Submissions to the Suggested 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
SUGGESTED STATE LEGISLATION

2017 CYCLE
DOCKET BOOK A
December 10, 2015
December 12, 2015

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 Suggested 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 Suggested 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 Suggested 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 Suggested 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
SSL DOCKET CATEGORIES - 2017A and later

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Summary:
This act permits certain individuals to report the occurrence or suspected occurrence of financial exploitation of qualified adults, defined as a person who is either 60 years of age or older or has a disability as defined under current law and is between the ages of 18 and 59.

The act permits certain individuals to notify an immediate family member, legal guardian, conservator, co-trustee, successor trustee, or agent under power of attorney of the qualified adult if they are of the belief that the qualified adult is, or may become, a victim of financial exploitation.

The act permits certain individuals to refuse to make a disbursement from the account of a qualified adult or an account on which a qualified adult is a beneficiary or beneficial owner if the individual reasonably believes the request will result in financial exploitation. If the individual refuses disbursement, he or she must make a reasonable effort to notify all parties authorized to transact business on the account of such refusal within two business days. The individual must further notify the Department of Health and Senior Services and the Commissioner of Securities within three business days.

The act grants immunity from civil liability when complying with the provisions of this act with reasonable care and good faith.

Missouri is the third state to enact such a law, joining Washington and Delaware.

Status: Signed into law on June 12, 2015.

Comments: MissouriNet.com (June 15, 2015).
A bill meant to help keep seniors from losing their savings to scams has become law.

Governor Jay Nixon (D) has signed into law a bill called the “Senior Savings Protection Act,” which lets financial agents put a 10-day hold on transactions they believe could be attempts to financially exploit a person over 60 or with a disability. That broker-dealer must then contact state securities and senior welfare officials and can contact the person’s family or guardians about the suspected fraud attempt.

Senate sponsor Eric Schmitt (R-Glendale) says it will protect people who are too often taken advantage of.

“And literally their life savings [might be] taken from them, and once it’s gone, it’s gone,” Schmitt told Missourinet.

Secretary of State Jason Kander said he took the idea to Schmitt and House sponsor, Jay Barnes (R-Jefferson City). He said it addressed a real need.
“Financial professionals that are in perhaps the best position to help prevent exploitation were in a position where they were operating under a legal structure that effectively discouraged doing the right thing and acting to prevent fraud,” said Kander.

Current law does not allow an agent who suspects financial exploitation to raise a concern to anyone not named on the account in question.

“Even if a broker saw something, this Nigerian lottery scam, or one of these scams about sending money to somebody’s grandchild who’s down in South America, they don’t have any ability to do anything about it right now,” said Schmitt.

Kander said no one should be concerned about having access to their savings.

“I think this is going to be just an additional tool in the toolbox to help prevent the financial exploitation of seniors,” said Kander.

A hold would expire either in 10 days or when a review finds no evidence of fraud. The law would protect an agent from civil liability for having placed a hold on a transaction. It is set to become effective August 28.


Disposition of Entry:

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

Comments/Note to staff
SB 28 clarifies that Internet gambling cafes, also known as Internet sweepstakes cafes, are illegal gambling activity. It expands the definition of “gambling device” to include “Any mechanical or electronic device permanently located in a business establishment, including a private club . . . [that allows the user] to play or participate in a simulated gambling program . . . for consideration . . . including consideration paid for Internet access or computer time, or a sweepstakes entry.”

It also adds a definition for “simulated gambling program” as used in the new definition, to mean “any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property.” Such devices and programs are commonly known as Internet gambling, or Internet sweepstakes, cafes.

The new definition of “Gambling device” in SB 28 GA would make clear that internet sweepstakes cafes constitute unlawful gambling under Kentucky law. Internet sweepstakes cafes have concentrated in Western and Northern Kentucky. The café proprietors typically advertise for sale internet time or long-distance telephone minutes. In addition to the internet time or telephone minutes, the purchaser will receive entries in an internet sweepstakes and can participate in the sweepstakes games on the café’s computers set up for that purpose. Based on a random allocation of winning and losing entries, the customer may or may not win cash prizes through the games.

Testimony on November 17, 2014 before the Interim Joint Committee on Licenses and Occupations, and LRC staff research, indicates local governments are divided over these cafes. Some localities issue them a business license and some do not, believing them to be illegal gaming. Testimony at the hearing before the Senate Committee on Licensing, Occupations, and Administrative Regulations on February 19, 2015 indicated that it is the opinion of the Kentucky Attorney General that such devices constitute illegal gambling activity under Kentucky law.

The impact on local government of adding internet sweepstakes cafes to the definition of gambling device is indeterminable. The lack of certainty whether the cafes are illegal gambling may cause local governments some increased administrative burden, or require additional legal consultation, to make that determination. If existing cafes are paying sales taxes and licensing fees, then defining them as gambling devices and enforcing against them as illegal gaming will reduce revenue to local government. If they are not paying taxes and fees and they are not defined as illegal gaming, they can be required to pay taxes and fees.

There has been testimony that local charitable organizations (ex. American Legion, Knights of Columbus) have lost charitable gaming revenue to the sweepstakes cafes, and that some ceased charitable gaming operations because of the competition. If the charitable gaming revenue is used to assist local citizens in need, the loss of that revenue to charities may result in increased expense to the local government in order to provide such assistance. Internet sweepstakes cafes
may also compete for gambling dollars with the Kentucky Lottery and pari-mutuel horse racing, reducing their income and the number of education scholarships awarded by the Lottery, and the amount of taxes paid by horseracing tracks.


Comments: River City News (March 12, 2015).
Legislation that would shutter Internet cafes doubling as gambling halls received final passage in the state Senate.

Internet cafes are for-profit businesses that sell Internet access for a chance to play computer-based, casino-style games, or sweepstakes, in which customers can win cash prizes, said SB 28 sponsor Sen. Mike Wilson, R-Bowling Green. He said the cafes are located in buildings that contain banks of computers with Internet access. Each purchase at the cafe entitles a customer to a certain number of sweepstakes entries. The customer then determines whether the sweepstakes entries are winners by logging onto a computer.

Officials from Kentucky cities previously testified that they have seen an increase in these businesses throughout the state, often in cities bordering Tennessee, Indiana and Ohio – states that have cracked down on such business. One of the first Internet cafés in Kentucky opened in Bowling Green several years ago.

Wilson said the cafes advertise they are “better than bingo.” Non-profit bingos in his district have seen revenues decline as much as 40 percent because of the competition, he said.

Read More: http://rcnky.com/articles/2015/03/12/anti-internet-cafe-legislation-passes-frankfort

Disposition of Entry:

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

Comments/Note to staff
Summary:
Senate Bill 454 requires employers with at least ten employees to provide employees with paid sick time for the purpose of caring for personal or a family member’s mental or physical illness, injury or health condition or for preventative medical care. Additionally, leave for the purpose of providing care to a new family member, grieving a family member’s death, or handling matters related to domestic violence, sexual assault or stalking would qualify for paid sick leave. All provisions of the bill apply to smaller employers (those with fewer than 10 employees) except that sick time need not be paid by the employer. For employers located in Portland or any city exceeding 500,000 residents, the threshold for providing paid sick leave is six employees working anywhere in the state.

Employees must be able accrue one hour of sick leave for every 30 hours worked, up to a maximum of 40 hours per year, and employers may require medical verification of the need for sick leave under certain circumstances. Senate Bill 454 also requires employees to give advance notice of intent to use sick leave when the need is foreseeable. The measure prohibits discrimination against employees who inquire about or use sick leave. Senate Bill 454 classifies a violation of the sick leave provisions as an unlawful practice under the jurisdiction of the Bureau of Labor and Industries and provides a right of private action allowing both equitable and compensatory relief.

In Oregon, the City of Portland implemented an ordinance in January 2014 requiring employers with at least six employees to provide paid sick leave and smaller employers to provide unpaid, protected sick leave. The City of Eugene followed with an ordinance that would have required employers of any size to provide paid sick leave to employees, though it never went into effect. Senate Bill 454 preempts all authority of local governments to set any sick leave requirements.

Oregon joins Connecticut, California, and Massachusetts in requiring paid sick leave.

Status: Signed into law on June 22, 2015.

Comments: The Oregonian (June 12, 2015).
The Oregon House on Friday gave final legislative approval to a controversial bill requiring employers with 10 or more workers to give them up to five paid sick days a year.

The House's action, by a 33-24 vote, came just two days after the Senate passed the bill following a contentious debate that split along partisan lines.

Gov. Kate Brown is expected to sign Senate Bill 454, making Oregon the fourth state with a statewide sick leave policy, joining California, Connecticut and Massachusetts.

Friday's House action capped a swift 48-hour window during which both chambers, controlled by Democrats, passed a bill that had been parked in a joint committee while objections to the bill were addressed.
Proponents said the final bill won't satisfy everyone, particularly the agriculture industry, but they called for its passage nonetheless as a long-overdue step to help low-wage workers and reduce public health risks.

"This is a policy that's been years in the making," said Rep. Jessica Vega Pederson, D-Portland, a chief sponsor of the bill. "Too many Oregon workers have to face that decision of staying home themselves with a sick child or losing a day of pay."

Some 71 percent of low-wage workers in Oregon lack paid sick time, in contrast to higher-income workers who typically have that benefit, proponents said.

"It's time we took a very small step to address income inequality by providing a small measure of job security," said Rep. Paul Holvey, D-Eugene, who carried the bill as chairman of the House Committee on Business and Labor.

House Republicans criticized the bill as bad for Oregon and another burden being laid on family owned farms and ranches, and small businesses, saying it would increase labor costs and threaten seasonal harvests of perishable crops.

"Of all people who need sick leave, agricultural workers perhaps need it the most," Holvey countered. "Most seasonal laborers won't qualify anyway, he said, because they must have been employed for 20 weeks in the prior year to begin accruing sick days and face a 90-day waiting period before they can use it.

House Minority Leader Mike McLane, R-Powell Butte, and other Republicans warned that the legislation would have harsh impacts on rural communities, where job growth and household income lag behind urban areas.

"The choices we make today in Salem will have a lasting impact on our state in both good and bad economic times," McLane said in a prepared statement. "Passing this flawed mandate in such a partisan fashion is one of the more troubling choices the Legislature has made this session."

As in the Senate, a motion to return the bill to committee for additional amendments failed, leaving intact recently negotiated language over what size companies should be subject to the bill and whether to allow cities to write their own sick leave laws.

Opponents wanted the legislation to apply to companies with 25 or more employees. As introduced, the bill would have affected all employers, no matter their size, and mandated seven paid sick days. The bill was subsequently amended to five days.

Lawmakers in both parties also sought a provision that would prevent local governments from passing their own sick leave laws, arguing that businesses needed the certainty of a statewide standard rather than a potential patchwork of local laws.
The issue arose after Portland and Eugene passed differing paid sick laws in 2013 and 2014. SB454 leaves Portland's ordinance intact, applicable to employers with six or more employees, but cancels out Eugene's law, which was due to take effect July 1 and would have applied to all employers, regardless of size.

Assuming the governor signs the bill, it would take effect January 1, 2016.

Workers would accrue one hour of paid sick time for every 30 hours worked, up to five days a year, the same as in Portland. Employees could take time off to care for themselves or a family member, or donate it to a co-worker.

Employers that already have paid-time off policy with substantially equivalent benefits could keep their plans.

The bill appropriates $4.4 million to state agencies to implement the new law. Lawmakers said the Bureau of Labor and Industries would hire temporary staff to educate employers and enforce the law, though the bill also contains a one-year grace period from penalties to encourage compliance.

Reps. Brian Clem, D-Salem, and John Lively, D-Springfield, were the only two Democrats who voted no.


Disposition of Entry:

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

Comments/Note to staff
Summary: Provides that neither the state nor a political subdivision may impose, assess, collect, or attempt to collect a tax on Internet access or the use of Internet access.

Note: The federal Internet Tax Freedom Act currently bans state and local governments from imposing taxes on Internet access. The law was set to expire on October 1, 2015, but was extended until December 11, 2015 in the continuing resolution passed by Congress.

Status: Signed into law on April 23, 2015.

Comments: WFYI (March 13, 2015). Indiana could soon become the first state to prohibit taxes on Internet access – a move supporters say is necessary given an unstable environment in the nation’s capital.

But with technology changing quickly, a ban could eventually mean less state revenue.

The federal Internet Tax Freedom Act currently bans states and local governments from charging taxes on citizens’ access to the web. But the law expires on Oct. 1 – following just a nine-month extension – and it’s not clear what form, if any, another extension might take.

House Ways & Means Chairman Tim Brown said that means Indiana might need to be proactive by passing its own ban. Otherwise, the state’s existing utilities receipts tax would apply to Internet services, a change that could cost Hoosiers as much as $27 million annually, according to the nonpartisan Legislative Services Agency.

Brown said the goal is to “stay a free enterprise state” so that “consumers have the greatest amount of choice that they can.”

Already, the Indiana Senate has passed legislation – authored by Senate Tax Chairman Brandt Hershman, R-Buck Creek – to ban taxes on Internet services and the bill has been assigned to the Ways and Means Committee.

It’s backed by some of the biggest Internet providers in the state, including telecommunications and cable firms. Those are companies that would have to begin collecting the utility tax on Internet services if the federal law expires.

Joni Hart, the executive director of the Indiana Cable Association, said the state should adopt the bill and become an innovator and leader for the country.

“It’s very pro-consumer. It protects Hoosiers from additional communications taxes and fees,” Hart said. “We know cost is a barrier in broadband adoption and we want to do everything that we can to make sure the Internet isn’t taxed or excessively taxed at all.”
Congress passed the federal moratorium on the taxes in 1998 and it has been renewed temporarily several times, most recently in December.

Last summer, the U.S. House had actually approved a permanent ban. But the proposal died in the Senate, in part because a bipartisan group of lawmakers sought to combine it with a more controversial measure that would require retailers to collect sales taxes on online purchases.

This year, a handful of House members are trying again for a permanent ban with legislation that doesn’t include the online sales tax issue. House Judiciary Committee Chairman Bob Goodlatte, R-Va., is one of the authors and said all Americans benefit from tax-free access to the Internet.

“Internet access drives innovation and the success of our economy,” he said in a statement in January. “It is a gateway to knowledge, opportunity, and the rest of the globe. And year after year, Congress has chosen to temporarily extend the bipartisan ban on Internet access taxes. The time has come to make this ban permanent.”

But it’s not clear that will happen. The National Conference of State Legislatures has said it supports the extension of the ban on Internet access taxation – but only if it’s combined with the sales tax measures – and the group has found support in both chambers and parties.

Other groups say a permanent ban is a bad idea anyway. The left-leaning Center on Budget and Policy Priorities argues that prohibiting state and location taxation of Internet services denies governments a key source of revenue – one that’s likely to grow as other cable- and telecommunications-based taxes shrink.

The tax base is “eroding significantly as a growing number of consumers switch from taxable cable TV service, landline phones, and music CDs to cheaper (or free) alternatives they can obtain via the Internet, such as Skype for phone calls and Spotify for music,” wrote Michael Mazerov, a researcher at the Center on Budget and Policy Priorities.

“Congress should not compound these revenue problems by forever barring taxation of the one purchase consumers must make as a gateway to all these other services: a monthly Internet access subscription,” he said.

In Indiana, Brown – the chairman of the Ways & Means Committee – is evaluating whether he has time to hear SB 80 in the second half of the session, although he said it’s on a “short list” of important legislation.

And because the ban has already passed the Senate, the language could be amended into the budget or another bill before lawmakers adjourn for the year next month.

Hart, of the Indiana Cable Association, said it’s important the legislature acts now.

“I hope that Indiana does put it in place this year,” Hart said. “I know that we have already got several requests in that this legislation in Senate Bill 80 will likely become a model across the country.”

Disposition of Entry:

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

Comments/Note to staff
02-37A-05 e-Cigarette Regulation   Arkansas
Bill/Act: SB 978

Summary: This Act:
- Prohibits the sale, gift (including via sample), or barter of tobacco products, vapor products, alternative nicotine products or e-liquid products to minors;
- Prohibits the use, possession, purchase or attempt to purchase of tobacco products, vapor products, alternative nicotine products or e-liquid products by a minor;
- Prohibits use of self-service displays for the sale or distribution of tobacco products, vapor products, alternative nicotine products or e-liquid products;
- Regulates the use and location of vending machines for the sale of tobacco products, vapor products, alternative nicotine products or e-liquid products;
- Prohibits the use of tobacco products, vapor products, alternative nicotine products or e-liquid products on school grounds;
- Requires all e-liquid containers sold at retail to be sold in child-resistant packaging;

Status: Signed into law on April 8, 2015.

Comments: Arkansas Democrat Gazette (March 31, 2015)
The Arkansas House of Representatives on Tuesday narrowly approved a bill that would regulate alternative nicotine products, commonly known as e-cigarettes.

Senate Bill 978, sponsored by Sen. Eddie Joe Williams, R-Cabot, passed the House with a 51-16 vote.

The legislation would not add any additional taxes but would provide "considerable regulation" for these nicotine products, Rep. Douglas House, R-North Little Rock, said when he presented the bill.

"We do not currently regulate alternative nicotine products," House said.

The actual mechanical devices that deliver the vapor, also known as "juice," will not be regulated, House said.

The bill will regulate the vapor liquid, some of which is extracted from tobacco and some is extracted from vegetables, House said.

The vapor products will be regulated to ensure quality, something that cannot be guaranteed currently if it is not produced in the United States, House said. He said that local vapor shops are in favor of this regulation.

Read more:
From the *Arkansas Democrat Gazette* (September 14, 2015).

At Vapor-Riffic in Conway, things look a little different from when the store first opened in early 2014. Each tiny bottle of the liquid nicotine mixture called e-liquid, used to refill personal vaporizers, now has a childproof cap attached.

And the cartoon-emblazoned labels on those bottles? Those are being phased out.

One thing that hasn't changed are the signs, the ones prohibiting those 18 and under from tasting or buying any of the product.

For more than a year, Vapor-Riffic co-owner Nick LaBanca self-imposed the safety standards at his shop. Now enforcing many of those rules is in the hands of Arkansas Tobacco Control.

As of late July, seven enforcement agents with Arkansas Tobacco Control have more than 100 new stops to make as they check in with vaping and e-cigarette retailers, manufacturers and wholesalers across the state. Regulation of the burgeoning e-cigarette and vaping industries was granted to the office by the General Assembly in April as part of Act 1235. The act amends Arkansas Code to include vapor products, alternate nicotine products and e-liquid products in laws concerning the sale of tobacco products.

But not all e-cigarette products and manufacturers fall under those guidelines, and while the new law grants Arkansas Tobacco Control the power to enforce some safety guidelines for the production of the nicotine mixture used in vaporizers, the agency has yet to finalize those standards.

**INCREASED OVERSIGHT**

First introduced to the U.S. market in 2007, e-cigarettes are electronic devices that use heat to vaporize a liquid nicotine solution (see graphic). The devices come in two primary forms: closed and open-system.

While closed systems -- typically sold in convenience stores and by larger retailers -- include liquid nicotine in disposable cartridges, open-system e-cigarettes (often called vape pens or vaporizers) are designed to be refilled with a liquid nicotine solution known as e-liquid. E-liquid is typically a blend of propylene glycol, liquid nicotine, flavorings and vegetable glycerin. E-liquid can be customized to include various levels of nicotine, and some is nicotine-free.

While closed-system e-cigarettes are typically manufactured by large companies, e-liquid is more likely to be mixed in small stores.

The changes in Arkansas Code affect both types of e-cigarettes, including requiring state licenses to sell e-cigarettes, manufacture e-liquid or sell wholesale e-liquid within the state and giving the agency oversight in monitoring e-cigarette sales and vaping products to minors. The licenses, which range from $25 to $500, include specific licenses for wholesale of e-liquid, for manufacturing e-liquid and for retail sale of e-liquid and e-cigarettes.

In addition, anyone selling e-liquid in bulk to retailers in Arkansas must also obtain an Arkansas manufacturing permit or wholesale permit.
Agency director Steve Goode says his team of enforcement agents began visiting e-cigarette retailers and manufacturers in Arkansas before the July permit application deadline to help explain the new licenses.

"Our biggest priority is keeping [these devices] out of the hands of minors," he says.

While the sale of e-cigarettes and e-liquid to minors has been banned in Arkansas since 2013, Goode says there was no rule in place allowing his agency to enforce that law. In addition to monitoring sales of e-cigarettes, he says, enforcement agents will add e-cigarette and vapor retailers to their more than 6,500 annual tobacco retailer inspections.

"Vapor or e-liquid products that are obviously damaged will be removed from the business' inventory," Goode says.

The new vaping laws state that the director of Arkansas Tobacco Control "may adopt safety and hygiene rules for persons that prepare or mix e-liquid products or alternative nicotine products." Among those possible rules: outlining basic safety requirements for e-liquid manufacturers in the state, including requiring a hand-washing station, clean mixing equipment, gloves for employees working with e-liquid and the prohibition of food, drink and animals in the e-liquid mixing area.

While Goode says safety and hygiene inspections will be folded into existing annual inspections, the agency is still working with the state Department of Health to develop "a set of commonsense rules," that may include some of the requirements listed in the law.

Goode says the agency hopes to work with the state Health Department to do laboratory spot-checks on liquid nicotine makers, looking for spoilage and correct nicotine content but, he says, "that will be a ways down the road, after we've gotten all the permits issued and have addressed any necessary rule-making."

Dr. Gary Wheeler, medical director of the Arkansas Department of Health's Tobacco Prevention and Cessation Program, says that while the department has the ability to test liquid nicotine solutions for correct nicotine content or spoilage, funding would first need to be secured for that testing.

"At this point, there are a lot of activities that are unfunded that we may have to develop resources for," Wheeler says. "That may come in from the [licensing fees] ... depending on how much surplus there is, we may be able to begin doing those studies." Checks will not include closed-system e-cigarettes that are assembled outside the state, which include most varieties sold at convenience and big-box stores.

In the meantime, Wheeler says, the priority is protecting consumers, as well as children and pets that could come in contact with the liquid nicotine solution: "We just got this law, and we'll be working in collaboration with the [Arkansas Tobacco Control] to develop the best practices to protect them."
KNOWN DANGERS
While research on the long-term effects of e-cigarettes and vaping is ongoing, one danger has been demonstrated: liquid nicotine is toxic, especially in highly concentrated solutions.

If ingested or absorbed through the skin in large amounts, the liquid can cause nicotine poisoning or overdose, with symptoms including nausea, dizziness, loss of consciousness or death, according to the National Institutes of Health. All nicotine products, including cigarettes, patches and gum, carry the same hazard, but the liquid nicotine solution used in open-system e-cigarettes poses a unique risk.

"They have an extremely wide variety of potential nicotine content including highly toxic levels," Wheeler says.

Act 1235 requires that all bottles of e-liquid manufactured or sold in Arkansas be fitted with childproof caps. But Wheeler says that more changes, including banning appealing e-liquid "flavors" such as bubble gum and banning cartoons on e-liquid packaging also could help lower the appeal to children.

At Le Cig, a manufacturer in De Queen, e-liquid is produced with nicotine volumes including zero, 6, 12, 18, 24 and 36 milligrams, along with a mix of flavorings, vegetable glycerin and propylene glycol. The more vegetable glycerin in the solution, the more vapor, says owner Michael Elias.

Elias estimates that 7 percent to 10 percent of the e-liquid Le Cig sells contains no nicotine, but the majority sold is the 18 milligram solution, which he says mimics a full-flavor cigarette. In total, Elias estimates Le Cig sells 150 to 175 gallons of e-liquid each month. (See accompanying story.)

Like many e-liquid producers, Elias self-policed before Arkansas laws caught up, including using child safety caps on all of his e-liquid. While Elias says the state licensing process went smoothly, he's looking ahead to the next step: federal regulation.

A HAZY FUTURE
While no federal regulation of e-liquid currently exists, the Food and Drug Administration has been pushing for liquid nicotine to be considered a tobacco product, opening the e-liquid manufacturing world to a host of regulations.

Greg Conley, president of the American Vaping Association, told the Los Angeles Times that potential regulation could wipe out 99 percent of the small vape shops in the nation, while large tobacco companies would have the financial resources to adapt and survive. FDA regulations are expected by the end of the year. (The FDA’s explanation of its proposed rule is at tinyurl.com/o8fr3t7.)

"The state permits were affordable, but if the FDA does a big ruling and starts saying we have to put certain additives into [e-liquid] or other regulations that are expensive ... those rules will be
geared toward the smaller [vape] shops, and allowing [e-cigarettes] and Big Tobacco to reign," Elias says.

But while Elias and other Arkansas vape-shop owners hold their breath for the FDA ruling, Wheeler says those owners haven't earned his sympathy. "Be careful about being overly compassionate about these entrepreneurs," Wheeler says. "[If they're selling nicotine], they're participating in the drug addiction business."

Read More:

Disposition of Entry:

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

Comments/Note to staff
Summary: The law prohibits the sale of electronic smoking devices and alternative nicotine products to minors, and requires child-resistant packaging for liquid nicotine containers. The law also requires that all tobacco products, including electronic smoking devices and alternative nicotine products, are sold with the assistance of a clerk, meaning that these products can no longer be sold in self-service displays.

Status: Signed into law on April 9, 2015.

“One fact, however, is undeniably clear. Kids are flocking to these products and we must stop it. A national survey release last month showed teen use of e-cigarettes surpassing their use of regular cigarettes for the first time. 17.1% of 12th graders, 16.2% of 10th graders and 8.7% of 8th graders reported using an e-cigarette in the past 30 days, compared with 13.6%, 7.2%, and 4%, respectively, who reported using a conventional cigarette. The CDC reported in November that e-cigarette use among high school students tripled between 2011 and 2013.

Although some local ordinances ban the sale of these products to minors, we are one of only 9 states which do not prohibit the sale of e-vapor products to minors, state-wide. I ask you to support this legislation and add North Dakota to the list of states taking responsible action to ensure that only adults can purchase these new types of nicotine products.

In the House, we also amended the bill to include a provision calling for childproof packaging. New data from the American Association of Poison Control Centers shows frightening trends.

In 2011, there were 271 calls to poison control centers involving exposures to e-cigarettes and liquid nicotine. By 2013, that number increased alarmingly, to 1,543 and last year, there were 3,957 such calls, a 156% increase in just one year.

More than half the calls involved a child under the age of six. Sadly, recently, a one-year-old child in Fort Plain, NY became the first person in the United States to die from swallowing nicotine liquid.

This exponential increase in the danger these products represent, when children have access to them, demands further action.”

Grand Forks Herald (July 29, 2015)
Within the past three years, the number of youth using electronic cigarettes has “exploded,” said Jeanne Prom, the executive director of the North Dakota Center for Tobacco Prevention and Control Policy.

In an attempt to slow that growth, legislators have passed a new electronic cigarette law prohibiting minors from using, possessing or purchasing electronic smoking devices, alternative
nicotine products or any of their component parts. The law will also require child-resistant packaging for liquid nicotine containers, which will go into effect Aug. 1.

The new law requires all tobacco products, electronic smoking devices and alternative nicotine products be sold with the assistance of a clerk, restricting sales through the use of self-service displays.

Prom said these restrictions are in place due to an increasing number of studies that show the harmful effects of liquid nicotine and an increasing number of youth who are using the products.

Since 2014, 23 North Dakota cities have drawn up ordinances to prohibit e-cigarette sales to minors, but no regulation was required at the state level.

Prom said 40 states have passed similar laws to restrict usage of such devices among youth.

“We (North Dakota) were one of the last states to pass a sale restriction law,” Prom said.


Disposition of Entry:

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

Comments/Note to staff
Summary:
HB 1757 / SB 1988, the Flexible Credit Act, defines “flex loans” as an open-ended credit plan extended to non-commercial borrowers for personal, family, or household purposes. Flex loans may be secured or unsecured by personal property, lacking in fixed maturities or designated length of term, and are subject to prepayment of the outstanding balance at any time without penalty.

In order to qualify as a “flex loan” lender, an applicant must register all locations that intend to originate loans. Each applicant’s location must have a tangible net worth, minus liabilities, of at least $50,000 and the applicant’s “financial responsibility, financial condition, business experience, character, and general fitness” must “reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly.” Applicants must also post a $25,000 surety bond for each lending location, but the total bond requirement is capped at $200,000. Finally, the law enables the commissioner to require applicants and certain directors, officers or shareholders to consent to a criminal history records check and provide fingerprints as part of the application process. There are also audit and record-keeping requirements, reporting and notice procedures, as well as and fee schedules in the law.

Flex loan licenses are valid for one year and must be renewed with the Commissioner of Financial Institutions. With this license, flex loan lenders may charge interest rates up to 24% and collect interest, fees, and charges for administering the loan or collecting on a defaulted loan. Flex loans are limited to no more than $4,000 in principle balance and no customer may have more than one flex loan at any one time.

Status: Signed into law on May 19, 2014.

Comments: Tennessee Department of Financial Instruments
Flex loan means a loan pursuant to a written agreement between a licensee and a customer establishing an open-end credit plan under which the licensee contemplates repeated noncommercial loans for personal, family, or household purposes, that:
(A) may be unsecured or secured by personal property;
(B) may be without fixed maturities or limitation as to the length of the term; and
(C) are subject to prepayment in whole or in part at any time without penalty.

A person shall be deemed to be engaged in the business of making flex loans in this state if the person induces a consumer, while located in this state, to enter into a flex loan plan in this state through the use of the internet, facsimile, telephone, or other means. A separate license shall be required for each location from which the business of making flex loans is conducted.

Read More: http://www.tennessee.gov/tdfi/topic/flexible-credit#sthash.dYu5zzBC.dpuf
Under the Flex Loan program:

- Borrowers may open a line of credit of up to $4,000.
- The maximum annual interest rate on a Flex Loan is 24 percent.
- Borrowers may have only one open Flex Loan at a time.
- Flex Loan balances may be paid back over time, or paid in full at any time with no penalty.
- The minimum payment must reduce the loan principal by at least three percent each month.

Disposition of Entry:

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

Comments/Note to staff
Summary: HB 1317 establishes a regulatory framework for retail cannabis businesses. The regulations' passage comes six-months after a majority of voters in November 2012 approved Amendment 64, which legalized the adult possession and cultivation of limited quantities of marijuana, and tasked the state with establishing regulations for the plant's retail production and sale of cannabis to the public.

The regulations require marijuana retail outlets to license with the state and for the first nine months, only currently operating medical marijuana dispensaries can apply. Owners must also be Colorado residents. Initially, these stores must sell marijuana that they cultivated themselves, but by October 2014 this restriction will be lifted to allow independent growers and retail outlets. State residents will be able to purchase up to one ounce of usable marijuana at a time, while out of state visitors will be capped at one quarter ounce per purchase. Possession of up to one ounce of marijuana would be legalized for everyone over the age of 21, regardless of residency.

This bill implements major provisions of Amendment 64 by creating the Colorado Retail Marijuana Code. It renames the Medical Marijuana Enforcement Division (MMED) in the Department of Revenue (DOR) as the Marijuana Enforcement Division (MED) and gives the MED the authority to regulate both medical and retail marijuana. It creates a regulatory system for retail marijuana under which existing medical marijuana businesses have the option to convert to retail businesses or to operate both medical and retail businesses. Colorado residents may purchase up to 1 ounce of marijuana in a single transaction as allowed by Amendment 64 but this bill limits nonresidents to purchases of no more than 1/4 of an ounce in a single transaction.

The bill includes a severability clause that allows the bill to be implemented even if certain provisions are found to be unconstitutional as long as those provisions are not essential to fulfilling the legislative intent of the bill. The Colorado Retail Marijuana Code is scheduled to repeal July 1, 2016, after a sunset review.

State licensing. As required by Amendment 64, this bill requires that the DOR adopt rules regarding retail marijuana by July 1, 2013, and begin taking license applications no later than October 1, 2013. The MED must act on a license application between 45 and 90 days after receipt of an application. Until September 30, 2014, only medical marijuana businesses in good standing may apply for a retail license. Beginning January 1, 2014, other interested persons may submit a notice of intent to apply for licensure. The MED will create the notice of intent form and may collect a filing fee to be deducted from the licensing fee. The MED will begin accepting applications on July 1, 2014, and give preference to those applicants who submitted a notice of intent.

New license types are created for retail marijuana stores, products manufacturers, cultivation facilities, and testing facilities. All owners, officers, managers, and employees of a retail marijuana business must meet certain requirements, including Colorado residency, and pass a fingerprint-based criminal history check. The bill includes limitations for licensing of individuals.
with certain felony convictions. Law enforcement personnel are prohibited from being licensed by the MED as are locations currently licensed as retail food or wholesale food businesses. A licensed retail marijuana store is prohibited from selling retail marijuana or retail marijuana products over the Internet or to a person not physically present in the retail marijuana store's licensed premises. Licensed retail marijuana testing facilities are prohibited from having an interest in any other type of medical or retail marijuana business. All licensed retail marijuana businesses must procure a $5,000 surety bond as a guarantee that the business will pay its sales and excise taxes.

Testing of retail marijuana by licensed laboratories is required to verify potency and to ensure that products sold for human consumption do not contain harmful contaminants. The bill gives the DOR rulemaking authority over a variety of issues including licensing, fees, security, labeling, health and safety standards, advertising, enforcement, penalties, inspection procedures, and audits. DOR may limit the number of licenses that it issues as well as limit the amount of production permitted by a retail marijuana cultivation licensee. Any limits on licenses and production may be changed by DOR in the future.

Retail marijuana cannot contain nicotine or alcohol and retail stores must put each item sold in a sealed, opaque container. Retail stores may not sell any products that do not contain marijuana such as soda, candies, baked goods, and cigarettes.

**Vertical integration.** Until September 30, 2014, the bill requires a retail marijuana store to only sell marijuana grown in its own retail marijuana cultivation facility with some exceptions. Beginning October 1, 2014, a licensed retail marijuana store or products manufacturer may either grow its marijuana at its own retail marijuana cultivation facility or purchase it from a facility with which it does not share common ownership.

**Tracking and reporting.** The MED is required to develop and maintain a tracking system to track retail marijuana from the immature plant stage until the marijuana is sold to a customer at a retail store. Beginning April 1, 2014, and annually thereafter, the MED is required to report to the House and Senate Finance Committees on licensing activities as well as an overview of the retail marijuana market that includes actual and anticipated market supply and demand. Retail marijuana stores must track all retail marijuana and marijuana product sales from when the items are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the consumer. No transfers of retail marijuana from cultivation or production facilities can be made without proof that the excise tax has been paid on the product.

**Testing and certification standards.** The Department of Public Health and Environment (CDPHE) is required to provide the MED with standards for licensing the laboratories that will be responsible for the testing and certification of marijuana.

**Local licensing.** Unlike the state and local licensing requirements for medical marijuana businesses, local jurisdictions are not required to set up a licensing program for retail marijuana businesses. The MED will forward all applications for original or renewal licenses to the applicable local jurisdiction to determine whether the application complies with local restrictions on the time, place, manner, and number of retail marijuana businesses allowed. The local
jurisdiction notifies the MED if the application is compliant. Public hearings may be held for all new license applications. Local jurisdictions are also permitted to prohibit such businesses entirely. If a local jurisdiction does choose to license retail marijuana businesses, new businesses will not be permitted to operate until both the state and local licenses are issued. If the local license is not issued within 1 year of the conditional state license being issued, the conditional state license expires; if the local application is denied, the conditional state license is revoked. Local jurisdictions are permitted to charge operational fees for inspection, administration, and enforcement of retail marijuana businesses.

**Funding sources for marijuana regulation.** House Bill 13-1317 requires that all sales taxes from medical and retail marijuana sales, plus application and licensing fees from marijuana businesses, be used to fund the MED in the DOR. This includes the existing 2.9 percent sales taxes that would otherwise be credited to the General Fund. The application fee for existing medical marijuana businesses that want to apply for a retail marijuana license is set at $500. All other applicants are required to pay a $5,000 application fee. The MED must remit 50 percent of any application fee to the local jurisdiction where the business will be located within 7 days of receipt.

The bill appropriates the balance of the Medical Marijuana License Cash Fund as of July 1, 2013, to the MED and allows the MED to receive moneys from the General Fund if revenues from other sources are insufficient. If the MED receives a General Fund appropriation, the MED will repay that amount when it becomes self-sufficient and generates excess revenue. Beginning September 30, 2014, and annually thereafter, the DOR must report to the Joint Budget Committee and the House and Senate Finance Committees detailing the amount of state revenue generated by medical and retail marijuana, including excise taxes, sales taxes, application and license fees, and any other fees. The report must also discuss the progress in establishing the regulatory environment for marijuana in Colorado.

**Unlawful acts.** The bill identifies a number of unlawful acts including consuming marijuana in a licensed retail marijuana business, buying or selling marijuana outside of the regulated system, selling to a person under 21, distributing marijuana using a mobile distribution center, and failing to pay the lawful excise tax. A person who commits any of these acts commits a Class 2 misdemeanor. In addition, state and local agencies are not required to care for any retail marijuana or retail marijuana product belonging to or seized from a licensed business.

**Status:** Signed into law on May 28, 2013.

**Comment:** From the *Denver Post* (May 8, 2013)
The Colorado legislature made history Wednesday, becoming the first in the country to pass laws regulating recreational marijuana sales and use.

But lawmakers arrived at the historic moment more with trepidation than with enthusiasm about the future in a state where anyone over 21 will soon be able to buy marijuana in special retail stores.
"This is a true game-changer for our state," Sen. Mark Scheffel, R-Parker, said in raising concerns about the impact of marijuana legalization on kids. "And so I think it is important that we do our best to implement the right regulatory environment and fund it."

If Gov. John Hickenlooper signs the four major bills on marijuana that the legislature passed this year — and he has indicated he will — this is what the future will hold:

- Marijuana will be sold in specially licensed stores that can also sell pot-related items such as pipes. Only Colorado residents can own or invest in the stores, and only current medical-marijuana dispensary owners can apply to open recreational pot shops for the first nine months. The first stores will open around Jan. 1.
- Colorado residents will be able to buy up to an ounce of marijuana — the maximum it is legal for non-medical-marijuana patients to possess — at the stores. Out-of-staters can buy only a quarter-ounce at a time. Pot must be sold in child-resistant packages with labels that specify potency. Edible marijuana products will have serving-size limits.
- Voters will have the option of imposing heavy taxes on pot sales. A ballot measure set for November will ask voters to approve a 15 percent excise tax and an initial 10 percent sales tax on marijuana. The excise tax will fund school construction. The sales tax will pay for regulation of marijuana stores.
- Incorporated marijuana collectives will be banned. So, too, will marijuana coffee shops, marijuana smoking in bars and government-run marijuana stores. And, though Colorado will have the most liberal laws for marijuana use and sales in the country, it will have the most restrictive laws in the country for marijuana-themed magazines, which, like pornography, will have to be kept behind the counter. Publications such as High Times and The Daily Doobie have vowed to sue.
- Finally, Colorado drivers for the first time will be subject to a stoned-driving limit. Juries will be allowed to presume that anyone testing above the limit was too high to drive.

The bills are the result of an arduous six-month, law-writing process that began in November, when Colorado voters passed a marijuana-legalization measure. With the bills' passage, a new rulemaking process for marijuana shops by the state Department of Revenue can begin.

Prospective pot-shop owners can start applying for licenses in October.

"We are in uncharted territory," said Rep. Dan Pabon, a Denver Democrat involved in many of the marijuana bills.

Pabon said the bills will keep marijuana within Colorado's borders and provide a barrier between kids and pot — two important factors in keeping the federal government, which considers all marijuana possession and sales illegal, at bay.

A spokesman for the U.S. Attorney's office in Denver declined to say what kind of impact the bills will have on the office's position toward marijuana legalization in Colorado. Instead, Jeff Dorschner wrote in an e-mail that the office is looking at "all aspects of this issue" in its deliberations on how to respond.
A spokesman for Hickenlooper, a legalization opponent, praised the work of lawmakers on the marijuana bills, saying in a statement they "put in place a robust regulatory and enforcement framework, consumer safety measures and a dedicated funding source for state oversight of the industry."

State Attorney General John Suthers, who also opposed legalization, said the legislature did a "credible job" of creating marijuana regulations, despite "an aggressive and well-financed lobbying effort" by cannabis advocates that Suthers saw as trying to weaken the rules.

Those advocates, though, hardly had their run of the legislature. A citizens group worried about the consequences of marijuana legalization hired equally high-priced lobbyists. And, in the most dramatic showdown over marijuana at the Capitol this year, legalization proponents fought back an effort on the session's third-to-last day that could have stalled marijuana sales if the taxes on pot didn't pass.

On Wednesday, marijuana advocates hailed the legislature's final votes as momentous.

"The passage of these bills marks a major milestone toward the creation of the world's first legal, regulated and taxed marijuana market for adults," said Christian Sederberg, one of Amendment 64's authors. Sederberg said the bills show that lawmakers can tackle big issues when they work together. The bills were written by a bipartisan committee and received support from both parties in the state Senate.

But the final votes on the bills in the House on Wednesday split along party lines — Democrats voting for the measures and Republicans voting against. That division occurred even as Republicans grudgingly accepted that the last two bills needed to be passed. One of those bills, House Bill 1317, contained the most significant regulations for marijuana stores. The other, House Bill 1318, held the marijuana tax provisions.

"We do need to do something," Rep. Bob Gardner, R-Colorado Springs, said. "And that something is House Bill 1317." But he joined his colleagues in voting against the bill's repassage.

The bill moved forward to the governor's desk anyway, while Colorado moved toward an unprecedented future.

Disposition of Entry:

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

Comments/Note to staff
Summary:
Conditional upon certain events occurring, the bill allows for the creation and regulation of marijuana financial services cooperatives referred to as "cannabis credit co-ops" or CCCs, a new type of financial services entity with membership restricted to licensed marijuana businesses, industrial hemp businesses, and other entities providing goods and services to licensed marijuana businesses that can document the inability to get comparable services from a bank or credit union. CCCs are regulated by the Division of Financial Services in the Department of Regulatory Agencies (DORA) in a manner similar to credit unions with certain exceptions.

Specifically, the bill:
- limits the number of CCC charters to 10 at any given time;
- requires that CCCs make certain disclosures to prospective members that, among other things, their assets may be subject to seizure under federal law and that they deposits are not federally insured;
- requires incorporators of a CCC to provide written evidence of approval by the Federal Reserve System Board of Governors for access by the CCC to the federal reserve system;
- specifies that the Division of Financial Services must examine CCCs at least every six months;
- specifies that once a CCC member no longer owns or operates a licensed marijuana business, they are no longer qualified to be a CCC member;
- prohibits a CCC from referring to itself as a bank or credit union;
- does not require CCCs to acquire and maintain deposit insurance;
- specifies that CCCs are subject to taxation and must comply with federal requirements relating to marijuana businesses;
- requires CCCs to file a report with the Division of Financial Services regarding their compliance with federal law and guidance; and
- allows the start-up costs of CCC regulation in DORA to be funded from the Marijuana Tax Cash Fund.

Once an incorporator of a CCC receives approval from the Federal Reserve System Board of Governors, DORA must convene a stakeholder group to discuss any conflicts in law that may exist and to recommend ways to resolve any conflicts. No CCC application may be approved until this stakeholder group has met and the General Assembly has resolved all identified conflicts. The regulation of CCCs is subject to a sunset review prior to its schedule repeal on September 1, 2020.

Status: Signed into law on June 6, 2014.

Comments: From Reuters (May 8, 2014)
The Colorado legislature on Wednesday voted to create the nation's first state-run financial cooperative for marijuana sellers, with the aim of giving newly legalized cannabis retail outlets access to key banking services through the U.S. Federal Reserve.
The approval of the so-called "cannabis credit co-ops" came on the final day of the legislative session, as lawmakers seek to address problems marijuana retailers face in having to operate on a cash-only basis, such as burglary threats.

The proposal's chief sponsor, Representative Jonathan Singer, said the cooperatives are needed because traditional banks and credit unions have been hesitant to serve the burgeoning marijuana industry as long as the drug remains outlawed by the U.S. government.

"This is the final piece to our pot puzzle," said Singer, a Democrat.

The final approval on Wednesday came after both chambers of the General Assembly cleared their own versions of the bill. The bill now heads to Democratic Governor John Hickenlooper for his signature.

Voters in Colorado and Washington State legalized the possession and use of small amounts of cannabis by adults for recreational purposes in 2012. Both states are among 20 that allow the use of cannabis for medical reasons.

The first recreational cannabis shops opened in Colorado in January, and Washington is set to follow suit later this year.

Singer said the cash-only nature of the industry makes pot businesses targets of crime, limits owners' access to credit and capital and hinders the state's ability to track revenues for tax-collection purposes.

Under the bill, the financial cooperatives would operate similarly to credit unions - without a deposit insurance requirement - and would be governed by the state's financial services commissioner.

But to gain access to banking services such as credit card processing and checking accounts, the Federal Reserve would need to approve the plan, which critics say is unlikely in the absence of a deposit insurance mandate.

Republicans who voted against the measure said such complex legislation needed further study and should not have been rushed through the legislature at the end of its session.

The Obama administration in February issued new law-enforcement guidelines aimed at encouraging banks to start doing business with state-licensed marijuana suppliers, even though such enterprises remain illegal under federal law.

The guidance stopped short of promising blanket immunity to banks, and financial industry officials have said they doubted many banks would begin to accept cannabis suppliers as customers without changes in federal law.
From *Westword* (November 26, 2014)

For years, financial hassles have forced a multimillion-dollar industry to rely almost entirely on cash and to keep any bank accounts under hush-hush names because fed-fearing financial institutions are wary of doing business with state-legal pot shops. But dispensaries in Colorado are finally seeing a ray of hope, now that a marijuana banking co-op that received its charter from the state is moving forward with plans to open in the new year.

There are still hurdles ahead for the Fourth Corner Credit Union, namely getting approval and insurance from the National Credit Union Administration. But at the state level, the credit union is set to open and even has the backing of Governor John Hickenlooper, who calls it the "end of the line" for the banking issues that have kept dispensaries in the dark ages.

Banking issues have been a constant thorn in the side of an industry that wants to be considered legitimate. Because marijuana remains illegal federally and banks have to be insured by the federal government, many businesses have been hesitant to get involved with state-legal dispensaries, which the feds still consider as being involved in criminal activity. The lack of banking services means that dispensaries sit on large amounts of cash and can't offer customers things like credit-card services; it also makes bookkeeping a nightmare. On top of that, cash-heavy dispensaries make very attractive targets for criminals.

There have been several attempts to right this through the years, with proposals going back as far as 2011 at the state level. The most recent attempt was at the end of the legislative session in May, when lawmakers passed a complicated bill that, in the words of Rep. Jonathan Singer, the sponsor, "creates a financial-services cooperative for the marijuana industry that's otherwise up until this point been unbanked. It gives businesses the opportunity to form a cooperative that works like a credit union, but with even more scrutiny -- and no federal insurance."

The new credit union isn't related to the cooperative bill, however; that measure would require the approval of the feds. Instead, the Fourth Corner plan followed the standard state credit-union licensing process.

The credit union could open as early as January 1, even without approval from the NCUA. State law allows new credit unions to open with pending licenses, and Fourth Corner officials say they hope to get it up and running to prove to the NCUA that the credit union can function without any problems.

**Disposition of Entry:**

SSL Committee Meeting: 2017A

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( ) Reject

Comments/Note to staff
Summary:
The bill requires that medical marijuana be sold in a package or container meeting requirements established by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) similar to the federal "Poison Prevention Packaging Act of 1970." Alternately the medical marijuana can be placed in an opaque and resealable package or container at the point of sale prior to exiting the store.

It gives a retail marijuana store owner or employee the ability to confiscate proof of age suspected to be fraudulent from a person under 21 years of age who is attempting to purchase retail marijuana. The licensee or employee or a member of law enforcement may also detain and question the person. The bill changes the classification of the crime for selling, or permitting the sale of, retail marijuana to a person under 21 from a class 2 to a class 1 misdemeanor.

Finally, the bill specifies the enclosure and locked space requirements for cultivation of marijuana in a residence where a person under 21 years of age lives or visits.

Status: Signed into law on March 17, 2014.

Comments: From Children’s Hospital Colorado (March 17, 2014)
Denver, Colo. (March 17, 2014) – Colorado Governor John Hickenlooper signed into law today a marijuana safe-packaging bill that enhances protection for kids with respect to marijuana edibles. The new law requires marijuana edibles to be sold in child-resistant, opaque, re-sealable packaging.

Children’s Hospital Colorado (Children’s Colorado) played a major role in crafting and supporting this legislation. Working closely with Representative Daniel Kagan, Senator Linda Newell and their colleagues in both chambers, the hospital was pleased to see the unanimous passing of House Bill 1122, Concerning Provisions to Keep Legal Marijuana from Underage Persons.

“The safety of our children must remain a priority in addressing marijuana regulation,” said George Sam Wang, MD, who practices pediatric emergency medicine and toxicology at Children’s Colorado. “With the increasing availability of marijuana, Children’s Colorado is concerned that Colorado hospitals will see a rise in unintentional exposures in children. This new law is a step in the right direction to help protect our most vulnerable citizens.”

Accidental exposures of marijuana products to children in Colorado have increased in the past three years, based on the rate of emergency department visits and admissions at Children's Colorado. According to published studies by Dr. Wang, since 2005, states that allow some form of legal marijuana have seen a 30 percent annual increase in calls to poison control centers for marijuana ingestion, relative to a 1 percent increase in non-legal states.
Most of the accidental ingestion incidents in Colorado requiring hospital admission involve young children, especially toddlers. Many of these children are getting into edible products with high concentrations of THC. Symptoms vary anywhere from mild sleepiness, to poor respiratory effort, to coma requiring insertion of a breathing tube.

Proven methods of prevention, such as child-resistant packaging, are currently required for household items like aspirin, Tylenol and even some nutritional supplements.

The new law both strengthens and simplifies the retail and medical laws regulating marijuana packaging, as well as other provisions intended to keep marijuana from kids.

The big loophole in current law, which House Bill 1122 closes, is that an edible medical marijuana product can be sold with a warning label but not in child-resistant packaging. Now that the bill is signed into law, our state's packaging requirements will be stronger and easier for businesses, consumers, parents and law enforcement to understand and follow.

**Disposition of Entry:**

SSL Committee Meeting: 2017A
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Comments/Note to staff
Status: Signed into law on April 24, 2015.

Summary:
- Establishes the cannabis patient protection act.
- Adopts a comprehensive act that uses the regulations in place for the recreational market to provide regulation for the medical use of marijuana.
- Ensures that patients: (1) Retain their ability to grow their own marijuana for their own medical use; and (2) Have the ability to possess more marijuana-infused products, useable marijuana, and marijuana concentrates than what is available to a nonmedical user.
- Creates a medical marijuana endorsement to a marijuana retail license to permit a marijuana retailer to: (1) Sell marijuana for medical use to qualifying patients and designated providers; and (2) Provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.
- Establishes a medical marijuana consultant certificate.
- Requires the department of health to: (1) Develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic; and (2) Contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database.
- Allows a qualifying patient and his or her designated provider to be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement.
- Allows health care professionals to authorize the medical use of marijuana for qualifying patients who are under the age of eighteen if certain conditions are met.
- Authorizes qualifying patients or designated providers to form a cooperative to produce and process marijuana only for the medical use of members of the cooperative.
- Requires the board of naturopathy, the board of osteopathic medicine and surgery, the medical quality assurance commission, and the nursing care quality assurance commission to develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they each regulate.
- Changes the name of the state liquor control board to the state liquor and cannabis board.

Comments: From the Seattle Times (April 24, 2015)
Nearly two decades after voters passed a medical-marijuana law that often left police, prosecutors and even patients confused about what was allowed, Gov. Jay Inslee signed a bill Friday attempting to clean up that largely unregulated system and harmonize it with Washington’s new market for recreational pot.

Among the law’s many provisions, it creates a voluntary registry of patients and, beginning next year, eliminates what have become in some cases large, legally dubious “collective gardens” providing cannabis to thousands of people.
Instead, those patients will be able to purchase medical-grade products at legal recreational marijuana stores that obtain an endorsement to sell medical marijuana, or they’ll be able to participate in much-smaller cooperative grows of up to just four patients.

And those big medical-marijuana gardens will be given what lawmakers describe as a path to legitimacy: The state will grant priority in licensing to those that have been good actors, such as by paying business taxes.

“I am committed to ensuring a system that serves patients well and makes medicine available in a safe and accessible manner, just like we would do for any medicine,” Inslee wrote in his signing message to the Legislature.

The proliferation of green-cross medical dispensaries has long been a concern for police and other officials who decry them as a masquerade for black-market sales. Some proprietors of new, state-licensed recreational pot businesses — saddled with higher taxes — called them unfair competitors.

Washington in 1998 became one of the first states to approve the use of marijuana for medical purposes, but the initiative passed by voters did not allow commercial sales. Instead, patients had to grow the marijuana for themselves or designate someone to grow it for them. The measure did not prohibit patients from pooling their resources to have large collective gardens on a single property, but the size of some made law enforcement queasy, and raids sometimes resulted.

Medical-marijuana growers repeatedly sought legislation that would validate their business model, coming closest in 2011, when the Legislature approved a bill to create a licensing framework for medical dispensaries. But then-Gov. Chris Gregoire vetoed much of the measure.

This time, with the state seeking to support its nascent recreational-pot industry after the passage of Initiative 502 in 2012, there was a financial impetus to pull the medical users into the recreational system. The recreational businesses pressed for a tight rein on the medical industry with newfound lobbying muscle, and the medical businesses countered with some of their own.

That left advocates concerned that the people who are actually sick were the ones losing out.

Under the new system, patients will be buying more heavily taxed marijuana, and they’ll be allowed to grow fewer plants at home.

“This is pejorative to patients while being friendly to those who are in the business of patients,” said Muraco Kyashna-tocha, who operated a Seattle medical dispensary. “There are sincere patients who don’t have any money. They’re cancer patients who are being bankrupted by their treatment.”

Under the new law, patients who join the voluntary registry will be allowed to possess three times as much marijuana as is allowed under the recreational law: 3 ounces dry, 48 ounces of marijuana-infused solids, 216 ounces liquid and 21 grams of concentrates. Such a patient could also grow up to six plants at home, unless authorized to receive more.
Patients who don’t join the registry can possess the same as the recreational limit of 1 ounce, and grow up to four plants at home — which recreational users can’t.

State Sen. Ann Rivers, R-La Center and the sponsor of the measure, said part of the reason the registry is so important is to find out if there are enough stores providing medical products to patients.

“We have no idea how many patients we have in this state,” she said.

Inslee, who vetoed some minor sections of the bill, was joined during the signing by Ryan Day and his epileptic 6-year-old son, Haiden. The boy’s seizures have been managed with an extracted liquid form of marijuana.

Day said the new law gives his family more certainty.

“We were under the threat every single year that the system was going to change in a way that was going to take away my ability to help my son,” he said.


Disposition of Entry:

SSL Committee Meeting: 2017A
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Comments/Note to staff
Summary:
In 1998, Oregon voters approved Ballot Measure 67 to allow medical use of marijuana within specified limits. The Oregon Medical Marijuana Program (OMMP) under the Oregon Health Authority (OHA) administers the program regulating medical marijuana. The Oregon Medical Marijuana Act (OMMA) governs the OMMP and has been frequently modified since its passage. In 2014, Oregon voters approved Ballot Measure 91 (Measure 91) to allow the recreational sale and use of marijuana.

House Bill 3400 A requires the OHA to create a database that would track the production, processing and transfer of medical marijuana. The measure requires the OLCC to create a seed-to-sale tracking system for recreational marijuana and set limits on the size of recreational grow site canopies for mature marijuana plants. House Bill 3400 A also vests sole authority to tax or impose fees on either medical or recreational marijuana with the Legislative Assembly. The measure also limits the number of plants allowable under the OMMA at an individual grow site within city limits zoned for residential use and at all other sites. House Bill 3400 A allows local governing boards to adopt ordinances prohibiting marijuana operations within their jurisdiction, but specifies in doing so also those jurisdictions lose any revenue raised from taxing marijuana.

WHAT THE MEASURE DOES: Requires Oregon Liquor Control Commission (OLCC) to adopt rules restricting size of mature marijuana canopy. Specifies canopy limits are not applicable to premises licensed to propagate immature plants. Allows OLCC to adopt rules creating tiered system for mature marijuana canopy. Allows OLCC to create license allowing medical marijuana growers to sell immature marijuana plants and usable marijuana to growers, wholesalers, processors and retailers if medical marijuana grower meets specific conditions. Specifies grower licensed by OLCC and registered with Oregon Health Authority (OHA) may not possess more plants than allowable by OHA regulations and must use OLCC seed-to-sale tracking system. Requires licensed marijuana producers (growers), marijuana wholesalers (wholesalers), marijuana processors (processors), and marijuana retailers (retailers) be 21 years of age and resident of Oregon for two years. Repeals provision on January 1, 2020. Allows OLCC to require segregated areas for premises that hold multiple licenses. Requires OLCC to develop seed-to-sale tracking system. Requires growers, wholesalers, processors and retailers licensed by OLCC to use seed-to-sale tracking system when transferring marijuana. Establishes authority for OLCC marijuana regulatory specialists, including authority to inspect, arrest, seize and issue citations. Prohibits inspectors from conducting investigations or inspections for purpose of ensuring compliance with Oregon Medical Marijuana Act (OMMA). Allows OLCC to impose civil penalty of not more than $5,000 per violation. Requires OLCC to establish system for awarding permits to retail workers participating in sale, possession or securing of marijuana at retail establishment. Requires growers, wholesalers, processors and retailers to maintain surety bond and liability insurance. Defines terms.

Allows city and county governing body to adopt ordinances prohibiting operation or establishment of medical marijuana processors, dispensaries as well as recreational growers, processors, wholesalers or retailers so long as that city or county had at least 55 percent of its
electors vote against Measure 91. Requires city or county governing body to adopt ordinance within 180 days of effective date. Provides exemptions from ordinance for medical marijuana processors or retailers if certain conditions are met. Removes exemption if registration of medical marijuana dispensary or processing site is revoked. Requires governing body to submit ordinance to electors for approval. Requires city or county to notify OHA if ordinance is passed.

Establishes Legislative Assembly as sole body with authority to tax and regulate marijuana unless otherwise expressly permitted by state law. Allows cities and counties to establish up to three percent tax on marijuana sold by retailers if approved by electors at statewide election. Establishes Marijuana Control and Regulation Fund.

Allows governing body of city or county to adopt regulations on growers, processors, wholesalers and retailers. Requires regulations be consistent with city and county comprehensive plan, zoning ordinances and public health and safety laws. Confirms marijuana is crop for purposes of exclusive farm use law. Prohibits new dwellings and farm stands in conjunction with marijuana crop on land zoned for exclusive farm use.

Requires OHA and OLCC to require all marijuana items sold by either medical marijuana dispensaries or retailers be tested prior to sale or transfer. Requires OHA, in consultation with OLCC and Oregon Department of Agriculture (ODA), to establish standards for testing marijuana items. Requires OLCC to establish rules for licensing testing lab. Requires OHA to establish rules for accrediting testing lab. Provides exemptions from testing requirement. Allows OHA to impose civil penalty for violations not exceeding $500 per day.

Requires OHA and OLCC to require all marijuana items transferred or sold be packaged and labeled in manner that ensures public health and safety. Requires OHA, in consultation with OLCC and ODA, to establish standards for packaging and labeling marijuana items. Prohibits ODA from establishing standards for marijuana as food additive, or considering marijuana an adulterant. Allows OHA to enter into agreement with OLCC to inspect and ensure compliance with labeling and packaging requirements. Provides exemptions from packaging and labeling requirements. Allows OHA to impose civil penalty for violations not exceeding $500 per day.


Allows OLCC, in conjunction with OHA and ODA, to establish program identifying and certifying private and public researchers of cannabis.

Requires OHA, State Board of Education and Alcohol and Drug Policy Commission to develop curricula on marijuana abuse prevention. Requires OHA to report to Legislative Assembly on or before February 1, 2016 and on or before February 1 of every odd numbered year thereafter.
Provides exemption to specified licensees from criminal laws of Oregon relating to possession, delivery or manufacture of marijuana. Modifies conditions and class of felony or misdemeanor for specified marijuana laws regarding possession, delivery and production of marijuana.

Requires OLCC to report to Legislative Assembly on or before February 1 of every odd numbered year approximate amount of marijuana produced and sold and whether supply of marijuana in Oregon is commensurate with demand. Requires OLCC to examine available research on influence of marijuana on ability of person to operate vehicle and report to interim committees of Legislative Assembly related to judiciary on or before January 1, 2017.

Requires medical marijuana registry identification cardholders (cardholders), medical marijuana growers (growers), medical marijuana processors (processors) and medical marijuana dispensaries (dispensaries) be registered with OHA. Provides exemptions for licensing. Describes OHA licensing process for cardholders, growers, processors and dispensaries. Requires Oregon residency to receive registry identification card. Requires at least two years of Oregon residency for growers, processors and those persons responsible for dispensaries. Requires OHA to confirm growers, processors, person responsible for marijuana dispensaries are 21 years of age and residents of Oregon for at least two years until January 1, 2020. Limits grower to 24 mature plants if grow site is within city limits and in location zoned for residential use or 96 mature plants if grow site is not in previously described area, so long as grow site was registered with OHA prior to January 1, 2015. Limits grower to 12 mature plants if grow site is within city limits and in location zoned for residential use or 48 mature plants if grow site is not in previously described area if grower registers grow site after December 31, 2014. Limits amount of usable marijuana grower may possess to 12 pounds per outdoor plant or 6 pounds per indoor plant. Requires grower to reduce plant count if specific events occur. Establishes tracking system for growers, processors and dispensaries. Allows OHA to inspect only marijuana grow sites of persons designated to produce marijuana for other cardholders. Allows cardholder to reimburse person responsible for grow site for all costs associated with production of marijuana. Requires OHA to establish by rule, public health and safety standards for processor of cannabinoid edibles, concentrates and extracts. Allows OHA to provide information regarding grow site, processing site or dispensary to law enforcement or regulatory agency of city or county. Prohibits OHA from providing specified information. Requires OHA to provide information to law enforcement agencies if OHA suspends registration, revokes registry or takes disciplinary action against grower, processor or dispensary. Specifies those convicted of Class A or B felony relating to manufacture or delivery of controlled substance may not be designated as person responsible for grow site for two years.

Allows local governments to enact reasonable regulations on grow sites, processing sites and dispensaries. Allows dispensary to remain at current location if school is established within 1,000 feet of dispensary. Allows marijuana processing facilities to be located in residential areas so long as processor does not process cannabinoid extracts.

Establishes January 1, 2016 or March 1, 2016 as operative date for specified parts of measure. Declares emergency, effective on passage.

**Status:** Signed into law on June 30, 2015.
Gov. Kate Brown, making her first big decision on marijuana policy, has signed a sweeping cannabis regulation bill that also reduces penalties for several crimes still associated with the drug.

In signing House Bill 3400, the governor expressed concern about a provision in the bill making it easier for local governments to prohibit marijuana businesses if at least 55 percent of county voters had opposed the Measure 91 legalization initiative.

Brown said in a signing statement that she recognized the unusual circumstances because marijuana remains illegal under federal law, but warned legislators not to adopt this approach on other issues. Local government lobbyists have argued that local jurisdictions can't be forced to accept businesses that violate the federal prohibition on marijuana.

HB 3400 is the Legislature's major attempt this session to set out the parameters of the new legal market for marijuana. It includes new limits on the size of medical marijuana growing operations, requires new testing and labeling standards for cannabis products and allows voters in cities and counties to levy up to a 3 percent sales tax on marijuana.

In addition, the measure lowers a number of penalties for the remaining marijuana offenses to match them more closely with the sentences for alcohol-related crimes. Supporters said it was part of their effort to move away from a "war on drugs" approach, and the measure also makes it easier for past and future marijuana offenders to have a sentence expunged so it doesn't affect their job, housing and education prospects.

"As we move forward, it is my expectation that the agencies involved [with marijuana regulation] will focus on the principles of public safety and consumer protection during the rulemaking and implementation period," Brown said, "while also trying to provide an environment conducive to small business development."

She said also said that the Legislature will have to continue to deal with a number of marijuana-related issues including the possibility of "unintended consequences for land use protection."

Read More:

Drug Policy Alliance (July 1, 2015)
Today Governor Kate Brown signed H.B. 3400, an omnibus bill to implement Measure 91, the marijuana legalization initiative adopted by voters last November. The bill was approved by the Senate and the House of Representatives this week.

Measure 91 legalized possession, use, and cultivation of marijuana by adults 21 and older and regulated commercial production, manufacturing, and retail sales of marijuana. Legalization for personal use took effect July 1, 2015. As of that date adults 21 and older can legally possess up to 8 ounces of marijuana at home and up to 1 ounce of marijuana outside the home. They may
also grow up to four plants at home, as long as they are out of public view. The regulatory structure for commercial retail sales will not be up and running until next year.

In addition to addressing the implementation of Measure 91, H.B. 3400 contains broad sentencing reform provisions that extend well beyond the elimination of criminal penalties for simple possession of marijuana and cultivation of up to four plants. The new law reduces most marijuana felonies to misdemeanors or lesser felonies with significantly reduced sentences.

These changes allow eligible persons with prior marijuana convictions to have their convictions set aside, sentences reduced, and records sealed.

“A felony drug conviction carries significant collateral consequences that can mean the loss of public assistance, educational opportunities, employment, and housing,” says Tamar Todd, Director of Marijuana Law and Policy at the Drug Policy Alliance. “With this new law, Oregon is not only taking a bold step forward to end the war on drugs, but is actively addressing and reversing the terrible consequences of that war.”

The reforms will apply to thousands of Oregonians who were previously convicted of marijuana-related felonies. There are approximately 78,319 marijuana convictions included in the Oregon Computerized Criminal History file that have the potential to become eligible for the set aside process. In 2012, more than 12,000 people were cited or arrested for the possession of marijuana.

Statewide, black people are more than twice as likely to be arrested or cited for marijuana possession as white people, even though both groups use marijuana at similar rates.

The new law allows individuals to apply to have prior marijuana convictions set aside as if they were convicted under the law’s new sentencing structure. For example, if a person was previously convicted of possessing over 8 ounces of marijuana, formerly a Class C felony punishable with up to 5 years in prison and a $125,000 fine, the conviction would be eligible to be treated under the law’s new classification of unlawful marijuana possession: a Class A misdemeanor. A person with a Class A misdemeanor conviction is eligible to have his or her conviction cleared under Oregon statute 137.225. Below is a chart setting forth changes to marijuana crimes and offenses in the new law:
<table>
<thead>
<tr>
<th>Crime</th>
<th>Current Max Penalty</th>
<th>Max Penalty under House Bill 3400</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unlawful delivery</td>
<td>If the delivery is for consideration, it is a Class B felony. Maximum 10 years in prison. $250,000 fine. If the delivery is not for consideration, it is a Class C felony. Maximum 5 years in prison and $125,000 fine.</td>
<td>Class A misdemeanor. Maximum 1 year in jail. $6,250 fine. If the delivery is for no consideration and consists of less than one ounce, then it is a violation.</td>
</tr>
<tr>
<td>Unlawful possession of more than the legal amount</td>
<td>Class C felony. Maximum 5 years in prison. $125,000 fine.</td>
<td>Class A misdemeanor. Maximum 1 year in jail. $6,250 fine.</td>
</tr>
<tr>
<td>Unlawful manufacture</td>
<td>Class B felony. Maximum 10 years in prison. $250,000 fine. No set aside of conviction allowed.</td>
<td>Class C felony. Maximum 5 years in prison. $125,000 fine. 3-year waiting period to have conviction set aside.</td>
</tr>
<tr>
<td>Unlawful possession by a minor</td>
<td>Class C felony. Maximum 5 years in prison. $125,000 fine. (For possession of over 4 oz., up to 8 oz.)</td>
<td>If more than 8 ounces, it is a Class A misdemeanor. Eligible for set aside. (Unclear the parameters of expungement as a minor, but the “set aside” provision will apply once a person ages out as a minor.) If more than 1 ounce, but less than 8 ounces, it is a Class B misdemeanor. If it is 1 ounce or less, it is a specific fine violation.</td>
</tr>
<tr>
<td>Unlawful delivery to a minor by a person under 18 years by a person 21 years or older</td>
<td>Class A felony. Maximum 20 years in prison. $375,000 fine. No set aside of conviction allowed.</td>
<td>Class C felony. Maximum 5 years in prison. $125,000 fine. 3-year waiting period to have conviction set aside.</td>
</tr>
</tbody>
</table>


**Disposition of Entry:**

SSL Committee Meeting: 2017 A  
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Comments/Note to staff
Summary:
Authorize and direct the Governor to execute an interstate compact on participation in live pari-mutuel horse racing and pari-mutuel wagering activities; define terms; establish compact commission and assign powers and duties; establish rule-making procedure; permit compact commission to charge fees; establish rights and responsibilities of member states, restrictions on authority, and construction, saving, and severability; establish effective provision based upon enactment by at least six states.

The purposes of this compact are:
(A) To enable member states to act jointly and cooperatively to create more uniform, effective, and efficient practices, programs, rules, and regulations relating to live pari-mutuel horse or greyhound racing and to pari-mutuel wagering activities, both on-track and off-track, that occur in or affect a member state;
(B) To facilitate the health and growth of the industry by simplifying the process of participating in live horse and greyhound racing and pari-mutuel wagering, improving the quality and integrity of racing and wagering, more effectively regulating simulcast and wagering systems and activities, and through cooperative action reducing the costs incurred by each member state or participant;
(C) To authorize the Kentucky Horse Racing Commission to participate in this compact;
(D) To permit officials from the member states to participate in this compact and, through the compact commission established by this compact, to enter into contracts with governmental agencies and other persons to carry out the purposes of this compact; and
(E) To establish the compact commission created by this compact as an interstate governmental entity duly authorized to request and to receive criminal history record information from the Federal Bureau of Investigation and from state, local, and foreign law enforcement agencies.

Status: Signed into law on March 16, 2011.

Comments: National Center for Interstate Compacts
Last week, Kentucky became the second state to pass legislation that allows the state to join the new Interstate Racing Compact. The Council of State Governments’ National Center for Interstate Compacts provided assistance during the drafting phase of the compact, which will become activated and have the force of law if adopted by six states. Colorado adopted the compact earlier this legislative session.

Crady deGolian, director of the National Center for Interstate Compacts, said the goal of the Interstate Racing Compact is to create more consistent rules and regulations for horse and dog racing between member states.

“The agreement will facilitate the growth of the industry by simplifying the process of participating in racing,” deGolian said. “It will improve the quality and integrity of racing and...
wagering, more effectively regulate simulcast and wagering systems and activities, and reduce--through cooperative action--costs incurred by states and participants.”

Kentucky Gov. Steve Beshear said Kentucky’s participation in the compact was an important move for The Bluegrass State.

“Now, with the passage of Senate Bill 24, Kentucky can continue its leadership role as the Horse Capital of the World,” Beshear noted in a press release. “This compact will better the industry not just in Kentucky, but across the nation, and allows us a prominent seat at the table in proposing uniform regulations among member states. The compact will allow participants to operate under uniform rules and regulations, where applicable, while still maintaining regulation at the state level.

Read more: http://www.csg.org/about/pressreleases/HorseCompact.aspx

Office of Governor Steve Beshear (May 2, 2011).
Gov. Steve Beshear today ceremonially signed into law SB 24, the Interstate Racing and Wagering Compact legislation sponsored by Sen. Damon Thayer, of Georgetown. The new law allows Kentucky to join other states that conduct pari-mutuel wagering and racing to adopt and implement uniform rules and regulations governing the sport.

Currently, 38 states offer pari-mutuel wagering and racing and participants in the industry are often subject to inconsistent rules and penalties that vary from state to state.

“The Racing and Wagering Compact will give those in the industry a much more consistent avenue in which to operate,” said Gov. Beshear. “I encourage other states that are considering this important legislation to act now in order to streamline what has become a burdensome process for owners, trainers, veterinarians and others who must look at many variations of the laws that govern their industry in order to come to work each day. I am very pleased that Kentucky is among the first to acknowledge the importance of this compact. I would especially like to acknowledge Rep. Susan Westrom and Rep. Larry Clark for their hard work and contributions to this effort.”

The compact will ensure that each state maintains control over how racing and wagering is regulated in their individual state. The compact does not replace state authority with federal control. Every proposed rule goes through a public comment period, and states must publish regulations in their respective administrative registers. The state racing commissions will still enforce the rules of racing in their respective jurisdiction. The compact requires a state’s consent to a rule before it becomes applicable within that state’s borders thus protecting the participating state’s interests.

Kentucky Horse Racing Commission Executive Director Lisa Underwood has been on the national steering committee that produced the model legislation since its inception in September 2009.
“The compact will provide an efficient method for states to act together to adopt uniform rules. Industry stakeholders will have ample opportunities for input and deliberation. This will be beneficial to all of the participants in the industry,” said Underwood.

The compact will become effective after the model bill has been adopted by six states. Kentucky is the first major racing jurisdiction to adopt the bill.

Read More: http://migration.kentucky.gov/Newsroom/governor/20110502sb24.htm

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary: Asset-specific mechanisms for the non-probate transfer of property to a beneficiary at death are now common. The proceeds of life insurance policies and pension plans, securities registered in transfer on death (TOD) form, and funds held in payable on death (POD) bank accounts, are examples of personal property that can be automatically transferred to a named beneficiary. Millions of Americans have benefitted from this trend in modern law to recognize and support the use of non-probate transfers. However, until recently there was no similarly straightforward, inexpensive, and reliable means of passing real estate directly to a beneficiary at death outside of the probate process. This was a significant gap in the law; for many people in low- and middle-income families a home is the single most valuable asset in their estate.

The Uniform Real Property Transfer on Death Act (URPTODA) was first approved by the Uniform Law Commission in 2009. URPTODA enables an owner to pass real property to a beneficiary at the owner’s death simply, directly, and without probate by executing and recording a TOD deed. Just as importantly, URPTODA permits the owner to retain all ownership rights in the property while living, including the right to sell the property, revoke the deed, or name a different beneficiary.

Key elements of URPTODA include:

- The TOD deed is not subject to the statute of wills and passes title directly to the named beneficiary without probate.
- The TOD deed must contain all of the essential elements and formalities of any other properly recordable deed.
- The TOD deed must be signed by the transferor and properly recorded during the transferor’s lifetime in the office of the recorder of deeds where the property is located.
- The capacity required to create a TOD deed is the same as the capacity to make a will.
- A TOD deed does not operate until the transferor’s death and remains revocable until then. The transferor may revoke the deed by recording a revocatory instrument such as a direct revocation of the TOD deed, or a subsequent TOD deed that names a different beneficiary. If the transferor sells the property while living, the TOD deed is ineffective.
- Until the transferor’s death, a recorded TOD deed has no effect — it does not affect any right or interest of the transferor or any other person in the property. The TOD deed creates no legal or equitable interest in the designated beneficiary; it does not affect the designated beneficiary’s eligibility for public assistance; it does not subject the property to the designated beneficiary’s creditors.
- At the time of the transferor’s death, title to the property is transferred automatically to the beneficiary, subject to any conveyances, encumbrances, assignments, liens, or other interests in the property. In other words, the beneficiary receives only the interest that the transferor owned at the time of death, and the holders of any security interests in the property are protected.
- The beneficiary is liable for claims against the transferor’s estate only when the estate is insolvent.
- The beneficiary may disclaim all or part of the transferred interest in the same manner as state law permits for any other testamentary devise.
- URPTODA includes optional TOD deed and revocation forms that each state legislature may choose whether to enact.
Status: Signed into law on November 20, 2012.

Comments: The Uniform Law Commission
The Uniform Real Property Transfer on Death Act (URPTODA) enables an owner of real property to pass the property simply and directly to a beneficiary on the owner’s death without probate. The property passes by operation of law by means of a recorded transfer on death (TOD) deed.

- **URPTODA is an alternative to expensive estate planning for simple estates.** People with a high net worth or a complex estate often use trusts and gifting strategies to transfer wealth outside of probate, but those strategies are prohibitively expensive for smaller estates. Many lower income families can avoid probate for their personal property using simpler means, such as adding an heir’s name to a bank account as a “payable on death” (POD) beneficiary. However, in many states there is no such method available for real estate. URPTODA fills the gap by providing a way for families, with the aid of an advisor, to easily transfer real property outside of probate.

- **URPTODA allows owners to retain control of their property.** Some families attempt to pass real property to a family member by adding the recipient’s name to the title as a joint tenant with rights of survivorship. The property will pass to the recipient at the death of the joint owner, but there are also significant consequences during the owner’s life. Joint titling exposes the property to the joint tenant’s creditors, and gives the joint tenant the power to approve or disapprove a sale. Under URPTODA, the owner retains all rights in the property, including the right to change his or her mind and revoke the deed or sell the property. The TOD beneficiary has no interest until the owner’s death.

- **URPTODA has been proven effective in other states.** TOD titling for real estate is a relatively new concept; Missouri became the first state to allow TOD deeds in 1989. Since then, twenty-four other states and the District of Columbia have enacted URPTODA or a substantially similar law. Despite some initial resistance in those states to the new procedure, over time the TOD titling process has been well received by recording officers, real estate attorneys, and the title insurance industry. TOD deeds are no longer novel and the citizens of the remaining states should also benefit from the opportunity to transfer real property outside of probate simply and effectively.


Disposition of Entry:

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Comments/Note to staff
Summary: Manufactured housing has become a vital source of affordable housing in Delaware, particularly as a homeownership opportunity for low-income households who otherwise would likely not be able to move into homeownership. In recent years Delaware has experienced a difficult economic climate which has resulted in a crisis in affordable housing availability. Additionally, manufactured home owners make substantial and sizeable investments in their manufactured homes. Once a manufactured home is situated on a manufactured housing community site, the difficulty and cost of moving the home gives the community owner disproportionate power in establishing rental rates. The continuing possibility of unreasonable space rental increases in manufactured home communities threatens to diminish the value of manufactured home owners’ investments.

Through this subchapter, the General Assembly seeks to protect the substantial investment made by manufactured home owners, and enable the State to benefit from the availability of affordable housing for lower income citizens, without the need for additional State funding. The General Assembly also recognizes the property and other rights of manufactured home community owners, and seeks to provide manufactured home community owners with a fair return on their investment. Therefore, the purpose of this subchapter is to accommodate the conflicting interests of protecting manufactured home owners, residents and tenants from unreasonable and burdensome space rental increases while simultaneously providing for the need of manufactured home community owners to receive a just, reasonable and fair return on their property.

Under the Senate Substitute, a manufactured home community owner and homeowners would be required to go through mediation if the community owner attempts to raise rental prices more than the annual Consumer Price Index for all urban consumers (CPI-U) increase for the preceding 36 months. If the two sides are unable to reach an agreement through mediation, they would enter into a non-binding arbitration that would be appealable to the Superior Court. Rent increases exceeding CPI-U for the preceding 36 months may be justified with evidence regarding increases in the cost of operation, maintaining and improving the affected community. The bill also provides for penalties to community owners who increase rent beyond CPI-U without submitting to the justification process.

Status: Signed into law on July 16, 2015.

Comments: Office of Governor Jack Markell (June 30, 2013). After years of uncertainty surrounding their annual rent increases, Gov. Jack Markell Sunday signed a measure limiting the majority of increases for manufactured housing community residents.

“The work done on this issue by lawmakers and advocates to come together and resolve a challenging issue reflects a theme of the legislative session that will conclude tonight,” Markell said during a Sunday afternoon bill signing ceremony. “I commend the sponsors of this legislation and all of the lawmakers involved for their hard work on a carefully crafted
compromise that resulted in broad support, striking a balance between the needs of homeowners and community owners.”

Sen. Bruce Ennis, D-Smyrna, has led the fight for the law is a balanced compromise and said Markell’s signing represents a great day for homeowners.

“It has been a long struggle and I think this is great because it just creates some predictability for people in manufactured homes in regard to rent increases and I think it’s important that we were able to give some protections and predictability,” Ennis said. “It’s very important that we protect the property rights and the investment of the park owners while, at the same time, we’re creating predictable land rents for the tenants.”

Under the new law, community owners could automatically raise rents by the three-year average of the Philadelphia regional consumer price index. If circumstances, such as major capital improvements to a community, caused landowners to seek a higher rent hike, they would have to make their case before the state’s Manufactured Housing Relocation Authority. The law also provides for arbitration and legal review – if an increase is disputed by either landowners or tenants. It also provides penalties for community owners who continue to raise rents beyond the ceiling.

Unlike traditional residential neighborhoods, where homeowners own both the home and the ground it sits on, homeowners in manufactured housing communities own their homes but rent the land. Unlike stereotypical mobile homes, once a modern day manufactured home is in place, it can be as difficult as a site-built home to move.

Officials say the homes make up about 11 percent of Delaware’s overall housing stock and, in some areas, they represent the best affordable housing choice for many people.

“It’s a unique arrangement,” said Sen. Brian Bushweller, D-Dover, who joined forces with Ennis on the bill. “I think this is a great day for housing in Delaware because this is a law that recognizes that and takes great pains to ensure basic fairness for both sides. It gives more stability and predictability in budgeting, but it gives landowners a chance to increase rents and a mechanism for bigger increases if they are justifiable.”

Leaders of the Delaware Manufactured Homeowner Association and Land Lease Homeowners Association have been a constant presence at Legislative Hall in support the bill and earlier efforts. State Rep. Paul Baumbach said their willingness to work the issue out was important.

Congratulations to homeowners, DMHOA and LLHC for working together with each other and legislators and landlords to fix this problem that has been plaguing tens of thousands of Delawareans for many years,” said Baumbach, D-Newark, the bill’s chief House sponsor. Ed Speraw, president of the manufactured homeowners association, said the signing was a great day for homeowners.
“By doing this, we’ve helped thousands and thousands of manufactured homeowners, and these people needed this bill – badly,” he said. “This law will help thousands of people who might have been forced from their homes through dramatic rent increases keep their homes.”


**Disposition of Entry:**

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Comments/Note to staff
*09-36B-10 Transportation Network Companies Virginia
Bill/Act: SB 1025

Summary:
Establishes a process for the licensing of transportation network companies (TNCs) by the Department of Motor Vehicles (DMV), provided that TNCs comply with the requirements for licensure. The bill requires TNCs to screen drivers (TNC partners), ensure that all drivers are at least 21 years old and properly licensed to drive, and conduct background checks on all drivers including a national criminal background check, a driving history report, and status on the state and national sex offender registries.

The bill also requires that TNC partner vehicles be titled and registered personal vehicles; be insured; have a maximum seating capacity of no more than seven persons, excluding the driver; be registered with DMV for TNC use; and display TNC and DMV identification markers. The bill further requires that TNC drivers be covered by a specific liability insurance policy and specifies the nature and limits of the insurance coverage. The bill also imposes several other operational requirements, including requirements that the TNC provide a credential to the driver and disclose information about the TNC partner and TNC policies to passengers.

The bill authorizes DMV to conduct periodic reviews of TNCs to confirm compliance and authorizes fees to cover DMV's costs of administering the program, an initial TNC license fee of $100,000 and an annual license renewal fee of $60,000. The bill requires DMV to review the fee structure and report by December 1, 2016.

Status: Signed into law on February 17, 2015.

Comments: From the Washington Post (February 18, 2015)
Uber and Lyft now have permanent legal status in Virginia.

Gov. Terry McAuliffe (D) on Tuesday signed legislation setting a regulatory framework for the app-based car services— and allowing them to legally operate in the state.

The new regulations require such companies:
- Pay $100,000 for a license to operate in the state.
- Drivers must be at least 21 years old and properly licensed to drive.
- Drivers must undergo a background check—including a comprehensive review of history of felonies and a search of the sex offender and crimes against minors registry.
- The company or the driver must have insurance that covers up to $1 million in accident damage and they must abide by a zero-tolerance policy regarding the use of drugs and alcohol.

A result of months of negotiations between lawmakers, the Virginia Department of Motor Vehicles and the two companies, the new rules put an end to a past of uncertainty for the app-based ride-sharing services. Just a year ago, Virginia officials had fined the two companies more than $35,000 in civil penalties and in June, DMV commissioner Richard D. Holcomb sent a
cease and desist letter to both companies saying “I am once again making clear that Uber must cease and desist operating in Virginia until it obtains proper authority.

Uber and Lyft had vowed to continue operating in the commonwealth and after escalating tension, McAuliffe and Attorney General Mark R. Herring announced last summer a temporary deal that allowed the companies to continue operating in the state. That agreement was a temporary solution until lawmakers developed the more comprehensive legislation.

“Virginia is leading the way on attracting and supporting innovative companies in every sector of our economy,” McAuliffe said in a statement.

Virginia officials say the reached compromise ensures the safety of passengers, and promotes a level playing field for transportation providers, while it addresses the concerns of the services’ impact on the taxi industry. The legislation also is seen as good news for the industry and its growing consumer base that prefers the app-based services to traditional taxis.

“Virginia has taken a stand for innovation and consumer choice,” Uber spokesman Taylor Bennett said in a statement. “We’re excited to make the Commonwealth a permanent home and look forward to continuing to provide access to safe rides and job opportunities to thousands of Virginians.”

Herring said other states grappling with regulating the growing industry should look up to Virginia “where we have found a balance between safety, passenger protection, and innovation.”

“This law will strengthen our economy, give consumers more transportation options, and further cement Virginia’s reputation as a national leader for pro-business policies and reasonable regulation,” he said.

Uber, Lyft and other car services have ignited tension across the United States in recent years. Cabbies, in particular, have complained about ride-share drivers having an unfair advantage because they don’t face the same licensing and permitting requirements as cab drivers. This has prompted policymakers across the country to find ways to regulate the new services.


Disposition of Entry:

SSL Committee Meeting: 2017A
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Comments/Note to staff
Summary: The legislation defines a transportation network company as a corporation, partnership, sole proprietorship, or other entity operating in this state that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. It specifies that a transportation network company shall not be deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers and is not deemed to control or manage transportation network company drivers.

A transportation network company must:
(A) Maintain an agent for service of process in the state;
(B) Provide riders with any applicable rates charged for a prearranged ride and the option to receive an estimated fare before the rider enters the driver's motor vehicle;
(C) Use a software application or web site to display a picture of the driver and the license plate number of the motor vehicle utilized for providing the prearranged ride before the rider enters the driver's motor vehicle;
(D) Transmit an electronic receipt to the rider within a reasonable time after the completion of a prearranged ride that lists, among other things, an itemization of the total fare paid, if any;
(E) Implement a zero-tolerance policy on the use of drugs or alcohol by a driver while a driver provides a prearranged ride or is logged into the transportation network company's digital network but is not providing a prearranged ride, and provide notice of this policy on its web site;
(F) Maintain individual trip records and other records for two years;
(G) Conduct, or have a third party conduct, a local and national criminal background check on any potential driver that includes a multistate criminal records locator or other similar commercial nationwide database with validation;
(H) Conduct a national sex offender registry search for any potential driver;
(I) Obtain motor vehicle records for any potential driver;
(J) Comply with the insurance requirements of this bill; and
(K) Establish procedures to report any complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip. Upon receipt of a rider complaint alleging a violation of the zero-tolerance policy the transportation network company must immediately suspend the driver's access to the transportation network company's digital network, and conduct an investigation into the reported complaint. The suspension will last the duration of the investigation.
(L) Comply with any law enforcement investigation in which transportation network company trip data may be pertinent.
(M) Instruct a rider who filed a complaint with the company regarding the rider's suspicion that a driver was under the influence of drugs or alcohol to also report it to a local law enforcement agency.
(N) Provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange wheelchair-accessible service in any instance, it must direct the rider to an alternate provider of wheelchair-accessible service, if available.
A transportation network company operating in the state may not permit any individual to act as a driver on its digital network who:

(1) Has been convicted of more than three moving violations in the prior three-year period, or one major violation in the past three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;
(2) Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, any sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, any crime involving acts of violence, or acts of terror;
(3) Is a match in the national sex offender registry;
(4) Does not possess a valid driver license;
(5) Does not possess proof of registration for any motor vehicle used to provide a prearranged ride;
(6) Does not possess proof of personal automobile liability insurance that satisfies the Financial Responsibility Law, for any motor vehicle used to provide a prearranged ride; or
(7) Is not at least 19 years of age.

The bill prohibits a transportation network company driver from soliciting or accepting street hails and requires the company to adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify drivers of the policy. It requires a company to adopt a policy of nondiscrimination with respect to passengers and potential passengers and notify transportation network company drivers of the policy.

Transportation network company drivers are prohibited from soliciting or accepting cash payments from riders only while the drivers are providing transportation network services.

A transportation network company driver or transportation network company on the driver's behalf must maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the transportation network company's digital network or while the driver is engaged in a prearranged ride. The following automobile insurance requirements will apply:

(1) While a transportation network company driver is logged on to the transportation network company's digital network but is not engaged in a prearranged ride, primary automobile liability insurance of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage; and

(2) While a transportation network company driver is engaged in a prearranged ride, primary automobile liability insurance that provides at least $1 million for death, bodily injury, and property damage.

The automobile liability insurance required under (1) and (2) above must comply with present law governing uninsured motor vehicle coverage and may be satisfied by automobile insurance maintained by the transportation network company driver; automobile insurance maintained by the transportation network company; or any combination of these two.
If insurance maintained by a driver under (1) or (2) has lapsed or does not provide the required coverage, insurance maintained by a transportation network company must provide the required coverage beginning with the first dollar of a claim and have the duty to defend such claim. Coverage under an automobile insurance policy maintained by the transportation network company pursuant to the above will not be dependent on a personal automobile insurer first denying a claim, nor will a personal automobile insurance policy be required to first deny a claim.

Insurance satisfying the above requirements will be deemed to satisfy the financial responsibility requirements for a motor vehicle under the Financial Responsibility Law while a driver is logged on to the transportation network company's digital network or while the driver is engaged in a prearranged ride; provided, however, nothing in this law relieves a motor vehicle driver not logged on to the transportation network company's digital network, or not engaged in a prearranged ride from the financial responsibility requirements for a motor vehicle under the Law.

The bill requires the transportation network company to disclose that the transportation network company driver's personal automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network or is engaged in a prearranged ride, depending on its terms.

Insurers that write automobile insurance in the state may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy. This provision does not require that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as described above will have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements at the time of loss. An insurer is not precluded from providing coverage for a transportation network company driver's vehicle, if it so chooses to do so by contract or endorsement.

The provisions of this bill concerning the insurance laws do not limit the right of a lender or secured party of a driver's vehicle to require a driver to maintain comprehensive or collision damage coverage for a driver's vehicle, or to show evidence of such coverage to the lender or secured party, that would cover the period when the driver is logged on to the transportation network company's digital network but is not engaged in a prearranged ride or when the driver is engaged in a prearranged ride. If the driver fails to maintain the required comprehensive or collision coverage, or to show evidence to the lender or secured party of the coverage upon reasonable request by the lender or secured party, the lender or secured party may obtain the coverage at the expense of the driver and would be exempt from the present law requirement that the lender or secured party provide a written disclosure to the driver that the coverage does not
include liability coverage.

If a lender or a secured party has a secured interest in a driver's vehicle and a transportation network company's insurer makes a payment for a claim for damage to the driver's vehicle that is covered under comprehensive or collision damage coverage held by the transportation network company, the transportation network company will be required to cause its insurer to issue the payment either directly to the vehicle repair shop or jointly to the owner of the vehicle and the primary lender or secured party on the covered vehicle.

An accident involving a motor vehicle that is being used to provide a prearranged ride applies only to "motor vehicle accidents" involving a motor vehicle that is being used to provide a prearranged ride.

The bill does not limit the right of a lender or a secured part of a driver's vehicle to require a driver "to maintain comprehensive damage coverage, collision damage coverage, or both" instead of "to maintain comprehensive or collision damage coverage".

A transportation network company is not subject to any regulations passed by a municipality or other governmental entity governing private passenger for-hire vehicles and is not subject to the authority of the department of safety to regulate passenger operations. A transportation network company driver is not a chauffeur and is not subject to the requirements relating to commercial driver licenses or commercial vehicles.

Commercial service airports may adopt reasonable standards, regulations, procedures, and fees for conducting transportation network services on airport property to promote the safe and efficient use of limited airport resources.

Drivers must comply with all applicable laws relating to accommodation of service animals, and are prohibited from imposing additional charges for providing a prearranged ride to persons with physical disabilities because of those disabilities.

**Status**: Signed into law on June 3, 2015.

**Comments**: WBIR (June 19, 2015).
Tennessee is at the forefront of legislation regarding ride-hailing services, such as Uber and Lyft, after passing a law to regulate the Transportation Network Companies.

Uber rolled into the Knoxville market in August 2014, but there were no laws to regulate a company of its kind at the time.

Becky Massey, state senator for District 6, said this new law sets up protections for the drivers and riders involved.

"It is new," Massey said. "I don't know if I didn't think there were some protections in place that I would feel comfortable getting into a stranger's car."
State Sen. Bo Watson of Chattanooga sponsored the bill that creates a legislative framework for ridesharing across Tennessee, rather than leaving it up to each local municipality. The bill also distinguishes the app-based companies from traditional transportation services like taxis, limousines, and shuttles.

The bill requires that drivers undergo local and national background checks. They must be checked against the national sex offender list. It also adds that drivers show proof of license, driving history, proof of vehicle registration, and automobile liability coverage.

Drivers must also provide the applicable rate, and if requested, an estimated fare before the ride begins. The network companies must also be able to send prospective passengers a picture of the driver and picture of the vehicle's license plate prior to the passenger entering the vehicle.

"We wanted to make sure there were no abuses to the system," Massey said. "We wanted to make sure that folks going out there - that they could go out with confidence and ride, order up an Uber or Lyft to ride with them."

The bill also requires the network companies to provide prescribed levels of insurance coverage when the driver is merely logged into the digital network and when the driver is actually transporting passengers.

Massey said lawmakers worked with the ride-hailing services to craft and pass the bill.

Uber driver Vincent Stormes said he is pleased with the outcome.

"I had just started a few days before the governor signed the new law, and I nearly stopped right away when I realized some of the issues," Stormes said. "So I was very happy to see that legislation pass and get signed so that I can work part time and make some decent money."


Disposition of Entry:

SSL Committee Meeting: 2017 A
( ) Include in Volume
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Comments/Note to staff
Summary: Connecticut will now add text messages to the states’ Do Not Call registry. The new law will increase consumer protections by banning unsolicited commercial text messages, and increasing the penalty for violations. The legislation increases the maximum fine for each registry violation from $11,000 to $20,000, and requires all companies to print a notice at least twice each year that informs consumers of prohibited actions by solicitors and how they can add their numbers to the Do Not Call registry.

Status: Signed into law on May 28, 2014.

Attention marketers: Gov. Dannel P. Malloy's office announced that he has signed a law that prohibits unsolicited commercial text messages to cell phones and increases fines for violators. The law adds text messages to the national registry, which already prohibits phone calls to consumers who add their number to the list. It also increased from $11,000 to $20,000 the maximum fine for each registry violation and requires telecom providers and others to issue notices at least twice a year informing consumers of prohibited solicitations.

The registry is regulated by the Federal Trade Commission, Federal Communications Commission, and the state's Department of Consumer Protection, which has the power to levy fines against Connecticut violators.

Read More: http://www.hartfordbusiness.com/article/20140529/NEWS01/140529912

Disposition of Entry:

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Comments/Note to staff
Summary:
“Telephone solicitation” means any voice, text, or other electronic communication over a telephone line for the purpose of encouraging charitable contributions, or the purchase or rental of, or investment in, property, goods, services, or merchandise whether the communication is made by a live operator, through the use of an automatic dialing-announcing device, or by other means.

Prohibited telephone solicitations. A caller may not make or cause to be made any telephone solicitation to the telephone line of any subscriber in this state who, for at least thirty-one days before the date the call is made, has been on the do-not-call list established and maintained or used by the attorney general or the national do-not-call registry established and maintained by the Federal Trade Commission.

Status: Signed into law on April 4, 2007.

Prior to the implementation of a national do not call list, states had various approaches to the regulation of telemarketing sales calls. However, since the creation of the national do not call list, it appears that most states, in one way or another, have chosen to use the national do not call list as the primary way to prevent the receipt of unwanted telemarketing calls within each state. Nonetheless, there is some variation in state do not call list regulation. Many states (Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Georgia, Idaho, Illinois, Kansas, Kentucky, Maine, Michigan, Nevada, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Virginia, and Wyoming) have explicitly adopted the national do not call registry as the official state-wide registry.

Telemarketers within these states must abide by the prohibition on calling numbers on the national registry, and state residents need only place their number on the national registry for state penalties for violations of the registry to apply. In addition to the adoption of the national do not call list, these states may also add additional requirements for telemarketing calls within their state. For example, some states require telemarketers to register with the state in order to make telemarketing calls within the state (See Arizona, California, Kentucky, New Jersey).

Some states, in addition to regulating which numbers can be called, regulate the use of automated dialing systems that make the phone calls. Some states, like Rhode Island and North Dakota, also prohibit the sending of unsolicited commercial text messages to telephone numbers within the state that are on the national do not call list. Other states, like California, place independent restrictions and prohibitions on the sending of unsolicited text messages. Some states continue to operate their own do not call registries, or designate a private non-profit corporation to maintain the state-specific list. Telemarketers in these states, in addition to obtaining and complying with the national registry, must also obtain and comply with the state registry. State registries may provide more protection from unsolicited commercial calls than the federal government, or less as the case may be. For example, Indiana, Missouri, Louisiana, and
Oklahoma in addition to prohibiting commercial phone calls, also prohibit commercial text messages sent to numbers on the state do not call list, a prohibition not included in the national statutory scheme. Tennessee, in addition to allowing residential and personal wireless telephone numbers on its statewide list, also permits certain state government entities to place their numbers on the list. On the other hand, Florida residents must register their numbers every five years to remain on the state do not call list, whereas numbers remain on the national list permanently. Residents in these states have the option of placing their residential or cellular phone numbers on either or both do not call lists. These states may also have additional state telemarketing regulations, including regulations of the use of automated telephone dialers, registration, or disclosure requirements.

Texas has two state-maintained do not call registries. One registry is similar in scope to the national do-not call registry in that it permits Texas residents to register their residential and cellular telephone numbers to avoid receiving any unsolicited telemarketing calls or text messages. The other list, however, allows businesses to register their telephone numbers to avoid receiving only telephone solicitation calls relating to the customer’s choice of retail electric provider. Texas’s limited-business do not call list appears to be the only do not call registry that prohibits telemarketing sales calls to business telephone numbers. All other do not call lists, both national and state, apply only to personal (i.e., either residential or cellular) telephone numbers, and one state permits the registration of certain state government entities.

Finally, a few states have not statutorily adopted the national do not call registry as the state’s official registry, or implemented state penalties for violation of the do not call list, but do have other telemarketing restrictions in place. These states may require registration with the state to engage in telemarketing. They also may regulate the use of automated telephone dialers or text messages. In these states, the national do not call list remains available to state residents.

Read More: http://fas.org/sgp/crs/misc/R43684.pdf

Disposition of Entry:

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

Comments/Note to staff
Summary:
Since the early 1990s, the Uniform Law Conference (ULC) has promulgated, or in several cases, revised eight unincorporated business entity acts:
- Revised Uniform Partnership Act (1997)
- Revised Uniform Limited Partnership Act (2001)
- Uniform Limited Cooperative Association Act (2007)
- Model Entity Transactions Act (2007)
- Revised Uniform Unincorporated Nonprofit Association Act (2008)
- Uniform Statutory Trust Entity Act (2009)

In 2006, the ULC authorized a project to integrate these eight into the Uniform Business Organizations Code (UBOC), using the same type of the hub-and-spoke structure used in the Uniform Commercial Code. The project, known as the Harmonization of Business Entity Acts Project (Harmonization Project), involved four steps: (1) the creation of the Hub, which contains provisions such as definitions, filing requirements, etc., which appear in almost all of the eight statutes; (2) harmonizing and updating the eight acts (which also continue to exist as stand-alone acts); (3) making the stand-alone acts “Code-ready” by removing from each act all provisions contained in the Hub and all provisions contained in the Model Entity Transactions Act; and (4) compiling the UBOC, by converting the Code-ready acts into separate articles of the UBOC.

The ULC approved the Hub, which is Article 1 of the Uniform Business Organizations Code, in 2011. The harmonization of the unincorporated entities acts phase of the Harmonization Project was completed and approved in 2013. The integration of the various Code-ready acts into the UBOC was completed in 2015.

At this time, the ULC is submitting only Articles 1-5 of the UBOC for the committee’s consideration. Idaho successfully enacted Articles 1-5 through one bill this year. The following is a brief summary of each Article of the UBOC.

Article 1 (Hub) contains 50 definitions that apply to all the UBOC Articles; basic provisions dealing with the filing of documents in the office of the Secretary of State (or equivalent state filing office); entity names and reservation and registration of entity names; the registered agent provisions in the Model Registered Agents Act; foreign entities; administrative dissolution and reinstatement provisions; miscellaneous provisions, including reservation of the power to amend or repeal the UBOC, effective date, severability and savings provisions, and the applicability of supplemental principles of law.

- Enacted in Idaho (SB 1025, signed into law on April 3, 2015), Washington (SB 5387, signed into law on May 6, 2015), and the District of Columbia (Bill 19-532, signed into law on October 31, 2012).
- Act Text / Act Summary
- Legislative Fact Sheet
Article 2, is the **Model Entity Transaction Act (META)**, which contains intra- and inter-species merger, interest exchange, conversion, and domestication provisions for all forms of for-profit and nonprofit unincorporated and corporate entities. In most states, the statutes dealing with these types of reorganization transactions are incomplete, and in many cases, inconsistent. Having a thorough and consistent statutory framework for these transactions in one statute is a significant benefit to lawyers and their business entity clients.


- **Act Text / Act Summary**
- **Legislative Fact Sheet**

Article 3 is the **Uniform Partnership Act (1997) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. The original Uniform Partnership Act was promulgated in 1914 and was enacted in all states except Louisiana, which has a European Civil Law General Partnership Act. The revised uniform act has been enacted in approximately two-thirds of the states. A general partnership is the default for-profit entity. A for-profit entity is a general partnership if the owners have not filed with the state filing office a document that states that the entity is an entity other than a general partnership. The main disadvantage of being a general partnership is that the owners are jointly and severally liable for the debts and other liabilities of the partnership that cannot be satisfied by the assets of the partnership. Part 9 of the revised uniform act authorizes the filing of a document that states that the partnership is a limited liability partnership (LLP). The principal advantage of being an LLP is that the owners have the same limited liability protection as shareholders of a corporation. The protection against personal liability is the reason many law firms and other professional businesses are LLPs.

- Enacted in Idaho ([SB 1025](https://legislature.idaho.gov/iui/index.cfm?Year=2015&File=BillHistory&Bill=Sb1025), signed into law on April 3, 2015) and Utah ([SB 21](https://www.legis.state.ut.us/ut빠도/170Legislation/Detail/SB21/1), signed into law on April 1, 2013).

- **Act Text / Act Summary**
- **Legislative Fact Sheet**
- **Why States Should Adopt**

Article 4 is the **Uniform Limited Partnership Act (2001) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. All states have some version of the Uniform Limited Partnership Act. The initial version was promulgated in 1916. The revised harmonized act is specifically designed for real estate ventures and family businesses, which constitute the bulk of existing limited partnerships. The revised act also authorizes a limited liability limited partnership (LLLP), which provides limited liability to the general partners as well as to the limited partners.


- **Act Text / Act Summary**
- **Legislative Fact Sheet**
- **Why States Should Adopt**
Article 5 is the **Uniform Limited Liability Company Act** (2006) (Last Amended 2013), minus the provisions that are in Articles 1 and 2 of the UBOC. A limited liability company (LLC) is a relatively new form of business entity. Most states enacted their initial LLC act in the 1990s. In a very short time, LLCs became the most prevalent form of new business formation. Currently, the number of newly formed LLCs annually in most states is three times or more than the number of new corporations formed in the state. The harmonized 2013 version of the uniform act is a state-of-the-art LLC act which deals in a comprehensive manner with all the issues that must be taken into account in drafting an operating agreement and in advising the owners and creditors about problems that arise in the operation of LLCs. Many of the current state LLC acts are 20 or more years old, or are very incomplete, and in many cases, contain inconsistencies or provisions that have adverse unintended consequences. Enacting the 2013 version of the uniform act will provide a state with a clear, innovative, and practical statute for LLCs formed in the state.

- Enacted in Alabama ([HB 2](#), signed into law on March 4, 2014), Florida ([SB 1300](#), signed into law on June 14, 2013), Idaho ([SB 1025](#), signed into law on April 3, 2015), Minnesota ([HF 977](#), signed into law on April 11, 2014), North Dakota ([HB 1136](#), signed into law on April 15, 2015), South Dakota ([HB 1106](#), signed into law on February 27, 2013), Utah ([SB 21](#), signed into law on April 1, 2013), Vermont ([HB 310](#), signed into law on May 7, 2015), and Washington ([SB 5030](#), signed into law on May 7, 2015).

**Act Text / Act Summary**

**Legislative Summary**

**Why States Should Adopt**

Article 6 is the **Uniform Limited Cooperative Associations Act** (2007) (Last Amended 2013), minus the provisions in Articles 1 and 2 of the UBOC. The Uniform Limited Cooperative Associations Act (ULCAA) does not replace the state’s existing cooperative acts. The ULCAA is different from most state’s existing cooperative acts in that it authorizes a cooperative formed under its provisions to engage in any type of for profit and nonprofit activity whereas the existing state cooperative acts generally restrict a cooperative to a single purpose such as agricultural products. The ULCAA also allows non-patrons to be on the cooperative’s board, as long as the majority of the voting power is held by the patron members, and expands the possibilities of outside nonmember financing.

- **Act Text / Act Summary**
- **Legislative Fact Sheet**
- **Why States Should Adopt**

Article 7 is the **Uniform Unincorporated Nonprofit Associations Act** (2008) (Last Amended 2013), minus the provisions that are in Articles 1 and 2 of the UBOC. A nonprofit activity is an unincorporated nonprofit association (UNA) if it has not been formed as a nonprofit corporation or as some other form of business under a statute that allows nonprofit activities. There are thousands of UNAs in every state, ranging from churches who cannot, or do not, want to incorporate to local little league teams and book clubs. Common law principles, including joint and several liability of the members for the debts and other liabilities of the UNA, provide the governing law of UNA’s in most states; and statutory framework for UNAs is fragmentary. The Uniform Unincorporated Nonprofit Associations Act (UUNAA) provides the same limited liability protection to the members of a UNA as shareholders of a corporation have and also contains a basic set of default governance provisions. In addition, the UUNAA has provisions
resolving many of the uncertainties under the common law, such as how to transfer real property to and from an UNA. The UUNAA has been enacted and has worked well in several states.

- Enacted in Kentucky (HB 440, signed into law on March 20, 2015) and Pennsylvania (SB 304, signed into law on July 9, 2013).
- [Act Text / Act Summary](#)
- [Legislative Fact Sheet](#)
- [Why States Should Adopt](#)

**Article 8** is the **Uniform Statutory Trust Entity Act (2009)** (Last Amended 2013), minus the provisions that are in Articles 1 and 2 of the UBOC. Statutory trusts are widely used for mutual funds, securitization transactions and in other non-operating business financing transactions. The Uniform Statutory Trust Entity Act (USTEA) provides a comprehensive modern statutory framework for statutory trusts. The USTEA also has provisions for series statutory trusts. Under this framework, a statutory trust can create one or more series without having to form separate entities. For example, a mutual fund series statutory trust can form any number of mutual funds under the initial filing it made to become a statutory trust.

- [Act Text / Act Summary](#)
- [Legislative Fact Sheet](#)
- [Why States Should Adopt](#)

It is contemplated that in the future the ULC and the American Bar Association (ABA) Business Law Section will approve the inclusion of the Model Business Corporation Act and the Model Nonprofit Corporation Act as part of the UBOC. Articles 9 and 10 are listed as “Reserved” for this purpose.

The two corporate acts are promulgated by the ABA Business Law Section. The UBOC has already benefitted by the ABA’s involvement with the drafting of the Hub, the META, and the MORAA. Because these acts cover corporate as well as unincorporated entities, their respective drafting projects were sponsored jointly by the ULC and the ABA.

States can choose to enact the entire UBOC, or substantial portions of it, for example Articles 1-5 (the Hub, META, Uniform Partnership, Uniform Limited Partnership, and Uniform Limited Liability Company Acts) in a single bill or enact the individual stand-alone harmonized entity acts. Idaho did this in 2015. The Idaho act also included the basic provisions in the UUNAA and the existing Idaho for-profit and nonprofit corporation acts. States may also choose to enact one or more of the stand-alone entity acts and then enact the UBOC. This is what Utah did. Utah enacted one bill that contained the Uniform Partnership Act, the Uniform Limited Partnership Act, and the Uniform Limited Liability Company Act. The Bar committee that reviewed the UBOC concluded that the lawyers in Utah would prefer to have independent all-inclusive acts rather than the UBOC approach of having separate Hub and META articles. The Idaho bar review committee, on the other hand, preferred the UBOC format.

Enacting the UBOC is not difficult, particularly by a state that already has one or more of the major stand-alone entity acts, such as the Uniform Limited Liability Company Act (2006). The issues warranting specific review are basically the same in all the articles. Thus, one bar association or legislative study review committee can review all the articles of the UBOC that
are included in the proposed bill. This review process is much more efficient than having separate review committees for each act. Even though combining all or most of the harmonized acts into a single bill will result in a very long statute, the separate enactment of any of the stand-alone harmonized acts will also result in a long and complex act. In many states it will be easier to go to the state legislature with one long bill than with long individual acts over a period of years.

Moreover, because the language in parallel provisions is the same in all the articles dealing with specific entities, it is a simple process to make sure that amendments to one provision are made in all the articles with similar provisions. Similarly, if a state has enacted the UBOC, an amendment can be made in the filing provisions or in the other provisions in Article 1 and it will no longer be necessary to make sure that the amendment is made in all the state’s other entity acts, a process that often does not occur, leading to unintended inconsistent provisions in the state’s entity acts.

Disposition of Entry:

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

Comments/Note to staff
Summary: The bill provides students enrolled in the state’s public colleges and universities the right to be represented at their expense by an attorney or advocate in non-academic suspension and expulsion hearings. It also requires a uniform policy for disciplinary proceedings across all North Dakota University System campuses. The bill also allows suspended or expelled students to appeal the university’s decision, and to be reimbursed for tuition and fees paid during the period of suspension or expulsion if the appeal is successful.

North Dakota becomes the third state to provide students the right to hire legal representation when contesting serious non-academic disciplinary charges. North Carolina passed similar legislation in 2013. And in 2015, Arkansas enacted legislation granting students at public institutions the right to the active assistance of legal counsel during the campus appeals process.

Status: Signed into law on April 22, 2015.

Attorneys representing North Dakota college students soon won’t have to sit on the sidelines during university disciplinary hearings that could lead to suspension or expulsion.

State lawmakers gave final approval Monday to Senate Bill 2150, which gives students at the state’s 11 public colleges and universities the right to be represented – at their own expense – by an attorney or advocate who may “fully participate” in such disciplinary hearings.

The right doesn’t apply to matters involving academic misconduct.

Among those who testified in favor of the bill was the mother of former University of North Dakota student Caleb Warner, who was accused of sexual assault by a fellow student in 2010. Warner wasn’t charged criminally, but UND banned him from campus for three years. His accuser was later charged with falsifying a report to law enforcement, and UND eventually lifted the sanctions against him.

Rep. Kim Koppelman, R-West Fargo, said the House amended the bill to allow both the accused and accuser to have legal representation, to require a uniform policy for disciplinary proceedings across all North Dakota University System campuses and to allow for full participation by attorneys.

The bill permits attorneys to make opening and closing statements, examine and cross-examine witnesses and provide the accused or accuser with support, guidance and advice.

“We believe they were necessary and fair and comprehensive,” Koppelman said of the amendments.
House members on Monday adopted a conference committee report on the bill, after the Senate voted 44-1 Friday to approve it with the House amendments. The governor still must sign the bill.

Sen. David Hogue, R-Minot, the only member of either chamber to vote against the amended bill, said it “solved some problems that did not exist” and is broader than necessary.

“Sometimes lawyers should be seen and not heard, and that is a perfect example,” he said.

Law enforcement and prosecutors, not universities, should handle serious crimes, Hogue said. “And so now we’ve decided that the universities are going to investigate crimes and form mini-tribunals to figure out what we need to do,” he said.

The university system also had raised concerns that bill could be costly and complicate the disciplinary process. Depending on the caseload volume, the system estimates the bill could require hiring an additional attorney at a cost of $257,000 for the 2015-17 biennium, according to the bill’s fiscal note.

The bill was introduced by Sen. Ray Holmberg, R-Grand Forks, and will take effect Aug. 1 if Gov. Jack Dalrymple signs it into law. It does not apply to private colleges and universities.

The bill also allows suspended or expelled students to appeal the university’s decision, and to be reimbursed for tuition and fees paid during the period of suspension or expulsion if the appeal is successful.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Human Sexuality Course Materials	Missouri
Bill/Act: HB 501

Summary: This bill requires any course materials and instruction relating to human sexuality and sexually transmitted diseases in a public or charter school to teach students about the dangers of sexual predators, including on-line predators. Pupils must be taught how to behave responsibly and remain safe on the Internet and the importance of having open communication with responsible adults and reporting any inappropriate situation, activity, or abuse. Any course materials and instruction must also teach pupils about the consequences, both personal and legal, of inappropriate text messaging, even among friends.

Status: Signed into law on July 14, 2015.

Comments: Missouri.net (July 20, 2015)
Missouri’s public and charter schools who teach sexual education must now include information about sexting, sexual predators and online predators. The addition was signed into law last week by Governor Jay Nixon.

The bill’s sponsor, St. Louis representative Genise Montecillo, hopes such education will make children safer from predators on the internet and cell phones.

“It’s just a huge door that’s been opened for them to get to our children in a much easier way, so hopefully we can get kids to understand that there is a risk,” Montecillo told Missourinet.

Missouri KidsFirst Deputy Director Emily van Schenkhof says such education could avert many abuses.

“Kids that have been kind of struggling to find community and connection, they go online looking for entertainment and looking for friendship, and these kids are vulnerable,” said van Schenkhof. “They simply don’t have the capacity at that point, both the emotional maturity and the knowledge, about how you talk to people safely online.”

The bill received broad support throughout the legislative process. Montecillo said that was due, in part, to taking this provision out of earlier efforts to pass it as part of larger, more sweeping bills. She says once this language was offered on its own, it drew support from a broad spectrum of both conservative and liberal interests.

“This was an issue that there’s not a lot of disagreement. We want to protect our kids from pedophiles,” said Montecillo.

Some critics, though, say it doesn’t do enough to change Missouri’s laws regarding sex education.

Read More: http://www.missourinet.com/2015/07/20/missouri-sex-education-to-now-include-info-on-predators-and-sexting/
Disposition of Entry:

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

Comments/Note to staff
Summary: This act creates the Vermont Universal Children’s Higher Education Savings Account Program. The Vermont Student Assistance Corporation (VSAC) will partner with private philanthropies to establish and fund the Program. Each year, beginning in 2016, if funds are available, VSAC will deposit up to $250.00 into the Program Fund on behalf of each Vermont resident child born that year. For a child with limited family income, VSAC will double the initial deposit and annually match any money deposited into a Vermont Higher Education Investment Plan account for the child, up to $250.00 per child per year. VSAC will also provide ongoing financial education for all Program beneficiaries and families. Under the act, a Program beneficiary may access the Program funds, plus interest, allocated to him or her for approved postsecondary education costs at an approved institution. The act creates a Program Fund Advisory Committee to identify and solicit funds for the Program and to advise VSAC on fund disbursement. VSAC must report its progress to the Committees on Education by January 15, 2015 and must annually report on Program operation and account management.

Status: Signed into law on June 1, 2015.

Comments: The Vermont Digger (May 26, 2015).
Vermont will soon join a number of other states in launching a children’s savings account program aimed at encouraging more low-income children, and their parents, to consider higher education.

Under a bill passed by the Legislature, savings accounts will be opened for every baby born in Vermont — $250 will be deposited for those who are not low-income, $500 for those who meet federal poverty guidelines.

The savings accounts will be funded through philanthropic contributions from foundations and fundraising efforts — not from state taxes.

Gov. Peter Shumlin will appoint a committee to begin the fundraising phase of the program. It’s estimated that $2.5 million to $3 million will be needed to open savings accounts for the 5,000-6,000 babies born in Vermont each year.

Shumlin, House Speaker Shap Smith, Rep. Jill Krowinski, D-Burlington, Scott Giles, president of the Vermont Student Assistance Corp. (VSAC), and other supporters during the session called for the creation of child savings accounts “… to give every child born in Vermont a head start on saving for higher education and boost the number of Vermont kids who move beyond high school,” an announcement from the governor’s office stated.

The legislation was introduced by Krowinski.

“Universal savings accounts for college is one strategy we can use to knock down barriers to higher education and help end generation poverty,” Krowinski said. “We know, in order to
reduce the number of children and families living in poverty in Vermont, it’s critical we create long-term solutions to increase access to higher education and improve financial literacy.”

Vermont has serious challenges, Krowinski said, including:
• More than 50% of Vermonters do not possess a college degree;
• The percentage of children in poverty in Vermont is rising;
• Vermont will need an additional 58,000 college degrees to meet its workforce demands in 2025.

“Research shows that when low- to moderate-income children have a savings account with anywhere from $1 to $499 in it, they are three times more likely to go to college and four times more likely to graduate,” Krowinski said.

Under the initial legislation, Vermont students would be able to withdraw the money once they turn 18 or enroll full-time in post-secondary education, including a college, university, vocational school, or any two- or four-year degree program from an accredited educational institution.

ENCOURAGING SAVINGS
The program will eventually match up to $250 a year on a dollar-for-dollar basis in those accounts for each eligible child whose family has an income of less than 250 percent of the federal poverty level, the legislation states.

Hal Cohen, secretary of the Agency of Human Services, said when he was a child, his grandmother told him that she was setting aside money from her weekly paycheck so that he could attend college.

He was the first in his family to attend college, he said, and knowing that his grandmother was planning for him was an important message, he said.

Cohen said a similar program in Maine began because the former owner of the Dexter Shoe company, Harold Alfond, sold the business and established a philanthropic foundation with his fortune.

Alfond had not gone to college, but wanted that opportunity to be within reach of all Maine students.

“He started this program where he set up savings accounts where every child born in Maine got a $500 savings account, and this program has kind of caught on,” Cohen said.

“A lot of what it’s about is expectation … so if you’re a young child and you learn you have this savings account for college, you have now instilled in that child’s mind, ‘…Oh, I have a savings account for college, I am going to college.’”

Sarah Phillips, a program administrator in the Office of Economic Opportunity within the Department for Children and Families, under the Agency of Human Services, said children’s
savings accounts can help “… low-income families grab the next rung on the ladder and move forward to get ahead. Savings are really aspirations in tangible form.”

Having a universal children’s savings account program in Vermont means that conversations about saving and investment and interest will happen more at dinner tables and in classrooms, and will be part of conversations for children from all socioeconomic backgrounds, said Phillips.

Scott Giles, president and CEO of the Vermont Student Assistance Corp., said the idea for children’s savings accounts has taken off in the New England states, as well as nationally.

The war on poverty once focused heavily on home ownership for low-income people but today, the bridge to a better future through education is well understood, and that’s where the children’s savings accounts come into play, Giles said.

“This is something that is possible for your student,” is the message of hope that the establishment of the education funds in the name of every child born in Vermont communicates, Giles said. “The vision that we’re hoping for is that this will be an opportunity to engage families right at the point that their children are born.”

The program will be known as the Vermont Universal Children’s Higher Education Savings Account Program and will be administered by VSAC.

Read More: http://vtdigger.org/2015/05/26/bill-creates-college-savings-account-for-every-vermont-child/

Disposition of Entry:

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

Comments/Note to staff
Summary: The bill governs how online service providers can collect, access, and use student data and prohibits online service providers from using student data for commercial or secondary purposes, while still allowing for personalized learning and service innovation and improvement. This law will allow educators to use online services while still safeguarding student privacy.

Status: Signed into law on April 7, 2015.

Comments: Privacy and Security Law Blog (September 17, 2015).
With students around the country back in school, it’s time for educators and education-focused technology (“EdTech”) service providers to pick up their pens and paper (or more likely their tablets), and brush up on requirements for protecting student data. Legislators in Arkansas, Delaware, Georgia, Maine, Maryland, New Hampshire, Oregon, and Washington worked to tighten student data privacy restrictions this legislative session, passing bills shortly before the bell rang and the legislators were dismissed.

Following our summary of these new laws, we have outlined a few next steps for education institutions and EdTech service providers in these states, including reexamining and potentially updating current policies and procedures as may be required by these new state laws.

As student data continues to be a focus for legislators, educators and EdTech service providers need to stay abreast of new state student data privacy laws and regulations.”

State Legislators Add New Student Data Rules Following California’s Lead
Since January, eight states – Arkansas (H.B. 1961); Delaware (S.B. 79); Georgia (S.B. 89); Maine (S.P. 183); Maryland (H.B. 298); New Hampshire (H.B. 520); Oregon (S.B. 187); and Washington State (S.B. 5419) – passed legislation that bolster protections of student data.

These new laws are by-and-large modeled off of California’s Student Online Personal Information Protection Act (“SOPIPA”) (Cal. Bus. & Prof. Code § 22584) and restrict how operators of K-12 education-focused websites, online services and applications, and mobile applications can use and disclose any student data they might have access to in the course of their business.

EdTech service providers operating in these eight states need to act now, as several states’ student privacy laws have already taken effect. Fortunately, service providers who are already in compliance with SOPIPA likely have a leg up in meeting new student data privacy requirements imposed by these statutes, since most of the states appear to incorporate many of the provisions in California’s student privacy law into their own.

Who is governed?
These laws generally apply to third-party operators of Internet websites, online services and applications, and mobile applications that are designed, marketed, and used for K-12 purposes (“operators”). This definition excludes general audience Internet sites, online services, and online
and mobile apps, as well as departments of education, school districts, and the schools themselves.

All of the states except for Maryland and Washington require that operators have “actual knowledge” that their services were designed and marketed, and subsequently used, for K-12 purposes in order to be covered by their respective bill.

**What information is covered?**

All of these new laws aim to guard a wide array of material that can be used to identify a student which the operator has access to through the operations of its service. Covered information varies from state to state, but typically includes any information that identifies or could identify the student, including student’s name, address, Social Security number, telephone number, geolocation, and biometric data. Numerous other data points related to a student’s education or status – such as a student’s school records, grades, test results, socioeconomic information, and the like – also are covered.

Washington simply defines its covered information as that which is “collected through [an operator] that personally identifies an individual student or other information collected and maintained about . . . or that is linked to information that identifies an individual student.”

Georgia, and Maine, alternatively, cleave covered information into two categories: “student data” and “student personally identifiable information” (“SPII”), and impose additional restrictions on operators’ ability to disclose and use particularly sensitive identifying information. “Student data” is a broadly-defined category of data akin to covered information, which is “collected and maintained at the individual student level.”

SPII, on the other hand, is defined as “student data that, alone or in combination, is linked to a specific student and would allow a reasonable person . . . to identify the student.” Both states provide more stringent rules on how and when SPII can be used or disclosed; for instance, Georgia prohibits the disclosure of SPII without parental consent (or the consent of the student if he or she is 13 or older) except in limited situations, such as in furtherance of the K-12 purpose of the service or application, to ensure legal or regulatory compliance, or guard against liability, among other exemptions.

Given these definitions, it appears that whether particular student data will also be regarded as SPII depends upon the circumstances. Consequently, EdTech companies will need to ensure that their uses and disclosures of SPII are in line with these new limitations. This is especially important because SOPIPA does not make a distinction between student data and SPII; as a result, operators that are otherwise in line with SOPIPA will still need to ensure that their practices align with these new restrictions if they operate in Georgia or Maine.

**Permissible Uses and Disclosures of Student Data**

Operators are permitted under the laws to use students’ information gathered by virtue of their service for certain enumerated purposes. For instance, all states except New Hampshire allow operators to use student information to improve or maintain the operator’s services and for customized learning purposes. In the same states, operators may disclose student data: where
permitted or required by law; for activities in furtherance of the K-12 purpose of the service or application; to ensure legal or regulatory compliance, or guard against liability; and for “legitimate research” required or authorized by state or federal law, among others.

Further, all of the states except for Washington grant operators greater freedom to use or disclose aggregated and “de-identified” student information. While neither Arkansas, Maryland, nor Oregon define these terms, the other state statutes express them as follows. “Aggregate student data” is data that is not personally identifiable and is collected or reported at the group, cohort, or institution level. “De-identified data,” on the other hand, is generally defined as a student data set that cannot be reasonably used to identify, contact, or infer information about a student or his or her device. Operators can use aggregate or de-identified data under certain circumstances, such as to develop and improve the operator’s service or to demonstrate the effectiveness of its products or services, including through marketing.

**Restrictions on Use, Sale, or Disclosure of Student Data**

These new laws impose many of the same restrictions and obligations on operators’ use and disclosure of student data as found in SOPIPA, though with slight variations.

All of these laws prohibit operators from engaging in targeted advertising, based off either the service that they provide or the students’ covered information to which they have access. Fortunately, most of these laws carve exceptions into their definition of “targeted advertising” that permit some advertising to students that use an operator’s services. All states except New Hampshire declare that targeted advertising does not include advertisements to students online based on their current visit to a specific location. Further, all states except New Hampshire, Maine, and Washington allow ads to a student in response to a single search query where the student’s online activities are not collected or retained. Washington instead exempts adaptive or personalized learning and customized education from “targeted advertising.”

The laws further prohibit operators from using student information to create student profiles when not related to an educational purpose. Arkansas, Georgia, Maine and Maryland state that collecting or retaining information that remains under the student, parent, school or school district’s control does not constitute creating a profile. However, all of these statute’s terms impose tight restrictions on how EdTech operators can amass information on the students their products serve.

Operators also may not sell student information, or disclose such data except in the situations outlined above.

**Student Data Protection and Retention**

Operators are required to affirmatively protect student data under the passed legislation, both by implementing and maintaining reasonable security procedures and practices as well as deleting student information under their control “within a reasonable time” if requested by the school or the district. Delaware, Georgia, and Maine require deletion of student data within 45 days of a school or district’s request.
Transparency and Access to Data
Washington’s new law will require that operators provide “clear and easy to understand” information about what student data they collect, how it is shared and used, and provide “prominent notice” before making material changes to their privacy policies.

Additionally, unlike in SOPIPA, parents will have a right to access to their children’s covered information and correct any errors under Washington’s statute.

Next Steps
EdTech service providers operating in these states need to take a close look at their data collection, use, and disclosure practices and ensure compliance with these new mandates. In particular, EdTech service providers should pay special attention to the leeway that these statutes give in terms of delivering targeted advertising to students. Consequently, K-12 EdTech service providers that want to use targeted advertising to improve their services and products should look at their current advertising practices and modify them according to these new laws and in conjunction with other applicable advertising industry rules. And providers serving students and schools in Georgia and Maine should mind the different obligations those states have created regarding student data and SPII. Finally, EdTech service providers also may need to update their privacy policies for websites, apps, and services subject to these laws.


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

Comments/Note to staff
Bill/Act: HB 2832

Summary:
House Bill 2832 requires postsecondary institutions in Oregon that contract with third party financial firms for disbursement of student aid to evaluate contracts based on the recommendations of the United States Department of Education and the Consumer Financial Protection Bureau. The measure prohibits contracts from including revenue sharing, per-use transaction fees on student debit cards, initial disbursement of funds by paper check or electronic transfer and account inactivity fees. Additionally, colleges and universities are required to post contracts on-line and to undertake reasonable efforts to establish collaboration agreements with other institutions for the purpose of negotiating contracts with third party firms.

A number of postsecondary educational institutions in Oregon contract with a third party vendor to handle the disbursement of student financial aid. After tuition and fees are subtracted from the award, any remaining balance is delivered to the student for payment of expenses including books and room and board. Depending upon the terms of the contract, the student may receive the funds through a debit card, pre-paid credit card, demand deposit account set up for the student by the vendor, transfer to an account designated by the student or by paper check.

Students in Oregon and across the country who chose to receive their financial aid funds via a debit card, pre-paid credit card or account set up by the vendor complained about fees charged to access the funds. Concerns expressed included that students were not provided a clear description of the fees prior to selecting the method in which to receive their financial aid or that they were steered away from selecting payment via a paper check or transfer to an existing account. In some contracts, the educational institution had participated in a revenue sharing agreement with the third party vendor to receive a percentage of the student account balances and transaction volume. Some contracts had provided for the educational institution to receive payment back from the third party vendor for the purpose of crediting fees charged when a student complained. In one case, half of the contract amount was returned to the school for the school to refund fees to students upon request.

Status: Signed into law on July 1, 2015.

A bill about student debit cards approved by the Oregon House on Wednesday aims to protect consumer rights of students by requiring universities to consider federal guidelines when entering into contracts with third party financial institutions.

HB 2832 passed 36-24 after a discussion about whether the bill is in the best interest of students. Eleven percent of colleges and universities have college card agreements, in which the school maintains a contract with a third party financial institution to distribute financial aid for students, according to a 2014 report by the United States Government Accountability Office. No laws currently govern the use of the cards or the contracts.
Supporters of the bill say college cards can be detrimental to students because financial institutions that contract with universities have fewer regulations than traditional banks and credit unions. Issues include charging students for each PIN transaction, in-network ATM withdrawal and monthly inactivity.

"Students often believe these debit cards are the only way to receive financial aid to cover books and living expenses. Cards often carry the school logo or may be linked to a student ID. This may give the impression that the card is official or required for distribution of financial funds," said Rep. Nancy Nathanson, D-Eugene, who carried the bill.

A presentation by the Oregon Student Association submitted in March to the House Committee on Higher Education, Innovation and Workforce Development said six state universities and community colleges contract with Higher One, a higher education financial firm that reportedly dominates 56 percent of the campus debit market.

The six universities are Oregon Institute of Technology, Southern Oregon University, Portland State University, Lane Community College, Rogue Community College and Mount Hood Community College.

A 2013 survey by the Associated Students of Portland State University found that 69 percent of respondents wanted an alternative to Higher One for financial aid disbursement. Seventy-eight percent said Higher One's fees were not reasonable or acceptable.

"These are students who, if something happens with their financial aid, they may lose their housing, they may not be able to go to class. Those are real consequences for students," said Rep. Jennifer Williamson, D-Portland. "To take away their right to seek a remedy or join a class action, I just think it's untenable to take that right from students when they have no choice but to enter into these contracts."

HB 2832 says public and private universities must use federal guidelines issued by the U.S. Consumer Financial Protection Bureau and the Department of Education when forming contracts with third parties. The contracts may not allow revenue sharing, a fee for initial disbursement of financial aid, a fee for debit or PIN transactions or inactivity fees.

The contract must also be available for public inspection and published on the institution's website.

Additionally, universities and community colleges negotiating a contract with a third party financial institution must attempt to make collaboration agreements with other public universities and colleges.

Disposition of Entry:

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

Comments/Note to staff
Note: Deferred from June 2015 docket.

Summary:
Existing law requires the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions to adopt and implement written procedures or protocols to ensure that students, faculty, and staff who are victims of sexual assault on the grounds or facilities of their institutions receive treatment and information, including a description of on-campus and off-campus resources.

This bill would require the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions, in order to receive state funds for student financial assistance, to adopt policies concerning sexual assault, domestic violence, dating violence, and stalking that include certain elements, including an affirmative consent standard in the determination of whether consent was given by a complainant. The bill would require these governing boards to adopt certain sexual assault policies and protocols, as specified, and would require the governing boards, to the extent feasible, to enter into memoranda of understanding or other agreements or collaborative partnerships with on-campus and community-based organizations to refer students for assistance or make services available to students. The bill would also require the governing boards to implement comprehensive prevention and outreach programs addressing sexual assault, domestic violence, dating violence, and stalking. By requiring community college districts to adopt or modify certain policies and protocols, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Status: Signed into law on September 28, 2014.

Comments: From the Associated Press
Gov. Jerry Brown announced Sunday that he has signed a bill that makes California the first in the nation to define when "yes means yes" and adopt requirements for colleges to follow when investigating sexual assault reports.

State lawmakers last month approved SB967 by Sen. Kevin de Leon, D-Los Angeles, as states and universities across the U.S. are under pressure to change how they handle rape allegations. Campus sexual assault victims and women's advocacy groups delivered petitions to Brown's office on Sept. 16 urging him to sign the bill.
De Leon has said the legislation will begin a paradigm shift in how college campuses in California prevent and investigate sexual assaults. Rather than using the refrain "no means no," the definition of consent under the bill requires "an affirmative, conscious and voluntary agreement to engage in sexual activity."

"Every student deserves a learning environment that is safe and healthy," De Leon said in a statement Sunday night. "The State of California will not allow schools to sweep rape cases under the rug. We've shifted the conversation regarding sexual assault to one of prevention, justice, and healing."

The legislation says silence or lack of resistance does not constitute consent. Under the bill, someone who is drunk, drugged, unconscious or asleep cannot grant consent.

Lawmakers say consent can be nonverbal, and universities with similar policies have outlined examples as a nod of the head or moving in closer to the person.

Advocates for victims of sexual assault supported the change as one that will provide consistency across campuses and challenge the notion that victims must have resisted assault to have valid complaints.

"This is amazing," said Savannah Badalich, a student at UCLA, where classes begin this week, and the founder of the group 7000 in Solidarity. "It's going to educate an entire new generation of students on what consent is and what consent is not... that the absence of a no is not a yes."

The bill requires training for faculty reviewing complaints so that victims are not asked inappropriate questions when filing complaints. The bill also requires access to counseling, health care services and other resources.

When lawmakers were considering the bill, critics said it was overreaching and sends universities into murky legal waters. Some Republicans in the Assembly questioned whether statewide legislation is an appropriate venue to define sexual consent between two people.

There was no opposition from Republicans in the state Senate.

Gordon Finley, an adviser to the National Coalition for Men, wrote an editorial asking Brown not to sign the bill. He argued that "this campus rape crusade bill" presumes the guilt of the accused.

SB967 applies to all California post-secondary schools, public and private, that receive state money for student financial aid. The California State University and University of California systems are backing the legislation after adopting similar consent standards this year.

UC President Janet Napolitano recently announced that the system will voluntarily establish an independent advocate to support sexual assault victims on every campus. An advocacy office also is a provision of the federal Survivor Outreach and Support Campus Act proposed by U.S. Sen. Barbara Boxer and Rep. Susan Davis of San Diego, both Democrats.
Disposition of Entry:

SSL Committee Meeting: 2017 A
( ) Include in Volume
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( ) Defer consideration:
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( ) Reject

Comments/Note to staff
Summary:
This bill would require all colleges and universities in the State of New York ("institutions") to implement uniform prevention and response policies and procedures relating to sexual assault, domestic violence, dating violence, and stalking.

Section 1 of the bill would amend the education law by adding a new article that provides the following:

- A Statewide Uniform Definition of Affirmative Consent to Sexual Activity: This legislation implements a statewide definition of affirmative consent to read as follows: "Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression."
- Policy for Alcohol and/or Drug Use Amnesty: Provides that no bystander or victim that reports, in good faith, any incident of sexual assault, domestic violence, dating violence, and stalking, will be charged with an alcohol or drug use violation of the institution's code of conduct.
- Students' Bill of Rights: Requires that an institution adopt and implement a "Students' Bill of Rights" as part of its code of conduct. The Bill of Rights shall include, but is not limited to, the opportunity to report a sexual assault to law enforcement or the institution, to be protected from retaliation, and to access services and resources. The Bill of Rights shall be distributed widely to students and college community members and shall be sent electronically to students at least once annually.
- Response to Reports: Requires institutions to notify students about rights and resources available to them and how the institution will respond to reports of sexual assault, domestic violence, dating violence and stalking. In addition, this section requires that victims receive a short statement of their rights at the first instance of disclosure of a sexual assault: "You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."
- Campus Climate Assessments: Requires institutions to conduct a campus climate assessment developed using standard and commonly recognized research methods, and to conduct such assessment no less than every other year. Each institution shall ensure that answers to such surveys remain anonymous and no individual respondent is identified. Each institution shall also publish the high-level results of such surveys on their website provided that no personally identifiable information shall be shared.
- Options for Confidential Disclosure: Requires institutions to utilize plain language to notify students about the laws surrounding confidentiality and privacy, to list confidential and
private resources that students can reach out to, and to provide technical information about how institutions will respond to requests for confidentiality.

- **Student Onboarding and Ongoing Education Campaign**: Requires institutions to develop and implement a year-around, ongoing campaign on sexual assault, domestic violence, dating violence and stalking education and prevention.
- **Privacy in Legal Challenges to Conduct Findings**: Requires that absent a waiver or court determination, a student's identifying information is deemed presumptively confidential and shall not be included in any proceedings brought against an institution which seeks to vacate or modify a finding that a student was responsible for violating the institution's rules.
- **Reporting Aggregate Data to the State Education Department**: Requires institutions to annually report aggregate data and information about reports of domestic violence, dating violence, stalking, or sexual assault. This shall include the total number of reports received, open and closed investigations, outcomes of such investigations, and penalties imposed on perpetrators.

**Status**: Signed into law on July 7, 2015.


New York’s political leaders have reached a deal on one of Gov. Andrew M. Cuomo’s legislative priorities for 2015, saying they will adopt new laws intended to change the way sexual assaults on all college campuses in the state are handled.

The agreement, announced on Tuesday, proposes legislation that would establish a statewide definition of “affirmative consent,” and define consent as a “knowing, voluntary and mutual decision among all participants to engage in sexual activity.”

This does not mean students will need to enter into a written contract before every sexual encounter; it is meant to reorient students in terms of how they approach sex, said Assemblywoman Deborah J. Glick, a Manhattan Democrat and chairwoman of the Higher Education Committee.

“It’s a question of putting everyone on notice that they have to be in a consensual situation,” Ms. Glick said. “It also sends a message to the institutions that they have to up their game on how sexual assault on campus is viewed and treated.”

Mr. Cuomo, in a statement, called the legislation “a major step forward to protect students from an issue that has been plaguing schools nationwide for far too long.”

The plan builds on a standard set by California, and extends policies in place at New York’s public colleges to private institutions in the state. It arrives as campuses across the country have come under increased scrutiny for their handling of sexual assaults. To that end, Mr. Cuomo’s plan calls for establishing a new unit in the State Police to help work with college campuses, since they are often the first point of contact when a rape occurs.

The governor’s bill also requires all campuses to distribute a so-called bill of rights to students. It will inform students that they can report sexual assaults either to campus police or to outside law
enforcement, and that in that context they will be granted immunity for certain campus rule violations, including drug use.

Ms. Glick said the legislation had evolved to address concerns that the initial proposal used terms like “victim” and “the accused,” which many people felt conveyed bias. The current bill uses more neutral language, like “reporting individual” and “respondent.”


Disposition of Entry:

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

Comments/Note to staff
Summary:
New law requires that when funding is made available, each public postsecondary education institution is to administer an annual, anonymous sexual assault climate survey to its students who choose to participate. The results must be reported to the Board of Regents.

Creates the Campus Accountability and Safety Act and requires compliance by each public postsecondary education institution that receives any Title IV funding from the U.S. Dept. of Education.

Requires each institution and area law enforcement and criminal justice agency located within the parish to enter into a memorandum of understanding (MOU) to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about sexually-oriented criminal offenses occurring against students of the institution. The MOU must include protocols for investigations, information sharing, and public notification of sexually-oriented crimes.

Requires the local law enforcement agency to include information on its police report regarding the status of the alleged victim as a student at an institution and provides that the institution is not liable if the local law enforcement agency refuses to enter into the required MOU.

Requires the Board of Regents to establish uniform policies and best practices to implement measures to address the reporting of sexually-oriented criminal offenses on institution campuses, the prevention of these crimes, and the medical and mental health care needed for these alleged victims that includes the following:

1) Confidential advisors. Requires the institution to designate individuals who shall serve as confidential advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Provides that these designations shall not preclude the institution from partnering with national, state, or local victim services organizations to serve as confidential advisors or to serve in other confidential roles.
   (a) Requires that the confidential advisor complete certain training requirements.
   (b) Not later than Jan. 1, 2016, requires that the attorney general, in collaboration with the Board of Regents, develop online training materials.
   (c) Requires that the confidential advisor inform the alleged victim of the following items:
      (i) The rights of the alleged victim under federal and state law and the policies of the institution.
      (ii) The alleged victim's reporting options, including the option to notify the institution, the option to notify local law enforcement, and any other reporting options.
      (iii) If reasonably known, the potential consequences of the reporting options.
      (iv) The process of investigation and disciplinary proceedings of the institution.
      (v) The process of investigation and adjudication of the criminal justice system.
(vi) The limited jurisdiction, scope, and available sanctions, of the institutional student disciplinary proceeding and should not be considered a substitute for the criminal justice process.

(vii) Potential reasonable accommodations that the institution may provide to an alleged victim.

(viii) The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.

(d) Authorizes the confidential advisor to serve as a liaison between an alleged victim and the institution or local law enforcement, when directed to do so in writing, and to assist an alleged victim in contacting and reporting to a postsecondary education responsible employee or local law enforcement.

(e) Requires that the confidential advisor be authorized by the institution to liaise with appropriate staff to arrange reasonable accommodations to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.

(f) Requires that the confidential advisor be authorized to accompany the alleged victim to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings.

(g) Requires that the confidential advisor advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the institution.

(h) Provides that the confidential advisor is not obligated to report crimes to the institution or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law. Requires that the confidential advisor, to the extent authorized under law, provide confidential services to students. Provides that any request for accommodations, made by a confidential advisor shall not trigger an investigation by the institution.

(i) Provides that no later than the beginning of the 2016-2017 academic year, the institution is to appoint an adequate number of confidential advisors. Requires that the Board of Regents determine the adequate number of confidential advisors for an institution based upon its size no later than Jan. 1, 2016.

(j) Authorizes each institution that enrolls fewer than 5,000 students to partner with another institution in their system or region to provide services.

(k) Authorizes each institution to offer the same accommodations to the accused that are required to be offered to the alleged victim.

(2) Requires that the institution list on its website the following information:

(a) Contact information for obtaining a confidential advisor.

(b) Reporting options for alleged victims of a sexually-oriented criminal offense.

(c) The process of investigation and disciplinary proceedings of the institution.

(d) The process of investigation and adjudication of the criminal justice system.
(e) The potential reasonable accommodations that the institution may provide to an alleged victim.
(f) The telephone number and website address for a local, state, or national hotline providing information to sexual violence victims.
(g) The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.

(3) Authorizes the institution to provide an online reporting system to collect anonymous disclosures of crimes and track patterns of crime on campus. Provide that an individual may submit a confidential report about a specific crime to the institution using the online reporting system. Provides that if the institution uses an online reporting system, then requires that the system also include information regarding how to report a crime to a responsible employee and law enforcement and how to contact a confidential advisor.

(4) Requires that the institution provide an amnesty policy for any student who reports, in good faith, sexual violence to the institution. Requires that the student not be sanctioned by the institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.

(5) Requires the Board of Regents, not later than Jan. 1, 2016, in coordination with the attorney general and in consultation with state or local victim services organizations, to develop a program for training for each individual who is involved in implementing an institution's student grievance procedures, including each individual who is responsible for resolving complaints of reported sex offenses or sexual misconduct policy violations, and each employee of an institution who has responsibility for conducting an interview with an alleged victim of a sexually oriented criminal offense. Requires that each institution ensure that the individuals and employees receive the training no later than the beginning of the 2016-2017 academic year.

Provides that the Board of Regents' Uniform Policy on Sexual Assault require that institutions communicate with each other regarding transfer of students against whom disciplinary action has been taken as a result of a code of conduct violation relating to sexually-oriented criminal offenses. Further provides that this policy require that institutions withhold transcripts of students seeking a transfer with pending disciplinary action relative to sexually-oriented criminal offenses, until the investigation and adjudication is complete.

**Status:** Signed into law on June 23, 2015.

**Comments:** *The Times Picayune* (April 22, 2015).
In the national fight to curb sexual assault on and around college campuses, one Louisiana lawmaker is pushing for state universities and law enforcement agencies to improve lines of communication with each other and share more information.

State Sen. J.P. Morrell, D-New Orleans said colleges and universities might be aware of an assault-prone part of town and a local police department might be aware of a sexual assault incident reported at a fraternity house, for instance -- but the two groups would never know.
Senate Bill 255, sponsored by Morrell, is a combination of mandates and guidelines for universities that require them to keep better data about sexual assault incidents and sets parameters for policies that give alleged victims options and informs them of those options.

"Louisiana universities, like many, have a sexual assault problem on their campuses," said Morrell, after the Senate Education committee advanced his bill to the full Senate Wednesday (April 22). "(We're doing) anything we can do to make sure there's a fair system for alleged victims to receive services and collect data to (learn) how to better provide services."

The bill mandates every higher education institution conduct a voluntary sexual assault climate survey and report the results to the Legislature and the governor.

It calls for the creation of law enforcement protocols for investigations, notification and evidence preservation and requires training on such protocols and sexual assault laws. It encourages, but does not require, law enforcement agencies in the parish where the school is located to enter into a memorandum of understanding -- a sort of nonbinding contract -- regarding the proposed information sharing and sexual assault policies.

The bill requires every school to choose a relative number of "confidential advisors," who act as liaisons between victims, the school and possibly law enforcement. These advisors -- who can work in human resources, at heath center or in other departments -- must inform the victim of their options for both criminal and student interdisciplinary measures.

Amnesty for students who may be reluctant to report their victimization for fear of getting in trouble for underage drinking, for example, would allow them to come forward without getting risking punishment.

Read More:

Disposition of Entry:

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

Comments/Note to staff
Summary:
This law expands requirements governing higher education institution policies on sexual harassment and sexual violence including amending victim rights provisions, providing amnesty from sanction for violations of policies on the personal use of drugs or alcohol for students who report in good faith, and requiring higher education institutions to provide an online reporting system to receive anonymous reports. Requires campuses to enter into a memorandum of understanding with the primary local law enforcement agency that serves the campus. Requires institutions to prepare annual statistical reports on sexual assault with provisions to protect the privacy of this data. Requires comprehensive training for students as well as those charged with investigating and adjudicating complaints of sexual assault. Training must address dynamics of sexual assault, neurobiological responses to trauma, and best practices for preventing, responding to, and investigating sexual assault. Requires student health services providers to screen students for incidents of sexual assault and to provide information on resources available to students.

Status: Signed into law on May 22, 2015.

On Monday, the Minnesota House passed the Higher Education Omnibus Bill which includes a provision authored by Representative Marion O’Neill (R-Maple Lake) to address the serious and devastating issue of sexual assault on college campuses. The bill passed on a bipartisan vote 72-55.

"Every student deserves to feel safe on their college campus," said Rep. O'Neill. "This legislation will move our state in the right direction by protecting, educating and empowering survivors of sexual assault with the ultimate goal of preventing this serious crime from ever taking place.

Working across the aisle, Rep. Debra Hilstrom and I collaborated with student groups, the University of Minnesota, MnSCU, private colleges and the Minnesota Coalition Against Sexual Assault to craft legislation that will make a real impact on the safety of Minnesota college students, and I am pleased it's advancing as part of the Higher Education Omnibus Bill."

This provision in the omnibus bill creates a uniform sexual assault policy for postsecondary institutions of Minnesota, protecting both students and employees. Victims’ rights are expanded in order to protect them during the reporting process, disciplinary proceedings, and after. It also creates the option for online reporting.

A key highlight of this legislation includes uniform amnesty which prevents a postsecondary institution from punishing a sexual assault victim who was in violation of the student conduct policy by using drugs and/or alcohol during the assault.

Additionally, the bill creates a memorandum of understanding between schools and their local law enforcement agencies to ensure all sides understand their responsibilities in the investigation,
communication, evidence preservation and information sharing throughout the process. It also requires each institution to have a walk-in location staffed with trained confidential advocates.

And if the institution has a health center, incidents of sexual assault will be included in their health screening.

Finally, the bill offers comprehensive training for security officers, administrators and other officials to whom a victim would report a sexual assault, along with training for students on how to protect themselves.

"I am very proud of the work we accomplished together, reaching across the aisle, working with the institutions and advocates alike to protect students and employees on college campuses," added Rep. O'Neill.

Read More: http://www.house.leg.state.mn.us/members/pressrelease.asp?pressid=8829&party=2&memid=15409

Disposition of Entry:

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

Comments/Note to staff
Summary: Senate Bill 149 amends the Education Code to provide an alternative graduation option to an 11th or 12th grade student who fails to comply with end-of-course testing performance requirements for not more than two courses through the establishment of an individual graduation committee.

The bill requires each school district to report through the Public Education Information Management System (PEIMS) the number of district students each school year for which an individual graduation committee is established and the number of district students each school year who are awarded a diploma based on the decision of a committee.

Status: Signed into law on May 11, 2015.

Comments: San Antonio Express News (June 8, 2015).
Months before Gov. Greg Abbott signed legislation opening up a chance to graduate for high school seniors who had failed statewide end-of-course exams, Northside Independent School District officials began identifying students who might qualify for the “individual graduation committees” that the bill would create.

When it became law last month, they began pulling data and work samples for the hundreds of seniors who had failed at least one State of Texas Assessment of Academic Readiness end-of-course exam, said Dennis Ann Strong, the district’s executive director of high school instruction. Northside had a slight head start when retest results came in about two weeks ago and Texas school districts began racing the clock to get students to committee meetings before graduation day.

The class of 2015 is the first to graduate under STAAR requirements, which include passing end-of-course exams in algebra, biology, U.S. history, English I and English II. Statewide, 92 percent of this year’s seniors passed all five exams, the Texas Education Agency announced last month.

Under the new law, students who failed one or two of the five exams can try to convince their committees that they deserve a diploma.

Some Northside schools even held the meetings on Saturdays. All the work was worth it, Strong said.

“I am so thankful that this bill passed because I do not believe that a student’s 12 or 13 years in school should be ignored when determining whether a student can graduate,” she said.

The panels consist of the principal or principal’s designee, plus a teacher and the department chair for each failed exam. A parent or parent designee can be a member — or the student, if he or she is 18. Northside also included guidance counselors, Strong said.
Committee members consider students’ grades, course loads, attendance and scores on past STAAR and other standardized exams. For a student to graduate, their vote must be unanimous.

All 41 of the North East ISD seniors who qualified for a review were allowed to graduate, spokeswoman Aubrey Chancellor said by email. The committees met over the course of a week and finished Wednesday, the day before the district’s first high school commencement.

As at Northside, the NEISD curriculum department prepared administrators and counselors even before the bill was signed for a process that “was an extremely tight turnaround,” Chancellor said.

Northside and San Antonio ISD committees were still meeting last week, and district spokeswomen couldn’t say how many students the panels had allowed to graduate. SAISD spokesman Leslie Price said 170 students qualified for the panel. At Northside, it was 219.

An opponent of the new law, Texas Association of Business CEO Bill Hammond, said the process undermined an already weak graduation standard and was “unfair to the kids who worked hard.”

“Social promotion is alive and well in Texas, and now we have social graduation,” he said.

“Every kid in Texas will know that they can fail two of the tests and it doesn’t matter.”


Disposition of Entry:

SSL Committee Meeting: 2017 A
( ) Include in Volume
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( ) Defer consideration:
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( ) Reject

Comments/Note to staff
03-37A-10 Accommodations for School Attendance for Children Certified for the Medical Use of Marijuana

Bill/Act: LD 557 / HP 381

Summary:
A child who holds a written certification for the medical use of marijuana may not be denied eligibility to attend school solely because the child requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school.

A primary caregiver may possess and administer marijuana in a nonsmokeable form in a school bus and on the grounds of the preschool or primary or secondary school in which a minor qualifying patient is enrolled only if:

(A) A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana under this chapter; and

(B) Possession of marijuana in a nonsmokeable form is for the purpose of administering marijuana in a nonsmokeable form to the minor qualifying patient.

Status: Governor’s veto overridden on June 30, 2015.

Children who suffer from seizures and other disorders that can be treated with medical marijuana would be allowed to receive their “medication” in school under a bill pending before the Legislature.

Individuals and organizations weighed in on both sides at a recent hearing before the Education and Cultural Affairs Committee.

The proposal, LD 557, would allow parents or guardians to dispense the non-smokable form of marijuana to children who are ill.

It also would prohibit schools from refusing enrollment to children who take medical marijuana to treat conditions such as epilepsy, cerebral palsy, seizures and cancer.

Rep. Deborah Sanderson (R-Chelsea) said she sponsored the bill after meeting with families whose children would benefit from the legislation.

“It is very difficult for them to attend their school,” she said. “This is a medication recommended by their physicians, and it really shouldn’t have any bearing on any other students in school any more than any other medication.”

Colorado Governor John Hickenlooper this week signed a bill into law that makes his state the first in the nation to allow the dispensing of medical marijuana in schools.
In Maine, it is not the heart of the bill — providing equal educational access to all children — that stirs opponents.

It is the worry that conflicts between the proposal and existing laws might jeopardize federal funding and put schools at risk legally.

Use of medical marijuana upon the recommendation of a physician or nurse practitioner is legal in Maine. It is not legal under federal law.

“My ‘no’ vote had nothing to do with the effectiveness of this treatment for students,” said Rep. Paul Stearns (R-Guilford), who cast one of two dissenting votes when the bill was sent from the 11-member Education and Cultural Affairs Committee to the House. “I certainly empathize with parents and guardians who are inconvenienced by current law.”

“I am not 100 percent sure that federal subsidies may not be jeopardized in some way,” said Stearns, adding that he wished more physicians had testified.

Sen. Brian Langley (R-Hancock County), co-chairman of the committee, said the current bill would allow parents and caregivers to administer the medical marijuana to ill students at school and then remove the drug from school premises.

He said the committee did not want to involve school nurses because of the federal law.

“I’m not a proponent at all for legalization of marijuana,” said Langley, “but frankly, when they can distill it (THC) and pull out the component of the marijuana and put it into an oil or salve or tincture, it convinced me that was headed more towards a medicinal piece. It’s not somebody lighting up a pipe.”

Co-sponsor Rep. Richard Malaby (R-Hancock) said there is a small group of children who have repeated, debilitating seizures throughout the day.

One mother, anticipating her daughter’s approaching school age, testified that the 3-year-old has Dravet syndrome, which can cause thousands of seizures a day.

Medical marijuana, Samantha Brown of South Berwick told the committee, has greatly relieved her daughter’s symptoms.

“I don’t want marijuana in schools,” Malaby said. “I do want these kids to have an education.”

The Maine Principals’ Association (MPA) opposed the proposal, saying the medical marijuana should not be dispensed on school grounds because it sends a mixed message to other students. Scott Gagnon, director of Smart Approaches to Marijuana Maine, said the group is worried about “normalizing marijuana amongst youth.”

The Maine School Management Association, speaking for school boards and superintendents, supported the bill.
Robert Hasson, deputy executive director, said medical marijuana is no different than Ritalin, a drug prescribed for children with attention deficit disorder.

The Maine Chapter of the National Association of Social Workers supported the bill, as did the Maine Education Association, which represents 24,000 teachers.

Schools, said MEA President Lois Kilby-Chesley, should not override a medical prescription. Regional School Unit 24 Superintendent Suzanne Lukas said she was most concerned about the conflict in state and federal laws and schools risking forfeiture of federal funds.

“Until there is some kind of reconciliation between the federal law and the state law, it puts the schools in a tough situation,” she said.

Others who share Lukas’s viewpoint include the Maine Administrators of Services for Children with Disabilities.

The state Department of Education (DOE) took no stance, but did raise questions.

Nancy Dube, a school nurse consultant with the DOE, said dosing of medical marijuana is questionable and allergic reactions are always possible.

She recommended that giving the substance before and after school and at bedtime would be one alternative and a timed-release form another solution.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary: To establish the Books From Birth program to mail monthly age-appropriate books to all registered children from birth to 5 years of age; to establish the Books from Birth Fund, which would allow the DC Public Library to accept donations and other funds for the program.

Status: Signed into law on August 11, 2015.

D.C. Council member Charles Allen (Ward 6) plans to introduce a bill that would send a book each month to the home of every child under age 5 in the District.

The early literacy initiative aims to address an achievement gap that begins at birth.

“We have households in the District that have hundreds of books and households where the only book in the house may be the phone book,” he said.

By the time students are in third grade, less than half of public school students in the District are on grade level in reading. Allen’s proposal aims to address the problem early on, by tackling a large word gap that’s been documented in research. By the time they enter school, children from advantaged backgrounds often know thousands more words than children from poor families.

“Books are direct building blocks for learning, but children must be exposed to them to use them,” Allen said.

He plans to announce his “Books from Birth” initiative at a news conference at the Southwest Neighborhood Library Friday morning.

The program would be run by the D.C. Public Library system. A selection committee would identify a diverse range of developmentally appropriate books. The packages would also include information about programs or services available at the library for parents and their children.

Allen, who was sworn in this month on the D.C. Council, said he got the idea because he has watched his 2-year-old daughter develop a strong interest in books. “She flips pages and asks to play with books, and I recognized that this doesn’t happen for a lot of kids,” he said. While visiting relatives in Tennessee, his young niece was excited to receive a book in the mail through a similar program that has shown positive results in preparing students for school, he said.

In the Washington region, some schools have mailed books home to students in the summer as a strategy for minimizing the so-called summer slide in academics and learning.

All 41,000 children under age 5 in the District would be eligible. Allen estimates the cost would be about $30 per child annually. He suggested rolling out the program in phases, starting with infants and toddlers.

From [The DC Fiscal Policy Institute](http://www.dcfpi.org) (March 19, 2015):

A new program being proposed by the Council to ensure all DC children have “books from birth” would be a great addition to the city’s early childhood system. It would add to the city’s efforts to support young children and help them prepare for when they start school. We hope this proposal can be tweaked to ensure that books get to children who may be hard to reach, such as those in homeless families.

Access to quality early childhood and development programs is critical to a child’s academic success later in life. Research shows the tremendous value of exposing children to early literacy and language development from birth and that low-income children have the most to gain from increased exposure to early literacy. One study found that lower-income children hear 30 million fewer words within the first four years of life than children in higher-income families.

The “Books from Birth” program, modeled after a similar initiative in Tennessee, would provide every child in the city with a new, age-appropriate book every month until they turn five years old. The books would be mailed to the child’s home, along with information on other educational programs and services. The program would be managed by the DC Public Library.

It will be important to ensure that families without stable housing are able to benefit from the program. Books from Birth will need to address challenges such as getting books to children at the DC General shelter or other family homeless shelters. DCFPI encourages the Council and DC Public Library to explore outreach strategies to ensure these homeless families are made aware of the program and are still able to access Books from Birth. For example, what role will DC General staff be expected to play, if any, in storing books and are they able to take on this capacity? How will families be able to take their books with them if they move to another type of housing but are still registered and eligible for the program?

We also urge the Council to make the registration process for the program streamlined and accessible, so that there are no barriers for parents with low levels of literacy. The proposal includes sensible provisions to enlist health care practitioners – such as a child’s first pediatrician visit – in referring families to Books from Birth. In addition, the program could have DC Public Library partner with the city’s program to visit the homes of vulnerable families with newborns and young children to get additional referrals and ensure that all children benefit from Books from Birth.

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
03-37A-12 Military-Connected Youth Delaware

Bill/Act: SB 94

**Summary**: This Act requires the Department to develop a regulation for the identification of a “military-connected youth”. The Act further provides that this identification is not a public record, is protected by the federal Family Educational and Privacy Act, and shall not be used for purposes of determining school achievement, growth or performance. The purpose of this identification is to ensure that necessary individuals at the school level are aware of any military connected youth for services and supports.

**Status**: Signed into law on August 4, 2015.

**Comments**: From the Delaware State Senate Majority Caucus
In addition to Senator Bushweller, representatives from the Delaware Air Force Base (DAFB), the Department of Education, PTAs and School Districts came together to work on identifying military children in Delaware in order to help direct resources/funding/programs to their location and to help connect them with other military children for the purpose of providing a support network. The contact that we were working with at DAFB hoped to use this legislation as a model for other states.

From the Delaware PTA:
As advocates for all children, Delaware PTA recognizes the unique social and educational challenges that military families face due to deployment and mobility. These challenges impact the student’s academic success among other things. Our students have parents that are members of the Delaware Air National Guard, and Delaware National Guard in New Castle and Dover Air Force Base in Dover. The majority of military students attend public schools in these two counties. Our goal is to bring awareness and education to the social and educational challenges of military life and provide our military families with the tools and resources necessary to navigate public education in Delaware.

Military families face frequent relocations, educational inconsistencies-different school systems, adjusting to new neighbors and communities, leaving friends and making new friends, family separations, grandparents as caregivers, disability or loss of family member and many other challenges.

**Disposition of Entry:**

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

Comments/Note to staff
Summary: The measure allows for the creation of energy project assessment districts (EPADs) by local governments and the levying of assessments on real property within such districts in order to finance energy improvement projects that intend to increase efficiency of energy use or decrease water or energy consumption or demand.

The measure allows local governments to establish energy project assessment district programs to advance the efficient use of energy and water resources by allowing for energy projects to be financed by assessments imposed on only those properties participating in a program; defines terms; establishes the basic required parameters of a program; allows local governments to impose assessments on participating properties and provide the terms for the collection of the assessments, including the grant of senior tax lien status therefor; allows local governments to issue bonds to finance a program; prohibits a local government from imposing an assessment on property under a program except upon the request of the owner of record; provides that no provision of this Act shall be interpreted to expand the statutory powers of eminent domain belonging to a local government, state agency, or private entity; provides that a local government may only engage financing to administer a program from certain financial institutions.


Comments: The Lane Report (March 31, 2015). Legislation passed by the 2015 Kentucky General Assembly and signed into law by Gov. Steve Beshear will provide commercial and industrial property owners the ability to advance the efficient use of energy and water resources.

House Bill 100 authorizes local governments to establish Energy Project Assessment Districts (EPAD), an innovative financing option for energy efficiency upgrades, on-site renewable energy projects and water conservation measures.

EPAD jurisdictions allow property owners to arrange funding through local governments for 100 percent of the energy improvement project’s costs. Payment is made by property owners with a voluntary assessment on the property tax bill over a term of up to 20 years. The tax stays with the property even if there is a sale or transfer.

Through EPAD, financing is available for all types of commercial and industrial properties, large and small, and may be available to nonprofits and government facilities. Participation is voluntary and no tax assessment is made unless the landowner voluntarily initiates financing of a project.

The Kentucky EPAD bill has been broadly supported due to its ability to attract outside investment to support the rehabilitation and upgrade of outdated infrastructure.

The Greater Cincinnati Energy Alliance, an organization that promotes energy efficiency through financial and technical support to commercial and non-profit businesses in northern Kentucky,
has strongly supported EPADs in Kentucky as an economic development tool to support new job growth.

The EPAD financing model has been approved in more than 31 states around the country. It offers a unique extended-term financing solution to support businesses in making critical energy-related improvements to their buildings.

Buildings use about one-third of the energy consumed in Kentucky and energy prices are expected to increase. Energy efficiency saves energy costs for businesses while reducing environmental impacts.

By authorizing EPADs, local communities will benefit from improved building infrastructure, more competitive businesses, and an increase in economic activity. Local contractors, engineers, manufacturers, and energy service companies will all benefit from an uptick in the amount of commercial building improvement work that takes place.


**Disposition of Entry:**

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

Comments/Note to staff
Summary: Existing law requires electric and gas utilities to maintain records of the energy consumption data of all nonresidential buildings to which they provide service and requires that this data be maintained, in a format compatible for uploading to the United States Environmental Protection Agency’s ENERGY STAR Portfolio Manager, for at least the most recent 12 months. Existing law also requires, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, an electric or gas utility to upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency’s ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer. Existing law requires an owner or operator to disclose the United States Environmental Protection Agency’s ENERGY STAR Portfolio Manager benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building based on a schedule of compliance established by the Energy Commission.

This bill would revise and recast these provisions. The bill would require utilities to maintain records of the energy usage data of all buildings to which they provide service for at least the most recent 12 complete months. Beginning no later than January 1, 2017, the bill would require each utility, upon the request and the written authorization or secure electronic authorization of the owner, owner’s agent, or operator of a covered building, as defined, to deliver or provide aggregated energy usage data for a covered building to the owner, owner’s agent, operator, or to the owner’s account in the ENERGY STAR Portfolio Manager, subject to specified requirements. The bill would also authorize the commission to specify additional information to be delivered by utilities for certain purposes. The bill would delete the requirement of an owner or operator of a building to disclose the above-described information to a prospective buyer, lessee of the entire building, or lender that would finance the entire building. The bill would require the Energy Commission to adopt regulations providing for the delivery to the commission and public disclosure of benchmarking of energy use for covered buildings, as prescribed. The bill would authorize the Energy Commission to impose a civil fine, as provided, for a violation of these data submission requirements.

(3) Existing law requires the Energy Commission to develop and implement a comprehensive program to achieve greater energy savings in existing residential and nonresidential building stock. Existing law requires the Public Utilities Commission (PUC) to investigate the ability of electrical corporations and gas corporations to provide various energy efficiency financing options to their customers for the purposes of implementing the program developed by the Energy Commission.

This bill would require the PUC, by September 1, 2016, to authorize electrical corporations and gas corporations to provide incentives, rebates, technical assistance, and support to their customers to increase the energy efficiency of existing buildings, as specified, and would authorize electrical corporations and gas corporations to recover the reasonable costs of those programs in rates. The bill would require the PUC to authorize electrical corporations and gas corporations to count all energy savings achieved through the authorized programs, unless determined otherwise, toward overall energy efficiency goals or targets established by the PUC.
The bill would authorize the PUC to adjust the energy efficiency goals or targets of electrical corporations and gas corporations to reflect the estimated change in energy savings resulting from those programs.

**Status:** Signed into law on October 8, 2015.

**Comments:** GovTech (September 21, 2015).
How do you make building owners cut back on energy usage? Show their tenants how efficient their buildings are.

That’s the path many cities across the country have taken — San Francisco, Minneapolis and New York among them. But energy efficiency advocates last week noted what they see as a major step forward for the idea of whole-building energy usage benchmarking: California became the first state to pass such a law.

California’s Assembly Bill 802 cleared both houses of the Legislature Sept. 11 with minimal opposition. The bill, according to proponents, adds firepower to energy efficiency requirements for buildings by opening up access to data about energy use. The law applies to buildings larger than 50,000 square feet, which means the owners and operators of apartment buildings, office buildings, malls and other structures should have easy access to benchmark statistics on their energy usage.

Even with previous California law, Assembly Bill 1103, in place, that data has been tough to access, according to Institute for Market Transformation (IMT) Executive Director Cliff Majersik.

“You had a situation where the utilities would provide data to the account holder, but you had to get every tenant in the building to sign a waiver in order to get data for a whole building,” Majersik said.

Though at press time Democratic Gov. Jerry Brown had not yet signed AB 802, proponents of the legislation say it has Brown’s support.

Having the information for an entire building is useful for many reasons, Majersik said — not least of which is a direct contribution to the building owner’s profits. Energy Star, which collects energy usage statistics for the Environmental Protection Agency, published a paper in 2012 showing that buildings that consistently benchmarked their efficiency from 2008 to 2011 saw a 7 percent increase in energy savings during that time frame. A group of five studies IMT highlights on its website show that buildings certified through Energy Star or the U.S. Green Building Council (USGBC) tend to have higher rents, pricier sale tags and higher occupancy rates.

That’s because prospective tenants, investors and buyers will look at energy usage statistics of buildings if they’re available and work that into their decision-making, Majersik said.

“It empowers tenants to shop around for buildings that are more energy efficient,” he said.
“Since they’re the ones paying for the energy bills anyway, they’d like to lease space that’s more efficient.”

In turn, the availability of energy efficiency data leads to competition between building owners, he said. In order to compete for tenants, those owners and operators will put money toward energy efficiency projects.

The idea isn’t exactly new — some of the nation’s largest cities have similar programs in place — but advocates say that bringing the open data approach to whole-building energy benchmarking to the state level is significant. According to Rebecca Baker, the energy benchmarking program manager for Seattle’s Office of Sustainability and Environment, Washington’s adoption of a statewide law in 2009 helped spur the Emerald City to create its own policies.

“The state law really provided the momentum needed for the city to develop its own mandate,” Baker said. “And our mandate was actually, in some ways, more progressive — requiring even more than the state does.”

California’s law also gives leeway for municipalities to adopt their own, possibly stricter, set of regulations for energy benchmarking. But it’s helpful, Baker said, to have statewide reporting standards. Those standards bring consistency to the way utilities report energy usage data, allowing for easy access.

The law might also spark interest in the concept of public access to building-specific energy data outside California. Baker said her office plans to take a proposal to Seattle’s city council this fall to open up energy data to the public.

The state might follow suit. The Washington Legislature considered a proposal this year, House Bill 1278, which would have made energy benchmarking data public information.

“States like Washington specifically do pay attention to what’s going on in other states,” said Dennis Murphy, founding chair of USGBC California.

On top of the competition that whole-building energy benchmarking creates, Murphy said the bill also adds teeth to the state’s efforts to curb greenhouse gas emissions. USGBC California, along with a coalition of lobbyists including the Natural Resources Defense Council and IMT, supported AB 802 alongside two other bills calling for tougher energy consumption reduction measures. One was Senate Bill 350, which passed with provisions that would double the state’s energy efficiency standards for all buildings.

Without energy benchmarking, the state wouldn’t have been able to tell whether buildings were meeting those goals, Murphy said.

“If you didn’t have [AB 802] in place, forget about SB 350 goals,” he said. “You’re not going have a chance to do it.”
While California’s law still needs the governor’s signature, as well as a set of rules from state regulators, Majersik and Murphy are already optimistic that AB 802 will spark interest in similar measures across the country.

“As goes California, so eventually goes the nation,” Murphy said.


Disposition of Entry:

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

Comments/Note to staff
Summary: This act would create the "Affordable Clean Energy Security Act" to establish a framework for the state, in coordination with other New England states, to make strategic investments in resources and infrastructure to achieve a clean, reliable energy future.

The legislation authorizes the Division of Public Utilities and Carriers (DPUC) and the Office of Energy Resources (OER) to participate in the regional six-state effort to develop and issue open and competitive solicitations for infrastructure projects and clean energy resources. Two of the more prominent plans under discussion are bringing hydropower to the New England states and increasing incoming supplies of natural gas to address the fact that the region is being serviced by pipelines that are at or near capacity.

Status: Signed into law on July 8, 2014.

Comments: Rhode Island General Assembly (June 19, 2014)
General Assembly has approved legislation sought by the Chafee Administration to allow Rhode Island to participate in New England regional efforts to address electric price volatility and reliability and to pursue energy infrastructure expansion projects for electricity and natural gas, as well as clean energy resources.

The legislation authorizes the Division of Public Utilities and Carriers (DPUC) and the Office of Energy Resources (OER) to participate in the regional six-state effort to develop and issue open and competitive solicitations for infrastructure projects and clean energy resources. Two of the more prominent plans under discussion are bringing hydropower to the New England states and increasing incoming supplies of natural gas to address the fact that the region is being serviced by pipelines that are at or near capacity.

“New England is facing serious challenges in regard to energy, the foremost of which is cost,” said Representative Kennedy. “We all realize the importance of expanding our use of clean energy, but we are not ready at this time to cut our ties completely to various kinds of fossil fuels. We have some of the highest energy costs in the nation because we are literally at the end of the pipeline. Addressing the problem, ensuring a secure supply of energy at the best possible cost begins with infrastructure investments and diversification of our energy mix. Rhode Island cannot do this alone. This legislation allows us to work with other states to collectively address these issues.”

Said Senator Walaska, “This legislation does not lock our state into anything and it does not mandate the purchase of energy or investment infrastructure. It allows Rhode Island to be part of the discussion with other regional states so we can tap into clean, affordable and reliable hydropower, and clean wind power, as well as to ensure that we have adequate natural gas supplies to contain our electric costs. Rhode Island is more than 50 percent dependent on natural gas for electricity generation, and residents are increasingly switching over to natural gas for winter home heating. But pipeline constraints are driving up our energy costs, and we need to work with other states to address these supply and cost issues.”
“Earlier this year Rhode Island saw double digit increases in our electric rates, that put the state at an economic disadvantage and strained family budgets,” said Governor Lincoln D. Chafee. “This is a Rhode Island problem, but it is also a regional problem. That is why I am working with the other New England governors to identify cost effective investments in energy infrastructure that will allow us to tap into clean energy resources from the north, and expand capacity for low cost natural gas. Passage of this legislation will allow Rhode Island to fully participate in this effort to secure a clean, affordable energy future for our state.”

As outlined in the legislation, the DPUC and OER would work with the other New England states to identify proposals that optimize energy reliability, security, environmental and economic benefits and costs to ratepayers. Any proposals would be jointly filed by the OER and DPUC with the Public Utilities Commission for review. Filing would include advisory opinions from Commerce RI on the economic impacts of any project, and from the Department of Environmental Management on environmental impacts of the projects. PUC review of the filing would include a 30-day comment period, evidentiary hearings and at least one public hearing.

Any potential projects and the contracts associated with them would need to be thoroughly evaluated to ensure they are commercially reasonable, consistent with the region’s and state’s greenhouse gas reduction goals, and that total benefits to Rhode Island exceed the costs of the project. In addition, the legislation requires that any clean energy resources that are imported into the region are verified as clean energy resources.

New England’s dependence on natural gas, especially, is expected to grow as the region’s coal and nuclear plants near retirement. That increasing demand, coupled with pipeline constraints and the winter’s cold snaps that put increased pressure on home heating and electric needs cause major winter price spikes, driving up electric rates.

“Rhode Island and New England are in a dire situation, and we can expect price volatility to get worse before it gets better,” said Representative Kennedy. “It is critical that the state take steps now to address these challenges over the next decade and beyond and a regional approach is the most efficient path toward energy security.”

“Nothing in this legislation undermines the state’s commitment to local renewable energy development and energy efficiency programs,” said Sen. Walaska. “But with all these pieces working together, and by increasing pipeline capacity and importing hydropower and other renewables, we can help ensure that Rhode Island has an affordable, reliable and clean energy portfolio.”

Read more:
http://www.rilin.state.ri.us/pressrelease/_layouts/RIL_PressRelease_ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce3e9&ID=9968&Web=2bab1515-0dce-4176-a2f8-8d4bee8df488
Rhode Island Gov. Lincoln Chafee has signed renewable energy legislation that includes provisions to advance regional development and use of hydropower.

During a signing ceremony Oct. 3 at Rhode Island's historic Slater Mill in Pawtucket, Chafee signed: the Affordable Clean Energy Security Act allowing the state to participate in regional efforts to address energy reliability and price volatility by pursuing cost-effective energy infrastructure projects; the Renewable Energy Growth Program expanding the state's Distributed Generation Contracts Program to 200 MW of capacity for in-state renewable energy systems; and the Renewable Energy Professional Certificate law updating electrical and plumber licensing laws to clarify their work on renewable energy projects.

Among other provisions, the legislation prepares Rhode Island for opportunities for affordable hydropower, officials said.

"Collectively, they will create jobs, remove barriers facing small businesses, grow the economy, reduce greenhouse gas emissions and bring energy security to Rhode Islanders," the governor said.

The Affordable Clean Energy Security Act authorizes the Rhode Island Office of Energy Resources and other state agencies to participate in solicitations for development of regional electric transmission projects in New England that would allow transmission of large or small, domestic or international hydropower that will benefit Rhode Island ratepayers.

ACES also would authorize public electric distribution utilities to participate in regional efforts to procure large or small, domestic or international hydropower that will benefit Rhode Island ratepayers, provided that large-scale hydropower would not be eligible for benefits under the state's renewable energy standards law. With regulatory approval, the utilities also may solicit competitive proposals for long-term contracts with renewable energy developers including proposals for large or small, domestic or international hydroelectric power.

The Renewable Energy Growth Program is designed to finance for five years the development, construction and operation of renewable-energy distributed generation projects of no more than 5 MW within a distribution utility's load zone.

The REG legislation would exempt hydropower projects from the requirement that eligible renewable energy projects must be new and not under construction. Such hydro projects would be eligible if they are existing but require a material investment to restore or maintain reliable and efficient operation and meet all regulatory, environmental or operational requirements.

"Rhode Island continues to lead the way on clean energy," said Sen. Sheldon Whitehouse, D-R.I., who participated in the signing ceremony. "These bills will remove barriers to investing in renewables, while ensuring that Rhode Islanders have access to affordable and reliable energy."
The Rhode Island Economic Development Corp. last year approved a $200,000 grant for JAL Hydro LLC to study development of a 296-kW run-of-river hydropower project utilizing two Archimedes screw turbine-generators at Natick Pond Dam (No. 14505) on the Pawtuxet River in West Warwick, R.I.

Rhode Island announced plans in 2006 to use hydropower to increase the overall amount of renewable energy that is produced in the state to 20 percent. Although Rhode Island is the smallest U.S. state, it has more than 650 dams. The Federal Energy Regulatory Commission issued a (maximum) 5-MW exemption from hydropower licensing in 2011 to Slatersville Hydro LLC for the 360-kW Slatersville project (No. 13356) on Rhode Island's Upper Slatersville Reservoir.


Disposition of Entry:

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

Comments/Note to staff
Summary: SB 220, the Property Insurance and Energy Reduction Act of Alabama, provides property owners across the state a chance to implement projects related to energy efficiency and community resilience to storm-related events. The Act works through the issuance of bonds, notes, and other financial methods by counties, municipalities, or improvement districts who adopt the program. Financing will be made available through the assessment on the property tax bill for local property owners who wish to pursue energy efficiency improvements as a means of reducing consumption of electricity, natural gas, propane and other forms of energy. This program will also allow owners to make improvements that protect their property against weather related events. Qualifying improvements include wind resistant improvements, flood mitigation, and energy conservation and efficiency improvements. Energy conservation and efficiency improvements, include, but are not limited to, the following:

- Air sealing
- Installation of insulation
- Installation of energy-efficient heating, cooling, or ventilation systems
- Building modifications to increase the use of daylight
- Replacement of windows
- Installation of energy controls or energy efficient lighting systems
- Installation of electric vehicle charging equipment
- Installation of efficient lighting equipment
- Other improvements that lead to demonstrable savings

Status: Signed into law on June 4, 2015.

Comments: Baldwin County Legislative Office (June 16, 2015).

A new act gives Alabama a first-of-its-kind law supporting efforts to increase resilience to storms and energy efficiency. Governor Robert Bentley signed the Property Insurance and Energy Reduction Act into law June 12.

The act will create a financing mechanism for commercial property owners to increase energy efficiency and community resilience to storm-related events by funding improvements that lower energy and insurance costs.


“PIER will strengthen our communities by saving money, creating jobs and better protecting businesses from natural disasters,” Hightower said. “The long-term savings on energy and insurance costs will be a plus to business owners. It will also employ people to do the work of improvements and, in the long run, protect properties and their occupants from storm-related threats by lowering risk, reducing losses and saving lives.”
The PIER Act was modeled on the Property Assessed Clean Energy program. Across the country, 29 states and the District of Columbia have adopted PACE legislation. The program has helped improve more than 330 commercial buildings, extended $112 million in funding and created more than 1,600 jobs according to PACENow, a non-profit advocate for PACE financing.

McMillan said Alabama’s act is geared toward meeting the specific needs of state property owners. “PACE is a good program and a solid foundation to build from,” said McMillan. “It provided us an existing framework to not only reduce energy and insurance costs, but to strengthen Alabama against storms and floods. In the end, PIER better reflects what we wanted to accomplish.”

By including storm and flood mitigation as well as energy saving upgrades, Alabama has broken new ground with PIER, Hightower said. “Alabama is the first state to include funding for these types of hazard mitigation upgrades alongside energy saving projects,” Hightower said. “That we were able to pass this bill in one session speaks to the commitment Alabama and its leadership has to protecting and strengthening our communities against rising costs and devastating natural events.”

The PIER program will support improvements to business and commercial properties, but could be expanded to serve residential homeowners, Hightower said. The state has one year to consult with stakeholders and create the commercial program.

Under the program, specified lenders provide financing for approved building owners to make improvements on their property. The money is paid back over a period of up to 20 years through voluntary assessments on the property tax bill. The funding is linked to the property itself and can be transferred to the new owner if the building is sold. Projects will not include any up-front, out-of-pocket costs and provides business and commercial property owners a low-cost, long-term option to fund improvements.

The act specifies the improvements that will be eligible for PIER funding. Qualified improvements include:

- Wind-resistant construction – Improvements that allow a building to better resist damage from high winds and qualify it for mandated insurance discounts recognized by the state.
- Tornado-safe rooms and storm shelters
- Flood avoidance and mitigation – Raising a building above the base flood elevation, installing flood diversion equipment and making electrical, mechanical, plumbing or other system improvements that avoid damage during flooding.
- Energy cost savings – Upgrades that conserve energy and save utility costs. Improvements can include insulation; energy-efficient heating, cooling or ventilation systems; new windows and other upgrades.

The Act received widespread support in both houses as well as banking, energy, real estate, non-profit and insurance interests.

Read More: http://www.smarthomeamerica.org/news-article.php?id=18
Disposition of Entry:

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

Comments/Note to staff
Summary: The Public Utilities Commission (PUC) is directed to: (a) examine the vulnerabilities of Maine's transmission infrastructure to potential negative impacts of geomagnetic disturbances or electromagnetic pulses and identify potential mitigation measures; (b) monitor efforts by the Federal Energy Regulatory Commission and others to develop reliability standards related to geomagnetic disturbances and electromagnetic pulses; and (c) report back its findings to the Joint Standing Committee on Energy, Utilities and Technology.

Status: Signed into law on June 10, 2013.

Protecting the grid from geomagnetic disturbances and electromagnetic pulse (EMP): GMD refers to a massive solar storm that will take down a large segment of the power grid, or even the entire national grid, in moments, and leave us in a blackout lasting months or years. It is considered to be a 150-year storm, and we know it will happen – not an “if,” but a “when.” In Quebec in 1989, a medium size solar storm brought down their electric grid in 92 seconds; it lasted only 9 hours, and yet cost them over $2 billion in direct costs. They have been “hardening” their grid since then. In this country, we have done nothing.

EMP refers to manmade weapons of nations, or devices of terrorists, which can accomplish the same thing as a GMD, and take out our electronics, too. The result: no lights, computers, heating, cooling, hospitals, banking and investments, transportation, food and medicine preservation, elevators, communications, water, sewer, gas, etc. — everything that depends on electricity and/or electronics could fail, again for months or years. Many millions of lives would be lost to starvation, exposure, and societal collapse. Automobiles, trains, airplanes, delivery trucks would not move. The disasters of 9/11, Hurricane Katrina, and Super Storm Sandy, together, would pale in comparison.

The U.S. is known to be the most vulnerable nation in the world, due to our extremely vast electric grid and widespread dependence on electronics. Our enemies know that, but our American people generally do not. It is extremely difficult to get the media to report on it. We can ask “Why,” and only guess the answer. The Northeast is considered likely to be the most vulnerable region of the lower 48, Maine perhaps the most vulnerable state, due to its proximity to the North Pole and the ocean, and the density of granite in its rock formation. I’m a state legislator trying to protect Maine.

If a single state protects itself, the nation has a better chance of survival, because at least somewhere the power will be on. The Northeast includes the area from Maine to Maryland, the most energy-intense part of the U.S.

We are interconnected, but a single state can protect itself, because the states have regulatory authority over power transmission and distribution. My broader goal, and that of the national experts who have worked for years to protect the nation, is to encourage states to act, because Washington can’t; it has shown itself to be too broken. An ugly combination of resistance from
the power companies and their organization, NERC (the North American Electric Reliability Corporation), and single lawmakers who are either in denial or compromised in some way, have been blocking protective legislation for years. Some of the antics of NERC have been documented in the Maine legislative file on my bill, LD 131, An Act to Secure the Safety of Electrical Transmission Lines. It required grid protections against extreme solar storms and electromagnetic pulse weapons of hostile nations or terrorist devices. Copies of the hearing’s written testimony can be secured from the Maine State Law Library at the State House. On February 19, 2013, the Maine Joint Committee on Energy, Utilities, and Technology (EUT) heard LD 131. Experts came to Maine to fully explain the nature and implications of the threat, and to deliver a message of hope. There are protections that are available and low-cost, amounting to about $1.50 per year per household.

Ultimately, the Committee unanimously passed “emergency legislation” in the form of a resolve: Resolve, Directing the Public Utilities Commission to Examine Measures to Mitigate the Effects of Geomagnetic Disturbances on Maine’s Transmission System. It passed the full legislature as emergency legislation, unanimously in the House and 32-3 in the Senate, and became law on June 11, 2013. It was considered an enormous victory for grid protection, the first such legislation in the U.S, and provided authority to the EUT Committee to report out permanent legislation, based on its findings, in early 2014.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary:
This bill prohibits, in two stages, the manufacture for sale, import, sale, or offer for sale of personal care products with intentionally added plastic of five millimeters or less in size (i.e., microbeads). It bans, beginning December 31, 2017, manufacturing for sale personal care products in this state with intentionally added microbeads. And, beginning one year later, it bans importing, selling, or offering them for sale.

The bill allows the Department of Energy and Environmental Protection (DEEP) commissioner to adopt regulations, in consultation with the Department of Consumer Protection (DCP) commissioner, to implement the bill's provisions. Violators of the bans or DEEP's adopted regulations are subject to fines of up to (1) $1,000 for a first violation and (2) $2,500 for subsequent violations.

The bill applies to:
1. products, or their components, intended for rubbing, pouring, sprinkling, spraying on, introducing into, or applying to the human body for cleansing, beautifying, promoting attractiveness, or altering its appearance and
2. certain products with labels required by federal regulations identifying them as drugs (“over-the-counter drugs”).

It excludes products the DCP commissioner determines need a prescription to distribute or dispense.

Status: Signed into law on June 30, 2015.

Comments:
The committee adopted legislation from Illinois on this topic at its August 2014 meeting in Anchorage. Connecticut Rep. James Albis, co-chair of the legislature’s Environment Committee, explains how this bill is different from the Illinois legislation:

The Illinois language “specifically carves out biodegradable microbeads from being considered. As I’m sure you know, microbeads are small plastic spheres present in some personal care products that are so tiny they pass through water treatment facilities and into water bodies, negatively impacting fish and marine ecosystems. Biodegradability does not necessarily remove these negative impacts. I had numerous meetings with the personal care products industry to learn about their ideas of a biodegradable microbead. What I learned was that the substance they have been testing with and intend to use is known as PHA. The PHAs they have been testing degrade approximately 80% in 28 days, and the best available science says that depending on a variety of factors of water quality PHAs may not degrade at all or will degrade into methane. I have several concerns with this, mainly that PHAs do not degrade quickly and will still pose the same problems that non-biodegradable microbeads pose today, and the addition of a significant amount of methane could wreak havoc on our marine ecosystems or our atmosphere.
In Connecticut, in addition to the phase-out of non-biodegradable microbeads that has been included in Illinois and other states’ laws, we created a mechanism to study the environmental impacts of the biodegradable materials that microbeads companies are considering to manufacture. Our bill passed the House unanimously before being included in budget implementation bills and becoming law. I believe that this approach is a safer and more responsible way to address the growing problem of microplastics in our water bodies.”

NBC Connecticut (July 1, 2015)
Connecticut is on track to become the latest state to either ban or put new limits on the sale and manufacture of plastic microbeads found in many cosmetic products.

The beads, tiny pieces of plastic commonly found in hand and face soaps, give off the feeling of a mineral soap. However, studies in other states have shown the plastic ends up in the water supply.

Under the bill the Connecticut General Assembly has signed, products with microbeads must be completely phased out of the state by 2019.

"What it does is it allows the industry to remove the products," said Robert LaFrance with the Connecticut Department of Energy and Environmental Protection. "It might be on inventory shelves. There’s utility in the products that they’re selling, so they want to get those out and phase them out over time."

The proposed measure also provides for a study of the microbeads and a possible biodegradable replacement that manufacturers have suggested.

"The industry wanted to do the development of a biodegradable microbead but we didn’t really know what that meant, so what we asked, and what they ended up accommodating, was to have the Connecticut Academy of Science and Engineering do a study to find out what those biodegradable microbeads might be and actually have them give us that so we can study them before we authorize them here in Connecticut," LaFrance said.


Disposition of Entry:
SSL Committee Meeting: 2017 A
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( ) 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.

Boolish 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, Boolish 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, Boolish 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](http://resource-recycling.com/node/4887)

**Disposition of Entry:**

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

Comments/Note to staff
Summary: In Delaware, county and municipal governments have required that land developers create common interest communities to administer, maintain, or improve common elements in the community such as pools, community centers, stormwater management systems, or other common space or infrastructure. These communities are created by legal documents drafted by the developer and are intended to be managed by those living in these communities. This system can create difficulties for those living in these communities, especially when disputes arise.

This bill creates an Office of the Common Interest Community Ombudsman. The bill then empowers the Ombudsman to assist common interest communities to understand their rights and responsibilities and to resolve disputes without recourse to the judicial system.

The bill also creates a Common Interest Community Advisory Council to advise and assist the Ombudsman and to undertake a review of the current common interest community system and make recommendations to the Ombudsman for changes to Delaware law and rules of court procedure to improve the system.

Status: Signed into law on August 12, 2014.

Many community association boards struggle with disputes over assessments, which typically pay for snow removal and other maintenance of common property. Other strife within associations often stems from boards not operating transparently – for instance, failing to hold elections or refusing to provide access to the organization's books and records.

The judicial system has long been the only resort for resolving such matters in Delaware. But navigating the courts can be a costly, time-consuming, even intimidating, process for homeowners and the associations, said attorney and state Rep. Melanie George Smith, D-Bear/Newark.

Nearly 1,050 community associations exist in New Castle County alone. Kent and Sussex don't track the groups.

"There's no central place in the entire state to deal with these issues," Smith said. "Delawareans deserve better. Our homes are where our families are. We don't want them to be places so full of stress because of issues you're having in your community. This really is a quality-of-life issue and affects a large majority of Delawareans who live in these communities, whether they're in a maintenance corporation or a condo."

Smith sponsored legislation that was signed into law in August, creating an ombudsman's office within the Department of Justice. Its purpose will be to receive, investigate and mediate complaints regarding potential violations of law or of documents governing the respective "common interest" communities, such as homeowners associations and maintenance corporations.
Under House Bill 308, the ombudsman must be an attorney with at least five years of experience. He or she would help these communities understand their rights and obligations and even monitor association elections, if requested. When fully staffed, the office could have a budget of up to $278,500 a year, according to estimates by the controller general.

The Attorney General's Office is still working to enact the new law. "We are interviewing candidates for the ombudsman position and expect to hire someone soon," spokesman Jason Miller said.

HB 308 also creates an advisory council to assist the ombudsman in developing solutions to common problems and making recommendations to the Legislature. The council's mandate includes devising a mechanism to increase the collection rate for assessments, developing a conflict-resolution process, a registration method for the communities and an alternative to the current lien process.

"Part of the genesis of this was to make enforcement of the current law easier for homeowners and for board members, so it's a smoother process to enforce the laws than having to go to court," Smith said.

"There's a balance somewhere, and right now it seems like it's not tipped properly. We need to reset the balance, so both homeowners and board members have a fair share of rights when it comes to these particular issues."

One issue that Smith expects the council might consider is how to protect homeowners who find liens placed wrongfully on their homes. The liens can sometimes come as a surprise, as Delaware does not require community associations to send notice to the property owner when a lien is filed – a requirement in other states. Some association bylaws require such notice, but not all.


Disposition of Entry:

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

Comments/Note to staff
Bill/Act: HB 483

**Summary:** House Bill 483 amends the Government Code and Finance Code to establish the Texas Bullion Depository as a state agency in the office of the comptroller of public accounts to serve as the custodian, guardian, and administrator of certain bullion and specie that may be transferred to or otherwise acquired by the state or an agency, political subdivision, or other instrumentality of the state. The bill provides for the administration of the depository under the direction and supervision of a bullion depository administrator. Among other provisions relating to the depository's administration, the bill excludes deposits and related assets from availability for legislative appropriation, establishes that depository accounts are not interest-bearing, and authorizes use of the depository by individuals, corporations, financial institutions, and governmental entities.

House Bill 483 requires the bullion depository to use private, independently managed firms and institutions licensed as depository agents as intermediaries to conduct retail transactions in bullion and specie on behalf of the depository with current and prospective account holders. The bill creates a depository agent license as a type of money services license, establishes requirements of licensure, and provides for the application of certain Money Services Act provisions to a depository agent.

**Status:** Signed into law on June 19, 2015.

**Comments:** *Dallas Morning News* (May 31, 2015).

All that glittering gold doesn’t have to go to Fort Knox or the Federal Reserve in New York. Instead Texas will soon be able to keep their precious metals in a new bullion depository lawmakers approved today. The bill goes to to governor.

Now, this isn’t a place to store Great Aunt Margaret’s earrings.

Public agencies, corporations or even individuals could store gold or precious metal there if it is in certain form — such as bullion or specie, which are generally gold or silver stamped.

Rep. Giovanni Capriglione, R-Southlake, has worked for two years on the legislation that allows the comptroller’s office to create the depository, which would make Texas the first state in the nation to do so.

“When I filed it, I just got these letters from literally all over the world,” Capriglione said.

“People were saying, ‘I want to put my gold in Texas.’ They just have this image of the wild, wild west.”

And many want Texas gold to stay in the state to get away from federal oversight.
But don’t expect to see a castle-like fortress with a moat anytime soon. The depository will likely be set up like most other banks with vaults and will be able to accommodate large sums with minimum space.

For example, the University of Texas Investment Management Co. has about $1 billion in gold stored with the Federal Reserve in New York. That’s about the size of a work desk, Capriglione said.

Meanwhile, as Texas gets more deposits, it will be able to earn revenue off the fees. The depository would work more like a bank when the system is fully operational, handling transactions through gold, silver and the like.

“What that does is create kind of this economic shelter, if you well, for the state of Texas to be able to protect it from an imbalance,” to hedge against an economic downturn or inflation, he said.

If the legislation is signed off by Gov. Greg Abbott, as expected, it will take the comptroller’s a few months to set up guidelines. Then the state will begin the process of selecting a site, Capriglione said.

Read More: http://trailblazersblog.dallasnews.com/2015/05/texas-set-to-create-a-gold-depository.html/

Disposition of Entry:

SSL Committee Meeting: 2017 A
( ) Include in Volume
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( ) Defer consideration:
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( ) Reject

Comments/Note to staff
06-37A-03 Border Prosecution Unit Texas
Bill/Act: HB 12

Summary: House Bill 12 amends the Government Code to codify the structure and duties of the currently existing Texas border prosecution unit and update policies and procedures relating to the unit. The bill requires the governor to establish the border prosecution unit within the criminal justice division of the governor's office to provide the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature with information regarding border crime.

The bill requires the unit to advise the criminal justice division, serve as a clearinghouse for information related to border crime, and assist in developing training for law enforcement regarding border crime issues, including the investigation and prosecution of border crime. An attorney employed by a border prosecuting attorney as regional counsel is required, among other duties, to assist the border prosecuting attorneys and other regional counsel as needed in prosecuting border crime cases and to serve as a liaison between the unit and other criminal justice entities, including the Department of Public Safety and federal, state, and local prosecutors and law enforcement agencies located in the border region.

Status: Signed into law on June 9, 2015.

Comments: The Texas Tribune (April 9, 2015).
House Bill 12, by state Rep. Oscar Longoria, D-Mission, codifies the current policies and duties of the state’s Border Prosecution Unit. The unit was formed in 2010 following an annual $2 million appropriation to help border prosecutors handle increased caseloads. It is made up of 17 jurisdictions that include the counties on the state's border with Mexico and their surrounding areas.

The bill would fund the unit through grants from the governor’s office that pay for special prosecutors assigned to handle border-specific crimes — mainly smuggling, violent crimes, money laundering and gang activity associated with cartels. The prosecutors and staff would team up with the Texas Department of Public Safety and local law enforcement agencies. The bill’s fiscal note states that about $1.5 million would be allotted to the unit each year.

Read More: http://www.texastribune.org/2015/04/09/house-passes-bill-beefs-resources-border-prosecuto/

Texas Tribune (March 22, 2015)
Dope smugglers are smart enough to know when and where local prosecutors have the resources to go after them, especially in rural areas. That’s just one of the reasons district attorneys in counties along the Texas-Mexico border say they are backing a bill that would take an existing consolidated border prosecution agency and turn it into an official state unit.

House Bill 12, by state Rep. Oscar Longoria, D-Mission, would put into statute the structure and duties of the state’s current Border Prosecution Unit, which was formed in 2010 after the Legislature appropriated $2 million per year to help border district attorneys handle swelling
caseloads. It is made up of 17 jurisdictions including all of the counties on the border and their surrounding areas.

In its current form, an assistant district attorney from each DAs office is assigned to handle the additional prosecutions of border crimes — smuggling, violent crimes, money laundering and gang activity associated with cartels. State grants pay for the unit, which works with the Texas Department of Public Safety and local law enforcement to investigate and prosecute cases.

Longoria’s proposal would codify the unit’s practices and fine-tune some of its policies, including how its members elect a governing board and who has prosecuting powers in each county. It was heard before the House Homeland Security and Public Safety Committee on Tuesday.

“The bill] establishes what the unit does, how it encompasses DPS and local law enforcement, local district attorneys, within the 17 jurisdictions that they serve,” he said. “This puts more rules and protocol on how each” region operates.

Former Republican state Rep. Jose Aliseda, now district attorney for Bee, McMullen and Live Oak counties, said the bill would expand his office’s ability to prosecute people federal agencies can’t because the alleged crimes don’t qualify as federal violations.

“They figure out how to do things in small quantities and still make money,” he said. “We’re getting smugglers, we’re getting drugs, we’re getting establishments like eight-liner [gambling parlors] that are putting up cartel money to launder their money.”

The measure would give smaller, rural counties more money, and spotlight challenges they face, he said. “[Larger counties] got hundreds of prosecutors on staff; we’ve got three. And you can see that [smugglers] can figure out they can put outposts in the rural areas and get away with it.”

Read more: http://www.texastribune.org/2015/03/24/border-prosecutors-seek-make-agency-official-polic/

Disposition of Entry:

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

Comments/Note to staff
Summary:
This bill would enact the California Wounded Warriors Transitional Leave Act. The bill would grant a state officer or employee who is a military veteran hired on or after January 1, 2016, with a military service-connected disability rated at 30% or more by the United States Department of Veterans Affairs an additional credit for sick leave with pay of up to 96 hours for the purpose of undergoing medical treatment for his or her military service-related disability. The bill would require that the sick leave be credited to a qualifying officer or employee on the first day of employment and remain available for use for the following 12 months of employment. The bill would prohibit this sick leave from being carried over after the 12-month period and would permit submission of satisfactory proof that the sick leave is being used for treatment of a military service-connected disability to be required, as specified.

Status: Signed into law on October 11, 2015.

Comments: Edhat Santa Barbara (October 12, 2015).
A bill by Senator Hannah-Beth Jackson to help wounded veterans transition from military service to the state workforce has been signed into law by Governor Jerry Brown. Senate Bill 221, the California Wounded Warriors Transitional Leave Act, will give new state employees who are disabled veterans up to 96 hours of sick leave during their first year in the state workforce to attend medical and VA appointments during work hours without having to take unpaid leave.

"I'm very pleased that the Governor has signed this bill into law. Many of our veterans are returning from Iraq and Afghanistan with disabilities and health issues that need medical attention," said Jackson. "I believe these veterans should be able to access the care they need without hesitation, and without jeopardizing their livelihoods or having to miss these important appointments. It's the least we owe them. This bill is an important way to show our continued commitment to these brave men and women who have served our country, while also ensuring we have a healthy and productive state workforce."

The bill had the support of numerous veterans organizations, including the California chapters of the American Legion, AMVETS, Military Officers Association of America, the VFW, and the Vietnam Veterans of America, and others. "SB 221 will allow state-employed veterans to seek treatment for their service-related disability without having to worry about using up their regular sick leave allotment when they first start to work for the state," said Pete Conaty, a veteran and advocate for these organizations.

The bill, which takes effect on January 1, 2016, would apply to state employees hired on or after January 1, 2016 and who are 30 percent or more disabled as determined by the U.S. Department of Veterans Affairs. These veterans could use the one-time allocation of sick leave for up to year, at which point they will have accrued sufficient sick leave on their own.

Read More: https://www.edhat.com/site/tidbit.cfm?nid=159915
Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary:
The Fiscal Integrity Act increases accountability of our local government fiscal officers by:
- Creating a removal process of a fiscal officer if there is clear and convincing evidence of reckless conduct or a reckless failure to act;
- Requiring township fiscal officers to undergo training for their positions;
- Requiring county auditors and treasurers to perform their duties every 30 days;
- Creating fiscal accountability requirements for public schools declared “unauditable” by the Auditor of State;
- This could include the Ohio Department of Education stopping payments to the districts if it fails to make progress in bringing records to an auditable condition;
- Requiring new community schools to guarantee a $50,000 bond with the Auditor of State upon opening; and
- Prohibiting any fiscal officer who is convicted or pleads guilty to dereliction of duty from holding public office in Ohio for four years, or until repayment or restitution by the court is satisfied.

Passed during the 130th General Assembly and enacted on March 23, 2015, the Fiscal Integrity Act raises the bar of accountability for fiscal officers across the state. The law helps deter accounting errors and fraud with increased training requirements and a new removal process for fiscal officers.

Education Requirements
Newly elected or appointed fiscal officers must complete:
- 6 hours of initial education courses before commencing their term in office or within the first year in office
- An additional 18 hours of continuing education courses before the end of their first term in office
  - If the township fiscal officer is appointed to fill a vacancy, the total hours for training will be based upon the amount of time left in the unexpired term
- Re-elected fiscal officers must complete 12 hours of continuing education courses before the end of each subsequent term (including 2 hours of ethics training).

Fiscal officers may count certain training programs or seminars including:
- Public records trainings offered by the Auditor of State or Attorney General (3 hours)
- Continuing education hours completed as a CPA
- CPIM Trainings
- Hours from an approved continuing education course taught by the fiscal officer

Fiscal officers that fall under the requirements include: city auditors, city treasurers, township fiscal officers, village fiscal officers, village clerk-treasurers, village clerks, and in the case of a municipality with a charter, whomever the charter designates with the duties of these offices.
Removal Process:
The law provides that a fiscal officer can be removed from office if there is clear and convincing evidence the fiscal officer acted knowingly, purposefully or recklessly in engaging in misconduct, or failure to act. That determination is made through a process that affords substantial due process, starting with a written affidavit and any evidence. Prior to removal of a fiscal officer, the evidence is first reviewed by the Auditor of State and then the Attorney General. If the Attorney General agrees with the Auditor of State’s findings, the Attorney General will initiate a lawsuit for removal in the Court of Common Pleas of the jurisdiction where the misconduct took place. Any fiscal officer removed from office cannot hold another public office for four years and until repayment or restitution required by the court is satisfied.

Status: Signed into law on December 19, 2014.

Comments: The Canton Repository (December 10, 2014).
The Ohio House on Tuesday approved Senate changes to a local legislator’s bill that provides a new process to remove a county auditor or treasurer for misconduct. The bill is in response to a legal battle to remove then-Stark County Treasurer Gary Zeigler in 2010 and 2011.


“I am honored to bring home a victory for Stark County,” Hagan wrote in a text message. “We have worked hard for nearly three years to ensure that loopholes are closed and taxpayer dollars are protected. Stark Countians were wronged, and now we know that there is much to protect them from such financial harm ever occurring again.”

The House vote was 54 to 38.

Slesnick had voted against a prior version of the bill passed by the House 87 to 8 on June 4. He argued then the bill made it too easy for officials of one party to remove an official from another party. But Wednesday, in a text message, he said, “I believe it is best for Stark County.”

The Ohio Senate approved House Bill 10 by a 32 to 0 vote on Dec. 4.

Several Democratic representatives who had voted for the bill in June pulled their support Tuesday to object to a Senate amendment to the bill reducing the number of required Board of Deposit meetings from 12 a year to one. They said it weakened oversight of state funds. The board selects which banks will hold the state’s money.

Hagan said two members of the board could call additional meetings at any time during the year, and the amendment would require the state treasurer post a monthly report online saying where the state’s funds are kept.

NEW PROCESS
Under the bill, certain public officials — and in the case of a township fiscal officer, four township residents — can file a sworn affidavit alleging that a county auditor, county treasurer,
township fiscal officer and fiscal officer of a city or village had “purposely, knowingly or recklessly” failed to carry out their fiscal duty.

The State Auditor and Ohio Attorney General would have to find substance in the allegations to initiate removal proceedings against the official. A county court of common pleas would remove the official if a judge or jury were to find in a civil trial that the allegations were true. A Common Pleas judge could, on good cause, also suspend the official pending the hearing.

The county, township, city or village would be responsible for the accused official’s attorney’s fees. But officials who are removed would have to reimburse the fees up to a reasonable amount.


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SSL Committee Meeting: 2017 A
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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.


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Comments/Note to staff
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.


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Comments/Note to staff
Summary: This act requires health benefit plans delivered, issued for delivery, continued or renewed on or after January 1, 2017, in accordance with current law requirements for coverage of mental health disorders, to provide coverage for the diagnosis and treatment of eating disorders. The act further requires that the provided coverage include a broad array of specialist services as proscribed as necessary by the patient's treatment team. Coverage under this act is limited to medically necessary treatment and the treatment plan must include all elements necessary for a health benefit plan to pay claims. Under the act medical necessity determinations and care management for the treatment of eating disorders shall consider the overall medical and mental health needs of the individual with the eating disorder and shall not be based solely on weight. Coverage may be subject to other general exclusions and limitations of the contract or benefit plan not in conflict with the act.

Status: Signed into law on June 19, 2015.

Comments: From the Associated Press (June 28, 2015)
Missouri is set to be the first state in the nation to spell out the type of eating disorder treatments that insurance companies must cover, a move advocates say will ensure families have access to care for not just the physical aspect but also the underlying mental issues.

Families of those struggling with eating disorders such as anorexia and bulimia have complained for years that patients are kicked out of treatment prematurely and risk relapsing, despite Missouri's current laws mandating insurance companies to cover treatment of mental illnesses the same way physical ailments are.

Paying for continued treatment out-of-pocket can be too expensive for some families, which a bill signed this month by Gov. Jay Nixon aims to keep from happening. The new law, which will go into effect in August, could pave the way for similar policies in other states, according to Kerry Dolan, who leads the legislative advocacy program of the National Eating Disorders Association.

Dolan said while other states have vague laws requiring treatment of eating disorders, Missouri's law is the first she knows of to fully define treatment that must be covered by insurance companies.

What the measure does is fix a gap in what insurance companies should pay for and what's actually being covered, Missouri Eating Disorders Association board President Annie Seals said. Health insurers will be required to cover "medically necessary" mental and physical treatment of eating disorders provided by licensed experts. Weight can't be the sole factor in determining if someone no longer needs help, something Seals said isn't necessarily an indication of someone's health. Seals' daughter struggled with both binge eating and anorexia, going through several bouts of treatment before she fully recovered.
The "medically necessary" language is the result of compromise between lawmakers and insurers, who for years resisted changes they thought could increase costs, bill sponsor Sen. David Pearce, R-Warrensburg, said.

No formal fiscal analysis has been done on the costs to the private sector, but Missouri Insurance Coalition lobbyist Stephen Witte said the expense should be minimal. Insurance companies will have until 2017 to implement the change in plans.

The steep cost of treatment was an issue for former Missouri state Rep. Rick Stream, whose 18-year-old daughter Katie had anorexia and died nearly two decades ago in her sleep when her potassium levels dropped so low that her heart stopped beating and couldn't restart.

Stream and his wife had been planning to enroll her in an expected two months of treatment, an impending bill of $60,000, more than a year's pay for Stream. "We would have mortgaged the house had we known she was too close to death," he said.

He hopes the Missouri bill — signed into law days before June 23, which would have been Katie's 38th birthday — will save other families from similar heartbreak.

"As a Christian, I've always believed God has a reason," said Stream, who pushed for more insurance coverage during his six years in the Legislature. "As much as we love her, her story is changing lives now."

Read More:  http://news.yahoo.com/missouri-changes-insurance-requirements-eating-disorders-151456894.html

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Comments/Note to staff
07-37A-02 Emergency Care for Strokes Kentucky

Bill/Act: SB 10

Summary: SB 10 requires that local emergency services have access to a list of stroke-ready hospitals, comprehensive stroke centers and primary stroke centers in Kentucky. Emergency medical providers will set their own protocols for assessment, treatment and transport of stroke patients.

Status: Signed into law on March 19, 2015.

Comments: Northern Kentucky Tribune (March 31, 2015).
A key state Senate committee approved legislation on Wednesday designed to improve care for stroke victims in rural areas of Kentucky and promote preventive care for the deadly cardiovascular disease.

The goal of the Senate Bill 10 is to continue the development of a stroke system of care in Kentucky that facilitates timely access to an appropriate level of care for stroke patients, said Sen. Stan Humphries, R-Cadiz, who is sponsoring the bill with Sen. David P. Givens, R-Greensburg. Humphries testified before the Standing Committee on Health and Welfare.

It builds on 2010 legislation, championed by former state Senate President David Williams, which required the state to recognize certified primary stroke centers. The 2010 legislation was introduced after a study showed Kentucky had the 12th highest rate for strokes in the nation with 2,500 people dying every year.

Humphries said SB10 would add comprehensive stroke centers and acute stroke-rated hospitals to the state’s existing primary stroke centers designation program, formalize the state’s responsibility for what to do with the information and require local emergency medical service providers to develop pre-hospital assessment, treatment and transport protocols for suspected stroke patients.

He said the goal was to bring quality care for stroke victims to every part of the state, not just in the metropolitan areas.

Tonya Chang, advocacy director at the American Heart Association in Lexington, testified in support of the legislation. She said the number of primary stroke centers has risen to 21 from 12 in 2010. In addition, she said there are two comprehensive stroke centers, one at both the universities of Louisville and Kentucky.

“All this legislation really does is update that program (2010 legislation),” Chang said. “There are two new categories of certification that are available since that legislation was originally passed.”

She said the additional certification is conducted by third-party nationally recognized entities, voluntary on behalf of the hospitals and paid for by the hospitals.
The benefit to Kentuckians is the certification verifies hospitals are capable of high quality, evidence-based treatment of stroke patients, Chang said. She added the certification programs also require hospitals to do community outreach about stroke prevention.

“Time loss is brain loss for stroke victims,” Chang said. “There are life-saving drugs available but many hospitals do not administer them. Primary stroke centers do. It really makes a difference between a full recovery and future disability.”


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Comments/Note to staff
Summary:
The measure allows women to purchase birth control directly from a pharmacist without a doctor's note. It directs the state Board of Pharmacy to adopt rules that allow licensed pharmacists to prescribe and dispense oral contraceptives and hormonal contraceptive patches to women. These rules would include training for pharmacists, a self-screening test to make sure that birth control doesn't interfere with other prescribed medications or existing health conditions and a means of notifying the woman's primary care provider that she has received birth control. The contraceptives would still be covered by insurance. Women over 18 would be able to access birth control directly from a pharmacist without a prior prescription, while women under 18 must have evidence of a previous prescription from a health care practitioner in order to obtain contraceptives from a pharmacist.

Status: Signed into law on July 6, 2015.

Comments: Los Angeles Times (July 18, 2015).
Oregonians will be able to buy birth control at a pharmacy without a doctor's prescription beginning next year, potentially making the state the first in the nation to allow the practice. The bill was overwhelmingly approved in the state House and Senate and was signed by Gov. Kate Brown last week. It will go into effect at the start of next year.

"It makes no sense that men should have unrestricted access to contraceptives, while women must first get a prescription from their physician," said Republican state Rep. Knute Buehler, an orthopedic surgeon who introduced the bill. "Birth control should be as easy and accessible as possible."

California passed a similar law in 2013, but its implementation has been delayed as medical boards wrangle over rules allowing pharmacists to prescribe medication.

In Oregon, the state Health Authority, Board of Nursing and Board of Pharmacy have met to discuss regulations and training to allow pharmacists to prescribe birth control. They already can prescribe smoking cessation drugs and travel pills.

In the U.S. Senate, Cory Gardner (R-Colo.) and Patty Murray (D-Wash.) have introduced measures that would allow women to buy birth control pills approved by the Food and Drug Administration over the counter. The measures would make it easier for women to obtain birth control because the pills wouldn't require a pharmacy prescription. The two federal bills are pending.

According to the Oregon law, women will now be eligible to buy birth control regardless of whether they have previously received a prescription from a primary care practitioner. Teenagers will be able to obtain hormonal or oral contraception with a previous prescription from a doctor.
"The ability to access birth control when you need it is critically important," said Mara Gandal-Powers, counsel at the National Women's Law Center.


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Comments/Note to staff
Summary: Requires insurers that cover prescription contraceptives to reimburse health care provider or dispensing entity for 3-month supply of contraceptives and for a 12-month period after the initial 3-month period.

Status: Signed into law on June 11, 2015.

Comments: Associated Press (June 12, 2015).
SALEM, Ore. — It's like a ritual for women across the nation: frequent treks to the pharmacist to refill birth control prescriptions.

It's a hassle for busy students, a headache for rural women with long drives and a cause for panic for travelers on the road when their packs run out.

Soon, however, women in Oregon will be able to avoid such problems. The state has enacted a first-of-its-kind insurance law that will allow them to obtain a year's worth of birth control at a time, instead of the 30- or 90-day supply available now.

Gov. Kate Brown signed the legislation Thursday, saying it "has a simple premise that I wholeheartedly believe in: increase access and decrease barriers."

Supporters say the measure will reduce unintended pregnancies and make things easier for women, because they won't need to visit pharmacies as often.

The plan passed the Legislature easily and is part of a push from Democrats and Republicans alike to expand access to birth control in the state. Oregon legislators also are considering a widely supported proposal that would allow pharmacists to write birth control prescriptions for women who pass a self-administered risk-screening assessment.

The Catholic Church opposes contraceptive expansion, saying Oregon's measures could have "moral implications and social consequences."

Critics of the new law say it could increase health care costs for employers and insurers. It could be wasteful to dispense a year's worth of pills, for example, because a woman may decide to stop taking them or choose to switch prescriptions, they say.

"To me it's just a checkbook issue, plain and simple," Rep. Julie Parrish, a West Linn Republican, who opposed the measure.

Mary Nolan, interim executive director of Planned Parenthood Advocates of Oregon, said the benefits of the plan "are so obvious once you point them out. People had been accustomed to going along with 30 days for so long that people hadn't really questioned it."
She said the proposal has drawn interest from lawmakers in California, New York and Washington state. A similar measure is pending in Washington, D.C., reproductive rights expert Elizabeth Nash said.

Insurance companies typically cover a 30- or 90-day supply of contraception, Nash said. But a year's supply "would reduce the potential for skipping pills or not having her patch or ring when she needs it," the Guttmacher Institute researcher said.

The plan would require women to first get a three-month supply to make sure there are no adverse reactions. Subsequent prescriptions could be filled for a year at a time.

It goes into effect Jan. 1.

Oregon's moves to expand access to contraception stand in contrast to efforts elsewhere.

Some conservative states have focused on allowing pharmacists to opt out of dispensing contraception if they have religious objections. And a recently passed Missouri law would have required insurers to issue policies that don't cover birth control if individuals or employers said contraceptives violate their moral or religious beliefs. A federal judge, however, struck that down last year as unconstitutional.

Nolan said Oregon has traditionally been a champion for women's rights, citing a 1969 move to decriminalize abortion that came several years before Roe v. Wade.

"We have a long history," she said, "of really strong advocates for health care for women — and particularly around reproductive health care."

It goes into effect Jan. 1.

Read More: http://www.startribune.com/oregon-1st-to-cover-12-months-of-birth-control-at-a-time/307090581/

Disposition of Entry:

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

Comments/Note to staff
Summary: The bill establishes that incarceration shall not be a basis on which to deny or terminate enrollment in Medicaid, and that after release from incarceration, a previously incarcerated person shall remain enrolled in Medicaid unless determined ineligible for reasons other than incarceration.

The bill provides that a person who was not enrolled in Medicaid when he or she became incarcerated would be permitted to submit an application for Medicaid enrollment while incarcerated. Additionally, HSD would be required to create a process for assisting incarcerated individuals with the Medicaid application process in compliance with federal requirements. HSD would not be permitted to refuse to process a Medicaid application on the grounds the individual is incarcerated.

The bill stipulates that the provisions of this section shall not be construed to abrogate:
- any deadline that governs the processing of applications for enrollment in Medicaid pursuant to existing federal or state law; or
- requirements under federal or state law that the human services department be notified of changes in income or residency.

Finally, HSD is required to adopt and promulgate rules and collaborate with NM Corrections Department (NMCD), the Children, Youth, and Families Department (CYFD), and the administrators of state correctional facilities as necessary to carry out the provisions in this bill.

Status: Signed into law on April 10, 2015.

State lawmakers approved a bill in the final days of the session that, if signed by Gov. Susana Martinez, would help thousands of inmates enroll in Medicaid and make them eligible for services upon release, officials said.

The measure would allow inmates to apply for Medicaid coverage during their incarceration and directs the state Human Services Department to create a process to help inmates enroll. The agency currently does not accept Medicaid applications from inmates.

The measure also would end the current practice of terminating Medicaid coverage for jail and prison inmates, requiring them to reapply after their release and causing lengthy gaps in coverage. Inmates’ medical care typically is covered by the county or jurisdiction where they are incarcerated.

Advocates say Senate Bill 42, sponsored by Sen. Jerry Ortiz y Pino, D-Albuquerque, would cut recidivism by allowing many former inmates to obtain medical and behavioral health service from the day they leave jail or prison.
“In practical terms, it means someone can go right into treatment for substance abuse or mental health disorders” after release from custody, said Dr. Harris Silver, co-chairman of the Bernalillo County Opioid Abuse Accountability Initiative.

A spokesman for Martinez said the governor is reviewing the bill and has until April 10 to sign. Officials say the measure would affect a sizable majority of New Mexico jail and prison inmates, many of whom have become eligible for Medicaid since the state expanded its program last year.

Tom Swisstack, Bernalillo County’s deputy manager for public safety, said at least 60 percent of Bernalillo County Metropolitan Detention Center inmates either are enrolled in Medicaid or are eligible for Medicaid coverage.

If signed into law, Senate Bill 42 would allow agencies that provide behavioral health treatment to expand for released inmates “because they know that people are going to be Medicaid-eligible upon release, and they can start billing for the services,” he said.

MDC booked about 28,000 inmates in 2014. Of those, at least 40 percent have substance abuse or mental health problems, Swisstack estimated.

New Mexico Medicaid enrollment has grown substantially since the state expanded the program in January 2014. As of March 3, Medicaid enrollment had grown by 202,000, to a total of nearly 780,000, an HSD spokesman said.

MDC is developing a computerized system with HSD that will allow inmates to enroll in Medicaid with assistance from an MDC case manager. Swisstack said he hopes the system will be largely in operation within 45 days.

Under the system, “I can start to get you Medicaid eligible while you are incarcerated,” he said. “When you are released, I push a button, send your paperwork to Santa Fe, and they process it to make you Medicaid eligible almost immediately.”


Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary:
Creates the Youth Mental Health Protection Act. Defines "mental health provider" and "sexual orientation change efforts" or "conversion therapy". Provides that no mental health provider shall engage in sexual orientation change efforts with a person under the age of 18. Further provides that any sexual orientation change effort attempted on a person under the age of 18 or any referral made by a mental health provider shall be considered unprofessional conduct and shall be subject to discipline by the licensing entity or disciplinary review board with competent jurisdiction.

Provides that no person or entity may, in the conduct of any trade or commerce, use or employ any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact in advertising or otherwise offering conversion therapy services in a manner that represents homosexuality as a mental disease, disorder, or illness, with intent that others rely upon the concealment, suppression, or omission of such material fact. Provides that violation of the provisions constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

Makes conforming changes in the Consumer Fraud and Deceptive Business Practices Act. Provides that (i) any sexual orientation change efforts attempted on a person under the age of 18 by a mental health provider may (was, shall) be considered unprofessional conduct and (ii) mental health providers found to have engaged in a sexual orientation change effort on a patient under the age of 18 may (was, shall) be subject to discipline by the licensing entity or disciplinary review board with competent jurisdiction.

Status: Signed into law on August 20, 2015.

Comments: Newsweek (August 20, 2015).
Practicing gay “conversion” therapy on minors in Illinois will soon be illegal.

Illinois Governor Bruce Rauner signed a bill into law banning the practice in the state Thursday afternoon, making it the fifth jurisdiction—after California, New Jersey, Washington D.C., and Oregon—to have done so.

“Illinois families can now have confidence that the mental health professional they turn to in times of uncertainty may not use their state license to profit from their children’s pain,” Samantha Ames, staff attorney with the National Center for Lesbian Rights, said in a statement following the governor’s action Thursday. “Most importantly, Illinois kids can now rest easy in the knowledge that they cannot be forced or coerced to undergo dangerous and discredited treatments to fix who they are.”

The American Psychological Association has concluded that attempts to change a person’s sexual orientation through behavioral therapy does not work, and many people who have been
through such programs testify to the psychological damage it can cause. President Obama has called for an end to the practice, citing its “devastating effects.”

“[Going through conversion therapy] is like when children are molested, and they live with that for their entire lives. They’re still being harmed, even though it happened years ago,” John Paulk, a former posterboy for the so-called ex-gay movement, told Newsweek last year. “I am very much against any therapies that would attempt to coerce a child into a box for their sexuality.”

Paulk and his now ex-wife were on Newsweek’s cover in 1998, arguing for the efficacy of conversion therapy. He has since apologized for his involvement and detailed his anguish in a recent Newsweek story. He now lives as an openly gay man.

The Illinois law goes into effect on January 1, 2016.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary:
Establishes structure for state to evaluate and approve mobile integrated health care programs to
deliver care and services to patients in out-of-hospital, non-emergent environments.

Status: Signed into law on July 17, 2015.

Comments: Background comments from Philips:
As state healthcare delivery and payment reform continues to focus on the Triple Aim of
improving patient care, improving population health and reducing per capita health care costs,
states and providers are being incentivized more and more to integrate their care across the
continuum – from the hospital into the community and into the home. In recent years, emergency
medical service (EMS) providers in communities across the U.S. have significantly contributed
to this trend by transforming their care delivery model from the more traditional and episodic
“scoop and run” transportation model to a more clinical “at the scene” mobile integrated
healthcare (MIH) model. MIH utilizes patient-centered, mobile resources in the out-of-hospital
environment to help navigate high-risk patients to appropriate levels and types of care. MIH can
include, but is not limited to, providing services such as:

- Community paramedicine (CP) care, including health assessments, laboratory specimen
collection, medication compliance and vaccinations
- Chronic disease education, monitoring and management
- Preventive care or post-discharge follow-up visits
- Telephone advice to 911 callers instead of dispatch and transport
- Transporting or navigating patients to a broad spectrum of appropriate healthcare
destinations not limited to hospital emergency departments

Regional and local EMS MIH programs implemented over the past decade in the U.S. have
yielded significant positive results, including improved patient care and population health,
reduced emergency department visits, reduced hospital and nursing home readmissions,
increased discharges from nursing facilities, and contained or even reduced costs for all
stakeholders, including state Medicaid programs. The recent enactment of Outside Section 93 of
Massachusetts H.3650 recognizes this trend and is an excellent starting point for other states
looking to support MIH through legislation.

Ongoing healthcare reform is motivating states to further reduce costs and improve patient
outcomes. It’s therefore incumbent upon state governments to support public policy initiatives
that help meet those goals. Legislation that enables EMS providers to more easily implement
MIH is just such an initiative. Furthermore, state EMS offices are being called upon more and
more to interpret whether or not state statutes deem MIH to be a permissible activity. Some say
yes, some say no, and some say their state laws do not specifically allow or prohibit it. So while
MIH – including community paramedicine (CP) – is becoming more and more prevalent
throughout the U.S., states would clearly benefit from more precise enabling legislation that
addresses MIH related issues in a comprehensive manner.
MIH/CP enabling legislation really only started trending within the past four years, and it appears that less than ten states (AR, ID, MA, ME, MN, NV, OH, WA) have enacted related laws during that time. Many issues were addressed within the enabling legislation for these statutes, with Massachusetts taking one of the most comprehensive approaches by addressing a broad range of issues, including: definitions, provider certification/licensure and education/training; eligible service recipients; EMS medical director and/or physician oversight; patient privacy; 911 activation; promulgation of related rules/regulations; program effectiveness evaluation, including data collection; and advisory oversight. These are all issues that states considering any type of MIH/CP enabling legislation should find relevant and worthy of consideration, and it is helpful to have them all in one place within Massachusetts H.3650.

Outside Section 93 of Massachusetts H.3650 establishes a sound approach to enable the existence of MIH programs in the states, but importantly, it does not mandate such. Furthermore, the legislation does not mandate any type of private or public reimbursement coverage. Rather, it opens the door to further consideration of it in the future by requiring healthcare providers operating MIH programs to collect and maintain data/statistics, including costs and any reimbursement that has been offered. This, coupled with establishment of an advisory council, sets the stage for future serious consideration of reimbursement policies. Several of the other states that have enacted MIH/CP program enabling legislation have taken a similar approach, recognizing that more information is needed about program costs and outcomes in order to drive an appropriate and informed discussion about reimbursement for such programs. Data on cost and quality outcomes will help policymakers and payers assess the impact of MIH programs on health care costs and individual and community health. To date, only Minnesota reimburses community paramedic services, through a Medicaid payment and delivery system that shares savings and risks directly with provider organizations.

Disposition of Entry:

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary:
The purpose of this bill is to enact the Patient Protection and Transparency Act which requires information to be made available online to persons who purchase or are interested in purchasing insurance through the West Virginia Health Benefit Exchange or an exchange website operated by the federal government.

Some highlights of the West Virginia law include, but are not limited to, the following public disclosure of:

- The names of the physicians, hospitals and other health care providers that are in network;
- Restrictions on use or quantity of covered items and services by category of benefits;
- The dollar amount of copayments;
- The percentage of coinsurance by item and service;
- Information sufficient to determine whether a specific drug is available on formulary;
- Clinical prerequisites or authorization requirements for coverage of specific drugs;
- A description of out-of-pocket costs that may not apply to the deductible for a medication;
- An explanation of the amount of coverage for out-of-network providers or noncovered services; and
- The process for a patient to appeal a health plan decision.

Status: Signed into law on March 18, 2015.

Comments: From Health Care Highlights, a publication of the West Virginia State Medical Association (March 9, 2015)

The Patient Protection and Transparency Act (SB 366), advanced Thursday by the House Committee on Health and Human Resources, requires that specific information be available to consumers for each qualified health plan offered for sale through a health insurance exchange. Proponents say the measure helps consumers make informed choices.

The list of 15 items includes: names of physicians, hospitals and other providers in network; a list of the types of specialists in network; exclusions from coverage by category of benefits; restrictions on use or quantity of covered items and services by category of benefits; the dollar amount of copayments; the percentage of coinsurance by item and service; required cost-sharing; information sufficient to determine whether a specific drug is available on formulary; clinical prerequisites or authorization requirements for coverage of specific drugs; a description of how medications will be included in or excluded from the deductible; a description of out-of-pocket costs that may not apply to the deductible for a medication; information sufficient to determine whether a specific drug is covered when furnished by a physician or clinic; an explanation of the amount of coverage for out-of-network providers or non-covered services; the process for a patient to appeal a health plan decision; and contact information for the qualified health plan.
Phil Reale, presenting the National Health Council, said pharmaceutical manufacturers support the bill. “All of the information is available already, but it’s difficult to access,” he explained. “The trade association supports this so the consumer understands that they will receive the treatment they are accustomed to receiving, including prescriptions. This is a complaint that has flowed up, from the grassroots.”

Highmark Blue Cross Blue Shield currently is the only insurer providing plans under West Virginia’s health benefit exchange. Reale said Blue Cross offers multiple plans, and consumers sometimes base their decisions strictly on cost, without fully exploring other aspects of the plans. More than 30,000 people have insurance through West Virginia’s state-federal exchange.

Delegate Patrick Lane said he believes the bill is consumer friendly, and blasted an earlier fiscal note attached to the bill “that someone thinks is going to influence public policy.” Lane questioned any purported costs associated with maintaining a database to meet the bill’s mandate, saying that any child can upload PDF documents to a website.

Read more:
http://www.wvsma.com/Portals/0/HCH%202015%20Issue%208%20FINAL%20PDF.pdf

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary:
MUNICIPAL MINIMUM STANDARDS (Section 67.287)
This provision creates minimum standards for municipal governance and creates a remedy process for citizens who believe the minimum standards are not being met.

NOTIFICATION OF CREATION AND DISSOLUTION OF MUNICIPAL COURTS (Section 479.155)
This provision requires the presiding judge of the circuit court in which each municipal division is located to notify the clerk of the Supreme Court of the name and address of the municipal division by September 1, 2016. This provision also requires the presiding judge of the circuit court in which each municipal division is located to notify the clerk of the Supreme Court if a municipality elects to abolish the municipal division. This provision also requires the Missouri Supreme Court to develop rules regarding conflict of interest for any prosecutor, defense attorney, or judge that has a pending case before the municipal division of any circuit court.

CONDITIONS FOR MINOR TRAFFIC VIOLATIONS (Section 479.353)
These provisions create conditions for the prosecution of minor traffic violations including: limiting the fines imposed when combined with court costs to $300, prohibiting sentencing to confinement for the underlying violation (except for certain classes of violation) or failure to pay a fine (except when a violation of terms of probation), and requiring criminal case court costs to be assessed unless the defendant is indigent or the case is dismissed.

INCOME TAX REFUND SETOFF TO PAY FINES (479.356)
This provision allows for a request for an income tax refund setoff for unpaid court costs, fines, fees, or other sums ordered by a municipal court in excess of twenty-five dollars.

MACK'S CREEK LAW (Section 479.359)
This provision replaces the restrictions on annual general operating revenue from traffic fines originally contained in section 302.341, which this act repeals. This provision requires the limit on annual general operating revenue from traffic fines to be reduced from 30% to 20% effective January 1, 2016, except for municipalities with a fiscal year beginning on any date other than January 1, in which case the reduction shall begin on the first day of the immediately following fiscal year. St. Louis County and municipalities within that county are restricted to 12.5% of annual general operating revenue from traffic fines.

FINANCIAL REPORT ADDENDUMS (Sections 479.359 and 479.360)
These provisions require all counties, cities, towns, and villages to submit an addendum with their annual financial report to the State Auditor with an accounting of annual general operating revenue, total revenues from fines, bond forfeitures, and court costs for traffic violations, and the percent of annual general operating revenue from traffic violations. This addendum shall be signed by a representative with knowledge of the subject matter as to the accuracy of the addendum contents, under oath and under penalty of perjury, and witnessed by a notary public. These provisions also require all counties, cities, towns, and villages to submit an addendum
signed by its municipal judge certifying substantial compliance with certain municipal court procedures.

REVIEW OF ANNUAL GENERAL OPERATING REVENUE (Section 479.362)
These provisions require the State Auditor to report to the Director of Revenue whether or not the financial report addendums were timely filed and to forward all addendums to the Director of Revenue. These provisions also require the Director of Revenue to review the addendums filed by municipalities as required in section 479.359 and 479.360 to determine if any municipality failed to file the required addendums or remit excess revenues. Municipalities determined by the Director of Revenue to have failed to remit the excess amount of annual general operating revenue or file the required addendums may seek judicial review of the finding by the Director of Revenue under certain circumstances. Upon final determination made that a municipality failed to remit excess revenues or timely file the addendums, any matters pending in the municipal court shall be certified to the circuit court in which the municipal division is located and reassigned to other divisions within the circuit court and all revenues generated shall be considered excess revenues and the municipal court with original jurisdiction shall not be entitled to the revenues.

FAILURE TO TIMELY FILE OR REMIT EXCESS REVENUES (Section 479.368)
These provisions provide that any county, city, town, or village failing to timely file or remit excess revenues from traffic fines shall not receive any amount of moneys to which the county, city, town, or village would otherwise be entitled to receive from local sales tax revenues during the period of noncompliance for failure to file and the amount that the county, city, town, or village failed to remit to the Director of the Department of Revenue shall be distributed to the schools in the county. These provisions also provide that any county, city, town, or village failing to timely file or remit excess revenues from traffic fines shall not receive any amount of moneys to which the county, city, town, or village would otherwise be entitled to receive from county sales tax pool revenues during the period of noncompliance for failure to file and the amount that the county, city, town, or village failed to remit to the Director of the Department of Revenue shall be distributed to the schools in the county. These provisions also require an election automatically be held upon the question of disincorporation for any county, city, town, or village which has failed to remit excess revenues. The Director is required to notify the election authorities and the county governing body in which the city, town, or village is located of the election. The county governing body is required to give notice of the election for eight consecutive weeks prior to the election by publication. Upon the affirmative vote of sixty percent of those persons voting on the question, the county governing body is required to disincorporate the city, town, or village. For disincorporation of a county, the procedure shall comply with Article VI, Section 5 of the Constitution of Missouri.

Status: Signed into law on July 9, 2015.
Gov. Jay Nixon on Thursday signed a broad municipal court reform bill that will cap court revenue and impose new requirements in an attempt to end what the bill’s sponsor called predatory practices aimed at the poor.

Nixon called the reform bill the “most sweeping” municipal court reform bill in state history, and the bill’s primary sponsor, Sen. Eric Schmitt, R-Glendale, called it the “most significant.”

Schmitt said that the bill would help address a “breakdown of trust” between people and the government and court system. “Healing that,” he said, “is something worth fighting for.” He said people have the right “not to be thrown in jail because you’re a couple of weeks ... late on a fine for having a taillight out.”

Moving forward, there would no longer be a system of “taxation by citation,” Schmitt said.

The bill goes into effect Aug. 28, but municipalities have three to six years to comply with some provisions.

The bill limits fines, bans failure to appear charges for missing a court date and bans jail as a sentence for most minor traffic offenses. It also restricts how much of their general operating revenue cities can raise from court fines and fees.

“Under this bill, cops will stop being revenue agents and go back to being cops,” Nixon said.

Cities are required to provide an annual financial report to the state auditor. A municipal judge must certify that the court is complying with required procedures. Police departments must be accredited, and must have written policies on use of force and pursuit. City ordinances must be available to the public. And the Missouri Supreme Court is required to develop rules regarding conflicts of interest in the court system.

Failure to file the reports, turn over excess money or comply with other provisions could trigger the transfer of all pending court cases to circuit court, the loss of sales tax revenue and disincorporation.

Better Together, a group seeking to eliminate fragmented government in St. Louis County and St. Louis, said in a statement that the bill will cut down on the “criminalization of poverty” and prevent municipalities from balancing “their budgets on the backs of poor citizens.”

Nixon signed the bill in the ceremonial courtroom at the Eastern Court of Appeals in the Old Post Office Building in St. Louis.

The issue gained attention after the fatal shooting of Michael Brown in Ferguson last August. In March, a U.S. Department of Justice report criticized Ferguson police and courts, saying that they operated “not with the primary goal of administering justice or protecting the rights of the accused, but of maximizing revenue.”
Last year, municipal courts in St. Louis County generated more than $52 million. People who can afford lawyers can get their cases amended to minor infractions. Those in power can call in favors to get their cases dismissed. The poor are sometimes jailed if they miss court or can’t afford to pay, a Post-Dispatch review found.


Disposition of Entry:

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

Comments/Note to staff
Summary: This bill modifies the Utah Code of Criminal Procedure to include a registry for persons who commit specified white collar crimes. This bill:

- Authorizes the Office of the Attorney General to develop, operate, and maintain the Utah White Collar Crime Offender Registry website;
- Provides the manner and process by which the Office of the Attorney General disseminates information from the Utah White Collar Crime Offender Registry website to the public, including the type of information that will be provided;
- Provides the offenses for which a person must be registered with the Utah White Collar Crime Offender Registry website;
- Provides that offenders who were convicted of the specified offenses between December 31, 2005, and the time this bill is enacted will not be placed on the Utah White Collar Crime Offender Registry if they:
  - Have complied with all court orders;
  - Have paid all restitution claims; and
  - Have not been convicted of any other offenses for which registration would be required;
- Provides the duration for which offenders will be placed on the Utah White Collar Crime Offender Registry;
- Provides rulemaking authority for the Office of the Attorney General to implement the Utah White Collar Crime Offender Registry; and
- Provides the process and conditions under which a person may petition to have his or her name and information removed from the Utah White Collar Crime Offender Registry.

Status: Signed into law on March 24, 2015.

Comments: Salt Lake Tribune (March 11, 2015).
Utahns can easily check to see if there are convicted sex offenders living in their neighborhoods by checking online at the state's sex offender registry. But if they're looking to invest, there's no similar site to warn them about convicted fraudsters. Legislators, however, approved a bill on Wednesday that would establish a state-run registry for convicted white collar criminals to combat Utah's high level of affinity fraud, which occurs predominantly among members of the LDS faith.

The Utah Senate on Wednesday suspended its rules to give final passage to the bill on the second to last day of the 2015 general session of the Legislature. The Utah House already has given thumbs up to the measure. Gov. Gary Herbert indicated after the Senate vote that he will sign it in order to protect "the consumer and the public from fraud and predatory practices," the governor's spokesman, Marty Carpenter, said in a statement.

In Utah, members of The Church of Jesus Christ of Latter-day Saints have been particularly vulnerable because of personal relationships and shared culture among members.
In making the bill a priority for his office, Utah Attorney General Sean Reyes said the state is "sadly known for its high level of financial vulnerability to affinity fraud," which occurs when someone exploits a relationship of trust to defraud another person.

"Utah's unique personal interweavings and close relationships offer a rich environment for predatory behavior and financial crimes in our state," Reyes said in a press release last week.

The bill's chief sponsor, Rep. Mike McKell, R-Spanish Fork, said in an email the bill would "help stem the tide of white collar crime corrupting in our community" by providing residents with readily accessible information.

Under the measure, the attorney general's office would operate the registry as a website that contains offenders' names, aliases, a photograph, physical description and crimes for which they were convicted. Those placed in the registry would have to be convicted of second-degree felony counts of securities fraud, theft by deception, unlawful dealing of property by a fiduciary, insurance fraud, mortgage fraud, communications fraud or money laundering.

About 100 people annually are convicted in Utah of those crimes, said Missy Larsen, the attorney general's spokeswoman.

The information would be maintained online for 10 years or for a lifetime for a third conviction. Those convicted after Dec. 31, 2005, would be required to register with the attorney general's office for inclusion on the registry unless they have complied with all court orders, paid all court-ordered restitution to victims and not been convicted of a further crime. There also are provisions for removing someone's name from the registry after five years.

Brett Tolman, the former top federal prosecutor in Utah who now defends those accused of white collar crimes, said he worried that the crimes included in the registry were overly broad, particularly for communications fraud charges that can be interpreted to cover a wide range of business to business interactions.

The listing could be a stigma for a CEO convicted of a relatively minor offense, he said.

Mark Pugsley, also a white collar defense attorney, said much of the information that would be found in the registry already has been placed online by agencies such as the Utah Division of Securities and federal regulators.

"I think it's unnecessary because all of this information is already out there, easily accessible through an Internet search," Pugsley said in an email.

But white collar defense attorney Brent Baker, who has organized events to educate Utahns about avoiding fraud, praised the effort to establish the registry as "another tool to deter white collar fraud," which often involves elderly victims who need special protection. He pointed to a bill passed in 2011 that enhanced penalties for affinity fraud convictions.

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
08-37A-03 Limited Liability Arising from Trespassing Indiana
Bill/Act: SB 306

Summary: This bill provides that a person, including an owner, a lessee or another occupant of real property, who possesses any fee, reversionary or easement interest in real property, does not owe a duty of care to a trespasser, except to refrain from willfully or wantonly injuring the trespasser, after the trespasser has been discovered on the real property possessed by the person. The person may, however, be subject to liability for physical injury or death to a child trespasser under certain circumstances.

The purpose of this chapter is to codify Indiana common law as it exists on July 1, 2015 with respect to the duty owed by a possessor of land to a trespasser.

Status: Signed into law on April 30, 2015.

Disposition of Entry:

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

Comments/Note to staff
Summary: The bill abolishes life imprisonment without parole sentences for all children under age 18 at the time of the offense. It provides that every person convicted and sentenced for a crime that occurred before 18 years old is eligible for parole after serving 15 years. Parole authorities will consider factors specified in the new law - such as the child's age, role in the crime, intellectual capacity, and history of trauma - in reviewing juvenile offenders annually to determine whether they should be released on parole. The bill passed with broad bipartisan support.

Status: Signed into law on March 14, 2014.

Comments: Campaign for Fair Sentencing of Youth (March 29, 2014).
Gov. Earl Ray Tomblin signed HB 4210 into law on Friday. The bill passed with overwhelming bi-partisan support in the House of Delegates and unanimously in the Senate.

“This bill demonstrates that we take seriously our responsibility of caring for young people and for making sure our communities are safe,” said Sen. Corey Palumbo, D-Kanawha, Chair of the Senate Judiciary Committee. “Under HB 4210, children who are convicted of serious crimes will be held accountable for their actions. However, they will also be given a meaningful opportunity to demonstrate later in life that they have been rehabilitated and deserve a second chance. This bill represents our understanding that children are different from adults and that our courts need to take these differences into account when dealing with children. It is also sound fiscal policy for West Virginia, allowing us to maintain public safety while ensuring that we make the best use of our state’s limited financial resources.”

The U.S. Supreme Court ruled in Miller v. Alabama that it is unconstitutional to impose an automatic sentence of life without the possibility of parole for crimes committed as children. It also requires that sentencing authorities consider specific factors when children face the possibility of these sentences. Drawing on this guidance, HB 4210 requires the consideration of 15 specific factors when determining the appropriate sentence for a child convicted of a serious crime. Among these are the child’s age, role in the crime, intellectual capacity, history of trauma, family background and potential for rehabilitation.

HB 4210 will provide children with several opportunities to be considered for review and release. If parole is not granted at 15 years, review is available again every year for children who receive sentences short of a life term and every three years for children sentenced to life with parole in prison.

The United States Supreme Court, in three rulings during the past decade, has scaled back the use of extreme sentences for children. Policymakers throughout the country, opinion leaders as diverse as President Jimmy Carter and Former Speaker of the House Newt Gingrich, and editorial boards at the New York Times, Washington Post, Wall Street Journal and elsewhere have voiced their support for reform. When imposed upon children, life without parole is a violation of Article 37 of the UN Convention on the Rights of the Child, which expressly forbids life without parole sentences for children.

**Disposition of Entry:**

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

Comments/Note to staff
Summary:
Existing law prohibits a sentence of death from being imposed or inflicted upon any person convicted of certain crimes who was less than 18 years of age at the time the crime was committed. The maximum punishment that may be imposed upon such a person is life imprisonment without the possibility of parole. Existing law also prohibits a sentence of life imprisonment without the possibility of parole from being imposed or inflicted upon any person convicted of a non-homicide crime who was less than 18 years of age at the time the crime was committed. The maximum punishment that may be imposed upon such a person is life imprisonment with the possibility of parole. (NRS 176.025)

Section 1 of this bill requires a court to consider the differences between juvenile and adult offenders, including the diminished culpability of juveniles compared to that of adults, in determining an appropriate sentence to be imposed upon a person who is convicted as an adult for an offense that was committed when he or she was less than 18 years of age.

Section 2 of this bill eliminates the imposition of a sentence of life without the possibility of parole upon a person convicted of certain crimes who was less than 18 years of age at the time the crime was committed, thereby making life imprisonment with the possibility of parole the maximum punishment that may be imposed upon a person convicted of any crime who was less than 18 years of age at the time the crime was committed.

Section 3 of this bill creates parole eligibility for inmates convicted of offenses that were committed as a juvenile after 15 years for non-homicide offenses and 20 years for a homicide offense where only one victim was killed.

Status: Signed into law on May 25, 2015.

Nevada became the 13th state on Monday to abolish life-without-parole sentences for those under 18 after Gov. Brian Sandoval signed Assembly Bill 267 into law.

The legislation eliminates the option of sentencing youth to life without parole, which has been a growing trend across the country in recent years, according to the Campaign for the Fair Sentencing of Youth, a nonprofit advocating for the issue and based in Washington, D.C.

An estimated 12 people in the Silver State will be directly impacted by the new law and will become eligible for parole once the legislation goes into effect Oct. 1, said James Dold, advocacy director for the campaign. The campaign worked closely with Hambrick on the bill and some of its members testified in support of the measure. The number of people affected could go up as the law is implemented.

“Finally, Nevada law has caught up and recognizes that children are different than adults and those differences need to be taken into account,” Dold said Tuesday afternoon.
The main sponsors for the bill included Nevada Assembly Speaker John Hambrick, R-Las Vegas, Nevada Assembly Majority Leader Paul Anderson, R-Las Vegas, and Assemblyman Pat Hickey, R-Reno. The measure passed the state Legislature unanimously.

The law also requires the courts to consider the differences between juvenile and adult offenders when sentencing someone convicted as an adult for an offense committed when that person was younger than 18.

Others states that have adopted similar legislation include Texas, Wyoming, Montana, West Virginia and Colorado.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary:
Current law makes it a third degree felony for a person to intentionally intercept an oral communication. The statute sets forth a variety of exceptions to this prohibition. For example:

- It is not a crime for a person to intercept an oral communication if all parties to the communication consent to the interception; and
- A law enforcement officer or a person acting under the direction of a law enforcement officer may intercept an oral communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception and the purpose of such interception is to obtain evidence of a criminal act.

Oral communications that have been intercepted illegally cannot be used as evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof.

The bill amends current law to create an additional exception to the prohibition on intercepting oral communications. The bill makes it lawful for a child under 18 years of age to intercept and record an oral communication if the child is a party to the communication and has reasonable grounds to believe that the recording will capture a statement by another party to the communication that the other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

Status: Signed into law on May 22, 2015.

Comments: CBS Miami (March 18, 2015).
A newly approved bill would allow a person to secretly record conversations if they involve discussions of sexual assault and illegal acts involving force or violence.

The bill (HB 7001), which passed in a 115-1 vote on Wednesday, stems from a Florida Supreme Court decision last year that ordered a new trial for a man sentenced to life in prison for sexually abusing his stepdaughter.

The court said recordings made by Richard R. McDade’s stepdaughter should not have been allowed into his Lee County trial.

State law generally bars recording of conversations unless all parties agree, and it also prevents such recordings from being used as evidence in court.

Lawmakers have rushed to create an exemption to the prohibition on secret recordings.

The House bill says such recordings would be allowed when a person “has reasonable grounds to believe that the recording will capture a statement by another party to the communication that the
other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the person.”

Read More: http://miami.cbslocal.com/2015/03/18/house-passes-secret-recording-bill/

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SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary:
Define the term “Body-Worn Camera”; to require all state and local law enforcement officers to implement the use of body-worn cameras pursuant to guidelines established by the Law Enforcement Training Council; to require state and local law enforcement agencies to submit policies and procedures related to the use of body-worn cameras to the law enforcement training council for review, approval, or disapproval; to establish a "body-worn cameras fund"; and to provide that data recorded by a body-worn camera is not subject to disclosure under the freedom of information act.

Status: Signed into law on June 10, 2015.

Comments: Al Jazeera America (June 12, 2015).
Under the terms of a bill that South Carolina Gov. Nikki Haley signed into law this week, every law enforcement agency in the state will be required to outfit its officers with body cameras — but the recordings from those cameras will not be available to the public.

Late in the legislative session on May 13, South Carolina House of Representatives members introduced an amendment to the bill, citing privacy and safety concerns, stipulating that “data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act.”

The state Senate sought to replace the amendment with one that allowed public access to the footage in certain cases of “heightened public interest” regarding police use of force, but in the final version of the bill that passed out of a conference committee of the two legislative bodies last week, the House wording remained intact.

The news has raised serious concerns over media freedom and civil liberties among activist groups and campaigners for transparency of police actions. It raises particularly pressing problems, as the body camera law came into effect after a policeman in North Charleston, Michael Slager, killed an unarmed black man, Walter Scott, earlier this year. The brutality of the incident — which came to light only after cellphone footage emerged showed Slager shooting Scott in the back — created national headlines and eventually saw Slager charged with murder.

South Carolina’s Freedom of Information Act (FOIA), which requires public bodies to respond to requests for public records within 15 days, is commonly used by the media to obtain copies of police incident reports, police dashboard camera recordings and even emails sent by state employees. But it will not be applicable to audio and video recordings made using police body cameras, which have been touted in part as a tool to ensure transparency in police actions.

Jay Bender, an attorney for the South Carolina Press Association, said the FOIA exemption negates the stated purpose of the bill. “That’s a cop cover-up bill,” he said. “It’s to protect cops from the public finding out about their misconduct.”
The law allows a law enforcement agency to release body camera footage at “its discretion.” But without the use of FOIA, Bender said, police departments are unlikely to release footage that could incriminate officers. “They always release video that seems to exonerate the cop,” he said. “They will never release a video that shows misconduct.”

Haley traveled from the state capital to sign the bill in North Charleston — where Slager shot Scott after a routine traffic stop. Slager initially claimed that Scott tried to wrest control of his Taser. Slager was arrested several days later after a video surfaced that showed him firing at Scott eight times as he tried to run away. A grand jury indicted Slager on a murder charge on Monday.

“This is going to strengthen the people of South Carolina,” Haley said of the new law at a signing ceremony Wednesday. “This is going to strengthen law enforcement, and this is going to make sure that Walter Scott did not die without us realizing we had a problem.”


USA Today (May 5, 2015)
Lawmakers throughout the USA are grappling with just how much the public is entitled to see when a police body camera has recorded a volatile or even mundane incident on video.

Since the beginning of the year, lawmakers in at least 15 states and Washington, D.C., have introduced legislation that would limit release of footage from the body cameras through open record laws. The cameras are attached to an officer’s clothing, helmet or glasses and capture footage of arrests, traffic stops and other encounters.

New York, Los Angeles and Chicago are among the many large cities testing surveillance cameras with their police officers.

Law enforcement interest in body cameras has surged following the police shooting death of 18-year-old Michael Brown in Ferguson, Mo., last August that touched off riots and national racial discord over what actually happened moments before Brown was taken down in a barrage of bullets.

"This is another example of technology moving faster than regulation and legislation,” said Matthew Feeney, a policy analyst at the Washington think tank Cato Institute, who has done extensive research on body cameras.

At issue is just how much is a matter of public record in police-recorded videos. Governments and police departments argue that while the cameras provide transparency and accountability, they may also compromise a citizen’s right to privacy and the integrity of some investigations which will inevitably rely on the video in a courtroom.
Other recent racially charged incidents, including the police shooting death of Walter Scott in North Charleston, S.C., and the death of Freddie Gray, who suffered severe spinal cord injuries while in Baltimore Police custody, have kept the issue in the national spotlight.

In the Gray case, a bystander's video shows police dragging the man to a police van as he is writhing in pain. A witness captured video of police officer Michael Slager shooting Scott in the back as he ran away from the officer. As in the Ferguson case, officers involved in the Baltimore and North Charleston cases weren't wearing a police camera.

In a speech last week, Democratic presidential candidate Hillary Clinton pointed to the unrest in Baltimore after Gray's death to make the case that all police officers should wear cameras to "improve transparency and accountability in order to protect those on both sides of the lens."

Clinton's call follows President Obama's proposal in December to provide law enforcement agencies with $75 million to purchase cameras to help improve transparency in policing.

But a White House Task Force on 21st Century Policing also recently recommended that states and communities update their public record laws, noting that the emerging technology comes with a treasure trove of complexities.

The task force's March report raises concerns about victims' privacy and pointed to the December shooting death of a police officer in Flagstaff, Ariz., whose killing was captured by the body camera he had on.

Facing public records requests from local media, Flagstaff police released a 14-minute video, which ends with the chilling image of a domestic violence suspect pulling out a gun on a rookie police officer that he would use to kill him.

"This illustration also raises questions concerning the recording of police interactions with minors and the appropriateness of releasing those videos for public view given their inability to give informed consent for distribution," the White House task force report said of the Flagstaff case.

The task force's privacy concerns have been echoed by many state and local policymakers who have begun their own legislative pushes on the issue. Police departments also say they need to limit the broad and costly requests they sometimes get.

Washington Mayor Muriel Bowser last month proposed for the city to spend about $5.1 million to purchase 2,800 body cameras for its police force. At the same time, the mayor has called for the videos to be exempt from public record requests.

D.C.'s police chief, Cathy Lanier, has said it would be too expensive and time consuming to make all videos available to the public. She also expressed concern about preserving the privacy of crime victims and witnesses.
"We still have a very strong interest in protecting the privacy of people in general," Lanier recently told WAMU radio. "If you imagine the cameras being the eyes of a police officer during their shift, there are a lot of people who get caught in the images on the video, and we have a strong interest in protecting their privacy for a lot of reasons."

Police chiefs and elected officials in several communities, including Baltimore Mayor Stephanie Rawlings-Blake, also have raised concerns about long-term costs.

In December, she vetoed a proposal that would have required officers to wear cameras, because she didn't think details, such as video storage, were properly weighed. In Baltimore, it was estimated storage could cost up to $2.6 million per year.

But activists and some civil liberty groups say that many of the proposed regulations in the pipeline run counter to the public's demand for greater transparency and give police far too much authority in deciding what they keep out of the public sphere.

Florida's Legislature passed a bill last month that would exempt from public record law police videos shot in a house, health care facility or any place where a person would reasonably expect privacy.

The bill would allow law enforcement to release the video if it's "in furtherance of its official duties and responsibilities." It also would require agencies to release the videos, or portions of them, to people who are on the recordings or their attorneys or representatives.

Third parties, including the media, would have to go to court to get the videos if they couldn't obtain them from an individual involved in the incident. The judge would be required to consider eight different criteria before deciding whether to release it, including whether it would cause harm to the reputation of anyone in the video.

Opponents note Florida already has exemptions in its record laws that bar the release of information needed to protect ongoing investigations and victims of sexual, domestic violence as well as child victims.

"The Florida Senate has taken a huge step backwards for police accountability," said Michelle Richardson, ACLU of Florida's public policy director. "Police body cameras can be a win-win for both police and the communities they serve, but only when they strike a delicate balance that protects privacy while also providing a record of police activity."

In Missouri, state lawmakers are weighing a bill that would exempt camera footage from the state's Sunshine Law. Similar legislation is in the pipeline in South Carolina, which would make police video filmed inside a private place exempt from the Freedom of Information Act.

Lawmakers in Maryland began debating police camera policy long before Freddie Gray died in police custody on April 19. The state Legislature recently passed broad guidelines governing how law enforcement agencies can use cameras, but kicked the task of creating public disclosure policy to a police training commission.
Meanwhile, the Texas Senate this month passed a $10 million grant program for communities to purchase police cameras. The legislation also includes guidelines for the use of body cameras by police.

An amendment included in the legislation, which still needs be voted on by the Texas House, stipulates recordings that were not made on duty or that were done during activities not meant to be recorded would be exempt from public records.

"Somewhere there's got to be some happy medium," said Tim Dees, a former Reno Police Department officer and law enforcement analyst. "People have to understand we can't give you every moment of video that we have and still do our job and protect everyone's privacy."

The policy debate over police body cameras is happening at the municipal level as well.

The Los Angeles Police Department recently became the largest department in the USA to detail plans to equip all of its 7,000 officers with cameras. But LAPD Chief Charlie Beck said he won't make footage available for most cases because of privacy concerns and to maintain the integrity of ongoing investigations.

The American Civil Liberties Union of Southern California also criticized a provision in the policy that will allow police officers involved in major incidents such as police shootings to review footage from their and other officers' cameras before making an initial statement. The ACLU says the policy would give "officers who are willing to lie to cover up misconduct an opportunity to provide an account that's consistent with video evidence."

The Seattle Police Department thinks it's on the path to finding the sweet spot of balancing privacy concerns with the public's right to know.

The police department worked with a volunteer group of hackers to create a computer program that deletes audio and blurs footage captured by officers using body cameras as part of a pilot program.

Viewers can get a general idea of what's going on in the video, but the program redacts personal details. The department plans to store the footage for three years.

The department posts all of the altered videos on YouTube within days and considers public record requests for clear and unaltered video footage on a case-by-case basis. The department generally refuses to release videos that show police interaction with sex crime victims, juveniles and confidential informants.

Programmers are now working to upgrade the program so audio can be included in what's published without releasing private information about individuals, such as their names and phone numbers, said Mike Wagers, the Seattle Police Department's chief operating officer.
Wagers said the onus is on police departments to get as much of the video out as possible to demonstrate a commitment to transparency.

"What's the purpose of the cameras?" Wagers said. "The purpose of the camera is to get at the truth. Then you want to be as transparent as possible. Given what's going on in the country, I don't think departments have the luxury to say these issues are insurmountable."

Read more: http://www.usatoday.com/story/news/2015/05/05/police-body-camera-legislation-increases/26586739/

Disposition of Entry:

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Comments/Note to staff
Summary: A body camera is a portable electronic device, typically worn on the outside of a vest or a portion of clothing, which records audio and video data. Nationally, a small number of law enforcement agencies have opted to allow their law enforcement officers to wear body cameras. Similar to the national trend, a handful of Florida law enforcement agencies are implementing body camera programs throughout the state.

Florida law currently does not provide a public record exemption for audio or video data recorded by a law enforcement body camera. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a) of the Florida Constitution.

The bill creates a new, retroactive public record exemption that makes a body camera recording, or a portion thereof, confidential and exempt from public record disclosure, if the recording is taken:
- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

The bill provides specific circumstances in which a law enforcement agency may disclose a confidential and exempt body camera recording, and additional circumstances in which a law enforcement agency must disclose such a recording.

The bill provides for the repeal of the public record exemption on October 2, 2020, unless it is reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

To the extent that law enforcement agencies elect to use body cameras, the bill may have a minimal fiscal impact on state and local government expenditures because such agencies will be required to take administrative and procedural steps to screen body camera recording data for confidential and exempt material before disclosing it to the public.

Status: Signed into law on May 21, 2015.

Comments: Orlando Sentinel (April 23, 2015).
Amid an ongoing national debate about police tactics, Florida may soon place limits on who is allowed to access video taken by body cameras worn by law enforcement officers.

The Florida Senate on Wednesday voted 36-2 for a bill that would keep confidential police videos that are shot in a house, a health care facility or any place that a "reasonable person would expect to be private."
Supporters of the measure contend that placing some level of restrictions on who could have access to videos recorded by police officers might encourage more agencies to require their officers to use them. They also said it would guarantee the privacy rights of those caught on video.

There has been a call to have more police use body cameras as a way to hold officers accountable. Earlier this month, a police officer in South Carolina was arrested on murder charges after a bystander's video showed the officer shooting a man as he ran away.

The American Civil Liberties Union of Florida blasted the Senate for passing the bill, calling it a "huge step backwards for police accountability."

"Police body cameras can be a win-win for both police and the communities they serve, but only when they strike a delicate balance that protects privacy while also providing a record of police activity," ACLU of Florida public policy director Michelle Richardson said in a statement. "The bill the Senate passed today fails to strike that balance."

Bill sponsor Sen. Chris Smith contends that critics, including open-government advocates, don't understand what the bill actually does.

The Fort Lauderdale Democrat pointed out that someone caught on video interacting with police would have the right to request a copy of the video. Relatives and people who live in the same house could also ask for the video to be released.

"The ACLU and all these other groups are treating like it we are hiding the video forever and no one can ever see it," Smith said. "If the police came in your house and they smacked you around and beat you up, why the hell wouldn't you release the video?"


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Comments/Note to staff
Summary: House Bill 2571-B requires law enforcement agencies to establish policies and procedures for retaining recordings from body cameras worn upon a police officer’s person to record their interactions with members of the public while on duty. It also outlines public records law exemptions and exceptions to exemptions, mandates that all faces must be blurred to render them unidentifiable before disclosure, and clarifies evidence and discovery rules as they pertain to body cameras.

Status: Signed into law on June 25, 2015.

Comments: East Oregonian (June 15, 2015). The Oregon House has given final legislative approval on a bill that regulates how police use body cameras.

A bill to regulate how police can use body cameras to record their interactions with the public is now on its way to Gov. Kate Brown.

The Oregon House gave final legislative approval to House Bill 2571 on a 59-1 vote Monday.

The Senate had amended the bill to shield from public disclosure any footage related to an ongoing criminal investigation, and passed it 29-0.

There was no debate in either chamber on the final version.

The Columbia County sheriff and Hermiston police have decided to equip their officers with body cameras, and Portland is considering it. Mayor Charlie Hales has endorsed the idea and testified for the bill, but equipping the larger Portland police force would be more costly.

However, the bill does not require police to use them.

Under the bill, officers can activate cameras “continuously” upon reasonable suspicion or probable cause that a crime or violation is being committed. The camera can be turned off once an officer’s participation ends.

Officers must announce that a body camera is in use, but agencies can make exceptions based on privacy, public safety or “exigent circumstances,” such as when an officer attempts to thwart someone from committing a crime or interviews a vulnerable witness.

Although the bill would shield most police video from disclosure — similar to video shot from cameras mounted in patrol cars — it does provide an exception if public interest in disclosure outweighs the need to withhold it.
Ultimately, a judge would determine what is in the “public interest,” which is a common legal balancing test applied to materials under Oregon’s public records law.

But requests must be “reasonably tailored” to the approximate date and time of an incident, and the video must be edited to make all faces unrecognizable.

Oregon law bars agencies from disclosing photographs of officers without their consent, although agencies themselves can use them.


Disposition of Entry:

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Comments/Note to staff
08-37A-10 Body Cameras  Oklahoma
Bill/Act: HB 1037

**Summary:** The bill provides that law enforcement keep audio recordings from dash cameras and recordings from body cameras available to the public, but may redact or obscure those recordings if they depict nudity, minors, great bodily injury unless effected by law enforcement, personal medical information, or anything that violates a confidentiality or privilege protected in statute. Law enforcement could additionally redact recordings from body cameras if the information would compromise an ongoing investigation or prosecution, under certain conditions. Finally, a waiting period for disclosure of a recording that includes material relating to an ongoing investigation or prosecution is extended from one day to ten days. Extensions could be granted, in one-month increments, up to 18 months.

**Status:** Signed into law on May 22, 2015.

**Comments:** [Oklahoma State Senate](#) (May 21, 2015).
The Oklahoma House and Senate have both given final approval to House Bill 1037. It creates a framework in the Open Records Act for the handling of law enforcement videos captured by body-worn cameras. Last year, the Legislature passed legislation that made it explicitly clear that all law enforcement videos filmed by dash-mounted or body-worn cameras would be subject to the Open Records Act, with some common sense exceptions. HB 1037 updates the law to accommodate issues not contemplated before the increase in demand this past year for body-worn cameras.

“Even though it was just a year ago, when we wrote this legislation for dash cams and body cams, we were living in a dash cam world,” Holt said. “Due to very serious recent national events, including incidents here in Oklahoma, the demand for body cams has escalated, and I think we should encourage their use. Part of that is creating an appropriate open records framework. Body cams raise different issues than dash cams. They go into the homes of domestic violence victims, they tape conversations with confidential informants, and so on. With HB 1037 we’ve thoughtfully worked together with all interested parties to balance three fundamental interests implicated by body cams—the public’s expectation of privacy, law enforcement’s investigative needs, and the public interest in providing oversight to the actions of law enforcement.”

“I am pleased with the passage of HB 1037 because we are establishing a new standard of accountability and openness when it comes to open record requests and the use of body cameras,” Faught said. “This legislation enables law enforcement to move forward with confidence as they adopt their own policies. I applaud the tremendous efforts of law enforcement, the Legislature and various press associations that collaborated to ensure safeguards and public transparency are in place. I look forward to the innovations our public safety agencies will pursue as they further enhance their service to the people of our state.”

HB 1037 separates the Open Records Act provisions for dash cam videos and body cam videos into two sections and provides that all body cam videos in the public interest are an open record,
subject to common sense exceptions for certain specific reasons. For body cams, these exceptions include: Deaths and severe violence and injuries, unless caused by law enforcement; nudity; the identities of minors, sex crimes victims, domestic violence victims, and informants; personal medical, mental health and detoxification information; personal information about innocent persons; the identity of officers under investigation until the completion of the investigation; and footage that would materially compromise an investigation or an accused’s right to a fair trial, although this last exception is temporary, specifically limited, and requires judicial intervention to maintain.

HB 1037 also corrects a current loophole in body cam and dash cam law that could allow law enforcement to hold back videos that depict deaths even if the death was caused by a law enforcement officer.

Following some stalled efforts earlier this session to address body cam issues, Holt and Faught brought to the table Oklahoma’s law enforcement agencies, the district attorneys, the Oklahoma Press Association, and Freedom of Information Oklahoma, with the intent of crafting a compromise. HB 1037 evolved through negotiations over the last two months and its final version passed the House 81-12 and the Senate 44-2.

“As a retired State Trooper and current chairman of the House Public Safety Committee, I would like to thank Representative Faught and Senator Holt for authoring this very important legislation,” said Rep. Mike Christian, R-Oklahoma City. “With input from both the law enforcement community and the Oklahoma Press Association, this carefully drafted measure reinforces to the rest of the country that Oklahoma continues to be the standard bearer for responsible government.”

Read More:

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Comments/Note to staff
Summary: This bill specifies that a person has the right to lawfully record any incident involving a peace officer and creates remedies for situations when a peace officer:

- unlawfully destroys or damages the recording or recording device;
- seizes the recording or recording device without permission, a lawful order of the court, or other lawful grounds to seize the device;
- intentionally interferes with the person's lawful attempt to record an incident involving a peace officer;
- retaliates against a person for recording or attempting to record an incident involving a peace officer; or
- refuses to return the person's recording device within a reasonable time period and without legal justification.

If a peace officer engages in any of this conduct, law enforcement agencies and their employees may not claim governmental immunity under state law, and the property owner may file an affidavit with the employer including facts of the incident and a verifiable estimate of the damage. If a recording was damaged or destroyed, the owner may claim $500 as the value of the recording itself.

Upon receipt of the affidavit, the law enforcement agency has 30 days to either pay the amount requested or issue a denial of the request in writing. Upon receipt of a denial of payment, an aggrieved property owner may file a civil action against the peace officer's employer for actual damages, including the replacement value of the device, $500 for any damaged or destroyed recording, and any costs or fees associated with the filing of the civil action. The court may order punitive damages of up to $15,000 and attorneys' fees if it finds the law enforcement agency's denial was made in bad faith. If a court finds the plaintiff's action was frivolous and without merit, it may award the law enforcement agency its reasonable costs and attorneys' fees.

The bill clarifies that an action brought under the bill does not preclude the district attorney from charging a peace officer with tampering with physical evidence or any other crime. The bill defines retaliation as a threat, act of harassment, or any act of harm or injury upon any person or property, when that action is directed to or committed against the person making the recording.

The bill specifies procedures for a peace officer to access a recording of an incident. It also clarifies that a peace officer has the authority to temporarily seize a device used to record an incident involving an officer for up to 72 hours to obtain a search warrant in certain circumstances.

Status: Signed into law on May 20, 2015.

Comments: Denver Sun Times (March 31, 2015).
Police confrontations with civilians have gotten a lot of national attention recently, and Colorado politicians seem to be leaning towards supporting the rights of the individual over law enforcement.
A number of recent bills, designed to increase police oversight, have been introduced into the Colorado Legislature, including one addition that would impose a $15,000 penalty for cops who interfere with someone that tries to film them.

The measure, House Bill 15-1290, has bipartisan support from Democrats and Republicans. Co-sponsor Rep. Joe Salazar says his plan isn’t to punish police officers:

“‘It takes a very special person to be a police officer,’” Salazar said. “‘We want to honor them, but at the same time, we have a few bad apples who need to be aware that their conduct now has major, major consequences.’”

One recent incident seems to restarted this whole conversation in the legislature, what happened to 17-year-old Jessica Hernandez, who was shot in a stolen car. Her mother tried to intervene after the incident and was reportedly stopped against her will from seeing her dying daughter.

Read More: http://denver.suntimes.com/den-news/7/103/100955/colorado-police-filming-fine

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
**Summary**: Creates exemption to prohibition on recording conversations for person who openly and in plain view records law enforcement officer while officer is performing official duties and person is in place where person may lawfully be.

House Bill 2704-B addresses the situation where a private citizen is recording a police officer. Most commonly, this occurs when an individual is recording an officer making an arrest. Under ORS 165.540, a person who obtains, or attempts to obtain, the whole or part of a conversation by means of any device must “specifically inform” the parties of the recording. Failure to do so constitutes a Class A misdemeanor. ORS 165.540 provides specific exemptions to this rule. Examples include: 1) public or semipublic meetings such as hearings before governmental or quasi-governmental bodies, trials, press conferences, public speeches, rallies, and sporting or other services; 2) regularly scheduled classes or similar educational activities in public or private institutions; and 3) law enforcement officers operating vehicle mounted cameras.

House Bill 2704-B creates a new exemption to this rule for citizens who are recording the police. The exemption applies to a person who openly, and in plain view of the participants in the conversation, records a law enforcement officer while the officer is performing his or her official duties in a place where person recording is lawfully present. The measure makes clear that the exemption does not authorize a person to engage in conduct constituting criminal trespass.

**Status**: Signed into law on June 25, 2015.

**Comments**: *The Bend Bulletin* (June 12, 2015).
A package of bills that seeks to add a layer of citizen accountability over law enforcement passed through the Legislature on Thursday after months of wrangling.

Oregonians will be allowed to openly record interactions with police without fear of arrest; police must create and follow policies if officers wear body cameras; and law enforcement will be prohibited from scanning and copying a suspect’s phone without a warrant or consent to do so under the bills passed Thursday.

The passage of the bills mark the end of a successful push for law enforcement accountability this session, while the session will likely end with limited success for several bills pushed by civil liberties groups to regulate some police surveillance.

House Bill 2704, if signed by Gov. Kate Brown, changes a law that currently requires anyone recording audio of a conversation to notify the other person first. The American Civil Liberties Union believed the law could have applied to people recording police, putting a chilling effect on anyone hoping to record use of force.

The bill would make an exception to the law for citizens recording on-duty police, as long as the person was openly recording from a place they were legally allowed to be, like on a public street or sidewalk or in their home.

Disposition of Entry:

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

Comments/Note to staff
Use of Grand Juries for Police Shootings

Bill/Act: SB 227

**Summary:**
Existing law authorizes a grand jury to inquire into all public offenses committed or triable within the county in which the grand jury is impaneled, sworn, and charged, and to present them to the court by indictment. Existing law requires a grand jury to inquire into willful or corrupt misconduct in office by a public officer in the county. Existing law also authorizes a member of a grand jury, if he or she knows or has reason to believe that a public offense has been committed, to declare it to his or her fellow jurors, who are then authorized by existing law to investigate it.

This bill would prohibit a grand jury from inquiring into an offense or misconduct that involves a shooting or use of excessive force by a peace officer, as specified, that led to the death of a person being detained or arrested by the peace officer, unless the offense was declared to the grand jury by one of its members, as described above.

**Status:** Signed into law on March 23, 2015.

**Comments:** The San Jose Mercury News (August 11, 2015).
Gov. Jerry Brown signed legislation Tuesday making California the first state in the nation to ban the use of grand juries to decide whether police officers should face criminal charges when they kill people in the line of duty.

The ban, which will go into effect next year, comes after grand juries in Ferguson, Missouri, and Staten Island, New York, made controversial decisions in secret hearings last year not to bring charges against officers who killed unarmed black men, sparking protests across the country. Calls for transparency also have come amid national concerns about disparate treatment of blacks and other racial minorities when encounters with cops turned deadly in Baltimore, Cincinnati and South Carolina.

"What the governor's decision says is, he gets it -- the people don't want secrecy when it comes to officer-involved shootings," said retired judge and former San Jose independent police auditor LaDoris Cordell, the first African-American appointed as a judge in Northern California and a key supporter of the bill. "We're not trying to get more officers indicted. We're saying, 'Whatever you decide, do it in the open.'"

The governor Tuesday also signed a bill by state Sen. Ricardo Lara, D-Bell Gardens, that makes it clear it is legal to take a photograph or video of a police officer while the officer is in a public place or in a place the person photographing the action has a right to be. Both bills are the first of a wave of Ferguson-inspired criminal justice reforms now making their way through the Legislature.

The grand jury ban accomplishes officially what many California district attorneys, including in Santa Clara and Los Angeles counties, are doing already -- deciding themselves whether to bring criminal charges against police officers rather than presenting evidence in a closed hearing to a
grand jury and letting the panel decide. Only one other state -- Connecticut -- bans the use of grand juries for all criminal indictments, but that taboo dates back to the early 1980s and has nothing to do with the current protests over the treatment of people of color by police.

Supporters of California's ban, including the legislation's author, state Sen. Holly Mitchell, D-Los Angeles, argued that Senate Bill 227 is necessary to stop even limited use of the grand jury option and to help restore trust in the criminal justice system. They contended that using a grand jury to decide if there is enough evidence to bring charges against cops serves mostly as political cover for district attorneys reluctant to impugn the police officers with whom they work closely and on whom they depend for crucial political support.

No judges or defense attorneys participate in the grand jury process, and in California, transcripts of the hearings are sealed unless someone is indicted or a judge grants permission for their release.

Mitchell, who is African-American, called the ban "an important first step in ongoing efforts to build public trust, transparency and accountability, in an atmosphere of suspicion that compromises our justice system."

But the California District Attorneys Association and the California Police Chiefs Association opposed the ban, saying the grand jury should be preserved as an option. Imposing a blanket prohibition would discriminate against police officers on the basis of their occupation, they argued. The association suggested that the Legislature could increase transparency by allowing grand jury transcripts to be released in cases for which no one was indicted.

Mark Zahner, CEO of the California District Attorneys Association, said putting the decision in the hands of prosecutors doesn't increase transparency, though some district attorneys issue reports explaining their rationale. Either way, he said, "It's absolutely ludicrous to espouse or believe that police officers get treated any differently than anyone else."

Santa Clara County District Attorney Jeff Rosen joined his fellow district attorneys in opposing the grand jury ban, saying it should be preserved as an option for communities that prefer to use it. He has not filed homicide charges against any officers since taking office in 2011. But Rosen also has not taken any of those cases to grand juries, instead opting to issue lengthy reports laying out the reasons behind his decisions.

Under the ban, district attorneys starting next year will be required to weigh the evidence against police officers and decide whether to file criminal charges, as they do in the vast majority of all cases. A judge then hears from both prosecutors and defense attorneys at a preliminary hearing before ruling whether the matter should go to trial. District attorneys whose decisions are questionable will be accountable to voters.

More than 400 people were killed by officers in California in the 2½ years from January 2014 through July of this year, authorities estimate. No figures are available on how many of the officers were charged, if any. It is rare for police to face criminal charges because prosecutors must be able to prove "beyond a reasonable doubt" that the officer acted criminally, rather than in self-defense. California law also allows an officer to use deadly force against a fleeing person.
if the officer believes the suspect has committed a violent felony and his or her escape would pose a significant and serious threat.

Even when a case is brought to trial, officers are rarely convicted.

In 2004, the last time an officer was charged in Santa Clara County, for instance, a grand jury in a rare open proceeding indicted state Bureau of Narcotics Enforcement agent Mike Walker on criminal charges in the fatal shooting of Rodolfo Cardenas, whom he had mistaken for a wanted parole violator. In 2005, a jury acquitted Walker of voluntary manslaughter charges. However, the state paid nearly $1 million to settle civil lawsuits filed by his family claiming excessive force.

However, in 2009, Alameda County prosecutors charged former BART police officer Johannes Mehserle with murder in the fatal shooting of Oscar Grant III at the Fruitvale BART station earlier that year. He was convicted in 2010 of involuntary manslaughter instead.

Support for the ban in the Legislature split largely along party lines, with four moderate Democrats joining Republicans to oppose it. Supporters include the California chapter of the NAACP, the ACLU and the Mexican American Legal Defense and Educational Fund (MALDEF).


Disposition of Entry:

SSL Committee Meeting: 2017 A
( ) Include in Volume
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    ( ) next SSL mtg. ( ) next SSL cycle
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Comments/Note to staff
Summary: This bill authorizes a person to petition a court to shield the person’s court records and police records relating to one or more “shieldable convictions” of the person entered in the circuit court or the District Court in one county no earlier than three years after the person satisfies the sentence imposed for all convictions for which shielding is requested, including parole, probation, or mandatory supervision. This authorization does not apply to a conviction for a domestically related crime. If a person is not eligible for shielding of one conviction in a “unit,” the person is not eligible for shielding of any other conviction in the unit. A person may be granted only one shielding petition over the lifetime of the person, and a court may grant a shielding petition for good cause. If the person is convicted of a new crime during the applicable time period, the original conviction or convictions are not eligible for shielding unless the new conviction becomes eligible for shielding. A person who is a defendant in a pending criminal proceeding is not eligible for shielding. A shielded conviction may not be considered a conviction for specified expungement provisions.

Status: Signed into law on May 12, 2015.

Comments: The Baltimore Sun (March 19, 2015).
Gov. Larry Hogan has thrown his support behind legislation that would help offenders with nonviolent offenses on their criminal records to shield that information from prospective employers if they stay out of trouble for three years after completing their sentences.

Hogan’s office announced Thursday that the Republican governor would sign the Maryland Second Chance Act of 2015, which has passed the Senate and is pending in the House of Delegates. It is one of several bills moving through the General Assembly that seek to make it easier for ex-offenders to rejoin society.

The measure, sponsored by Montgomery County Democratic Sen. Jamie Raskin, would allow people who have been convicted of eleven nonviolent misdemeanors to petition a court to shield information about their cases from public inspection. The information would still be available to law enforcement and certain employers who must do criminal background checks. Among the offenses that would be covered are drug possession, disorderly conduct, driving without a license and prostitution.

"A criminal record can be an insurmountable barrier to individuals seeking employment,” Hogan said in a statement. “I believe in second chances, and this bill provides one by allowing those who meet certain conditions to re-enter the workforce without the stigma of a criminal background. It is not only the right thing to do but will contribute to the economic growth and development of our state.”

Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary: 
In just the past decade, numerous cases of wrongful convictions have garnered the attention of the media, prosecutors, defense counsel, legislators, and law reformers. While much of this attention is focused on the faulty use of DNA evidence, wrongful convictions are prevalent in many run-of-the-mill cases where DNA evidence is never available. One important contributing factor to a large percentage of the mistakes made in many criminal cases—indeed perhaps one of the top contributing factors—is the admissibility at trial of a false confession.

False confessions may often occur no matter how well-meaning the interrogating officer or how strong his or her belief in the suspect’s guilt. Subtle flaws in interrogation techniques can elicit confessions by the innocent. Yet confessions are taken as such powerful evidence of guilt that prosecutors, jurors, and judges often fail to identify the false ones. Conflicting testimony sometimes results in judges or jurors believing the wrong tale, other times allowing for frivolous suppression motions wasting the court’s time and impugning careful, professional, and honest police officer. The resulting wrongful conviction means not only that an innocent person may languish in prison or jail but also that the guilty offender goes free, perhaps to offend again.

Recognizing the impact of flawed confessions on the integrity of the criminal justice system, legislators, courts, and police departments have begun requiring recordation of interrogations. Several states have mandated that interrogations be recorded through statutory changes. Yet others have imposed conditions for recordation through court rule. Even absent statutory or judicial imposed mandates, a significant number of police departments have voluntarily adopted policies requiring interrogations to be recorded under a variety of circumstances on the theory that recordation both protects the officers involved and improves the fact finding process.

However, there are wide variations among the state provisions and the voluntarily-adopted programs mandating electronic recordation of custodial interrogations. Some approaches promise to be more effective in protecting the innocent, convicting the guilty, minimizing coercion, and avoiding frivolous suppression motions than others. The Uniform Electronic Recordation of Custodial Interrogations Act (UEROCIA) resolves the differences found around the nation and helps improve the fairness and professionalism associated with electronic recordings.

The UEROCIA mandates the electronic recording of the entire custodial interrogation process by law enforcement, leaving it to individual states to decide where and for what types of crimes this mandate applies, as well as the means by which recording must be done. The UEROCIA thus permits states to vary the scope of the mandate based upon local variations in cost, perceived degree of need for different categories of criminal or delinquent wrongdoing, or other pressing local considerations. Nevertheless, combined audio and video recording remains the ideal, and the advantages of recording exist wherever custodial interrogation occurs and for whatever criminal or delinquent wrong is involved.

The UEROCIA contains several exceptions designed to allay fears of undue rigidity on police practices and to address many of the unforeseen circumstances that may occur during
investigation and questioning. If a recording is not feasible because of exigent circumstances it is not in violation of the mandate. Also excluded from the recording mandate are interrogations in which the individual under question will not participate in interrogation if it is recorded electronically and those interrogations conducted in other jurisdiction in compliance with that jurisdiction’s laws. In situations where an officer does not reasonably believe that no offense was involved that would trigger the recording mandate and situations where a recording would compromise the safety of an officer, an informant, or another individual at risk, the mandated recording of questioning is not applicable.

Procedures for the use of the electronically recorded statement are also addressed by the UEROCIA. The Act places the burden of persuasion as to the application of any of the exceptions on the prosecution by a preponderance of evidence standard. The Act also outlines procedural remedies for violation of the requirement that the entire custodial interrogation process be electronically recorded. Courts shall consider failure to comply with the Act in ruling on a motion to suppress a confession as involuntary. Further, the Act mandates that electronic recordings of custodial interrogations be identified, accessible, and preserved in accordance to local statutes governing criminal cases. In implementing the conditions of the Act, law enforcement agencies must adopt and enforce rules for the manner in which recordings are to be made and preserved.

The UEROCIA promotes accuracy and the truth finding process. Electronic recordation of custodial interrogations will benefit law enforcement agencies, improving their ability to prove cases while lowering overall costs of investigation and litigation. Systemic recordation will also improve accuracy and fairness to the accused and the state, protect constitutional rights, and most importantly increase public confidence in the justice system.

Status: Signed into law on July 17, 2014.

Comments: The Uniform Law Commission
The Uniform Electronic Recordation of Custodial Interrogations Act (UEROCIA), approved by the Uniform Law Commission in 2010, requires law enforcement to electronically record the entirety of an interrogation that occurs in custody. By requiring law enforcement to electronically record custodial interrogations, the Act promotes truth-finding, judicial efficiency, and further protects the rights of both law enforcement and individuals under investigation. It can help decrease both the use of false confessions and frivolous claims of abuse that ultimately waste court resources. The UEROCIA should be adopted for the following reasons:

- Enhanced Investigation Quality – By electronically recording interrogations, law enforcement will have an improved record of details and nuances that might otherwise be overlooked or later forgotten by witnesses. With recording, interrogators are free to focus on questions and answers, instead of on taking notes, and supervisors are better able to evaluate interrogation techniques in order to make adjustments to their training programs. Furthermore, knowledge that an interrogation is being recorded reduces incentives for both suspects under investigation and law enforcement officials to lie during and after the interrogation, producing a more accurate record and bolstering the community’s perception of law enforcement professionalism. The result is more effective law enforcement, better
cooperation from the community, and higher quality investigations that focus on perpetrators while reducing the risks associated with bad leads and poor memories.

- **Increased Efficiency** – The Act increases efficiency for law enforcement and courts. First, the Act helps prosecutors by highlighting questionable confessions in some cases, and developing compelling evidence in others, allowing them to focus time and resources on the latter. Additionally, having an electronic record of an interrogation eases the burden on judges by decreasing the number of meritless suppression hearings they must hear. Other hearings are more quickly and easily resolved because the court has access to a detailed and exacting record. These factors increase accuracy, decrease waste, and result in a more efficient administration of justice that reduces frivolous claims against law enforcement and strengthens legitimate claims of innocence.

- **Important Exceptions to Recording** – The Act is narrowly tailored and carefully drafted to avoid placing undue burdens on law enforcement officials and prosecutors and subjecting them to technical pitfalls. Indeed, the Act contains a number of important exceptions to recording; it does not require law enforcement to make recordings when unfeasible or when it would endanger confidential informants, nor does it punish law enforcement for equipment failures. Further, the Act allows prosecutors to use unrecorded statements made during an interrogation if a defendant refuses to cooperate with the recording process or if law enforcement officials had reason to believe at the time of the interrogation that the Act did not apply. Also significant, a violation of the Act does not automatically result in a statement being excluded, but is instead a factor for the court to consider in determining admissibility. If admitted into evidence, the court may, at the request of the defendant, issue a cautionary jury instruction about the fact that the statement was not recorded. Additionally, violations of the Act are subject to administrative sanctions, but do not create a private cause of action against law enforcement officials.

- **Adaptable to State Needs** – The Act was drafted using optional language in a number of places in order to allow states to mold the legislation to their specific needs. States choose what types of offenses the Act applies to, whether the Act applies to field interrogations or only to interrogations at a place of detention, and whether the Act requires both audio and video recordings. Additionally, states can set standards for the recording process, or they can delegate that rulemaking function to local law enforcement agencies.

Read More:

**Disposition of Entry:**

SSL Committee Meeting: 2017 A  
( ) Include in Volume  
( ) Include as a Note  
( ) Defer consideration:  
   ( ) next SSL mtg.  ( ) next SSL cycle  
( ) 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 compel 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 A
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Comments/Note to staff
Digital Privacy Rights for Minors  California

Bill/Act:  SB 568

Summary: This bill would, on and after January 1, 2015, prohibit an operator of an Internet Web site, online service, online application, or mobile application, as specified, from marketing or advertising specified types of products or services to a minor. The bill would prohibit an operator from knowingly using, disclosing, compiling, or allowing a 3rd party to use, disclose, or compile, the personal information of a minor for the purpose of marketing or advertising specified types of products or services. The bill would also make this prohibition applicable to an advertising service that is notified by an operator of an Internet Web site, online service, online application, or mobile application that the site, service, or application is directed to a minor.

The bill would, on and after January 1, 2015, require the operator of an Internet Web site, online service, online application, or mobile application to permit a minor, who is a registered user of the operator’s Internet Web site, online service, online application, or mobile application, to remove, or to request and obtain removal of, content or information posted on the operator’s Internet Web site, service, or application by the minor, unless the content or information was posted by a 3rd party, any other provision of state or federal law requires the operator or 3rd party to maintain the content or information, or the operator anonymizes the content or information. The bill would require the operator to provide notice to a minor that the minor may remove the content or information, as specified.

Status: Signed into law on September 23, 2013.

The governor signed a new law that requires websites, mobile apps, and online services aimed at minors and which collect their information to offer young web users an option to delete or remove the information they post.

Below is a statement from State Senate President pro Tem Darrell Steinberg (D-Sacramento) on the bill signing:

California has taken a major step today to protect our children with the Governor’s signing of SB 568, a measure that increases privacy protections for minors on the internet. Senate President pro Tempore Darrell Steinberg’s measure will allow children and adolescents under the age of 18 to remove their postings on internet and social media sites, and will prohibit the advertising of harmful products on websites specifically targeted to minors.

“This is a groundbreaking protection for our kids who often act impetuously with postings of ill-advised pictures or messages before they think through the consequences. They deserve the right to remove this material that could haunt them for years to come,” said Steinberg (D-Sacramento). “At the same time, this bill will help keep minors from being bombarded with advertisements for harmful products that are illegal for them to use, like alcohol, tobacco and guns. I thank Governor Brown for recognizing that these common sense protections will help our children as they navigate the on-line world.”
Minors are spending more time on-line than ever before. Also, a recent Kaplan study found that an increasing number of college admissions officers, more than one out of every four, check Google and Facebook as part of the application review process. A 2010 Wall Street Journal investigation found 30 percent more “cookies” and other tracking devices on the top 50 websites for children and teens when compared with general audience sites.

SB 568 will make California the first state in the nation to require website operators to allow persons under 18-years-old to remove their own postings on that website, and to clearly inform minors how to do so. The operator would not be required to erase that content which may have been re-posted by a third party before the author has removed it.

On websites that are specifically directed to minors, the bill also prohibits harmful advertising of products which would otherwise be illegal for minors to purchase such as firearms, alcohol and tobacco. This same advertising prohibition applies to general interest websites when the operator has actual knowledge that the user is under 18-years-old.

Ever written an email, pause, and then hit the delete button? We all have...and sometimes we wished we would have pressed delete before hitting the send button.

In the digital world, our messages, posts and pictures can live forever. So California lawmakers want to give kids the chance to avoid problems or humiliation by cleaning up foolishly posted messages online.

The bill has been nicknamed the “eraser button” bill.

“To many young people self-reveal before they self-reflect,” said Jim Steyer, CEO of Common Sense Media.

The San Francisco based advocacy group focused on children and digital media supported the bill sponsored by State Senate President pro Tem Darrell Steinberg(D-Sacramento). It would require websites, mobile apps, and online services aimed at minors and which collect their information to offer young web users an option to delete or remove information they post.

The big social media giants, Twitter and Facebook, already give people a delete button. Others would have to offer a similar option and notify youngsters that the “eraser” option or button is available to them.

The proposed legislation would also prohibit web operators from collecting or sharing kids personal information with third party advertising and marketers interested in selling products that are prohibited from minors in California. Items include tattoos, alcohol, tobacco, tanning booths, lottery tickets, guns and ammunition, graffiti tools, certain types of fireworks, dietary supplements and obscene material, like porn.

The bill has enjoyed support from both parties in both houses of the legislature. And the authors of the bill worked with social media companies like Facebook and Google on the language.
Opponents of the “eraser button” bill say it would force web operators, who are unbound by state lines, to develop a patchwork of policies in order to comply with each state’s differing Internet privacy laws.

The federal government’s “Children’s Online Privacy Protection Act” covers children under the age of 13.

“Privacy protections are needed for teenagers as well, as their use of social media increases into their teen years,” Steinberg said in a statement in April when the Senate passed the bill unanimously.

The bill doesn’t guarantee complete removal or the purge of unwanted posts from the Internet. It doesn’t protect against re-posting. And the eraser option is only available to the minor who originally posted or uploaded the content. Nor would it require websites to delete the information from its data servers.

Sometimes digital messages can become evidence. For example, a tweet threatening to bomb a school that is sent to police is treated the same as someone telephoning the threat to the police station.

Tom LeVeque coordinates Arcadia Police Department’s social media efforts. The 29-year law enforcement veteran says when a minor posts unwise messages, police can’t ignore it. “We can’t stop and say: ‘Oh I think it’s a hoax or I think it’s not going to occur and therefore we’re not going to respond,’” LeVeque said.

We saw some of this during the summer when Southern California police jumped onto Twitter, Dogpile, Facebook and other social media websites to learn where the next flash bash mob would pop up. It can be a drain on resources to respond to each potential threat posted via digital media, but LeVeque said police try to “vet and verify” online.

“We have ways to get back in and contact the providers and try and identify who has ownership of the particular source from where the Internet message came from,” he said.


**Disposition of Entry:**

SSL Committee Meeting: 2017 A
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( ) 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;
  - 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.

Status: Signed into law on June 11, 2015.

Disposition of Entry:

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

Comments/Note to staff
Electronic Identity Management

Summary:
Creates the Identity Management Standards Advisory Council to advise the Secretaries of Technology and Transportation on the adoption of technical and data standards regarding the verification and authentication of identity in digital and online transactions. The bill establishes in the Code of Virginia the concept of an identity trust framework operator, an entity that establishes rules and policies for identity providers operating within the framework and issues electronic trustmarks to such providers signifying compliance with the rules and policies of that trust framework. The bill also establishes limitation on liability for providers that adhere to the adopted standards, the applicable contract terms, and the rules and policies of the identity trust framework provider, absent gross negligence or willful misconduct. The bill provides that the provider's adherence to the adopted standards and applicable contract terms of the identity framework shall satisfy any requirement for a commercially reasonable security or attribution procedure under Title 8.4A (Commercial Code), the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), and the Uniform Computer Information Transactions Act (§ 59.1-501.1 et seq.).


Comments: StateScoop (April 7, 2015).
Virginia Gov. Terry McAuliffe signed a bill late last month directing the state to establish identity management standards for electronic identification through an advisory council to advise the rollout of e-ID across the state.

The bill, which will officially go in effect July 1, established an Identity Management Standards Advisory Council, which is designed to advise the state’s secretary of technology on the adoption of identity management standards and the creation of documents and guidance to ease the state toward approval of electronic identity standards.

The council will consist of seven members, all appointed by the governor for four-year terms, who have “expertise in electronic identity management and information technology,” according to the text of the bill. The members consist of a representative of the Virginia Information Technologies Agency, a representative from the state Department of Motor Vehicles, and five members of the private sector with “appropriate experience and expertise.”

The state’s chief information officer, currently interim CIO Eric Link, can either serve as an ex-officio member, or appoint someone else to serve as that member. The Office of the Technology secretary will provide the advisory council’s staff, and members of the board will not be compensated for their service.

Once established, the council will work to send guidance documents on electronic identification that will “adopt nationally recognized technical and data standards regarding the verification and authentication of identity in digital and online transactions.”
After the council’s recommendations for guidance are completed and sent to the technology secretary, they will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations. The secretary will send the final guidance to the Joint Commission on Administrative Rules before they become active.

The Virginia law appears to be the first state legislative foray into electronic identification; however, that does not mean states have not examined this issue before.

Iowa’s Department of Transportation began a small digital driver’s license pilot in December. In Iowa, the digital driver’s license will exist within “an identity vault app” that will be accepted by law enforcement during traffic stops and by security officers at Iowa’s airports.

In North Carolina, officials have worked toward moving to a state-established form of electronic identification to be used online to ensure verification and access to state services. Massachusetts-based MorphoTrust received a two-year National Institute of Standards and Technology grant last year to develop a secure form of electronic identification that adheres to the White House’s National Strategy for Trusted Identities in Cyberspace for the state.

The electronic identification pilots come a year out from a major U.S. Department of Homeland Security deadline for REAL ID, which could prohibit residents of several noncompliant states from traveling through major airports with licenses that do not comply with regulations established in the 2005 REAL ID Act. Currently more than 20 states have extensions on the compliance deadline, while Arizona, Louisiana and New Hampshire are noncompliant with the federal standards.


**Disposition of Entry:**

SSL Committee Meeting: 2017 A
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( ) Reject

Comments/Note to staff
Summary:
The bill provides a statewide framework to assist in the location of cellular towers. It also creates a 10 year, 100 percent tax property tax exemption for companies that locate towers in targeted areas. The measure also creates a framework for using state, federal, and private funds to install broadband internet in targeted service areas.

The law also defines broadband as having a download rate of 25 megabits per second and an upload rate of 3 megabits per second. This is consistent with the recently revised FCC definition.

Status: Signed into law on June 22, 2015.

Comment: From the Des Moines Register (June 22, 2015)
High-speed Internet service will be expanded in rural Iowa communities and wireless connectivity will be improved by providing a uniform, statewide framework for locating cellphone towers under a bill signed Monday by Gov. Terry Branstad.

The legislation, known as the "Connecting Iowa Farms, Schools and Communities Act," was a key piece of Branstad's 2015 legislative agenda. The measure, House File 655, had stalled in the Iowa Senate as questions arose over the effectiveness of the broadband expansion proposal, but it ultimately won approval in both chambers in the final hours of this year’s session.

Branstad signed the legislation in a ceremony Monday at Van Wall Equipment, a farm implement dealership in Perry.

"We know that this will take some time, but we want to move forward as aggressively as we can," Branstad said.

The bill defines broadband service as providing downloads of at least 25 megabits per second, and uploads of at least 3 megabits per second. State officials say about 50 to 60 percent of Iowa currently has access to high-speed Internet service, which is increasingly important to foster the growth of modern agriculture, to connect small businesses to the global marketplace, and to help rural communities and school districts.

The legislation creates a property tax exemption of 100 percent for 10 years for installations of equipment in a targeted service area. In addition, the measure provides a framework for a grants program for the installation of broadband service in targeted service areas, but there is no state money to fund it. The legislation would allow state, federal or private money to be used for the grants.

The granting of property tax exemptions and grants will both "sunset" on July 1, 2020, to permit lawmakers to review the programs.

Disposition of Entry:
SSL Committee Meeting: 2017A
( ) Include in Volume
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Comments/Note to staff
Summary: The bill expands existing rules governing Arizona Department of Transportation’s management of state rights-of-way to include transportation-of-information as well as vehicles. When funding is provided to ADOT, from a fund to be managed by Arizona Strategic Enterprise Technology’s Digital Arizona Project, ADOT will be requested to bury multiple empty fiber-optic conduits along specified state highways using existing right-of-way wherever possible. These multiple separate conduits will be leased to broadband providers by the Project on a cost recovery basis. Providers will have pre-agreed to install fiber before conduits are constructed. The outcome of the Project will be streamlined access to the right-of-way at significantly lower costs to providers for constructing long distance digital capacity to reach rural communities. These lowered costs are expected to encourage new investments by provider’s thereby accelerating and improving availability of high-capacity digital services.

Status: Signed into law on May 4, 2012.

Comment: From the Phoenix Business Journal (May 11, 2012)
A new Arizona law that expands high-speed Internet to rural areas along state highways could lead to development of $60 million to $80 million in infrastructure, with construction and telecom businesses among the beneficiaries. SB 1402 was designed to cut the cost of introducing broadband to rural communities by incorporating those planning processes into ADOT’s efforts to improve state highways, said Mike Keeling, a board member of the Arizona Telecommunications & Information Council, which pushed for the law. “ADOT can do that within the state,” said Keeling, who also is a partner at the Keeling Law Offices in Phoenix.

With roughly 3,100 miles of state highway under ADOT’s jurisdiction, the law allows the state agency to coordinate with telecoms to plan connections throughout rural areas, and to hook those areas up to reliable service facilities in Phoenix and Tucson, he said.

“If a utility or communications company wishes to install broadband conduit in our right-of-way during a highway project, we would issue an encroachment permit for them to perform the work and schedule it within the completion of the project,” said ADOT spokesman Dustin Krugel. “The utility company would pay for the work.”


Disposition of Entry:
SSL Committee Meeting: 2017A
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Comments/Note to staff
Summary:
The law establishes a statewide prioritization process for the state’s highway priority program that is designed to help the program bring the state highway system into a state of repair and optimize the usage and efficiency of existing transportation facilities; improve safety for motorized and non-motorized highway users and communities; support resiliency in the transportation system; increase accessibility for people, goods and services; foster diverse economic development and job growth, international and domestic commerce, and tourism; foster multi-modalism, promote a variety of transportation and travel options and encourage intermodal connectivity; encourage innovation and the use of technology; and protect the environment, reduce emissions and improve public health and quality of life.

- Provides that the legislature declares it to be in the public interest that a prioritization process for construction be utilized to develop a Highway Priority Program (program) that accomplishes certain goals (prioritization factors).
- Requires that projects to be included in the program be selected utilizing a process based on an objective analysis that considers a list of factors relative to the cost of the project and anticipated revenues to be appropriated by the legislature (selection factors).
- Specifies that prior to selecting a project for inclusion in the program based on the selection factors, DOTD shall screen all projects submitted for inclusion in the program to determine whether they are consistent with the most recent Statewide Transportation Plan and warrant inclusion in the program.
- Provides that beginning with the Highway Priority Program for Fiscal Year 2017-2018, DOTD shall provide the legislature and public with this program which shall list projects to be constructed in the ensuing fiscal year in an order of priority that is determined after projects selected to be in the program pursuant to selection factors in new law are analyzed and prioritized based upon the prioritization factors in new law.
- Requires that DOTD initially identify prospective outcomes of each program and report these prospective outcomes to the legislature and make them available to the public on or before June 6, 2016.
- Requires that DOTD then evaluate the actual outcomes of each program and establish revised prospective outcomes of each program on a biennial basis.
- Requires that beginning in 2018, DOTD report the results of these biennial evaluations to the legislature and make them available to the public on the department website on a biennial basis when the department presents a proposed program of construction to the Joint Highway Priority Construction Committee in accordance with existing law.

Status: Signed into law on June 29, 2015.
Comments: Transportation for America Blog (June 9, 2015).
Louisiana passed a bill through the state House and Senate by unanimous votes last week that will make the process for spending transportation dollars more transparent and accountable to the public — a smart first step to increase public support for raising any new transportation funding. At least 20 states have successfully raised new funding at the state level for transportation since 2012, a trend we’ve been tracking closely here at T4America. But all states are different, and in some states, raising new state funds for transportation can be a tough sell, especially if a skeptical public doesn’t have any faith in the process for spending the money already available.

Louisiana is taking some first steps to fix that process while also trying to raise new money. A recent bill to raise the state sales tax by one cent to fund major projects fell short in the House, though a few other bills to raise gas and general sales taxes to fund transportation projects are still active this session. As our Capital Ideas report from earlier this year noted, it can be challenging to develop public support for new transportation funding when voters have no certainty that those funds will be put to the best possible use.

One emerging strategy to restore public trust and confidence in an opaque and mysterious process is adopting the use of performance measures, which can demonstrate to the public what they’re going to get for their tax dollars.

The first step in a shift toward using performance measures is to establish what your goals are. And this just-approved Louisiana bill sponsored by Rep. Walt Leger, HB 742, starts by laying out clear, understandable criteria in plain language “to prescribe the process by which the [Louisiana] Department of Transportation and Development (DOTD) shall select and prioritize certain construction projects.”

From the bill text:
The legislature declares it to be in the public interest that a prioritization process for construction be utilized to develop a Highway Priority Program that accomplishes the following:

- Brings the state highway system into a good state of repair and optimizes the usage and efficiency of existing transportation facilities.
- Improves safety for motorized and nonmotorized highway users and communities.
- Supports resiliency in the transportation system, including safe evacuation of populations when necessitated by catastrophic events such as hurricanes and floods.
- Increases accessibility for people, goods, and services.
- Fosters diverse economic development and job growth, international and domestic commerce, and tourism.
- Fosters multimodalism, promotes a variety of transportation and travel options, and encourages intermodal connectivity.
- Encourages innovation and the use of technology.
- Protects the environment, reduces emissions, and improves public health and quality of life.

That straightforward list goes beyond what’s currently being developed as part of MAP-21 and the typical measures of success used elsewhere.
This legislation is a marked improvement on the current state statutes governing how the Louisiana DOTD chooses transportation projects, which has been described as open-ended, unaccountable and a total mystery to the public. This bill represents one of the more ambitious overhauls of a state’s decision-making processes and an important first step toward improving the transparency and accountability of distributing transportation funds, setting Louisiana on a path of ensuring every transportation dollar provides the greatest benefit.

The Louisiana DOTD supported the bill, and starting in 2017, the department is expected to be utilizing the new project selection process.


Disposition of Entry:

SSL Committee Meeting: 2017 A
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Comments/Note to staff
Summary:
Provides for the development of a prioritization process for projects funded by the Commonwealth Transportation Board. Such prioritization shall weight factors such as congestion mitigation, economic development, accessibility, safety, and environmental quality and be applied within each highway construction district.

About HB2:
House Bill Two (HB2) is about investing limited tax dollars in the right projects that meet the most critical transportation needs in Virginia. At the heart of the new law is scoring projects based on an objective process that involves public engagement and input. Once projects are scored, the Commonwealth Transportation Board (CTB) will have the best information possible to select the right projects for funding.

It’s the law.
Governor Terry McAuliffe signed HB2 into law in 2014, which directs the CTB to develop and use a scoring process for project selection by July 2016. Candidate projects will be screened to determine if they qualify to be scored. Projects will be scored based on an objective and fair analysis applied statewide. The law will improve transparency and accountability. The public will know how projects scored and the decisions behind the CTB’s project selections.

Projects will be scored according to key factors.
The factors are congestion mitigation, economic development, accessibility, safety, environmental quality and land use and transportation coordination (in areas over 200,000 in population). Projects that reduce congestion would rise to the top in traffic-clogged regions like Northern Virginia and Hampton Roads. Projects that stimulate economic growth may be more important for rural and other regions in the state.

Localities are involved in creating the scoring process.
The commonwealth is engaging localities, regional planning organizations, transit authorities and other stakeholders in the development of the scoring process. For each of the key factors, multiple measures will be applied. Stakeholders will provide input on weighing the factors and selecting the measures within each highway construction district. By law, congestion mitigation will be the highest weighted factor in the Northern Virginia and Hampton Roads districts. This information will be provided to the CTB who will make the final decision on the scoring process.

Certain projects are required to be scored.
This includes projects that will address needs as identified in the commonwealth’s long-range transportation strategic plan called VTrans 2040. These projects will improve transportation on Corridors of Statewide Significance, regional multi-modal networks and urban development areas. The CTB must consider highway, transit, rail, road operational improvements and transportation demand projects, such as vanpooling and ridesharing.
Allocation of certain funding is subject to scoring under HB2. This applies to discretionary state and federal funds, and to funding allocations under the optional CTB formula for high priority projects, public-private partnerships, and smart roadway projects.

Some projects are exempted from scoring. The law excludes safety projects and asset management projects such as rehabilitating aging pavements and bridges. Certain funding sources are exempted, including the Congestion Mitigation and Air Quality, Highway Safety Improvement, Transportation Alternatives, Regional Surface Transportation and Revenue Sharing programs, and secondary/urban formula funds. Scoring will not apply to projects solely funded through the Northern Virginia or Hampton Roads regional revenues. At the discretion of the CTB, projects that are fully funded and have completed environmental review in the Six-Year Improvement Program may be exempt.

Some projects have been flagged for scoring. In preparation to implement the scoring process, funding has been removed from a group of projects in the FY 2015 -2019 Six-Year Improvement Program. These projects will be scored because they meet the criteria as described by law under HB2. They are not fully funded and have not completed environmental work. Enough funding remains on these projects to take them to the next milestone. The rest of the funding has been removed from these projects and set aside for the HB2 process.

The scoring process will be developed in 2015 and implemented in 2016. Following public engagement, the CTB will release the draft scoring process in March 2015 and adopt the final scoring process in June 2015. There will be a call for candidate projects in the summer of 2015. Projects will be screened and scored through early 2016. Once the projects are scored and public input received, the CTB will select projects for funding to be included in the draft Six-Year Improvement Program, with the final program adopted in June 2016.

Status: Signed into law on April 6, 2014.

Comments: Charlottesville Tomorrow (September 25, 2014)
The way Virginia decides what transportation projects will receive funding is changing, and state officials are seeking input from local leaders on how new policies will be drafted.

“I see this as the next step in the evolution of Virginia’s transportation program,” said Nick Donahue, Virginia’s deputy secretary of transportation.

Beginning in July 2016, the recently passed House Bill 2 requires the Commonwealth Transportation Board to weigh several factors before projects can be funded.

“The law requires that we use five criteria to evaluate projects,” Donahue said. “Those criteria are congestion mitigation, economic development, accessibility, safety and environmental quality.”

Donahue is reaching out to regional transportation groups — known as metropolitan planning
organizations — to get their feedback. He spoke to the Charlottesville-Albemarle MPO on Wednesday.

Some MPO members were concerned HB2 could lead to funding disparities across the state.

“We have some very dense urban areas, and we have some very rural agricultural area, and the needs of those are very different,” said City Councilor Kristin Szakos. “Some of these criteria are important everywhere, but to weigh one over the other is to put neighbor against neighbor.”

Donahue said the new prioritization system will add transparency to a process that he described as opaque. Because projects will be scored based on how they might perform, he said, taxpayers will be able to see if public money is providing a good return on investment.

“If we’re successful moving forward, you will see all the projects considered by the [CTB], you’ll see a score next to them,” Donahue said. “And you’ll be able to hold us accountable.”

Donahue said he hopes the system will provide long-term stability in a state where the governor changes every four years, which can lead to projects being halted when a new person takes office.

HB2 only affects projects that add capacity. Maintenance and repair are excluded.

“It does not apply to every dollar in the six-year improvement program,” Donahue said, adding it will apply to about $350 million each year.

Under the process, projects initially will be screened to see if they provide benefit to “corridors of statewide significance.” Locally, that means U.S. 29 and Interstate 64.

Donahue said that didn’t refer strictly to just these roads, and that projects such as parallel roads and additional train service could make it through the system.

Projects such as the $54 million northern extension of Berkmar Drive and the $81 million grade-separated interchange at Rio Road and U.S. 29 were funded before the law took effect on July 1. Their cost estimates were also fully funded by the CTB, which means they will be exempt from the prioritization process.

Future projects to address congestion on U.S. 29 – such as a grade-separated interchange at Hydraulic Road – will have to be scored using the prioritization process.

The MPO will hold further discussions on the process as it is developed.

Disposition of Entry:

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

Comments/Note to staff
10-37A-03 Locomotive Idling Delaware

Bill/Act: SB 135

Summary: This Act prohibits non-essential idling of locomotives between 8 p.m. and 7 a.m. Under the law, citizens can contact law enforcement, which is empowered to ticket the train for unnecessary idling between 8 p.m. and 7a.m. If the railroad is found in violation, the maximum fine for a first offense is $10,000 and the maximum fine for subsequent offenses is $20,000. Because there are conditions in which trains may need to idle, the law provides several affirmative defenses for railroads.

Status: Signed into law on August 14, 2015.

Comments: Delaware State Senate Majority Caucus
This legislation was developed as a response to community issues with long [what is known in the railroad industry as “unit”] oil trains idling adjacent to residential areas, in some cases on a purpose-built siding, while waiting to take cargo to the Delaware City Refinery. Train idling is not an issue unique to Delaware, however, we think our approach to the issue may be.

When Senate Majority Leader David McBride decided Norfolk Southern was delaying a technical fix to the idling issue, he called for a legislative solution. Other states have tried to use environmental regulations to curb idling, but railroads have countered saying that federal regulations governing train emissions preempt state rules and have prevailed in court.

Railroads claim idling is needed to avoid shutting down trains and conducting lengthy inspections to ensure that compressed air has been bled from braking systems and that the train is fully at rest. In cold weather, railroads claim idling is needed to avoid possible damage to locomotives.

Delaware’s approach, which is currently being challenged before federal regulators on the railroad’s claim that states cannot regulate them, uses modified diesel idling restrictions in the state’s traffic code as the enforcement mechanism.

Under the law, citizens can contact law enforcement, which is empowered to ticket the train for unnecessary idling between 8 p.m. and 7a.m. If the railroad is found in violation, the maximum fine for a first offense is $10,000 and the maximum fine for subsequent offenses is $20,000. Because there are conditions in which trains may need to idle, the law provides several affirmative defenses for railroads.

It is hoped that, if enforced, the fines or legal fees are sufficient to have railroads consider more cost-effective technical alternatives, such as industrial air compressor systems, that can be connected to locomotives and used to keep air brake systems fully charged.

Although the law has been signed, the state has agreed not to enforce it while it is being challenged before the Surface Transportation Board and if the board’s ruling is appealed to federal court.
From: DelawarePolitics.net (August 13, 2015)
In light of increased rail shipments of Canadian crude oil to the Delaware City refinery, the Delaware General Assembly has passed SB 135, designed to limit “non-essential” locomotive idling between the hours of 8pm and 7am. Fines would range from $5,000 to $10,000 for a first offense, with $10,000 to $20,000 fines for repeat violations. It is not clear to what degree that the statute would actually be enforced if Governor Jack Markell signs it into law.

The controversy pits the quality-of-life interests of nearby residents against the interests of Delaware’s railroads and petroleum industry in the greater context of economic and environmental concerns. Additionally, a complex legal technicality has emerged: EPA/federal preemption of state regulation of locomotive environmental impact, largely due to the interstate nature of railroads and the existing body of federal law, regulation, and judicial precedent.

The Norfolk Southern Corporation on August 4, 2015 has filed a motion for an expedited declaratory order with the U.S. Department of Transportation’s Surface Transportation Board (STB) on the grounds that the bill’s locomotive idling restrictions are preempted by federal law. (specifically, the Interstate Commerce Commission Termination Act of 1995).

The bill’s sponsors contend that the quality of life of nearby residents was being degraded by increased locomotive idling.

In all, 11 opposition votes were cast including Representatives Short, Briggs-King, Collins and Yearick on the grounds that they thought that the legislation was hastily considered and more information was needed before a more effective decision could be made.

Preliminary analysis of the bill indicates that it is subject to legal interpretation of the term “nonessential” as a variety of idling activities are excepted in the body of the text.

Read more: http://www.delawarepolitics.net/norfolk-southern-opposes-sb-135/

Disposition of Entry:

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Comments/Note to staff