “The iPHD will create a comprehensive picture of the complex health and social problems faced by our state’s most vulnerable residents, and support smart and innovative policies to improve quality and reduce the cost of health care. I’d like to thank Senator Sweeney, Senator O’Toole and Senator Vitale for their leadership and commitment to the iPHD. It will be a tool to address some of the most important issues in our state, issues that impact New Jersey’s fiscal health as well as the health and quality of life of our residents.”
The new program would provide a centralized system with the infrastructure and resources to provide a more complete picture of what factors are affecting New Jerseyans’ health. By linking disparate datasets, the iPHD would allow these entities to leverage their current data collection efforts without additional burdens. The system would link health data with other social datasets while safeguarding the privacy and security of the data.

The project would reduce duplicative data collection and maintenance efforts and allow for comparison of data for accuracy and reliability. The linkage of the data sources will facilitate the identification of population trends and individual and community-level determinants directly related to the health, safety, security, and well-being patients.

The Center for State Health Policy at Rutgers University’s Institute for Health, Health Care Policy and Aging Research would house the iPHD and allow access to authorized entities, such as policy-makers, researchers, certified local Medicaid accountable care organizations, private entities or researchers and other public support programs.

Disposition of Entry:

SSL Committee Meeting: 2017 B  
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( ) Reject  

Comments/Note to staff
Curbing Opioid Addiction

Massachusetts

Bill/Act: HB 4056

**Summary:**
On March 14, 2016, Massachusetts Governor Charlie Baker signed comprehensive legislation designed to curb opioid addiction. The legislation reflects growing concern for the “dangers in the medicine cabinet” (i.e., risks presented by unused supplies of opioids) as well as a desire to curb addiction through prevention and education measures.

The Massachusetts law is the first in the nation to limit first-time prescriptions for opioid drugs—such as those prescribed as painkillers after surgery or an injury—to a seven-day supply. There is also a seven-day limit for all opioid prescriptions for minors. The legislation allows for longer-term supplies for patients with cancer, chronic pain, or receiving palliative care.

Patients who enter an acute care hospital or a satellite emergency facility suffering from an opioid overdose shall receive a substance abuse evaluation within 24 hours. The evaluation must be presented to the patient in person and include recommendations for future treatment.

Other provisions of the legislation include:
- Requirement that prescribers check the Massachusetts Prescription Monitoring Program (PMP) before prescribing a Schedule II or Schedule III drug. Massachusetts, like every state except for Missouri, employs a PMP which is designed to give visibility to the patient’s prescription history, so as to avoid situations where a patient receives multiple prescriptions from different doctors.
- Requirement that physicians and pharmacists provide patients information about the dangers of opioid addition when a drug is prescribed and dispensed.
- Liability protection from civil lawsuits for anyone who administers the anti-overdose drug naloxone to someone suspected of overdosing.
- Additional training for medical students and practitioners about substance abuse and safe prescribing practices.
- Establishment of a five-year drug stewardship program, in which drug manufacturers must participate, to collect and dispose of unneeded prescription medication.
- Allowance for patients to fill a lesser amount of an opioid prescription. The remainder of the prescription will be void, and the pharmacist must notify the doctor of the amount that was dispensed.
- Creation of a procedure for patients to voluntarily “opt out” of being prescribed opioid drugs.
- Creation of screening mechanisms for schools to use in identifying students who may be at risk for addiction and incorporates education about opioid addiction into annual high school sports training and driver education.

**Status:** Signed into law on March 14, 2016.

**Comments:** From the *Boston Globe* (March 14, 2016)
In an emotional ceremony, Governor Charlie Baker on Monday signed into law a measure that places tighter state control on opioids, in an effort to stanch the supply of the addictive drugs.
Baker trumpeted the bipartisan legislation as “the most comprehensive measure in the country to combat opioid addiction.” And then the governor was overcome by feeling, face contorted with emotion, as he acknowledged the heartbreaking losses families have endured.

Voice wavering, he offered a simple supplication: “May today’s bill passage signal to you that the Commonwealth is listening and we will keep fighting for all of you.”

The law, which comes as Massachusetts grapples with a deadly drug crisis that claims about 100 lives per month, will immediately limit initial opioid prescriptions to a seven-day supply.

Starting in July, the state will mandate that hospitals administer a substance-abuse evaluation to anyone who shows up in an emergency room believed to be suffering from an opioid overdose.

And the new law will eventually require schools to conduct verbal screenings of students for substance abuse.

It also requires, starting in October, practitioners check a prescription monitoring program before prescribing drugs that have relatively high potential for abuse. That’s an effort to stop doctor-shopping — addicts going from physician to physician looking for opioid drugs, such as OxyContin, Percocet, and Vicodin.

And the law allows patients to voluntarily reduce the amount of opioids they receive from a pharmacist, getting, say, 10 pills even if their doctor’s prescription is for 15.

While the law is notably weaker than the bill Baker originally proposed — he wanted a three-day initial prescription limit rather than seven, for example — the governor said Monday he signed it happily.

Baker had originally proposed allowing hospitals to hold addicts who pose a danger to themselves or others against their will for three days, evaluate them, and decide whether to seek legal permission for longer commitments.

The idea was to divert people who might leave the hospital and immediately start using drugs again and allow them to break the cycle of addiction.

But the Legislature balked at the provision, instead putting forward the more modest emergency room substance-abuse evaluation requirement that is now law.

The new law’s provisions includes several exemptions. For examples, initial opioid prescriptions for chronic pain, cancer pain, and for palliative care can be for more than a seven-day supply.

And students, parents, and schools can opt out of the mandatory verbal substance abuse screening.

Baker said the law is just one of many steps to combat the pills and heroin crisis that has hit families across the state, and he fully expects future legislative acts to also address the scourge.
At the ceremony, several top officials hailed the new act. They included the Legislature’s top two leaders, Senate President Stanley C. Rosenberg and House Speaker Robert A. DeLeo; the state’s top law enforcement official, Attorney General Maura Healey; and Mayor Martin J. Walsh of Boston, a longtime advocate for those struggling with addiction.

Rosenberg heralded the act as enshrining the right way of looking at addiction into law. “I’m proud that here in Massachusetts, we have turned a very big corner. This problem used to be seen as a crime. It’s now understood to be a disease.”

DeLeo said the new law is one of many steps to address the problem: “Our battle, our fight against substance abuse continues and it’s going to continue for some time. This isn’t the end.” And Healey, who grew emotional, had a message for families.

“To those who have lost loved ones, to those who have loved ones who are hurting, who are struggling, who are in pain, I recognize, we all recognize, that this legislation will not bring your loved ones back,” she said, voice wavering.

But, Healey said, she hopes that they will find some measure of comfort that there is a law that is going to change the course of other families and other individuals in this state.

From a political perspective, the praise Democratic officials lavished on Baker, a Republican likely to run for reelection in 2018, was notable.

Walsh gave “a special thank you” to the governor and framed him as a bold leader who took a tough stand for an important issue.

“When the governor said ‘I’m putting together these very aggressive pieces in my bill,’ I said, ‘I love them all.’ . . . He said, ‘I’m going to [be] bold here, and I’m going to take some chances.’ He said, ‘Will you stand with me?’ I said, ‘Absolutely, governor.’ And then he turned to the attorney general, and he said, ‘Will you stand with me?’ and she said, ‘Absolutely, governor,’ ” Walsh said.

But beyond the political ramifications, Walsh emphasized a simple point. If this law helps one family and one addict, the mayor said, it has done its job.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
Enacts the Internet system for tracking over-prescribing (I-STOP) act and creates a prescription monitoring program registry (part A); relates to prescription drug forms, electronic prescribing and language assistance (part B); relates to schedules of controlled substances (part C); relates to continuing education for practitioners and pharmacists in prescription pain medication awareness and the duties of the pain management awareness workgroup (part D); relates to the safe disposal of controlled substances (part E).

Note: New York is the first state to require that all prescriptions be created electronically and to back up that mandate with penalties, including fines and imprisonment, for physicians who fail to comply. Minnesota has a law requiring electronic prescribing but does not penalize doctors who cling to pen and paper. This provision went into effect on March 27, 2016.

Officials say that transmitting prescriptions to pharmacies will cut down on fraud, because people will no longer be able to modify a prescription by, for example, increasing the number of pain pills ordered.

Doctors can still write prescriptions by hand in exceptional cases, such as when the medication will be filled out of state, when there are technical problems and when the prescription is for something other than a medicine, like crutches or a wheelchair.

The first part of I-Stop, put into effect in 2013, is an online registry that a doctor must check before prescribing a controlled medication. The registry lists all controlled substances recently prescribed to a patient so doctors can spot a history of abuse.

Status: Signed into law on August 27, 2012.

Comments: From the Office of Governor Cuomo (August 27, 2012)
Governor Andrew M. Cuomo today signed legislation that will help the state crack down harder on prescription drug abuse.

The new law includes a series of provisions to overhaul the way prescription drugs are distributed and tracked in New York State, including enacting a "real time" prescription monitoring registry to provide timely and enhanced information to practitioners and pharmacists; requiring all prescriptions to be electronically transmitted; improving safeguards for the distribution of specific prescription drugs that are prone to abuse; charging a workgroup of stakeholders with the responsibility to help guide the development of medical education courses and other public awareness measures regarding pain management and prescription drugs; and requiring the Department of Health to establish a safe disposal program for unused medications.

Illicit use of prescription medicine has become one of the nation’s fastest-growing drug problem. According to the federal Centers for Disease Control and Prevention (CDC), nearly 15,000 people die every year of overdoses due to prescription painkillers. In 2010, 1 in 20 people in the
United States over the age of 11 reported using prescription painkillers for nonmedical reasons in the past year. During the period 1999 through 2008, overdose death rates, sales, and substance abuse treatment admissions related to prescription painkillers all increased substantially. Sales of opioid painkillers quadrupled between 1999 and 2010. Enough opioid painkillers were prescribed in 2010 to medicate every American adult with 5mg of hydrocodone every four hours for a month. Moreover, an estimated 70 percent of people who abuse prescription painkillers obtained them from friends or relatives who originally received the medication from a prescription. The problem is of particular concern with respect to young adults and teens.

Details of the new law are below:

Creating a New and Updated Prescription Monitoring Program (I-STOP)
The new law requires the Department of Health (DOH)s to update and modernize the Prescription Monitoring program (PMP) Registry to make it one of the best systems in the nation to monitor prescription drug abuse and to help the medical community provide better care. The new system will substantially decrease opportunities for "doctor shoppers" to illegally obtain prescriptions from multiple practitioners. The legislation requires enhancement and modernization of DOHs secure prescription monitoring program registry, which will include information about dispensed controlled substances reported by pharmacies on a "real time" basis, to effectively stop doctor shopping and combat the circulation of illegally-obtained prescription drugs.

The PMP Registry will be secure and easily accessible by practitioners and pharmacists, allowing them to view their patients controlled substance history. In addition, this legislation strikes the right balance by requiring health care practitioners to consult the PMP Registry before prescribing or dispensing the controlled substances that are most prone to abuse and diversion, while exempting practitioners from consulting in specific situations in order to protect patient access to needed medications. Moreover, pharmacists, for the first time, will now be able to consult the PMP Registry before dispensing a controlled substance.

Mandating Electronic Prescribing of Controlled Substances
The new law will make New York a national leader by being one of the first states to move from paper prescriptions to a system mandating the electronic prescribing (e-prescribing) for all controlled substances with limited exceptions. E-prescribing is critical to help to eliminate diversion that results from the alteration, forgery, or theft of prescription paper.

In addition, electronic prescribing enhances patient care by minimizing medication errors due to misinterpretations of handwriting on written prescriptions. It is estimated that 20 percent of the approximately 7,000 annual deaths caused by medication errors are attributable to misinterpretations of written prescriptions. Moreover, medication errors are estimated to cost the nations health care system over $70 billion each year. In New York, adverse drug events due to errors in written and oral prescriptions carry an annual cost to the health care system of approximately $130 million.

E-prescribing will also improve the efficiency of practitioners and pharmacies. Approximately 30 percent of prescriptions require pharmacists to call physicians due to poor handwriting on
prescription forms. Additionally, e-prescribing is also more convenient for consumers, who would otherwise need to either wait at the pharmacy for a prescription to be filled, or make separate trips to drop off the prescription form and then pick up the medication.

E-prescribing of controlled substances will ensure that controlled substance transactions are transmitted in a secure, encrypted fashion to their intended recipient.

**Updating the Controlled Substance Schedules to Stop Abuse of Certain Drugs, While Protecting Patient Access**

The new law combats prescription drug abuse by removing hydrocodone from Schedule III and placing it on Schedule II regardless of formulation. Hydrocodone is among the most abused and diverted prescription medications. In New York, last year, over 4.3 million hydrocodone prescriptions were filled the most in the state. Nationally, eight percent of all high school seniors used hydrocodone for non-medical purpose. In 2009 alone, there were over 86,000 emergency room visits resulting from the non-medical use of hydrocodone.

Placing hydrocodone on Schedule II will control abuse by eliminating automatic refills and, in general, by limiting the amount prescribed or dispensed to a maximum 30-day supply. However, to protect legitimate access for those patients who need these drugs, the bill will not alter a practitioner’s ability under existing regulations to prescribe a supply of up to 90 days if he, or she, indicates on the face of the prescription that the patient has one of several enumerated conditions, including chronic pain.

The new law will also add another drug, tramadol, to Schedule IV. Tramadol is a painkiller and is viewed as a drug of concern by the DEA.

**Improving Education and Awareness of Prescribers to Stem the Tide of Prescription Drug Abuse**

According to the CDC, a significant percent of abused medications are prescribed to the person that abuses them. This comprehensive legislation recognizes the need for increased education amongst health care providers about the potential for abuse of controlled substances, and the proper balancing of pain management with abuse prevention.

The bill expands the functions of the workgroup to be established by the Department of Health under the existing Prescription Pain Medication Awareness Program, so that the workgroup will be responsible for making recommendations on: (1) continuing education for practitioners and pharmacists on pain management issues; (2) protecting and promoting access by patients with a legitimate need for controlled substances; (3) the implementation of the I-STOP provisions; and (4) inclusion of additional controlled substances in the consultation requirements of I-STOP. To carry out these functions, the Commissioner of Health will include additional stakeholders, including but not limited to consumer advocacy organizations, health care practitioners and providers, pharmacists and pharmacies, and representatives of law enforcement agencies.

**Creating a Safe Disposal Program to Safely Dispose of Prescription Drugs**

Recognizing that more than 70 percent of the abused prescription medications are obtained from friends or relatives, this legislation requires DOH to institute a program for the safe disposal of
unused controlled substances by consumers. Through the program, DOH will work with local police departments to establish secure disposal sites for controlled substances on the premises of police stations. At these sites individuals can voluntarily surrender unwanted and unused controlled substances.

Under previous law, individuals can only safely dispose of controlled substances during an approved take back event or, various methods of self-disposal that are either burdensome or harmful to the environment. Moreover, current federal regulations prohibit patients from returning unused controlled substances to pharmacists and doctors. This program will help alleviate this problem by providing a continual safe disposal option to New Yorkers.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
This bill requires a prescriber to obtain written informed consent from a minor's parent, guardian or other person responsible for the minor before issuing a prescription if it is considered a controlled substance containing opioids.

- This bill applies to all prescribers, including physicians, PAs, APNs, optometrists, dentists and podiatrists.
- Limits the quantity of controlled substances that a health care provider may prescribe to not more than a 72-hour supply when another adult authorized by the minor’s parent or guardian gives the required consent.

Informed Consent: The informed consent requirement of this bill has three components: (1) assessing the minor’s mental health and substance abuse history; (2) discussing with the minor and the minor’s parent, guardian or another authorized adult certain risks and dangers associated with taking controlled substances containing opioids; (3) obtaining the signature of the parent, guardian or authorized adult on a consent form.

Consent Form: As stated, the prescriber must obtain written consent for the prescription from the minor’s parent, guardian or another adult authorized to consent to the minor’s medical treatment. The consent must be recorded on a form known as the “Start Talking!” consent form. The form must be separate from any other document the prescriber uses to obtain informed consent for other treatment provided to the minor and contain the following information:

- The name and quantity of the controlled substance being prescribed and the amount of the initial dose.
- A statement indicating that a controlled substance is a drug or other substance that the U.S. Drug Enforcement Agency has identified as having a potential for abuse.
- A statement certifying that the prescriber discussed with the minor and the minor’s parent, guardian or another adult authorized to consent to the minor’s medical treatment the matters the bill requires the prescriber to discuss.
- The number of refills authorized by the prescription.
- The signature of the minor’s parent, guardian or another adult authorized to consent to the minor’s medical treatment and the date of the signing.

Penalties: The bill authorizes regulatory boards to impose sanctions on prescribers who fail to comply with the bill’s informed consent requirement that are the same as those generally imposed for other disciplinary violations.

Exemptions to the Bill: (1) the minor’s treatment is associated with or incident to a medical emergency; (2) the minor’s treatment is associated with or incident to surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis; (3) in the prescriber’s professional judgment, fulfilling the bill’s informed consent requirement would be a detriment to the minor’s health or safety; (4) the minor’s treatment is rendered in a hospital, ambulatory surgical facility, nursing home, pediatric respite care program, residential care facility, freestanding rehabilitation facility, or similar institutional facility.
**Status:** Signed into law on June 17, 2014.

**Comments:** From the Ohio House of Representatives
State Representatives Stephanie Kunze (R-Hilliard) and Nan Baker (R-Westlake) have announced that the Ohio House of Representatives passed legislation today that would require a prescriber to receive a signed form of consent from a parent or guardian of a minor before issuing a prescription for the minor to have a controlled substance.

Under the provisions of House Bill 314, the consent form for the controlled substances—which have the potential of being abused—would be separate from other documents seeking consent for treatment and be maintained in the minor’s medical record. The form would include the number of refills that a prescriber has authorized as part of the prescription.

“This issue was brought to my attention by a mother and daughter who shared with the House Prescription Drug Addiction and Healthcare Reform Study Committee about their experience of the daughter obtaining a prescription for highly addictive painkillers without parental consent and eventually abusing the drugs,” Rep. Baker said. “It’s important that something be done about it, and I’m pleased that the House has taken action.”

“Ensuring that parents know what their children have been prescribed will help us stop problematic behavior before it even has the opportunity to take place,” Rep. Kunze said. “Parents play the most important role in helping to prevent drug addiction—not only through conversations with their children, but through the actions they take to protect their children. This bill is one more way to protect our youth.”

A prescriber who fails to comply with the consent requirements could have his or her license to practice suspended for at least six months by a regulatory board and face up to a $20,000 fine.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Opioid Dependent Infants

Bill/Act: HB 315 (Sec. 3711.30)

Summary:
Requires maternity units, newborn care nurseries, and maternity homes to report to the Ohio Department of Health (ODH) the number of newborns diagnosed as opioid dependent.

Reporting newborns diagnosed as opioid dependent
The act requires that each maternity unit, newborn care nursery, and maternity home report to the Ohio Department of Health (ODH) the number of newborns diagnosed as opioid dependent who were born to Ohio residents during the preceding calendar quarter. The reports must be submitted not later than 30 days after the end of each quarter and cannot include any patient-identifying information.

The act defines "opioid" as opium, opium derivatives, and synthetic opium substitutes. The act does not define opioid dependent.

Should a maternity unit, newborn care nursery, or maternity home fail to comply with the act's reporting requirements, ODH may revoke or suspend its license or impose a fine provided for by continuing law.

Reporting procedures
ODH must establish standards and procedures for reporting the required information. ODH also must compile the information submitted and make a summary of that information available to the public not later than 90 days after the end of each calendar year.

Law enforcement
The act provides that information reported to ODH regarding newborns diagnosed as opioid dependent cannot be used for law enforcement purposes or disclosed to law enforcement authorities.

Status: Signed into law on April 10, 2014.

Comments: From the Ohio House of Representatives
State Representative Lynn Wachtmann (R-Napoleon) announced today that the Ohio House of Representatives has passed legislation to better monitor the births of babies who are dependent on addictive drugs.

House Bill 315, which is one of several House bills aimed at curbing opiate addiction in Ohio, requires maternity units, newborn care nurseries and maternity homes to report the number of newborns diagnosed with neonatal abstinence syndrome (NAS) to the Ohio Department of Health on a quarterly basis.

“Reporting the number of babies addicted to drugs will help us to track the progress Ohio is making in the fight against drug addiction,” said Rep. Wachtmann, who sponsored the legislation. “It’s one of the best ways to find and measure the patterns of drug use that are
beginning to unfold at any given point in time. If we know where and when the problem is, we can do something about it.”

Neonatal abstinence syndrome takes place when a pregnant woman takes an addictive substance, which is then passed through the placenta to the baby. After birth, the baby may show a variety of symptoms of withdrawal. NAS can also be diagnosed through medical testing and a scoring system.

Under the legislation, the reporting form will be developed by the Department of Health and must not include any information that could identify patients.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
Requires a provider of health care who provides certain services to patients located through telehealth to have a valid license or certificate in Nevada; makes persons who provide such services through telehealth to patients subject to the laws and jurisdiction of Nevada; requires certain insurers to provide coverage to insureds for services provided through telehealth to the same extent as though provided in person; authorizes a hospital to provide staff privileges to certain providers of health care to provide services through telehealth; requires the Commissioner of Insurance to consider health care services that may be provided by providers through telehealth when evaluating certain network plans.

Status: Signed into law on May 25, 2015.

Comments: From Medscape (May 28, 2015)
Indiana, Minnesota, and Nevada have enacted telemedicine parity laws, which require private insurers to cover remote consultations the same way they cover in-person visits to healthcare providers. With the passage of these measures, 27 states and the District of Columbia now have laws enforcing coverage for telemedicine-provided services, according to the American Telemedicine Association (ATA).

Many of these states also mandate telemedicine coverage by their Medicaid programs and, in some cases, by their state employee health plans.

In addition, the ATA noted, telemedicine parity bills are being considered in Connecticut, Delaware, Illinois, Massachusetts, New Jersey, North Carolina, Ohio, and Pennsylvania. The new state laws differ from each other in some respects. For example, the Indiana legislation goes into effect July 1, 2015, whereas Minnesota's parity law affects health plans that provide coverage starting on or after January 1, 2017. Minnesota also amends an existing statute permitting Medicaid coverage of telemedicine. Nevada's measure requires telehealth coverage not only for private insurance but also for Medicaid and workers' compensation; Nevada is the only state that does this for workers' comp.

A recent ATA report found that state telemedicine laws vary widely. Of the 24 states that had parity legislation at the time, only 16 states and Washington, DC, authorized statewide coverage, without any provider or technology restrictions. Of the 48 states that mandated Medicaid coverage of telemedicine, just half did not specify a type of patient setting as a condition for payment. Twenty-five states recognized the home as an originating site for virtual visits. Meanwhile, Medicare continues to lag behind the states in its coverage of telemedicine, focusing mainly on the use of the technology in rural areas. A new Congressional bill introduced by Sen. Mark Kirk (R-IL.) on May 22 would expand access to stroke telehealth services under the Medicare program, according to the ATA.
From *Governing Technology* (February 5, 2016)

It’s a boom time for telehealth. Just as smartphone apps have revolutionized ride-hailing and apartment-sharing, telemedicine technology is upending health care.

States have been playing catch-up. As recently as 2011, only 11 states had telehealth parity laws, which require that insurers reimburse telehealth providers exactly as they would for an in-person visit. Today, 29 states and the District of Columbia have parity laws. In those jurisdictions, if a patient with a sore throat wants to confirm she has a strep infection and receive a prescription for antibiotics, it makes no difference to insurance companies whether the visit occurs over the computer or in an office. Forty-eight state Medicaid programs (every state but Connecticut and Rhode Island) offer some form of coverage for telemedicine. Congress is expected to take up legislation this year that would expand telehealth coverage for Medicare enrollees.

More than 200 telemedicine bills were introduced in state legislatures in 2015. Not all of them passed, but it has “given an indication that the time has come to have [the telemedicine] conversation,” says Jonathan Linkous, CEO of the American Telemedicine Association.

Despite the momentum, there are still plenty of gaps and question marks when it comes to telehealth policy. The 21 states without a parity law aren’t uniformly liberal or conservative. Kansas, South Carolina and Utah don’t have one, but neither do Illinois or Pennsylvania. Massachusetts, a state known for progressive health-care policies, doesn’t have a parity law. It currently only covers telemedicine under Medicaid with certain managed care plans, and not for fee-for-service payments.

Even among states that do have parity laws, the patchwork of policies can vary widely from one state to the next. Texas, for example, requires insurers to cover telehealth, but it mandates that a patient’s first appointment with a new doctor must be an in-person visit. Within Medicaid programs, about half of the states require that a patient be in a medical facility for telehealth appointments, rather than at home. The differences among states can be frustrating for telemedicine providers. Kofi Jones, vice president of public relations and government affairs for the telehealth company American Well, says she has 30 binders in her office filled with state-by-state regulations and legislation. “I’m waiting for the day when parity laws are uniform across the country,” she says. “I suspect it’ll continue to be a slog, but when that day comes, I’m having a binder-burning party.”

Traditional health-care providers can be slow to integrate new technology. After all, almost half of doctor’s offices polled in 2013 still used paper records, according to a survey from the U.S. Department of Health and Human Services. Other recent surveys have found that only 2 percent of patients nationwide have access to video visits with their primary care physician. Less than half -- 45 percent -- even receive a traditional phone appointment reminder.

But the explosion of born-online health-care services is fueling a rising consumer demand for more telehealth options. Telemedicine advocates see it as a way to cut down emergency room visits and increase health-care access for rural patients. Many in the medical community, however, maintain strong concerns about patient privacy and overall quality of care. As states
move toward more inclusive telehealth policies, they must confront those issues along with a more basic question: Just how good is the medical care you get over the phone?

Florida is the nation’s third most populous state. And with its large population of seasonal snowbirds and transplanted retirees, Florida presumably has a lot of people who would like to seek medical help from their doctor back home. But the state, which doesn’t have a parity law, is like “the Wild West” when it comes to telehealth, says Christian Caballero of the Telehealth Association of Florida, a trade group formed last year to push for parity legislation in the state.

Florida lawmakers have considered telehealth bills in recent years, but none of the measures have become law. Advocates were optimistic about a proposed telemedicine bill last year, because unlike previous proposals, it stripped out language that would have required Medicaid to reimburse providers at the same rate as for in-person visits. But the bill died in committee.

The difficulty in passing legislation in Florida echoes broader conversations about telemedicine across the country. In many cases, doctors have urged caution when it comes to adopting new technologies. The American Optometric Association, for instance, has come out hard against online eye exams, calling them a “substandard model of care.” The American Medical Association (AMA) is more open to telemedicine but has taken a cautious approach. The group released recommended guidelines for telehealth coverage and payment in 2014, but held off on releasing an ethics policy in November after concerns were raised that the draft proposed wasn’t thorough enough. “This is something I’m passionate about, and I’ve been engaged with it for a while,” says AMA board member Jack Resnick. “But we need to make sure that we’re doing it right -- telehealth can’t just become another silo in health care. It’s important to us that a physician using telehealth practices understands a patient’s full medical history and is able to coordinate that care with their other providers.”

The problem, Resnick says, is that telehealth appointments are often “one-off visits, where information isn’t relayed back to that person’s primary care provider.” Mobile telemedicine apps may or may not catalog a patient’s health data from one session to the next; regardless, it’s up to the patient whether she chooses to share that information with her primary physician. “That’s bad care,” says Resnick, “and a potential hazard of telemedicine.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
This bill requires health care service plans (health plans) and health insurers to take specified steps to protect the confidentiality of an insured individual’s medical information for purposes of sensitive services or if disclosure will endanger an individual, as specified.

This bill would declare the intent of the Legislature to incorporate HIPAA standards into state law and to clarify standards for protecting the confidentiality of medical information in insurance transactions. The bill would define additional terms in connection with maintaining the confidentiality of this information, including a “confidential communications request” which an insured, or a subscriber or enrollee under a health care service plan, may submit for the purpose of specifying the method for transmitting medical information communications.

This bill would specify the manner in which a health care service plan or health insurer, on and after January 1, 2015, would be required to maintain confidentiality of medical information regarding the treatment of an insured, subscriber, or enrollee, including requiring a health care service plan or health insurer to accommodate requests by insureds, subscribers, and enrollees to receive requests for confidential communication of medical information in situations involving sensitive services or situations in which disclosure would endanger the individual.

This bill would specifically authorize a provider of health care to communicate information regarding benefit cost-sharing arrangements to the health care service plan or health insurer, as specified.

This bill would also prohibit the health care service plan or health insurer from conditioning enrollment in the plan or eligibility for benefits on the waiver of certain rights provided for in the bill. The bill also would make conforming technical changes. Because a willful violation of these provisions by a health care service plan would be a crime, and because this bill would expand the scope of a crime, the bill would create a state-mandated local program.

Status: Signed into law on October 1, 2013.

Comments: From ThinkProgress (January 14, 2015)
Most 23-year-olds probably wouldn’t want their parents to receive a letter in the mail about an HIV test they took last week. But, if they’ve opted to remain covered on their parents’ insurance until the age of 26, that’s exactly what can happen to them when they use their plan. One of the most popular provisions under Obamacare has created somewhat of a loophole in our nation’s current health privacy laws.

Millions of young adults are taking advantage of their new coverage options under Obamacare, but that comes with some unintended consequences for their sensitive sexual health information. Insurers are typically in regular communication with a plan’s main policyholder, giving that person detailed information about how their plan is being used. For instance, policyholders receive regular Explanations of Benefits (EOBs), which are summaries of exactly what happened
at recent doctors’ visits. So, in families where young adults remain covered through their early 20s, parents will be able to tell whenever their kids fill a birth control prescription, take a pregnancy test, receive treatment for an STD, or get an abortion.

There’s a simple fix to this, and one state is forging the path forward. Thanks to a new law in California that takes effect this month, people in the Golden State will be able to indicate that they want the information about their sensitive health data sent straight to them, instead of to the person who holds the policy.

California was the first state in the country to pass legislation specifically addressing this health privacy issue under Obamacare. On January 1, after giving insurance companies a year to prepare for it, the Confidential Health Information Act officially became law — marking a victory for the advocates in the state who helped push for the policy.

“The Confidential Health Information Act will make sure that individuals with health insurance under another person’s policy feel safe enough to use it,” Amy Moy, the vice president of public affairs for California Family Health Council, one of the groups that co-sponsored the legislation, told ThinkProgress.

Previous research has confirmed that insured young adults often pay out of pocket for reproductive health services, like birth control and abortion, instead of using their plans. They typically opt to do that because it offers more privacy, even though it costs more money. However, if young women can’t afford the full cost of the services they need, it’s possible they may skip out on health care altogether.

“We know from our work in the community that there are young folks who will go to their college health clinic and say no to that HIV test, or say no to pregnancy counseling services, because they know it will show up on a parent’s insurance bill,” Rebecca Gudeman, a senior attorney at the National Center for Youth Law, another co-sponsoring organization, told ThinkProgress. “We think the law is really going to make a huge impact pretty quickly.”

With the security of knowing an itemized bill won’t appear on their parents’ doorstep, more young adults may feel comfortable seeking out preventative sexual health services. California’s legislation also has implications for other types of sensitive care, like mental health treatment or drug and alcohol counseling. And it could make victims of domestic violence more comfortable going to the doctor, since their health data will be protected from their abusive partner.

Now, advocates like Moy and Gudeman are trying to get out the word. They’ve set up a website explaining how to submit the form that requires insurers to redirect sensitive health information, started training medical providers on the change, and partnered with campus health centers. And they’ve also been thinking about how to help the policy spread to other states. According to Moy, since California’s law was passed and signed, her organization has been in talks with advocates in more than 20 other states who have expressed interest in the legislation. Maryland passed its own version of the Confidential Health Information Act last year.
“We’re really excited that this could be a potential model for other states to adapt,” Moy said. “We have some of the biggest national health plans operating in the state of California — so our hope also is that, now that the health plans have to do it in California for a large number of their clients, they’ll already have a system in place.”

“People are recognizing that this issue of confidentiality is a problem and has really been a barrier to care. So there are people looking for solutions, and if we can show this makes a difference in access to health care, I do think this will spread quickly,” Gudeman agreed. “It’s a win-win for everyone if we can get preventive care out there to the people who want it and need it.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
This bill adds provisions to the Health Care Facility Licensing and Inspection Act related to monitoring devices installed in assisted living facilities. This bill:
- allows a resident of an assisted living facility to install a video or audio monitoring device in the resident's room under certain conditions;
- prohibits an assisted living facility from denying an individual admission to the facility or discharging a resident from the facility solely because the individual or resident wants to operate or install a monitoring device in the individual's or resident's room; and
- provides certain liability protections related to operating or installing a monitoring device in a resident's room.

Status: Signed into law on March 22, 2016.

Comments: From McKnight's Senior Living (March 3, 2016)
The Utah bill that would require assisted living communities to grant resident requests to install monitoring equipment in their rooms soon will be headed to the desk of Gov. Gary Herbert, where the bill's sponsor anticipates that it will be signed into law.

Tuesday, after H.B. 124, the Assisted Living Facility Surveillance Act, had passed both the state legislative bodies (unanimously in the House of Representatives and with only two votes against it in the Senate), an “enrolled draft” of the bill was prepared. Now, just a couple of additional procedural steps remain before the House sends it to the governor.

“It is highly unlikely that the governor would veto a bill with such broad support in the legislature,” Rep. Timothy D. Hawkes, the bill's sponsor, told McKnight's Senior Living. Approval would make Utah the first state in more than a decade, and only the second state overall, to have passed such a law covering assisted living communities. Five states — Illinois, New Mexico, Oklahoma, Texas and Washington — have laws requiring nursing homes to grant resident requests to use surveillance equipment in resident living areas. Only Texas’ 2001 nursing home law was amended, in 2003, to also apply to assisted living, according to Argentum, formerly the Assisted Living Federation of America.

H.B. 124, an amendment to Utah's Health Care Facility Licensing and Inspection Act, would allow video or audio monitoring equipment to be used as long as the community has been notified of the intent and as long as any roommates affected by the request approve. The bill would allow communities to require that the resident post a sign near the entrance to the room notifying people that the room contains a monitoring device. Communities also could specify other requirements in what the bill calls a waiver agreement.

Similar bills in previous legislative sessions lacked the support of industry associations, but this time, the organizations said, the bill's sponsor was willing to listen to their concerns and try to address them.
The Utah Assisted Living Association was “definitely opposed to the bill early on and wanted to make sure that the residents' rights were protected,” board member Christopher Etherington (pictured) told McKnight's Senior Living. “In working with Rep. Hawkes, it became very evident that there was some support and that he was willing to be more collaborative on this.” The UALA ended up assuming a neutral stance.

The Utah Health Care Association also initially was opposed to the bill but reached the same conclusion as the UALA, according to UHCA Director Dirk Anjewierden. “We feel, after discussions with the sponsor, that changes to the bill were made which provide protections to the residents to meet the privacy concerns and protections to the providers from potential liability in meeting those privacy concerns,” he said.

Lawmakers made two changes to H.B. 124 at the request of industry, Hawkes (pictured) said. First, residents or their legal representatives who choose to install a monitoring device no longer would be required to tell communities exactly where they plan to put a device, nor would they have to communicate specifics about the equipment (although the bill prohibits the use of devices that can be connected to the Internet). The associations believed that the language was unnecessary and could be interpreted as limiting the consent agreement that communities can create, Hawkes said.

Second, the installation of a monitoring device now would require consent from a resident and his or her legal representative (if any) in writing, unless the resident is incapable of providing informed consent. The original version of the bill required consent from the resident or a representative. “That amendment intended to address a situation in which a legal representative might put pressure on a reluctant resident to install a device — a situation we wanted to avoid,” Hawkes said.

Argentum's board has not taken a position on the bill, Chief Operating Officer Maribeth Bersani (pictured) told McKnight's Senior Living. But the national association did express concerns, and the resident consent issue was the top one, she said. Another was that the provider and resident be able to discuss how the camera will be used in a way that maintains privacy and dignity. The changes to the bill address those concerns.

The bill's allowance for communities to tailor consent agreements and establish additional guidelines to meet their individual circumstances while protecting residents, staff members and others is a provision that Etherington said pleases him. He is director of operations at MBK Senior Living, which has five communities in the state. Etherington added that he also is pleased that the final version of the bill offers some civil and criminal liability protection to communities that have residents who want to use monitoring devices.

Etherington, however, said he'll take a wait-and-see approach when it comes to judging the bill's ultimate effect on communities. “We are still concerned, and personally for me and my company, I'm still concerned about making sure that the resident's rights are protected, making sure that there are safeguards in place,” he said. “That is something that we're going to continue to address at the community or company level, from the facility consent form.”

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But Etherington said he expects that the legislation will come into play only rarely. “In talking to the several providers here in Utah, there were only a couple of individuals that have even had a camera that they know of in a community,” he said “I don't see it really increasing.”

Communities in the state formerly could grant camera requests, he noted. The difference now is that, under the terms of the bill, residents can't be expelled or denied admission because they desire monitoring equipment. And communities will know if a resident's room contains a recording device.

The bill, Hawkes said, offers benefits to all parties.

“With this bill, the state of Utah attempts to balance the rights of residents and their desire for safety and security along with legitimate concerns about privacy, and to do so in a way that doesn't put undue burdens on industry,” Hawkes said. “The increasing role of technology in our lives guarantees that, as a society, we will continue to grapple with this kind of issue. We trust that we've struck the right balance here, and hope that Utah's cautious approach can serve as a model to other states.”

Meanwhile, Bersani said that Argentum continues to look for ways to address the elder abuse incidents that legislators, residents and their families often seek to curtail through the use of cameras. “I can understand why people see this [bill] as an opportunity to deter elder abuse and be a deterrent,” she said. “I think there are other ways that we need to look at to address this issue. The board hasn't taken a formal position on cameras per se, but certainly elder abuse is a priority — prevention and detection and reporting. We continue to look at other ways to prevent elder abuse.”

The UALA, Etherington said, will continue to meet regularly with the Utah Department of Health to ensure that residents' rights are protected.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Reject

Comments/Note to staff
Summary:
House Bill 2462 establishes that residents have the right to purchase and use an electronic monitoring device of their choice that can record or broadcast audio and video. The bill also stipulates that any recording made can only be used for civil, criminal, or administrative proceedings related to the health, safety or welfare of a resident. In addition, the bill includes four main provisions:

- **Cost:** Residents must bear the cost of the camera and its installation. The facility is not required to provide Internet service for broadcasting or streaming purposes.
- **Consent:** A resident or their guardian must consent to use of a camera in the resident's room. A consent process will be established for residents who lack the ability to fully understand the nature and consequences of electronic monitoring, but don't have a legal guardian. If a resident has a roommate, their consent is also required. Consent can be withdrawn by either party at any time.
- **Notice:** Residents must notify the facility of their intent to use a recording device and the type of device intended to be used. A sign must be posted outside of the resident's room stating, "This room is electronically monitored." The device must be out in the open in a fixed position, no hidden cameras are permitted.
- **Protections:** A facility cannot retaliate or discriminate against any resident consenting to electronic monitoring. Any person or entity, including nursing home staff, is forbidden from knowingly hampering, obstructing, tampering with or destroying an electronic monitoring device in a resident's room without permission. Any person or entity that violates this section is guilty of a misdemeanor or felony, depending on the circumstance. A facility is not civilly or criminally liable for a violation of a resident's right to privacy arising out of any electronic monitoring.

Status: Signed into law on August 21, 2015.

Comments: From the *Quad City Times* (August 21, 2015)
SPRINGFIELD — Gov. Bruce Rauner signed legislation Friday making Illinois the fourth state to allow families to install cameras in nursing home rooms.

The new law is designed to make sure residents of care facilities are treated well.

Illinois Attorney General Lisa Madigan helped author the law, which includes provisions for video, audio and still cameras in nursing home rooms.

While the measure was moving through the Legislature in the spring, Madigan said the presence of recording devices would help stem potential abuse and neglect incidents.

Most residents or their families, however, would have to pay for the cameras and the installation. The measure does include $50,000 in seed money for residents who cannot afford the devices.
Legal guardians and family members could give consent for residents who are unable to offer it themselves.

The new law, which takes effect in January, requires nursing homes to post signs notifying visitors that rooms may be monitored. It also requires roommates to give their consent if a camera or other monitoring device is installed.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Bill/Act: SB 306

**Summary:**
The Act provides that an adult ward has the right to communicate, visit, and interact with other persons upon the adult ward’s consent. If the adult ward is unable to express consent, consent may be presumed by a guardian or a court based on the adult ward’s prior relationship with such person.

The Act provides that a guardian may place reasonable time, place, or manner restrictions on an adult ward’s communication, visitation, or interaction with another person without court approval, but that a guardian may not deny all communication, visitation, or interaction between an adult ward and another person unless a court has approved such denial after a showing of good cause by the adult ward’s guardian.

**Status:** Signed into law on March 24, 2015.

**Comments:** From the *Des Moines Register* (April 24, 2015)
A year after the children of radio personality Casey Kasem had to seek court action to see their ailing father, a new law in Iowa aims to ensure that adult children can see their sick parents — granting them visitation rights unless the person's guardian goes to court to stop them.

Gov. Terry Branstad signed the bill into law Friday. Under the measure, an adult with a legal guardian — someone who cannot manage their own affairs — would have the right to receive visits from family members and others they have previously expressed interest in seeing. The legal guardian could still control factors like the time and place of the visits.

Previously, Iowa law did not address how to handle such situations, said Sen. Rob Hogg, a Cedar Rapids Democrat who pushed for the bill.

The legislation was backed by Kasem's daughter, Kerri Kasem, who appeared on Iowa talk radio several times advocating for the bill. Kasem, a radio show host herself who lives in Los Angeles, is pushing for similar laws in several other states and said she believes Iowa is the first to enact such a bill.

"I promise you, every single state will have what I have dubbed the visitation bill. We need guardianship laws to change. We need visitation laws to change," said Kasem. She and her siblings fought with her father's wife of more than 30 years over his care in his final days.

Lawmakers from both parties worked on the legislation, which won unanimous approval in both chambers. Hogg said he started working on the issue after hearing last year from a constituent who was having difficulty visiting her brother.

"There was a hole in Iowa's law and we are filling that with a really well-crafted piece of legislation that balances the right of visitation with the right of the guardian," Hogg said.
Kasem, the host of "American Top 40," died last June in Washington. He was 82 and suffering from dementia. Kasem's children and his second wife, former actress Jean Kasem, feuded over his care for years.

In 2013, his children filed a legal petition to gain control of his health care, alleging that Kasem was suffering from advanced Parkinson's disease and that his wife was isolating him from friends and family members. Last May, a judge temporarily stripped Kasem's wife of her caretaker role after she moved him from a medical facility in Los Angeles to a friend's home in Washington state.

Kerri Kasem was appointed caretaker and has said that her stepmother's actions shortened Kasem's life. Jean Kasem has denied that she caused her husband harm.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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Comments/Note to staff
07-37B-11 Comprehensive Stroke System North Dakota
Bill/Act: HB 1323

Summary:
House Bill No. 1323 replaces the current law providing for primary stroke centers with new law directing the State Health Officer to establish and maintain a comprehensive stroke system, including designation of comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals; treatment protocols; and a stroke system of care task force.

Status: Signed into law on March 25, 2015.

Disposition of Entry:
SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
The bill:
- Allows a doctor to prescribe a lethal dose of medication under certain narrow circumstances.
- Patients who receive the prescription must be mentally competent.
- Two California doctors must independently agree that such a patient has no more than six months to live.
- It is the patient’s choice whether to take the drugs.
- Patients must affirm their intention to do so 48 hours in advance.
- Patients must take the prescription on their own, without help.
- The law expires in 10 years unless renewed.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill, until January 1, 2026, would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for a drug prescribed pursuant to these provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests. The bill would also establish specified forms to request an aid-in-dying drug, under specified circumstances, an interpreter declaration to be signed subject to penalty of perjury, thereby creating a crime and imposing a state-mandated local program, and a final attestation for an aid-in-dying drug. This bill would require specified information to be documented in the individual’s medical record, including, among other things, all oral and written requests for an aid-in-dying drug.

This bill would prohibit a provision in a contract, will, or other agreement from being conditioned upon, or affected by, a person making or rescinding a request for the above-described drug. The bill would prohibit the sale, procurement, or issuance of any life, health, or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for any policy or plan contract, from being conditioned upon or affected by the request. The bill would prohibit an insurance carrier from providing any information in communications made to an individual about the availability of an aid-in-dying drug absent a request by the individual or his or her attending physician at the behest of the individual. The bill would also prohibit any communication from containing both the denial of treatment and information as to the availability of aid-in-dying drug coverage.

This bill would provide a person, except as provided, immunity from civil or criminal liability solely because the person was present when the qualified individual self-administered the drug, or the person assisted the qualified individual by preparing the aid-in-dying drug so long as the person did not assist with the ingestion of the drug, and would specify that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct of a health care provider provided for by the bill. The bill would make participation in activities authorized
pursuant to its provisions voluntary, and would make health care providers immune from liability for refusing to engage in activities authorized pursuant to its provisions. The bill would also authorize a health care provider to prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under the act while on the premises owned or under the management or direct control of that prohibiting health care provider, or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

This bill would make it a felony to knowingly alter or forge a request for drugs to end an individual’s life without his or her authorization or to conceal or destroy a withdrawal or rescission of a request for a drug, if it is done with the intent or effect of causing the individual’s death. The bill would make it a felony to knowingly coerce or exert undue influence on an individual to request a drug for the purpose of ending his or her life, to destroy a withdrawal or rescission of a request, or to administer an aid-in-dying drug to an individual without their knowledge or consent. By creating a new crime, the bill would impose a state-mandated local program. The bill would provide that nothing in its provisions is to be construed to authorize ending a patient’s life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among other things, suicide or homicide.

This bill would require physicians to submit specified forms and information to the State Department of Public Health after writing a prescription for an aid-in-dying drug and after the death of an individual who requested an aid-in-dying drug. The bill would authorize the Medical Board of California to update those forms and would require the State Department of Public Health to publish the forms on its Internet Web site. The bill would require the department to annually review a sample of certain information and records, make a statistical report of the information collected, and post that report to its Internet Web site.

**Status:** Signed into law on October 5, 2015.

**Comments:** From the *San Francisco Chronicle* (October 6, 2015)

Gov. Jerry Brown signed a bill Monday giving terminally ill Californians the right to be prescribed a lethal dose of drugs, saying in a highly personal statement that he had reflected “on what I would want in the face of my own death” and decided that those in such situations should have the choice.

The 77-year-old governor, a former Jesuit seminarian who worked for a time with Mother Teresa in India in the late 1980s to aid the dying, ended speculation over whether he would sign a bill that was opposed by the Catholic Church and some advocates for the sick and disabled.

California is the fourth state to pass a law offering such an option to terminally ill people, joining Oregon, Washington and Vermont. In Montana, a court has ruled that aid in dying does not violate that state’s laws. California’s law, which takes effect next year, will expire in 10 years unless it is renewed.
The assisted-death bill, ABX2-15, is extraordinary “because it deals with life and death,” Brown wrote in his signing message. “The crux of the matter is whether the state of California should continue to make it a crime for a dying person to end his life, no matter how great his pain or suffering.”

To make that decision, Brown said he had considered the issue from “theological and religious perspectives that any deliberate shortening of one’s life is sinful.” He said he had discussed the issue with a Catholic bishop, two of his doctors, and even South African Archbishop Desmond Tutu, who has spoken out in favor of “dignity for the dying.”

Brown said he also examined “thoughtful opposition materials” from doctors and advocates for the rights of the disabled.

‘It would be a comfort’
In the end, Brown wrote, he asked what he would want “in the face of my own death.”

“I do not know what I would do if I were dying in prolonged and excruciating pain,” Brown wrote. “I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill. And I wouldn’t deny that right to others.”

The “End of Life Option Act” narrowly defines the circumstances under which mentally competent, terminally ill patients can receive a lethal dose of medication.

Before the drugs can be prescribed, two California doctors must agree that the person has no more than six months to live.

It is then the patient’s choice whether to take the drugs. Those who want to must affirm their intention 48 hours in advance and must take the drugs on their own, without help.

California has seen five previous efforts to pass an aid-in-dying law since 1992, when state voters rejected a ballot initiative. Similar laws failed to make it out of the state Legislature four times between 1995 and 2008.

State Sen. Lois Wolk, D-Davis, tried again after the debate about medical prescriptions for terminally ill people grew more personal last fall.

Brittany Maynard of Alamo, a 29-year-old school teacher, was diagnosed with terminal brain cancer in spring 2014. Aware that her rapidly growing tumor foretold a painful death, Maynard left California and moved to Oregon to take advantage of that state’s “Death With Dignity” law and receive a fatal dose of the barbiturate Seconal.

She described her decision in a video she released Oct. 6, 2014, which went viral.

“I want this law to change for Californians and all Americans,” she told The Chronicle weeks before she ended her life on Nov. 1. “To be a part of getting the ball rolling is something I feel
good about. I want to make sure no one else has to do what I did and pack up their family and move to another state to not die horribly.”

**Doctors’ fears**

Maynard worked with a nonprofit lobbying group for aid in dying called Compassion & Choices. “We’ve heard repeatedly from people in California that doctors have been very hesitant to talk about the whole range of end-of-life options because they fear they could be prosecuted,” the group’s campaign manager, Toni Broaddus, said Monday. “This law will let people make an informed decision.”

A Field Poll released Monday showed widespread support among California voters for the bill, including rare harmony between Democrats — 70 percent of whom favored it — and Republicans (55 percent in favor). Even a majority of Catholic respondents said they hoped Brown would sign the bill.

Yet there remains fervent opposition.

“This is state-assisted death, physician-assisted death and relative-assisted death,” said state Sen. Bob Huff, R-Diamond Bar (Los Angeles County). “By signing this legislation, the governor ignores warnings from many physicians that patients facing end-of-life decisions may be subtly pressured to choose death rather than hold out hope for a cure.”

The Association of Northern California Oncologists said it opposed doctors hastening someone’s death.

“There would be no drug to kill the patient if the physician didn’t prescribe it,” said the group’s executive director, Jose Luis Gonzalez. “We believe that a physician’s first duty is to assist in the preservation of life and not to cause harm. We’re disappointed with the governor’s decision.”

**Disposition of Entry:**

SSL Committee Meeting: 2017 B

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( ) Reject

Comments/Note to staff
Summary: This bill establishes authority for the Department of Children, Youth & Their Families to file a petition with Family Court to compel an uncooperative parent or guardian to complete a drug or alcohol evaluation or mental health evaluation for themselves or to get a developmental screen for their child, if the child protection investigation reveals that substance abuse, mental health, or developmental delays may be placing the child at risk.

Status: Signed into law on July 15, 2015.

Comments: Delaware State Senate Majority Caucus
The bill came from recommendations following a Department-led in-depth review of a tragic case involving a 4-year-old girl who was killed by her mother while the Division of Family Services had an open treatment case with the family. Prior to this law, the Division was only able to file a motion to allow the Division to see the child or to gain entrance to the family home or to have an individual report to the Division’s office in furtherance of the investigation, or to compel the family to participate in the case plan but only when there was a signed case plan in place with the family. With this authority, the Division will be able to better protect the children and families they serve by being able to determine issues that are putting the children at risk.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
House Bill No. 1241 allows an individual to hunt with a short barreled rifle, removes single application Tasers from the definition of dangerous weapon except for felons and does not allow Tasers in bars, and allows dangerous weapons and firearms in off sale alcoholic beverage establishments.

The bill defines a public gathering, a place where firearms and dangerous weapons are not allowed, as an athletic or sporting event, a school, a church, and a publicly owned or operated building except publicly owned and operated rest areas or restrooms. The bill removed political functions, musical concerts, and parks from public gatherings covered by the prohibition.

The bill allows law enforcement to carry a loaded firearm in a motor vehicle while hunting and allows any individual to carry a loaded handgun in a motor vehicle with a concealed weapons license, but the individual may not carry a loaded rifle or shotgun in a motor vehicle if in the field hunting or trapping.

The bill clarifies that a handgun may not be carried by an individual unless unloaded and either in plain view or secured at day or unloaded and secured at night subject to many exceptions including holding a concealed weapons permit.

The bill removes a duplicative definition of dangerous weapon for the purpose of concealed weapons licenses.

The bill removes any loaded or unloaded rifle or unloaded handgun while carried in a vehicle from being considered concealed for purposes of violating the prohibition on carrying a concealed weapon without a permit.

The bill requires the Director of the Bureau of Criminal Investigation to disclose the reason for a denial or revocation of a concealed weapons permit.

The bill removes the requirement that a National Firearms Act licensee provide a copy of the license to the county sheriff and the Director of the Bureau of Criminal Investigation within five days of receipt of the forms.

Status: Signed into law on April 15, 2015.

Comments: From the Grand Forks Herald (April 7, 2015)
State senators voted overwhelmingly Tuesday to expand the places where a concealed weapons license holder can legally carry a firearm to include public parks, political rallies and public rest areas.

The Senate voted 45-2 to pass House Bill 1241, which bill carrier Sen. Kelly Armstrong said clarifies, simplifies and expands gun rights in North Dakota.
“Concealed weapons permit holders are not the problem. They’re the good guys. They’re the ones who are the law-abiding citizens,” he said.

The bill removes political rallies or functions, musical concerts, publicly owned parks and publicly owned or operated rest areas or restrooms from the list of places and events where it’s currently a Class B misdemeanor to possess a firearm or dangerous weapon.

It would still be illegal to carry a firearm in a school, publicly owned or operated building or a church without the church’s permission.

The legislation, which combines parts of three bills passed by the House, also removes single-shot projectile stun guns from the dangerous weapons law, allowing them to be carried for personal protection without a concealed weapons license.

Armstrong, an attorney, said the devices are still dangerous and using one inappropriately can result in a felony charge.

“So be careful, be responsible, and I think the citizens of North Dakota are,” he said.

The bill also allows license holders to carry a concealed weapon in liquor stores, allows short-barreled rifles to be used for hunting, makes Class 1 and Class 2 concealed weapons licenses equally valid and authorizes the state Bureau of Criminal Investigation to disclose to applicants the reason why their license was denied or revoked.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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Comments/Note to staff
08-37B-02 Release of Law Enforcement Recordings under the Public Records Law

Indiana
Bill/Act: HB 1019

Summary:
It exempts custodial interrogations described in Indiana Evidence Rule 617 from provisions applicable to other law enforcement recordings.

Requestor: The bill requires a public agency to permit the following persons (defined as a "requestor" in the statute) to view a recording at least twice:

1. A person depicted in a recording, or if the person is deceased or incapacitated, the person's relative or representative.
2. An owner or occupant of real property depicted in a recording.
3. A crime victim, if the depicted events are relevant to the crime.
4. A person who suffers a loss due to personal injury or property damage, if the depicted events are relevant to the person's loss.

The bill allows a "requestor" to be awarded attorney's fees, court costs, and other reasonable expenses if the "requestor" prevails in an action against a public agency to view a recording.

Inspection and Copy: It requires a public agency to permit all persons to inspect and copy a recording unless the public agency can demonstrate that release of the recording would:

1. Pose a significant risk of harm to a person or the public;
2. Interfere with a person's ability to get a fair trial;
3. Affect an ongoing investigation; or
4. Not serve the public interest.

Airports: It also provides that a recording that captures information relating to airport security may not be released for public inspection without the approval of the airport operator.

Court Orders: The bill specifies the procedure to obtain a court order for the release of a law enforcement recording, and requires a court to expedite the proceedings. Fees: It caps the fee for copying a law enforcement recording at $150, and specifies that the agency collecting the fee may spend the fee for certain purposes.

Obscuring: It also specifies information that a public agency may or must obscure from a law enforcement recording before disclosing it.

Retention: The bill establishes the length of time that a public agency must retain a law enforcement recording.

Criminal Statute: The bill exempts a law enforcement recording from a criminal statute prohibiting placement of a camera on the private property of another person.

Status: Signed into law on March 21, 2016.
Comments: From the Associated Press (March 21, 2016)
Indiana Gov. Mike Pence has signed a bill giving law enforcement agencies authority to withhold some video recordings from body cameras.

The law signed Monday will allow police to withhold video under some circumstances. If a person challenges a decision to withhold video, the law enforcement agency will be required to prove in court that releasing the video would harm someone or influence a court proceeding.

People depicted in video, or the family of a depicted person who was killed, will be allowed to view a recording at least twice but would not receive a copy under the measure.

The bill garnered support from both law enforcement agencies that had argued burdensome regulations would deter body camera use and open-records advocates who pushed for greater police transparency.

From EagleCountryOnline (March 24, 2015)
Indiana Governor Mike Pence has signed a bill that will allow Indiana law enforcement agencies the right to withhold all body and dash cam video recordings from the public. Gov. Pence signed House Bill 1019 on Tuesday. The legislation will give law enforcement agencies authority to withhold some video recordings under certain circumstances.

Any person in a video, or the family of someone injured or killed will automatically be allowed to view the video at least twice, but would not receive a copy under the measure. A person can obtain video recordings by challenging an agency in court. The agency would then have 30 days to prove that releasing the video would harm someone or hinder an investigation.

The Indiana Broadcasters Association applaud the compromise on HB 1019.

“We commend the Indiana Legislature for listening to their constituents on this important public issue. Our association of more than 300 Indiana television and radio stations took an aggressive stand on this measure because we believe that government recordings made possible through public funding should be made available to the public,” said Dave Crooks, chairman of the IBA.

A final compromise between the House and Senate removed a portion of the bill that would have required police to release any video that depicts excessive use of force or a civil rights violation.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Summary:
Requires all commercial mobile radio service providers operating in the state to send wireless emergency alerts, including Amber Alerts, to customers in affected areas.

Status: Signed into law on March 31, 2015.

Comments: From the Albuquerque Journal (April 1, 2015)
House Bill 174, sponsored by Rep. Sarah Maestas Barnes, R-Albuquerque, requires cellphone carriers to issue Amber Alerts via text message to all customers when a child goes missing.

“A parent knows that every single second counts when a child goes missing,” the governor said. Amber Alerts help law enforcement to quickly enlist the eyes and ears of the entire community in locating and returning a missing child. The bill supports the existing radio and television Amber Alert network.

Disposition of Entry:
SSL Committee Meeting: 2017 B
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Comments/Note to staff
Bill/Act: SB 1204

Summary:
This bill enacts the Tennessee Animal Abuser Registration Act, which requires the TBI to post to its web site a list of persons convicted of the following criminal offenses against animals:
(1) Aggravated animal cruelty;
(2) Felony animal fighting; and
(3) Bestiality and related offenses.

The list, which is to be publicly accessible beginning January 1, 2016, will include the animal abuser's full legal name, photograph, and any other identifying data the TBI determines is necessary to identify the abuser and to exclude innocent persons. The list will not include the abuser's social security number, driver license number, or any other state or federal identification number.

Under this bill, within 60 calendar days of the judgment, court clerks must forward to the TBI a copy of the judgment and date of birth of any person convicted of a qualifying animal abuse offense.

Upon a first conviction of an animal abuse offense, a person's name and identifying information will remain on the list for two years following the conviction, and the TBI will remove the name at the end of the two-year period, unless that person commits another animal abuse offense during that time. If a person is convicted of an animal abuse offense a second or subsequent time, that person's name will remain on the list for five years, and the TBI will remove it at the end of that time, unless the person commits another animal abuse offense during the five-year period.

TBI must remove a person’s name and identifying information from the registry list if the sole offense for which the person is on the list is expunged.

The TBI may promulgate rules to effectuate the purposes of this bill.

Status: Signed into law on May 8, 2015.

Comments: From the Huffington Post (November 4, 2015)
Tennessee is less than two months away from having this country’s first statewide animal abuse registry.

The registry will be a public, online listing of anyone convicted of animal abuse in the state. First-time offenders will remain on the registry for two years after their conviction. That gets upped to five years, for subsequent convictions.

“We proposed this law not just to take a stand against animal cruelty, but to take concrete action to prevent abuse and deter those who repeatedly engage in the torture and killing of animals,” state Sen. Jeff Yarbro (D), who sponsored the bill creating the registry, told The Huffington Post.
The Tennessee Animal Abuser Registration Act was signed into law this past spring. It’s gaining attention — and building enthusiasm — as folks ready for the law to go into effect on Jan. 1.

“There are going to be consequences” to harming animals in Tennessee,” said state Rep. Darren Jernigan (D), the bill’s sponsor in the House. “If you’re going to burn a cat or kick a dog, you’re going to pay for it.”

Amber Mullins, spokesperson for the Humane Society of Tennessee Valley, said she sees this registry as helpful both in keeping animals out of the hands of abusers — and hopefully providing a disincentive to committing future abuse.

“The registry is public record so any shelter, rescue group or any member of the general public can look through the list on the website before finalizing an adoption or rehoming a pet,” she said. “A public registry like this will hopefully serve as a deterrent to those who are about to commit a crime.”

Registries are currently under consideration in a handful of other states. Outside of Tennessee, animal abuse registries are in effect now in some cities and counties — New York City’s, for example, was implemented about year ago.

These registries are not without criticism, even in the animal welfare world.

Wayne Pacelle, Humane Society of the United States president, argued in a 2010 blog post that the resources put into such registries — which have been proposed in various forms for years — might better be used toward mental health care and enforcement of animal cruelty laws.

He also wondered if they could have negative unintended effects.

“Shaming [animal abusers] with a public Internet profile is unlikely to affect their future behavior — except perhaps to isolate them further from society and promote increased distrust of authority figures trying to help them,” Pacelle wrote.

A spokesperson from the Humane Society said that the organization’s position remains the same, five years later.

Yarbro said that Tennessee’s registry won’t take resources away from any other law enforcement, or mental health treatment, efforts.

“It does provide at least one additional tool” for shelters and rescue groups, in determining how to place pets in homes, meantime, he said.

It’s a tool that he hopes other states will also choose to take up, following Tennessee’s lead — not just for the sake of animals, but for the states’ human residents, as well.
“Given the documented link between abuse of animals and violence against people,” Yarbro said. “I think states should consider registries and numerous other measures to put a stop to such cruelty.”

That hope is echoed by Scott Heiser, a senior attorney with the Animal Legal Defense Fund and head of the ALDF’s criminal justice program.

Heiser said he, too, is “very pleased with the new Tennessee law” and hopes it may pave the way for other states to adopt similar registries, by “[demonstrating] that these laws are highly effective in supporting better decision-making by those who are placing animals in new homes.”

Jernigan said he hopes to make Tennessee’s animal abuse laws stronger, and to add more features to the registry, in coming years.

Now, though, he’s just eager for his state’s animal abuse registry to be up and running. “I’m so excited about it going online,” he said. “I just wish it would happen now.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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   ( ) next SSL mtg.   ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The bill provides civil immunity regarding property damage occasioned by a person that rescues an endangered vulnerable person or domestic animal from a motor vehicle.

Since 2010, 16 children and 17 senior citizens have died from vehicular heatstroke in Florida after being left unattended in a motor vehicle. Nationally, Florida ranks second only behind Texas for the number of child vehicular stroke fatalities in the United States. Animals left unattended in motor vehicles also account for an increasing number of heat-related motor vehicle deaths.

The “Good Samaritan Act” (GSA) provides immunity from civil liability for damages arising out of care or treatment gratuitously rendered to an injured person or animal in an emergency situation. However, the GSA does not specifically address immunity from liability for property damage related to the rendering of emergency care or treatment, such as the forcible entry of a motor vehicle to rescue a vulnerable person or domestic animal endangered by climatic or other conditions.

The bill provides immunity from civil liability for property damage resulting from the entry, by force or otherwise, of a motor vehicle by a good Samaritan to remove an endangered vulnerable person or domestic animal under certain circumstances. The bill defines a “vulnerable person” as a minor or vulnerable adult.

Status: Signed into law on March 8, 2016.

Comments: From the Weather Channel (March 9, 2016)
Florida Gov. Rick Scott has passed a bill making it legal to break into locked vehicles to rescue pets or vulnerable people believed to be in imminent danger of suffocation or other harm.

The bill went into effect Tuesday, and is among 16 bills Gov. Scott signed into law. It is in direct response to an increasing amount of incidents where pets, children and others are left in overheated cars, the Miami Herald reports. This can lead to suffocation or other harms, especially when sitting under Florida’s hot summer sun.

"Florida has seen much warmer than average temperatures in the last 12 months. In fact, the period from March 2015 through February 2016 ranked as the hottest on record for that stretch," said weather.com meteorologist Chris Dolce.

According to the bill text, it provides immunity from civil liability for damage to a motor vehicle related to the rescue of a person or domestic animal under circumstances. “Domestic animal” is used to describe a dog, cat, or other animal that is domesticated and may be kept as a household pet. This term does not include livestock or other farm animals.
Individuals may be absolved from being sued for breaking into locked vehicles as long as they have done the following:

- Checked to make sure the vehicle is actually locked
- Have a reasonable belief, based upon the known circumstance, that entering into the vehicle is necessary because the vulnerable person or domestic animal is in imminent danger of suffering harm
- Called 911 or law enforcement either before or immediately after breaking into the vehicle
- Use only the necessary amount of force to break in.
- Remain with the person, child or animal until first-responders arrive on the scene

In 2014, there were 32 reports of children dying in hot car deaths, according to the organization Kids and Cars. According to PETA, animals can sustain brain damage or die of heatstroke in just 15 minutes of being trapped in a car.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B

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Comments/Note to staff
08-37B-06 Unauthorized Use of Personal Identifying Information  
Bill/Act: **HB 1280**

**Summary:**
HB 1280 expands the circumstances under which a person may commit the crime of unauthorized use of personal identifying information to include using the information to obtain or continue employment, to gain access to personal identifying information of another individual, or to commit an offense in violation of the laws of the state, regardless of whether there is any actual economic loss to the individual. The bill also provides that a first offense is a Class A misdemeanor and a second or subsequent offense is a Class C felony.

**Status:** Signed into law on March 27, 2013.

**Disposition of Entry:**
SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
No Internet Access to Some Criminal Cases Act

Bill/Act: HB 11

Summary:
Under the bill, the Alaska Court System may not publish a court record of a criminal case on a publicly available website if 60 days have elapsed from the date of acquittal or dismissal and
1. The defendant was acquitted of all charges filed in the case;
2. All criminal charges against the defendant in the case have been dismissed and were not dismissed as part of a plea agreement in another criminal case under Rule 11, Alaska Rules of Criminal Procedure; or
3. The defendant was acquitted of some of the criminal charges in the case and the remaining charges were dismissed.

Status: Signed into law on February 26, 2016.

Comments:
Nine days into session and North Pole Republican Rep. Tammie Wilson is the first legislator to have a bill clear both bodies.

Wilson's House Bill 11 would remove records of criminal cases that ended in an acquittal or dismissal of all charges from the online court records system CourtView after 60 days of being cleared. The law would leave paper records open for inspection by the public.

HB11 passed the Senate 19-1 on Wednesday. It passed the House last session.

“You’re innocent until proven guilty,” Wilson said in an interview about the bill last year. “With technology, there are things put online and even though it says you should read a whole case, a lot of people don’t. They see a charge and not necessarily what the outcome is.”

The bill is a modified version of one passed in 2014 but that was vetoed by then-Gov. Sean Parnell, who criticized the legislation for being “too blunt and sweeping.” That version, authored by then-Sen. Fred Dyson, was more broad and would have sealed all records including paper copies.

The Daily News-Miner's editorial board, a number of other media outlets and the Alaska Press Club openly opposed the bill and actively urged Parnell to veto the measure.

On the Senate floor Sen. Bill Wielechowski, D-Anchorage, recalled another former senator's opposition to that earlier legislation.

"Sen. Hollis French, who I believe was the only no vote on this when it passed last time and I think his excellent speech resulted in a much better bill, a fair compromise," he said. "It balances the risks that are involved here."

Sen. Cathy Giessel, R-Anchorage, carried the bill on the Senate floor for Wilson. She said the new version makes everyone happy.
"The House sponsor has worked with the courts, the Department of Law and domestic violence folks, advocacy groups, to craft legislation that would protect the rights of the innocent and victims alike," she said.

As the bill passed the Senate, 13 senators from both political parties added their names as cross-sponsors for the bill, a sign of extra support.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
8-37B-08 Law Enforcement Training on Sexual Assault  Delaware

Bill/Act: **HB 2**

**Summary:**
This bill strengthens the annual training requirements for Delaware law enforcement officers related to sexual assault detection, prosecution and prevention. The bill requires that police officers receive victim-centered, trauma-informed sexual assault training every four years. Prosecutors serving in the Department of Justice Criminal Division Sex Crimes Unit would be trained every three years.

**Status:** Signed into law on June 30, 2015.

Comments: From the **Delaware House Democrats** (June 16, 2015)

The House today voted unanimously in favor of legislation to improve annual training requirements for Delaware law enforcement officers related to sexual assault detection, prosecution and prevention.

Out of nearly 600 hours of required minimum training, Delaware police officers typically receive only eight hours of training on domestic violence and four hours on sex crimes. Under House Bill 2, police officers would receive victim-centered, trauma-informed sexual assault training amounting to at least two hours every four years. Prosecutors serving in the Department of Justice Criminal Division would be required to receive four hours of such training every three years.

“When a police officer makes contact with a victim of sexual assault, and later when the victim meets with our state prosecutors, we want to make sure those interactions are conducted with care, respect and sensitivity, to ensure that the victim is not re-traumatized during the criminal justice process,” said bill sponsor Rep. Helene Keeley, D-Wilmington South. “We want our Delaware law enforcement officers to have the most current, relevant and appropriate training to investigate and prosecute these unique crimes.”

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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( ) Reject

Comments/Note to staff
Summary:
This Joint Resolution requires every law enforcement agency, law department, hospital, testing facility, and prosecutorial agency to report to the Attorney General’s Office the number of unexamined sexual assault kits and their date of collection. The Criminal Justice Council will then prepare an aggregated report by January 11, 2016. The Resolution then requires the Criminal Justice Council to develop strategies which will improve the response from the medical and criminal justice communities to reports of sexual assault in the State.

Status: Signed into law on June 30, 2015.

Comments: From the News Journal (July 16, 2015)
She doesn’t remember the night it happened. “Brooke Smith,” who asked that her real name not be used in this story, said she was drugged, choked and violently raped during an attack in Smyrna. She had to rely on the accounts of others present to help piece together events of that awful night.

But the funny taste in her mouth the next morning and the bruises on both sides of her neck prompted Smith to seek medical attention. And she quickly learned from medical professionals that she needed to complete a rape kit. It would be years before she found out her kit – containing her clothes, underwear, hair samples and more – was never tested by law enforcement for DNA.

Smith’s kit, like many in Delaware and across the country, sat untested on an evidence shelf for years while she talked for months with prosecutors about being violated, and how they might press charges against her attacker. Ultimately, her attacker was not prosecuted for the crime he committed against Smith.

It’s not known how many untested rape kits there are in the state because no one has been tracking the information. But that’s changing.

Delaware lawmakers on June 30 passed legislation requiring “every law enforcement agency, law department, hospital, testing facility, and prosecutorial agency” responsible for collecting, storing and maintaining sexual assault kits to inventory untested kits. They must report final numbers to the Criminal Justice Council, which coordinates funding for public safety efforts, by Oct. 15.

Lawmakers will review the report during the new legislative session starting in January and work with the council and other law enforcement agencies to determine how to curb sexual assault in Delaware, said Sen. Nicole Poore.

The New Castle Democrat has a degree in criminal justice and drew on her experience as a rape crisis counselor while in college to write the legislation. After doing weekend rotations with the crisis center and watching young women with backgrounds much like hers go through the rape
kit process, Poore wanted to write a piece of legislation that could make real change in the state and hopefully, around the country, she said.

“When you can put DNA to one person and close that gap for a victim, it’s life-altering,” Poore said. “Most rape victims know who their attacker is. But if you’re one of those people who doesn’t, you’re always looking over your shoulder.”

Though the legislation calls only for the inventory of the kits and not mandatory testing, Poore predicts the numbers of untested kits will be “staggering” – and will prompt legislators to test all kits now sitting on evidence shelves.

The New Castle County Police Department has 235 untested rape kits dating to 1995, said Col. Elmer Setting, the chief. Of the 235 kits, 210 have known suspects, he said, but the kits weren’t tested because victims recanted their stories, didn’t cooperate or chose not to prosecute.

Wilmington Police Department has about 247 untested kits as far back as 1997. Newark Police Department did not have numbers readily available upon request, and numbers from Delaware State Police for all three counties were not provided as of press time.

Setting said reasons like uncooperative victims and recanted stories aren’t good enough to leave kits untested. More often than not, Setting said, a victim comes to police, says she was assaulted, gets a kit done and then later comes back and says, “I made it up. I’m sorry.”

What police can’t account for is a family member or perpetrator coming to the victim and threatening them if they tell their story, Setting added.

“It’s like the old police saying: When you catch a burglar in a house, it’s not his first time in a house,” Setting said. “Statistically, we know these people are serial offenders. We’ve got to stop defending bad models and build a new one.”

The Criminal Justice Council will acquire funding to support the audit legislation from federal grants, Poore said. The grant that Delaware is hoping to acquire is “competitive,” Poore said, adding that she couldn’t confirm the exact total of funds awarded until grants are released in the fall.

Wilmington Police Sgt. Barry Mullins, who worked closely with the council on the grant proposal, estimated the federal grant will provide Delaware with about $2 million for the audit. Organizations like the Rape, Abuse and Incest National Network are concerned that without legislation pushing government agencies to keep close eyes on these kits, many will never be tested.

In many cases, agencies don’t even know how many untested kits they have, said Rebecca O’Connor, RAINN’s vice president for public policy. But more states are making changes – what O’Connor believes is an attempt to be proactive rather than reactive in light of negative headlines. RAINN is among three groups pushing for national change.
On average, rape kits can cost between $500 and $1,500 to test, due to lab machinery, labor and training costs associated with understanding and processing DNA, O’Connor said.

In Delaware, each kit processed by the state Division of Forensic Science costs about $615 to test, said Spokeswoman Kimberly Chandler, but this number doesn’t take into account the salary-related costs for analysts reviewing them.

On average, kits sent to the state take about 45 days to process, she said, but a kit with more DNA swabs may take longer.

Setting said the New Castle County Police Department is going to purchase a tabletop DNA machine as soon as the newest model is available. Unlike the huge machines of the past – which alone can cost about $1 million plus the staff and training to run them – tabletops machines are about the size of a copier, cost about $250,000 and can offer results in as little as a half hour, he said.

If a police department needs to expedite DNA now, they often have to outsource it to a private lab, Setting said, and split the cost with the Attorney General’s office. This is typically done when DNA is needed immediately and if a suspect is known, he added.

Wilmington only uses the Delaware Division of Forensic Science statewide laboratory to process its evidence, Mullins said, including all rape kits.

Setting is convinced that upon running all untested kits for DNA, a serial rapist will be discovered among their results. That’s when it will become “compelling” to the public, he said, and testing all kits will become a public safety necessity.

But Sexual Assault Network of Delaware Coordinator Nancy McGee worries that going back through old tests, specifically of those who were told their cases wouldn’t be prosecuted or who didn’t want their kits used for legal purposes, will only re-victimize the survivors.

All who get a sexual assault kit performed but choose not to immediately turn it over to police do so with the expectation that hospitals will destroy the kits after 30 days, a requirement all Delaware hospitals agreed to long ago, she said.

The problem, McGee said, is that this expectation comes with the premise that someone will go into these evidence closets and destroy untested rape kits after 30 days, and most facilities just don’t have the manpower to do that.

The reality, however, is that hospitals and law enforcement agencies hold onto them for much longer than that, she said.

At times, this can be helpful, McGee said. A survivor may come back weeks later, saying she’s ready to prosecute and the kit is still available — or she may move on with her life, never wanting to go back to that moment where her power was taken, McGee said.
“There’s a crossover,” she said. “It’s your own sexuality [involved] as opposed to a crime that was committed.”

Mullins said the department knows untested kits are an issue and is working to address it, both internally and across the state. The police department worked closely with the Criminal Justice Council to formulate a plan to inventory the kits and get untested kits to the lab.

Typically, if a person is sexually assaulted by an unknown person, Mullins said, the kit is immediately sent to the laboratory with the victim’s consent. If the perpetrator is known, Mullins said, the state Department of Justice will determine whether it needs DNA evidence to strengthen the case.

He acknowledges that approaching victims years after their assault may be re-traumatizing.

“I just don’t think morally and ethically we could test kits and not tell them,” Mullins said. “We should at least give (victims) the opportunity to move forward with the case. They should know the results.”

Smith agrees. Her case was dropped with little explanation as to why.

As a survivor, Smith acknowledges that someone knocking on her door years later would dredge up painful memories, but she still believes untested kits should be processed. After trying to piece together the unknown details, she’s well aware that a particular scent or song can take her back to the night of her attack in an instant, she said. And while it may hurt to go back there, she wants to see perpetrators taken off the street for good.

Rapists “violently violate your inner sanctuary,” she said. “To be questioned, to have your story doubted, invalidates you. Sometimes, I wish — just to prove I’m not making this up — that they tested my kit. For whatever reason, why didn’t you give me that much?”

Today, she knows that telling her story and pursuing crimes against women is the only thing she can do. As much as it hurts, she believes that telling her story may stop it from happening to someone else.

“That’s why I’ve pursued this,” she said. “I never want another person to ever look at me and say, ‘If you’d have done something, I wouldn’t have gone through this.’”

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
The Oregon State Police completed an inventory in September 2015, indicating that there are approximately 5,652 untested sexual assault forensic evidence kits in Oregon. Processing these kits may assist in identifying suspects and in prosecuting sex crimes.

Under SB 1751, known as “Melissa’s Law,” Oregon now mandates testing of all rape kits except for “anonymous” or “Jane Doe” kits. Law enforcement agencies are required to obtain kits from hospitals within seven days of notification, and to send the kits to the Oregon Department of State Police forensic laboratory within fourteen days. State and local law enforcement agencies are required to adopt written policies and procedures regarding the handling of kits, and to ensure that results are uploaded into the Combined DNA Index System (CODIS). The law expressly states that law enforcement must retain all kits – both reported and “Jane Doe” kits – for at least sixty (60) years before destroying them.

Furthermore, the law requires law enforcement to delegate at least one person within the agency to answer survivors’ questions regarding the status of their kits. If a victim requests information about their kit, the agency must endeavor to respond within 30 days. The survivor can also designate an individual to receive this information on their behalf.

“Melissa’s Law” also contains provisions to ensure accountability and continued awareness of this issue moving forward, including a mandated written report by the State Police regarding progress on rape kit testing as well as the establishment of a task force comprised of sixteen members, including legislators from both the House and Senate, and individuals appointed by the Governor that represent law enforcement, survivors, advocates, prosecutors, criminal defense attorneys, and sexual assault nurse examiners. The task force’s job will be to address important areas issues such as: (1) improvements for victim access to and rights regarding evidence in their cases other than rape kits; (2) law enforcement training on responding to and investigating sexual assaults; (3) measures that would allow for testing of “Jane Doe” kits if a victim would like her kit to be tested but remain anonymous; and (4) funding in order to increase system efficiency, provide victim notification and reduce testing times.

Status: Signed into law on March 29, 2016.

Comments: From the Statesman Journal (March 29, 2016)
Gov. Kate Brown signed a bill into law Tuesday that mandates the state crime lab triage and process the backlog of untested rape kits sitting in police departments across Oregon. Senate Bill 1571, also known as Melissa's Law, passed through the Legislature unanimously during the 2016 session.

The law is named for Melissa Bitter, who was killed by a serial rapist in Portland in 2001. Evidence kits from two other women attacked by the same rapist four years earlier sat untested.
on a shelf in the Portland Police Bureau until an investigator noticed similarities between the cases following Bitter's death.

Rep. Ann Lininger, D-Lake Oswego, who helped craft Melissa's Law, said in a legislative debate that Bitter's death could have been avoided. Yet her situation is not unique.

In July 2015, a USA TODAY NETWORK investigation found that at least 70,000 untested rape kits sit in crime labs across the nation. That backlog is important because untested kits containing DNA evidence can't be used to prosecute sex crimes — or exonerate the wrongfully convicted. Since publishing the investigation, at least 20 states pursued reform efforts for rape kit testing standards.

In Oregon, lawmakers have been pursuing legislative fixes to the backlog since fall of 2015. Sen. Sara Gelser, D-Corvallis, the chief sponsor of Melissa's Law, said in an interview Tuesday that the legislation will provide victims of sexual violence with assurance their rape kits get tested. Collecting evidence for a rape kit is an invasive procedure and can often take hours.

Leaving the evidence untested is a disservice to the victims, Gelser said.

"Looking backwards, it creates a high degree of transparency to make sure we clear that backlog," Gelser said of the new law. "Looking forward, it makes sure we don't create a backlog by creating rules for processing sexual assault evidence kits."

Melissa's Law includes several reforms:
- The state crime lab must process all non-anonymous rape kits.
- Police departments must retain rape kits for at least 60 years.
- Victims must be allowed to ask if a DNA match has been found from their rape kit.
- The Department of State Police must adopt rules for prioritizing rape kit testing.
- Results from testing must be entered into a national DNA database.
- The state crime lab must update the Legislature annually on rape kit testing and backlogs.
- Every state law enforcement agency must develop written policies for collecting and processing rape kits.
- At least $1.5 million will be allocated to hire nine new analysts at the state crime lab.

The Legislature also extended the statute of limitations on sex crimes during the 2016 session.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
SB 636 creates section 943.326, Florida Statutes, which addresses the collection and processing of evidence in sexual offense investigations that may contain DNA evidence.

The bill requires that a sexual offense evidence kit collected in a sexual offense investigation be submitted to the statewide criminal analysis laboratory system for forensic testing within 30 days after the evidence is received by a law enforcement agency if a report of the sexual offense is made to the agency, or when the victim or his or her representative requests that the evidence be tested.

Testing of the sexual offense evidence kit must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency approves the kit’s destruction. The victim, or his or her representative, shall be informed of the purpose of testing and of his or her right to demand testing.

The victim shall be informed by either the medical provider conducting the physical forensic examination for purposes of evidence collection for a sexual offense evidence kit or, if no kit is collected, a law enforcement agency that collects other DNA evidence associated with the offense.

By January 1, 2017, the Florida Department of Law Enforcement (FDLE) and each lab within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, must adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence obtained in connection with an alleged sexual offense.

The guidelines and procedures must include:
- Standards for packaging evidence for submission to the laboratories for testing;
- What evidence must be submitted for testing, which would include a collected sexual offense evidence kit and possibly other evidence related to the crime scene;
- Timeframes for evidence submission including the 30 day deadline for collected sexual offense evidence kits as set forth in the bill;
- Timeframes for evidence analysis including the bill’s requirement that testing of sexual offense evidence kits must be completed no later than 120 days after submission; and
- Timeframes for evidence comparison to DNA databases.

Comments: From the *Tampa Bay Times* (March 2, 2016)
A bill aimed at preventing future backlogs of rape kits easily passed its last stop in the Florida Legislature and is now headed to the governor.

By a 114-0 vote, the Florida House agreed to a bill that would require local law enforcement agencies to submit rape kits they collect to a statewide crime lab for forensic testing within 30 days of a sexual assault offense is reported. Testing of the kits would have to be completed within 120 by crime labs.

"This legislation will help ensure future kits are tested expeditiously," Florida Attorney General Pam Bondi said on Wednesday.

That bill is in addition to more than $2.3 million in funding that has been included in the proposed state budget to pay for testing of older kits. Lawmakers have promised to spend $8.1 million over three years to clear the backlog.

A study released in January by the Florida Department of Law Enforcement discovered that at least 13,435 untested rape kits are in evidence rooms around the state, 25 percent more than previous estimates. Kits are not sent in for testing for numerous reasons, including a victim who first reported a crime refuses to participate in an investigation or a state attorney's office decides not to prosecute. In other cases, a suspect pleads guilty so the kit results are never needed for prosecution.

Public pressure has been growing for all rape kits to be submitted for testing because they could contain DNA evidence that can solve other cold cases and even identify serial sexual offenders.

The FDLE reported that when the city of Houston tested 6,663 untested kits, they found 850 matches in a federal DNA database that have led to 29 convictions so far.

The bill, sponsored by Sen. Lizbeth Benacquisto, R-Fort Myers, passed the full Senate on Feb. 24 by a 36-0 vote.

Disposition of Entry:

SSL Committee Meeting: 2017 B
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Comments/Note to staff
Summary:
North Dakota officials have begun implementing changes to a sobriety program as part of recently enacted drunken driving legislation. Among the changes are numerous new uses for the 24/7 Sobriety Program. The 24/7 Sobriety Program originated in South Dakota and began in North Dakota in 2008. Judges can require people to undergo breath tests for alcohol twice a day as a condition of bond in DUI cases, as well as other alcohol-related crimes, to make sure they stay sober. House Bill 1302 mandates the program as a part of probation for offenders on second and subsequent convictions for DUI and for juveniles adjudicated in alcohol-related driving offenses. It also allows some temporary driver's licenses for people on the program.

House Bill No. 1302 authorizes law enforcement to immediately take into custody without a warrant an individual who violates a court order to participate in the 24-7 sobriety program.

House Bill No. 1302 requires the juvenile court to order a child to participate in the 24-7 sobriety program if the child is adjudicated delinquent or is subject to informal adjustment for having an alcohol concentration of at least .02 of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle.

House Bill No. 1302 increases the lookback provision for multiple offenses from five years to seven years. The bill allows a temporary restricted license after 14 days on a first offense if the offender is in the 24/7 sobriety program instead of 30 days and requires attendance in the 24/7 program for a temporary restricted license for a second or subsequent offense. The bill requires the 24/7 sobriety program to require breath tests two times a day or electronic monitoring, urine testing, or drug patch testing for which the offender must pay. The bill requires an exhaustion of administrative remedies before an offender may obtain a temporary restricted license.

The bill makes the failure to submit for testing an offense of driving while under the influence. The bill creates a felony for the fourth or subsequent offense, instead of the fifth or subsequent offense in seven years as previously provided by law.

The bill increases the sentence for a first offense by increasing the fine from $250 to $500 and creating an aggravated first offense for having a blood alcohol content of at least .16 of one percent by weight which has a fine of $750 and requires at least two days imprisonment. The bill increases the penalties for a second offense by increasing the fine from $500 to $1,000 and requiring at least 12 months probation and participation in the 24/7 sobriety program as part of the supervised probation. The bill increases the penalties for a third offense by increasing the days of imprisonment from at least 60 days to 180 days, increasing the fine from $1,000 to $2,000, and requiring at least one year supervised probation and participation in the 24/7 sobriety program as part of probation. The bill increases penalties for a fourth or subsequent offense by increasing the number of days of imprisonment from at least 180 days to 1 year and 1 day, increasing the fine from $1,000 to $2,000, and requiring two years of supervised probation and participation in the 24/7 sobriety program as part of probation.
The bill prohibits a suspended sentence for a first or second offense but allows for converting days of imprisonment to 10 hours of community service for each day for an aggravated first offense. The bill prohibits a suspended sentence for a third offense except for 60 days of imprisonment upon treatment, evaluation, and participation in the 24/7 sobriety program. The bill prohibits a suspended sentence for a fourth or subsequent offense except for one year imprisonment upon treatment, evaluation, and participation in the 24/7 sobriety program.

The bill creates criminal vehicular homicide for driving under the influence that results in death. The penalty is a Class A felony with 3 years imprisonment as a minimum mandatory and 10 years imprisonment for a second offense as a minimum mandatory. The bill creates criminal vehicular injury or driving under the influence that results in substantial bodily injury or serious bodily injury. The penalty is a Class C felony with one year imprisonment as a minimum mandatory and if a second offense there is two years minimum mandatory imprisonment. The bill creates a Class C felony for a second conviction for driving while under the influence with a minor in the motor vehicle.

The bill requires a law enforcement officer to request a search warrant to force a blood, breath, or urine test unless there is exigent circumstances. The bill reduces the revocation for failure to submit to testing from one year to 180 days for a first offense, from three years to two years for a second offense, and from four years to three years for a third or subsequent offense. The bill allows curing the revocation for failure to submit to testing by pleading guilty for any offense, not just the first offense as was previously provided by law.

**Status:** Signed into law on April 29, 2013

**Comments:** From the *Bismarck Tribune* (July 30, 2013)
North Dakota officials have begun implementing changes to a sobriety program as part of recently enacted drunken driving legislation.

The North Dakota Legislature passed House Bill 1302 during the 2013 legislative session, which made major changes to the state's DUI laws. The changes went into effect on July 1. Among the changes are numerous new uses for the 24/7 Sobriety Program.

The 24/7 Sobriety Program originated in South Dakota and began in North Dakota in 2008. Judges can require people to undergo breath tests for alcohol twice a day as a condition of bond in DUI cases, as well as other alcohol-related crimes, to make sure they stay sober.

House Bill 1302 mandates the program as a part of probation for offenders on second and subsequent convictions for DUI and for juveniles adjudicated in alcohol-related driving offenses. It also allows some temporary driver's licenses for people on the program.

County sheriff's departments have administered the program. While many law enforcement officers have been pleased with the results of 24/7, some sheriffs were concerned about the demands and logistics of carrying out the expanded program.
Burleigh County has 25 to 30 people coming in twice a day for breath tests and an additional 17 or so using "SCRAM" bracelets, devices that detect alcohol through the skin, Cami Krueger, 24/7 coordinator for the department, said. The program expansion likely will mean larger workloads for agencies.

Burleigh County Sheriff Pat Heinert also is concerned about where people will wait for their tests. By July 16, several people already had been sentenced to the program as part of probation. The area in the department where the tests are conducted now can't hold many more people. "I just don't have a safe place for people to come and go," he said.

Attorney General Wayne Stenehjem said a new jail planned for Burleigh and Morton counties should clear up space concerns, though the jail is not a certainty yet and is several years away from being built. He also suggested counties concerned about manpower for the program use a $1-per-test fee to hire temporary workers or college students to help administer the program.

However, Heinert said officers have to make arrests when someone fails a test.

"We'll work through the logistical issues," Stenehjem said.

Heinert plans to talk to the district court about other ways to run the program.

"I'm going to continue to work on it," he said.

The original 24/7 program has been effective in getting people to stay sober pending the resolution of their DUI cases. Heinert said 99 percent of tests were negative last year and 78 percent of people on the program in Burleigh County finished it successfully, meaning they didn't miss tests or use alcohol.

"The program is fantastic," Heinert said. "Hundreds of them thanked us when they were done." Stenehjem said a study of the South Dakota program showed a decrease in repeat DUIs after 24/7 was put in place. A similar study of North Dakota statistics is planned.

"The indication is that the certainty of arrest and the certainty of the consequences has a direct positive impact on behavior," Stenehjem said.

Dave Krabbenhoft, director of administration for the state Department of Corrections and Rehabilitation, said it's hard to determine how many people could end up on the program through probation, because it is difficult to gauge whether it will have a deterrent effect.

Probation officers already use SCRAM bracelets, and the 24/7 Sobriety Program should be another tool to help people regain sobriety, Krabbenhoft said.

"The law is well intentioned. I'm one of those people on the side hoping this has a really strong deterrent effect," he said.

Stenehjem also anticipates people who have lost their licenses because of a DUI conviction will be glad to participate in 24/7 in order to obtain a temporary driver's license.
Cory Pedersen, director of juvenile court for the South Central and Southwest Judicial Districts, said juvenile adjudications for DUI are rare, though it is not as uncommon for teens to get arrested for minor in consumption while driving, which requires having at least a 0.02 blood-alcohol concentration, compared to a 0.08 BAC for a DUI.

Some of the biggest issues for juveniles on the program will include getting them to sheriff’s departments twice per day without missing school and making sure they have the necessary identification to participate, Pedersen said.

From SoberingUp
On April 29th North Dakota Governor Jack Dalrymple signed a new piece of DUI legislation that officials say with substantially strengthen North Dakota’s drunk driving laws.

House Bill 1302, which goes into effect August 1st, increases the fines for DUI convictions, increases jail time for second and subsequent offenses, and requires repeat DUI offenders to participate in state’s the 24/7 Sobriety Program for one year. “This new law is enforceable, it is a stronger deterrent, and it will help save lives,” says Dalrymple.

North Dakota’s highly successful 24/7 Sobriety Program requires participants to refrain from any alcohol use. All participants are monitored for alcohol consumption using twice daily breath alcohol testing or a Continuous Alcohol Monitoring ankle bracelet. Individuals that test positive for alcohol are immediately taken into custody to spend a day or two in jail.

“For years we have been telling people that if they drink and drive, we’re going to stop them from driving. That hasn’t worked. We will now be telling repeat offenders that if you continue to drink and drive we’re going to stop you from drinking,” says North Dakota Attorney General Wayne Stenehjem.

Do you agree that repeat DUI offenders shouldn’t be able to drink, or is that too restrictive? I suggest that there’s a portion of the population that, for their personal health and welfare and for that of the public, should abstain for consuming alcohol.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
      ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The bill governs the security of electronic and telephonic communications and the procedural requirements for searching and monitoring such communications.

The bill prohibits a person from installing a tracking device or tracking application on another person’s property without the other person’s consent. A violation of this prohibition is a second degree misdemeanor. This prohibition does not apply to:

- A law enforcement officer or law enforcement agency that lawfully installs a tracking device or tracking application on another person’s property as part of a criminal investigation;
- A parent or legal guardian of a minor child that installs a tracking device or tracking application on the minor child’s property if:
  - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;
  - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;
  - The parent or legal guardian has sole custody of the minor child; or
  - The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application;
- A caregiver of an elderly person or disabled adult, if the elderly person or disabled adult’s treating physician certifies that such installation is necessary to ensure the safety of the elderly person or disabled adult;
- A person who is not engaged in private investigation, and is acting in good faith on behalf of a business entity for a legitimate business purpose; or
- An owner or lessee of a motor vehicle, in specified circumstances.

The bill provides for administrative disciplinary action against persons engaged in private investigation, security, or repossession, who install tracking devices or tracking applications in violation of the provisions of the bill. The bill creates a new second degree misdemeanor, which is punishable by up to 60 days in county jail and a $500 fine.

Note: Similar bills have been enacted in several other states, including North Carolina (which is also included in the docket), New York, New Jersey, Wisconsin, Oklahoma, and Colorado. One key difference is whether the prohibition applies to private investigators.

Status: Signed into law on June 11, 2015.

Comments: From WFTS Tampa (June 19, 2015)
The web is full of ads for cheap but powerful tracking devices with lots of suggested uses, like tracking a piece of luggage, a package or a child.

"Put one in your child's backpack and relax while you track their whereabouts at all times," says an ad for "Hide and Seek".
But there's a dark side to this technology that makes GPS satellites your own personal eye in the sky. A U.S. Justice Department survey last year found one in every 13 stalking cases involved electronic monitoring. Ten states have banned it all together.

"Tracking devices are very intrusive. If you put that tracking device on an individual's vehicle, you can actually see where that person is and that can be very dangerous to that person," said private investigator Albert Verile.

Verile said his agency uses tracking devices but carefully and only on property that belongs to the client. He has no problem with the new Florida law just signed by the governor that makes it a misdemeanor crime to use tracking devices without the other person's consent.

"We want to make sure everything that we compile and present to the courts, if it has to go that far, is going to be admissible. So if we're acting unethical or illegal, it's not going to be admissible in court and we're going to run into some issues," Verile said.

Using a tracker without consent can land you in jail for up to six months. There are exceptions for law enforcement, parents and legal guardians of seniors and disabled people.

From Skipese (September 14, 2015)
Private investigators in the state of Florida are facing some tough challenges to their surveillance work due to a new state law that goes into effect in October.

On October 1st, Florida Statute 934.425 will be officially implemented which makes it illegal to install a GPS tracking device and software on private property without permission from the property owner.

This anti-tracking law has an exception for people “acting in good faith on behalf of a business entity for a legitimate business purpose.”

The law also exempts any law enforcement professionals who legally use tracking devices or tracking software as part of an official criminal investigation.

However, the law makes no exceptions for Florida’s licensed private investigators.

Anyone charged with violating Florida’s new anti-GPS-tracking law faces second degree misdemeanor charges.

One of the reasons for the law’s creation is a study from the United States Department of Justice which shows that 1 out of 4 stalking incidents involved the use of some type of tracking technology and 1 out of 13 stalking cases made use of GPS trackers.

While this law was meant to target stalkers who use GPS technology to track people, it is also trapping private investigators with its restrictive wording.
Florida private investigator Chris Rumbaugh has stated publicly that the way this bill was written will create major problems for private investigators in Florida.

According to the bill’s sponsor, State Representative Larry Metz (R-Yalaha), private investigators were included in the bill’s prohibitions because people with the financial resources to hire a private investigator should not be able to get around the law while other people cannot. Metz said that allowing private investigators to use GPS systems to track people would create two different legal standards.

Representatives for the two professional organizations for private investigators in the state of Florida have both voiced their opposition to the new law.

Chris Rumbaugh is a director with the Florida Association of Private Investigators (FAPI). Rumbaugh says that while it is always possible that a private investigator could mistakenly take on a stalker client, so far there have been no cases like this reported in Florida.

Tim O’Rourke is the president of the Florida Association of Licensed Investigators (FALI). O’Rourke further notes that even though there are bad apples in every professional field, any concerns about private investigators taking on client stalkers should be addressed by Florida’s ability to revoke a private investigator’s professional license in the event that they fail to properly vet a client.

State Rep. Metz says that PI’s are still allowed to do surveillance work, but they have to consider a person’s privacy rights as well as property rights under the new law.

Another reason that more states like Florida are implementing these restrictive GPS tracking laws is the Supreme Court case United States v. Jones, 132 S.Ct. 945, where SCOTUS decided that the use of tracking devices without a warrant violated Fourth Amendment prohibitions against unreasonable search and seizure.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg. ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
A bill to provide that a person commits the offense of cyberstalking if the person knowingly installs or places a tracking device without consent and uses the device to track the location of an individual. The bill allows various exceptions, including law enforcement officers performing official duties; legal guardians tracking minors or disabled adults; the owner of fleet vehicles to track their vehicles; private investigators who are investigating criminal behavior, finding lost or stolen property, or if the person they’re investigating has threatened someone with injury or death, and employers who provide communication devices to their employees or contractors for use in connection with their work.

Status: Signed into law on October 22, 2015.

Comments: From the North Carolina Association of Private Investigators (December 11, 2015)
A recent update to a North Carolina GPS tracking bill would allow private investigators to use a tracker under certain circumstances, in the context of a lawful investigation.

North Carolina Senate “Cyberstalking” Bill 238 outlines the regulations governing GPS tracking devices used by private investigators. The initial bill removed licensed private investigators and private detectives from the use of such devices, which would greatly hinder the private investigation business.

GPS tracking has become a critical tool in the private investigation industry. Following a target with just a single investigator has many challenges. Many cases require the use of 2 or more investigators to keep an eye on a single vehicle, which can end up being costly to the client.

The good news to investigators is that the amended bill added private investigators and private detectives back in the bill as an exception to the rule.

This is big news for the private investigator business. The bill is designed to protect investigators who are acting in accordance with their authority by law. This bill, should it become law, will allow a private investigator to use a GPS tracking device to investigate the activity, movement, whereabouts, acts of any person, or for the location or recovery of lost or stolen property when in a contractual basis to furnish such information.

Will this allow private investigators to place a GPS tracker on any vehicle they want as long as they are working a contract agreement with a third party? Based on the current language, that would appear so, as long as it is not otherwise contrary to law and the person being tracked is not protected by a domestic violence protection order or any other court protection order.

Many private investigation companies have company policies regarding the placement of GPS trackers as it is. Some prevent their investigators from placing a tracker on a vehicle unless the person requesting such placement meets one of the following criteria:
(1) Is the owner of the vehicle or has equal ownership of the vehicle such as a vehicle that is considered marital property,
(2) The vehicle is a fleet vehicle for a business and the person is an agent within the business that is authorized to place a tracker,
(3) The person is the parent of the minor wishing to be tracked,
(4) The person is the legal guardian of an individual to be tracked who is incapacitated or disabled.

If signed into law, this bill could change the way some investigators use GPS trackers in their investigations. For the most part, this is good news for private investigators and their clients, as it gives PIs more options.

But even though the bill doesn’t seem to explicitly prevent private investigators from placing a tracker on any vehicle they want (as long as they are doing so under contract), I would be wary of freely doing so — you might find yourself as the defendant in a suit or criminal charge, which could cause this bill to be challenged and changed.

Bipartisan legislation, Senate Bill 238, passed unanimously by the General Assembly and signed into law by Governor Pat McCrory in October, makes it a crime to install an electronic tracking device (this would include installing a spyware app on someone’s phone) to track someone’s location without their consent.

Certainly there are legitimate reasons for using tracking systems, and the new law makes exceptions for them. They include: law enforcement officers performing official duties; legal guardians tracking minors or disabled adults; the owner of fleet vehicles to track their vehicles; private investigators who are investigating criminal behavior, finding lost or stolen property, or if the person they’re investigating has threatened someone with injury or death, and employers who provide communication devices to their employees or contractors for use in connection with their work. Using phones or other tracking devices to cyberstalk, however, is clearly an illegitimate use. Recalling some cases of domestic abuse committed using advanced technology can be quite chilling.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
The bill requires the executive director of the Department of Information Resources (DIR) to employ a statewide data coordinator to improve the control and security of information collected by state agencies; promote information sharing between state agencies; and to reduce information collection costs. The statewide data coordinator would be required to develop and implement best practices among state agencies related to information coordination, collection, and sharing. Best practices would also address improvement of information management and analysis; encourage agencies to collect and post data on the internet in an open file format that is machine-readable, exportable, and easily accessible by the public; and encourage the evaluation of open document format for storing data and documents.

Status: Signed into law on January 11, 2016.

Comments: StateScoop (February 11, 2016)
Texas’ new statewide data coordinator is pushing the state’s multitude of agencies to use data more effectively. Ed Kelly told StateScoop that he’s already kicked off efforts to encourage agencies to share and post data since starting in the newly created role last September, but over the coming months, he’s hoping to see a major change in the way the state manages its info.

“Data is one of those types of things that changes the culture of an agency overall,” Kelly said. “I’ve only scratched the surface with what I’ve done so far.”

Kelly feels the Legislature recognized the need for just such a culture change across the state’s agencies when it passed the statute creating his position. He likens the role to that of a chief data officer for the state, and he believes his decade of experience working for the state (first with the Dept. of Public Safety, then the Dept. of Agriculture) positions him to lead this new push.

Upon stepping into the new role with the state’s Department of Information Resources, Kelly said his first goal was to get a handle on how Texas currently uses data. So far, he’s met with 27 state agencies, two of its higher education institutions and a variety of the companies it does business with to do some preliminary research.

But Kelly is also working to get agencies talking with each other about data, given how “decentralized” the state’s operations can be. He’s convened a “data governance and data sharing community” with regular meetings to get agencies to start sharing tricks of the trade.

“I’ve got agencies that have a chief data officer on board, and there are other agencies that are just starting out,” Kelly said. “There were some good conversations, like, ‘What did you do first? What did you do second? What templates did you use? What convincing factors did you work with your executive leadership to get things going?’”

Kelly noted that the meetings have already helped spur a new data-sharing initiative between agencies. After staff with the Dept. of Agriculture and the Texas Veterans Commission started
talking, they realized they could help each other in a big way — the agriculture department collects data on daycare facilities offering discounted meals for children from low-income, and the veterans group plans to start sharing that information as a resource for its members.

“Those are two disparate things where you’d maybe never connect the dots, but by virtue of having this meeting, there was a great dialogue and we then went off to go forward with that.”

Going forward, Kelly also hopes to use his old connections at the Dept. of Public Safety to promote similar data-sharing among state law enforcement agencies. In particular, he thinks agents with the Alcoholic Beverage Commission could benefit from getting more information from the Department of State Health Services to help them use their time more efficiently.

“They’d like to look at it from a risk-based perspective so that they can reprioritize their compliance reviews,” Kelly said. “So if they got information about restaurants with health code violations, they may also have violations of the ABC, so they can effectively reprioritize those visits and inspections and look for ways to make sure they’re keeping the public safe.”

While agencies sharing data with each other is priority for Kelly, he also wants to see them share information more freely with the public as well. He thinks the state’s made progress with its open data portal, but he’s made it a goal to increase the number of data sets available on the site. Specifically, he noted that many agencies already host public data on their own sites, but he wants to see it moved to one central location to make it easier to find. But he envisions some larger changes coming to the portal as well.

“I’m looking at perhaps a rebranding of the portal to make the presentation more efficient,” Kelly said. “The search capability could be more effective to be able to create more outward consumption model reporting, what data sets are being used more than others, to really get some analytics around that piece of it.”

Kelly’s final area of focus involves giving agencies more robust data analytics tools. He said the state is about to set up a pilot of a “shared service model” of a tool to give state workers a look at real-time data generated by each agency. Yet he noted that all these goals represent just the beginning of his efforts to make Texas a more data-friendly state. “There’s a lot more out there for me to work with,” Kelly said. “There’s a lot of opportunity out there for this particular position.”

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
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( ) Reject

Comments/Note to staff
Summary:
This bill ensures that Delawareans’ digital legacies will be treated the same as the physical assets, documents and records left for their heirs and executors to handle after their deaths. According to the legislation, digital assets such as email, cloud storage, social media accounts, health records, content licenses, databases and more are deemed a part of a person’s estate upon death, and the entities who control access to those assets are required to provide the legal executor with control over the deceased’s digital assets. The legislation also applies in cases where a person becomes incapacitated and his or her assets come under the control of a fiduciary.

Status: Signed into law on August 12, 2014.

Comments: From ArsTechnica (August 18, 2014)
Delaware has become the first state in the US to enact a law that ensures families’ rights to access the digital assets of loved ones during incapacitation or after death.

Last week, Gov. Jack Markell signed House Bill (HB) 345, “Fiduciary Access to Digital Assets and Digital Accounts Act,” which gives heirs and executors the same authority to take legal control of a digital account or device, just as they would take control of a physical asset or document.

Earlier this year, the Uniform Law Commission, a non-profit group that lobbies to enact model legislations across all jurisdictions in the United States, adopted its Uniform Fiduciary Access to Digital Assets Act (UFADAA). Delaware is the first state to take the UFADAA and turn it into a bona fide law.

While some states, including Idaho and Nevada, have some existing provisions pertaining to limited digital assets for heirs, they are not as broad as the new Delaware law. For now, the state’s version of UFADAA only applies to residents of Delaware, one of the smallest states by population and land area. If other states don’t follow suit soon, people creating family trusts could conceivably use this Delaware law to their advantage, even without residing in Delaware.

However, even though many tech companies (including Twitter, Facebook, and Google) are incorporated there, they will not be affected by the new law.

“If a California resident dies and his will is governed by California law, the representative of his estate would not have access to his Twitter account under HB 345,” Kelly Bachman, a spokeswoman for the Delaware governor’s office, said by e-mail.

“But if a person dies and his will is governed by Delaware law, the representative of that person’s estate would have access to the decedent’s Twitter account under HB 345. So the main question in determining whether HB 345 applies is not where the company having the digital...
account (i.e., Twitter) is incorporated or even where the person holding the digital account resides.”

While an important first step, Suzanne Walsh, an attorney with Cummings and Lockwood in Connecticut and chair of the UFADAA committee, told Ars that she is waiting for the most populous state to adopt its own version, which could also have an important influence on other states.

“I think California is the most important,” she told Ars. “It's even more important that we have uniformity and uniform enactment.”

"You will not share your password"

Specifically, the new Delaware law states:

A fiduciary with authority over digital assets or digital accounts of an account holder under this chapter shall have the same access as the account holder, and is deemed to (i) have the lawful consent of the account holder and (ii) be an authorized user under all applicable state and federal law and regulations and any end user license agreement.

Typically, when a person dies, access to a digital service officially dies with them. Even giving your password to your spouse or a trusted loved one is forbidden under Facebook’s terms of service.

You will not share your password (or in the case of developers, your secret key), let anyone else access your account, or do anything else that might jeopardize the security of your account.

You will not transfer your account (including any Page or application you administer) to anyone without first getting our written permission.

In 2004, Yahoo famously denied access to a US marine's e-mail account to his family after the marine was killed in action in Iraq.

Neither Twitter, Facebook, nor Google immediately responded to Ars’ request for comment.

“This problem is an example of something we see all the time in our high-tech age—our laws simply haven’t kept up with advancements in technology,” said Daryl Scott, in a statement last week. Scott is a member of the Delaware House of Representatives and the lead author of the bill. “By signing this bill into law, we’re helping to protect the rights and interests of the average person in the face of a rapidly evolving digital world.”

Jim Halpert, an attorney with DLA Piper, and the director of the State Privacy and Security Coalition, an umbrella group that represents Google, Yahoo, Facebook and other firms, said that he opposes the new Delaware law.
"This law takes no account of minimizing intrusions into the privacy of third parties who communicated with the deceased," he said. "This would include highly confidential communications to decedents from third parties who are still alive—patients of deceased doctors, psychiatrists, and clergy, for example—who would be very surprised that an executor is reviewing the communications. The law may well create a lot of confusion and false expectations because, as the law itself acknowledges, federal law may prohibit disclosing contents of communications."

When asked why an inherited paper letter should be treated differently under the law, he said that e-mail and other digital messaging has replaced paper correspondence.

"The volume of email is far larger and people usually consider much more carefully what they write in a letter," he said.

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
SB 1554 allows a fiduciary, such as a personal representative, trustee, or conservator, to access certain digital content of a user while limiting undue access. The measure allows companies that hold electronic user data to offer users a choice on what they would like done with the data should the user become inactive or a request for the communications is received. This user choice trumps all other indicators or documents, such as instructions in a will. The measure lays out what a fiduciary must provide to a custodian in cases in which a user consents to disclosure or if a court orders disclosure. It also specifies the procedure for a fiduciary to request content of communications in cases in which a user has not made a choice or has chosen not to disclose. The measure allows the fiduciary to receive a catalogue of communications that the user had made, including to/from, email addresses, and date and time.

Status: Signed into law on March 3, 2016

Comments: From the Uniform Law Commission
In the Internet age, the nature of property and our methods of communication have changed dramatically. A generation ago, a human being delivered our mail, photos were kept in albums, documents in file cabinets, and money on deposit at the corner bank. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet.

Collectively, a person’s digital property and electronic communications are referred to as “digital assets” and the companies that store those assets on their servers are called “custodians.” Access to digital assets is usually governed by a terms-of-service agreement rather than by property law. This creates problems when Internet users die or otherwise lose the ability to manage their own digital assets.

A fiduciary is a trusted person with the legal authority to manage another’s property, and the duty to act in that person’s best interest. The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) addresses four common types of fiduciaries:

1. Executors or administrators of deceased persons’ estates;
2. Court-appointed guardians or conservators of protected persons’ estates;
3. Agents appointed under powers of attorney; and
4. Trustees.

Revised UFADAA gives Internet users the power to plan for the management and disposition of their digital assets in a similar way as they can make plans for their tangible property. In case of conflicting instructions, the act provides a three-tiered system of priorities:

1. If the custodian provides an online tool, separate from the general terms of service, that allows the user to name another person to have access to the user’s digital assets or to direct the custodian to delete the user’s digital assets, Revised UFADAA makes the user’s online instructions legally enforceable.
2. If the custodian does not provide an online planning option, or if the user declines to use the online tool provided, the user may give legally enforceable directions for the disposition of digital assets in a will, trust, power of attorney, or other written record.

3. If the user has not provided any direction, either online or in a traditional estate plan, the terms of service for the user’s account will determine whether a fiduciary may access the user’s digital assets. If the terms of service do not address fiduciary access, the default rules of Revised UFADAA will apply.

Revised UFADAA’s default rules attempt to balance the user’s privacy interest with the fiduciary’s need for access by making a distinction between the “content of electronic communications,” the “catalogue of electronic communications”, and other types of digital assets.

The content of electronic communications includes the subject line and body of a user’s email messages, text messages, and other messages between private parties. A fiduciary may never access the content of electronic communications without the user’s consent. When necessary, a fiduciary may have a right to access a catalogue of the user’s electronic communications – essentially a list of communications showing the addresses of the sender and recipient, and the date and time the message was sent.

For example, the executor of a decedent’s estate may need to access a catalogue of the decedent’s communications in order to compile an inventory of estate assets. If the executor finds that the decedent received a monthly email message from a particular bank or credit card company, the executor can contact that company directly and request a statement of the decedent’s account.

Other types of digital assets are not communications, but intangible personal property. For example, an agent under a power of attorney who has authority to access the principal’s business files will have access under Revised UFADAA to any files stored in “the cloud” as well as those stored in file cabinets. Similarly, an executor that is distributing the decedent’s family photo albums to heirs will also have access under Revised UFADAA to photos the decedent uploaded to a photo-sharing web site.

Under Revised UFADAA Section 15, fiduciaries for digital assets are subject to the same fiduciary duties that normally apply to tangible assets. Thus, for example, an executor may not publish the decedent’s confidential communications or impersonate the decedent by sending email from the decedent’s account. A fiduciary’s management of digital assets may also be limited by other law. For example, a fiduciary may not copy or distribute digital files in violation of copyright law, and may not exceed the user’s authority under the account’s terms of service.

In order to gain access to digital assets, Revised UFADAA requires a fiduciary to send a request to the custodian, accompanied by a certified copy of the document granting fiduciary authority, such as a letter of appointment, court order, or certification of trust. Custodians of digital assets that receive an apparently valid request for access are immune from any liability for acts done in good faith compliance.
Revised UFADAA is an overlay statute designed to work in conjunction with a state’s existing laws on probate, guardianship, trusts, and powers of attorney.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Bill/Act: SB 874

Summary:
Classifies “fatigued driving” as an offense under negligent homicide—punishable by a class A misdemeanor—when the driver involved in a fatal accident has been without sleep for 24 consecutive hours or is in a state of sleep after being without sleep for 24 consecutive hours.

Arkansas and New Jersey are the only states to pass specific “drowsy driving” laws.

Status: Signed into law on April 16, 2013.

Comments: From the Huffington Post (March 21, 2016)
We’re all well aware of how risky it is to drive under the influence of alcohol or drugs — so much so that we sometimes forget it took a public campaign like Mothers Against Drunk Driving in 1980 to promote laws across the country cracking down on it.

But there’s one kind of impaired driving that is a much grayer area, both for lawmakers and for drivers themselves: driving while sleep-deprived.

Sleep deprivation has severe effects on performance. Staying awake for 24 hours is equivalent to having a BAC of 0.08 percent, which is legally drunk.

Calculating the number of accidents attributable to drowsy driving can be difficult. The National Sleep Foundation suggests that drowsy driving is linked to about 100,000 car crashes every year.

The National Highway Traffic Safety Administration determined the average number of accidents linked to sleep deprivation between 2005 and 2009 to be about 83,000 per year. Studies by the American Automobile Association, however, estimate that more than 300,000 accidents each year involve a drowsy driver, with 6,400 resulting in someone’s death.

Despite these numbers, only two states in the U.S. have any laws against “drowsy driving,” and even these are largely symbolic and tough to enforce.

“The burden of proof in drowsy driving cases falls almost totally on police officers,” Jeff Evans, program manager of the National Sleep Foundation, told The Huffington Post. “Barring a confession from the accused driver, it is very difficult to prove that someone was sleep-deprived.”

New Jersey became the first state to pass drowsy driving legislation in 2003 with “Maggie’s Law,” which says that if a driver kills someone after not sleeping for more than 24 hours, the driver can be charged with vehicular homicide.

The law was the result of a campaign by Carole McDonnell, whose daughter Maggie was killed in a 1997 car crash by a van driver who had smoked crack and hadn’t slept in 30 hours. The
driver got off with a $200 fine because the jury could not consider driver fatigue as a factor of guilt.

But the law is tough to enforce. It requires the driver to admit sleeplessness in court, and there’s no test yet to prove someone is sleep-deprived. In the decade since the law’s passage, only one person has been prosecuted under it for driving while fatigued.

New Jersey’s law got renewed attention in 2014, when comedian Tracy Morgan was seriously injured on the Jersey Turnpike when a truck driver who hadn’t slept in 28 hours crashed into Morgan’s limo. The crash killed one passenger and sent Morgan into a coma. Under Maggie’s Law, the driver was indicted for vehicular homicide for reckless driving.

New Jersey State Senate President Stephen Sweeney released a statement after Morgan’s crash reiterating the importance of Maggie’s Law. “When people go without sleep and get behind the wheel, they are putting their lives and the lives of everyone they encounter on the road in danger,” he said.

In 2013, Arkansas passed a similar law that allows the state to charge a driver with “negligent homicide” in a fatal crash if the driver hasn’t slept in 24 hours.

How could the laws be better?
At the moment, the issue of drowsy driving lacks the strong public advocates that drunk driving had. Mothers Against Drunk Driving helped reduce alcohol-related accidents dramatically in the 1980s, and in the 1990s, Harvard public health professor Jay Winsten led a national “designated driver” campaign to popularize one possible solution for the drunk driving crisis. Both these efforts elevated the problem of drunk driving in the American public consciousness.

The groups paying attention to drowsy driving have a range of opinions on how best to address the problem, and not all of them include legislation.

Bill Windsor, Nationwide Insurance’s assistant vice president of consumer safety, told HuffPost in an email that he was frankly “not sure how to effectively legislate for this problem for non-commercial drivers.”

And Douglas Horn, a Kansas City lawyer who specializes in motor vehicle accident law, flatly stated, “I am not in favor of legislation.”

“To my way of thinking, there is not an effective way to reduce driver fatigue through laws,” Horn told HuffPost in an email.

The National Sleep Foundation, on the other hand, firmly advocates for more and broader laws against drowsy driving. NSF is an independent nonprofit that promotes sleep education for public health and supports sleep research.

“Let’s be clear,” NSF’s Jeff Evans told HuffPost, “any law is better than no law. Even if it comes to use only in the extreme case of vehicular homicide.”
The problem is that the current laws are nearly impossible to enforce, and place “undue pressure on a police officer” to prove 24 hours of wakefulness, said Evans.

He suggested replacing the 24-hour threshold with a new “two-hour standard,” citing an NSF report released last November that concluded that “drivers who have slept for two hours or less in the preceding 24 hours” are definitely too tired to drive. That would be a better baseline measure and make it easier to convict dangerously drowsy drivers, he suggested.

Any state looking to legislate drowsy driving has a few other concerns to address. It is a labor issue, for starters: People who work multiple jobs, engage in shift work or have long commutes have real constraints on their lifestyle choices. If they are to change their sleep behavior, their employers must play a part as well.

Moreover, do sleep disorders constitute reckless behavior in the context of driving? Should someone suffering from chronic insomnia or sleep apnea face the same standard as someone who used drugs, or who knowingly stayed awake too long?

And of course, the reach of a particular law may be small, but its impact on public consciousness can be much larger. This seems to have been the case with laws against texting while driving, which have had a public impact larger than their number of prosecutions. A 2014 study found that states with texting bans had 3 percent fewer traffic fatalities across the board.

“What we really need to reduce the number of drowsy driving accidents is for lots of people to starting talking about it — and thinking about it,” says Evans. “Laws are one of our many tools with which to do that.”

**Disposition of Entry:**

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
1. Maine law now defines a "Vulnerable User" as a person on the public way who is more vulnerable to injury than a person in a motor vehicle. This definition includes pedestrians, bicyclists, wheelchair users, those driving tractors, and others. The new law also strengthens Drivers Education programs by requiring courses to include increased instruction on protecting the rights and safety of vulnerable users.

2. The law also increases protections for walkers, runners, and wheelchair crossing the street by requiring drivers yield to pedestrians who are attempting to cross the street at a marked crosswalk. Before this change, drivers only had to yield when pedestrians at a marked crosswalk stepped out into the road.

3. In addition to the added protections for pedestrians and all vulnerable users, the law also provides needed clarification regarding the responsibilities of bicyclists; namely their duty to obey yield signs, stop signs, one-way streets, and traffic lights.

Status: Signed into law on June 12, 2015.

Comments: From the Bicycle Coalition of Maine (June 19, 2015)

On Friday, June 12th, Governor LePage signed a bill into law that will improve the safety of bicyclists, pedestrians, and other ‘vulnerable users’ on Maine’s roads. The bill, LD 1301, was sponsored by Senator Amy Volk (R-Scarborough) and supported by the Bicycle Coalition of Maine.

As a result of this legislation, Maine law now defines a “Vulnerable User” as a person on the public way who is more vulnerable to injury than a person in a motor vehicle. This definition includes pedestrians, bicyclists, wheelchair users, those driving tractors, and others. Studies have shown that these vulnerable users are far more likely to be injured or killed in a collision with a motor vehicle.

The new law also strengthens Drivers Education programs by requiring courses to include increased instruction on protecting the rights and safety of vulnerable users.

“Teaching students about the rights and responsibilities of bicyclists, walkers, and other vulnerable users is an important part of any Drivers Ed curriculum,” commented Ric Watkins, owner of Belfast Driver Ed and President of the Maine Driver Education Association.

The new law also increases protection for walkers, runners, and wheelchair users attempting to cross the street by requiring that drivers yield to pedestrians who are attempting to cross the street at a marked crosswalk. Before this change, drivers only had to yield when pedestrians at a marked crosswalk stepped out into the road.

In addition to the added protections for pedestrians and all vulnerable users, the new law also clarifies the responsibilities of bicyclists; namely their duty to obey yield signs, stop signs, one-way streets, and traffic lights.
Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
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( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
Section 15 authorizes the creation of DOT Financing Corporation to serve as a conduit issuer of debt to finance transportation projects.

The bill creates the Florida Department of Transportation Financing Corporation (Corporation), a conduit issuer of indebtedness that would be secured by amounts payable to the Corporation by DOT under one or more contracts. The Corporation would be a state governmental entity, governed by a board made up of the Director of the Office of Policy and Budget in the Executive Office of the Governor, the Director of the Division of Bond Finance, and DOT Secretary.

The Corporation would have the power to enter into agreements with DOT under which DOT would remit payments to the Corporation in exchange for financing services from the Corporation. DOT’s commitments would be subject to appropriation and would not constitute a general obligation of the State or a pledge of the full faith and credit of the State. The payments from DOT would effectively constitute revenues in the hands of the Corporation.

The bill allows DOT to leverage the favorable terms available to governmental borrowers in the tax exempt municipal bond market when entering into long-term financing agreements and commits future transportation funding for the acquisition and construction of transportation facilities.

The bill would permit the issuance of debt to finance transportation projects for which DOT currently lacks legal authority to issue bonds. The Corporation would be authorized to issue debt payable from and secured by the contractual commitments of DOT and provide the proceeds of the debt to DOT for the purpose of financing identified transportation projects. The Corporation would be acting as a “conduit issuer” and would not be generally liable for repayment of the debt. Because the debt would only be secured by DOT contractual commitment to pay under its contract with the Corporation, which obligation remains subject to annual appropriation, the debt would not be secured by the full faith and credit of the State. This provides a constitutionally permissible mechanism by which DOT could leverage future State Transportation Trust Fund revenues to provide funding for currently needed projects.

Status: Signed into law on April 4, 2016.

Comments: From Roads and Bridges (April 5, 2016)
The transportation measure also creates the Florida Department of Transportation Financing Corp. which can fund significant, currently needed transportation projects that the department might otherwise be unable to deliver. This ensures that the costs of financing those projects are kept to a minimum. FDOT will now be able to leverage the favorable terms available to governmental borrowers in the tax-exempt municipal bond market when entering into long-term financing agreements. This has the potential to result in significant cost savings on large-scale projects.
From Law360 (April 4, 2016)
The bill also established a new quasi-governmental corporation, the Florida Department of Transportation Financing Corporation, which would be created to leverage funding for transportation projects. The nonprofit would be run by a board of directors, which would include the director of the governor’s Office of Policy and Budget, the state secretary of transportation and the director of the Division of Bond Finance.

The bond finance director will serve as the executive director of the corporation, which will be empowered to borrow money and issues bonds to finance or refinance transportation projects, according to the bill. It will not have taxing authority and will instead be dependent on the Legislature to appropriate funds to cover its administrative costs.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
    ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary:
HB 362 increases the state gas tax by 5 cents per gallon, creates a 12 percent tax on the statewide average wholesale price of motor fuel to replace the flat gas tax in the future, and permits counties to seek voter approval for a 1/4-cent sales and use tax increase for local transportation projects. The flat state gas tax increase to 29.5 cents-per-gallon went into effect on Jan. 1, 2016. The 12 percent tax on the wholesale price of gasoline will not be enacted until the wholesale price reaches $2.45 per gallon, a point which lawmakers do not expect to occur for another 6-10 years. Once enacted, it will replace the flat state gas tax going forward. Limitations were put in place to prevent the tax from collecting less than 29 cents-per-gallon or increasing more than 40 cents-per-gallon.

From the Wasatch Front Regional Council:
Fuel tax reform from a cents per gallon to a percentage
Conversion of a cents per gallon to a percentage - Effective January 1, 2016, the bill would convert the current 24.5 cents per gallon (cpg) state motor fuel and special (diesel) taxes to a 12% tax on fuel.
- This will generate the equivalent of a 4.9 cpg increase in the fuel tax, or approximately $76 million annually. Revenues will be distributed using the existing B&C road formula, with 70% directed to UDOT and 30% directed to cities and counties. UDOT has indicated they would use the funds primarily for bridges and rural roads.
- As the price of fuel changes the amount of revenue will change. This will help to address the decline in buying power of the cpg tax. Due to inflation, the cpg tax has lost 40% of its buying power since it was last increased in 1997. This has made the 24.5 cpg tax in 1997 worth effectively only 14.7 cpg today.

Applying the percentage-based rate - The percentage-based fuel tax would function differently than a regular sales tax; it would utilize the standard methodology for percentage-based fuel taxes around the country.
- Effective January 1 of each year, the 12% rate would be converted to a cpg that will be in effect for that year. That cpg is determined using the previous three fiscal-years’ average wholesale (before taxes) price of fuel, multiplied by 12%.
  - This annual conversion of the percentage back to a cpg is done so that the actual application and calculation of the tax would be consistent with how the federal fuel tax is imposed.
  - The annual conversion back to a cpg also limits potential volatility of the actual tax paid because it avoids the daily fluctuations in the price of fuel.
- The Tax Commission will determine and make public no later than November 1 the adjusted cpg that would take effect two months later on January 1. This will give fuel distributors time to update their systems.

Limiting potential price volatility: The percentage rate is fixed at 12% but the wholesale price to which that rate is applied to would be limited in how high (ceiling) or low (floor) it could go.
- **Floor** - The floor is set at $2.45 on the wholesale price of fuel. The floor protects against a loss in revenue when wholesale fuel prices fall below $2.45.
  - When the Tax Commission sets the initial price effective January 1, 2016 they will calculate the rate based on the wholesale price for the previous fiscal year. If this price is less than $2.45, they will multiply $2.45 by 12%.
  - Setting the floor at $2.45 with a rate of 12% will generate immediate new revenue because the actual cpg will be 29.4cpg (12% x $2.45 = 29.4cpg).
  - After the actual average wholesale price exceeds $2.45, the floor will adjust annually with inflation (via the Consumer Price Index, CPI).
  - Because the floor grows with inflation the bill provides a mechanism for revenues to grow consistent with the price.

- **Ceiling** - The ceiling is set at $3.33 on the wholesale price of fuel.
  - The ceiling does not grow with inflation. It is a “hard cap” on the actual cpg rate.
  - If the actual wholesale price exceeded $3.33, the Tax Commission would still multiply 12% x $3.33 = 40cpg.

**Local Option 0.25% general sales tax for transportation:**

County option - Counties are authorized to enact a 0.25% general sales tax for transportation. This is the equivalent of 25 cents for every hundred dollars. If every county in the state imposes the local option, it will generate approximately $113 million in new revenue annually.

Voter approval - Before imposing the tax, the majority of a county legislative body must vote to put an opinion question on the ballot in a municipal or regular general election. The county shall impose the tax if the majority of voters approve.

Allocation - The referendum and imposition apply to the entire 0.25% but the bill states how those revenues will be allocated.
  - In areas without transit service, the funds would be allocated as follows:
    - 0.10% to cities, towns and unincorporated county areas
    - 0.15% to the county
  - In areas with transit service, the funds would be allocated as follows:
    - 0.10% to the transit provider
    - 0.10% to cities, towns and unincorporated county areas
    - 0.05% to the county

Distribution - The funding going to cities, towns and unincorporated county from the 0.10% is distributed by the standard formula for local sales taxes. The formula is 50% population and 50% point of sale. An individual city’s share of the 0.10% is based on their share of the total population and point of sale relative to all of the counties in the state that have imposed the tax. Counties that have not imposed the tax will not be part of the distribution formula. The State Tax Commission will determine the appropriate allocations and distribution of funding based on which counties have imposed the tax and will provide funding directly to the applicable county, city or transit provider.

Uses of funds - Transit providers can use the funds for capital expenses and service delivery expenses. For example, funds can be used for things like track repair, bus purchases, service
frequency and coverage. Cities, towns and counties can use the funds for broadly defined transportation purposes like roads, transit facilities or services, pedestrian facilities like sidewalks, and active transportation facilities like trails and bike lanes.

Maintenance of Effort - Cities, towns and counties are not allowed to use the funds from this tax to supplant the existing general fund appropriations they have budgeted for transportation as of the date that the local option tax takes effect. This requirement is in place from the date the local option tax takes effect through June 30, 2020, when the requirements “sunset.” During this time they are required to report on their compliance through their audit or fiscal reporting.

Miscellaneous Provisions:
- The law removes the requirement that gas stations have a fuel price sticker at the pump.
- The law updates the “hold harmless” provisions of the State fuel tax B&C distribution. This affects nine rural counties and means those counties will receive their fair share of B&C revenues from the state fuel tax.
- The law changes the tax on compressed natural gas (CNG) and liquefied natural gas (LNG) from 8.5 cents to 16.5 cents per gasoline gallon equivalent. This increase is incrementally phased in over three years. This will generate approximately $500,000 in new revenue annually.
- Requires UDOT to study the implementation of a road usage charge based on miles driven, including a potential demonstration program. It requires UDOT to make recommendations on the potential use of such a system in Utah.

Status: Signed into law on March 27, 2015

Comments: From the Deseret News (March 14, 2015)
Utahns will pay more at the pump as a result of a gas tax increase passed in the final hour of the 2015 Legislature after lengthy negotiations between the House and the Senate.

Even House Speaker Greg Hughes, R-Draper, who started the 45-day session confident lawmakers would find a way to provide more money for transportation needs, was hesitant the last night of the session to predict the increase would pass. "This isn't a just a simple, 'Let’s draw a bigger number at the bottom of the spreadsheet,'" Hughes said. "It's a very comprehensive initiative. If we are able to do that, if we have the political will to do that, I think it's one of these very, very heavy lifts."

He said even though the legislation would be seen as a landmark in planning for population growth, the vote count was too close to call among the majority House Republicans, who have grumbled about raising taxes in a year of surpluses.

But shortly before the session ended at midnight Thursday, the House voted 44-29 to give final approval to changes made in a bill that initially only created a new formula that wouldn't have raised taxes on fuel sales until prices rose. Now, HB 362 imposes a 12 percent sales tax on gas starting July 1 that will increase the current 24.5 cents-per-gallon tax, unchanged since 1997, by 5 cents. The tax is capped at 40 cents a gallon and does not allow it to drop below 29 cents. The bill also allows local governments to go to voters for a 0.25-cent sales tax increase for
transportation projects. But it does not raise registration fees on alternative fuel vehicles, an amendment sought by the Senate.

Rep. Johnny Anderson, R-Taylorsville, said the final version accomplished the goal set by House leaders to fix the formula. Hughes has called the per-gallon tax, which unlike the new formula does not increase collections as prices rise, a "dinosaur."

The Senate wanted to just raise the gas tax. After the House defeated a separate bill raising vehicle registration fees by $10 — and up to seven times that for those that run on alternative fuels — there was an attempt to put an increase in the House bill.

The Utah Transportation Coalition, which includes local governments and the Salt Lake Chamber, pushed for the House bill as a way to boost the buying power of the gas tax over time. The current gas tax, last increased nearly two decades ago, has not kept pace with inflation. The coalition estimated it has lost 40 percent of its buying power, making the 24.5 cent tax worth less than 15 cents today.

The local option tax would be split among the Utah Transit Authority and other mass transit entities as well as local governments to be used for public transportation, road maintenance and bike facilities. "Transit is essential to alleviating congestion, cleaning our air and facilitating economic development," said H. David Burton, chairman of the UTA board of trustees.

Burton said the bill gives voters a "choice to invest in transit, which will result in an immediate increase in overall transit service and connectivity, including more service on the weekend and earlier and later service."

The president of the Utah League of Cities and Towns, Provo Mayor John Curtis, said local governments "support a comprehensive approach to our transportation system, and we're grateful to the Legislature for coming together to pass it."

For the Utah Department of Transportation, the increase means more money for taking care of the state's roads and bridges. While there are revenues earmarked for easing congestion, maintenance funds have lagged. "We haven't had enough money to fund our lower-volume roads," UDOT Executive Director Carlos Braceras said. "You're going to see better condition pavements and bridges throughout the state."

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff
Summary: From the Texas Department of Transportation:
HB 20 relates to the operations of transportation planning and expenditures by TxDOT and planning organizations. A major aspect of the bill focuses on revising the planning and programming processes that planning organizations, TxDOT and the commission currently use to prioritize and finance transportation infrastructure projects, and the requirement that TxDOT adopt a performance-based planning and programming process with performance metrics, measures and scoring for project selection, while requiring local transportation organizations to develop a 10-year plan for the use of funding allocated to the region. HB 20 also establishes House and Senate committees on transportation planning to review, study and evaluate certain aspects of transportation funding, project selection and prioritization, performance measures and metrics, and policymaking.

Furthermore, HB 20 makes other changes to transportation policy and TxDOT operations, such as creating certain stipulations on design-build contracts by TxDOT and removing policing state highways as an allowable use of money in the State Highway Fund (SHF), helping to end so-called “diversions” by statute.

Performance Metrics and Performance Measures
HB 20 requires the commission by rule to develop and implement performance metrics and performance measures as part of the review of strategic planning in the statewide transportation plan, rural transportation plans and the UTP; the evaluation of decision-making on projects selected for funding in the UTP and Statewide Transportation Improvement Program (STIP); and the evaluation of project delivery for projects in TxDOT’s letting schedule.

The bill also requires the commission by rule to adopt and periodically review performance metrics and measures to assess how well the transportation system performs and operates; provide TxDOT, the Legislature, stakeholders and the public with information to support decisions in a manner that is accessible and understandable to the public; assess the effectiveness and efficiency of transportation projects and service; demonstrate transparency and accountability; and address other issues the commission considers necessary.

MPO Project Selection
HB 20 requires each planning organization to develop a 10-year transportation plan for the use of funding allocated to the region. The first four years of the plan are required to be developed in accordance with the STIP/Transportation Improvement Program (TIP). MPOs and districts will coordinate on the development of a plan within MPO areas. In areas outside of the MPO, districts will develop a 10-year plan with input from municipal and county officials.

Each planning organization is required to develop its own project recommendation criteria, which are required to include consideration of projected improvements to congestion and safety; projected effects on economic development opportunities for residents of the region; available funding; effects on the environment, including air quality; socioeconomic effects, including
disproportionately high and adverse health or environmental effects on minority or low-income neighborhoods; and any other factors deemed appropriate by the planning organization.

**Other Funding, Planning, and Performance Provisions**
The bill requires the commission by rule to prioritize and approve projects included in the STP to provide financial assistance. HB 20 also requires the commission, by rule, to establish a performance-based process for setting funding levels for the categories of projects in the UTP.

The bill requires the commission by rule to establish a scoring system for prioritizing projects for which financial assistance is sought by planning organizations. The bill requires the criteria used to score projects to take into consideration TxDOT’s strategic goals as approved by the commission. The bill requires that the system account for the diverse needs of the state so as to fairly allocate funding to all regions of the state.

The bill authorizes the commission to make discretionary funding decisions for no more than 10 percent of TxDOT’s biennial budget.

**Oversight Committee/Reporting Requirements**
HB 20 establishes a House Select Committee on Transportation Planning and a Senate Select Committee on Transportation Planning and sets forth the membership of the committees. The bill authorizes the committees to meet separately or jointly. It requires the chairs to act as joint chairs in joint meetings.

The bill requires the committees to review, study and evaluate:
1. TxDOT projections regarding revenue needed by TxDOT to maintain current maintenance, congestion and connectivity conditions;
2. The development of funding categories, the allocation of funding to such categories by formula, project selection authority for each funding category and the development of project selection criteria for TxDOT projects;
3. TxDOT rules and policies regarding the development and implementation of performance-based scoring and decision making for project prioritization and selection of projects;
4. The use of alternative methods of financing that have been authorized by the Legislature for projects;
5. Performance metrics and measurement tools used by TxDOT to evaluate the performance of a TxDOT project or program;
6. TxDOT collaboration with state elected officials, local governments, government trade associations, metropolitan planning organizations, regional mobility authorities and other entities when adopting rules or formulating policies;
7. Any proposed rule, policy, program or plan of the commission of statewide significance;
8. Any possible benefits of utilizing zero-based budgeting principles; and
9. Any other matter the committee considers appropriate.

The bill requires the committees to prepare a report on the reviewed subjects and to provide the report to the Legislature by November 1, 2016. The bill also requires TxDOT, not later than September 1, 2015, to submit an initial report that provides information necessary for the select
committees to review, study and evaluate factors 1 through 3 from the above list, to the select committees. The bill requires TxDOT to submit to the select committees a preliminary report on the remaining factors from the above list by March 31, 2016.

**Design-Build**
The bill authorizes TxDOT to enter into a design-build contract for a highway project with a construction cost estimate of at least $150 million, rather than the previous $50 million minimum. The bill prohibits TxDOT from entering into more than three contracts under this section in each fiscal year. It should be noted that for the FY 2016-2017 biennium, Rider 47 of HB 1 (the state's biennial budget) further restricts design-build contracts to those whose project’s construction cost estimates are at least $250 million.

In addition, HB 20 prohibits TxDOT from using the design-build method for the construction, expansion, extension, rehabilitation, alteration or repair of a highway project if the project is substantially designed, to an extent related to requests for proposals to certain short listed proposers, by TxDOT or another entity other than the design-build contractor. It also prohibits TxDOT from including more than one highway project in a design-build contract.

**Limiting uses of the State Highway Fund**
The bill removes the provision that money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the SHF, including money deposited to the credit of the SHF under Title 23, United States Code, can be used by the Department of Public Safety to police the state highway system and to administer state laws relating to traffic and safety on public roads.

It is noteworthy that this portion of the bill is significant for TxDOT’s long-term planning. Because the legislature chose to enact this provision in statute (The Legislature also eliminated diversions in the biennial state budget), TxDOT may characterize the ending of diversions as a stream of revenue for its long-term planning rather than as a two year appropriation for the upcoming biennium.

**Status:** Signed into law on June 3, 2015.

**Comments:** From the *Lewisville Leader* (June 3, 2015)
Governor Greg Abbott signed major transportation legislation, House Bill 20, into law on Tuesday in Dallas.

HB 20, introduced by state Rep. Ron Simmons, chairman for the House Transportation Subcommittee on long-term infrastructure planning, enhances the accountability, objectivity and transparency of the Texas Department of Transportation (TxDOT).

“House Bill 20 is about oversight, transparency, and accountability,” Simmons said. “As legislators, we have a fiduciary responsibility to the citizens of this great state to ensure tax payer dollars are spent appropriately.”
HB 20 is a bipartisan bill requiring TxDOT to develop a performance-based planning and programming process that would allow the legislature to assess how well TxDOT is achieving stated goals. HB 20 also requires the transportation commission to establish a scoring system to prioritize projects seeking state funding. The bill establishes temporary House and Senate select committees to provide oversight as the provisions of the bill are implemented.

“I filed HB 20 to provide a framework to ensure transportation dollars are administered in an objective, transparent manner with accountability for every dollar spent,” Simmons said earlier in the session while laying the bill out on the House floor. “Our intention is not to provide TxDOT with a $5 billion blank check.”

Currently, deciding how and which transportation projects to build in Texas falls under the purview of the five members of the Texas Transportation Commission. The commission members, appointed by the Governor, work with input from 25 metropolitan planning organizations, such as Regional Mobility Authorities and Metropolitan Planning Organizations.

Interested parties have raised concerns that the current structure has led to the undue influence of politicians more focused on special projects related to their regions rather than the needs of Texas as a whole. HB 20 addresses this by requiring the transportation commission to implement an objective and transparent system to score projects seeking state funding.

HB 20 was voted out of the House May 1 with almost unanimous support and passed the Senate May 27. The House concurred with the Senate amendments on May 29.

Disposition of Entry:

SSL Committee Meeting: 2017 B
( ) Include in Volume
( ) Include as a Note
( ) Defer consideration:
   ( ) next SSL mtg.  ( ) next SSL cycle
( ) Reject

Comments/Note to staff