



Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

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Clock is ticking, lawmakers and Governor Wolf still have no agreement on how to pay for 2017-2018 budget

Governor Tom Wolf, Pennsylvania lawmakers, county commissioners and diverse stakeholders celebrated when House the [2017-2018 budget bill](#)

reached Governor Wolf's desk before midnight arrived on June 30th.¹

This bill outlined how state leaders had agreed (in a bipartisan) way to spend \$31.99 billion in 2017-2018.

Everyone knew, the budget sent to Governor Wolf also came with a big old IOU, because it didn't arrive alongside legislation identifying the revenue (e.g., taxes, fees, loans or transfers) that would be used to pay for all the line items included in the budget bill.

Governor Wolf celebrated what he saw as advancing his budget priorities including that it invested "over \$175 million more in our schools." Also that the agreed-to budget "reduces the waiting list for those with intellectual disabilities and this budget makes additional investments in our efforts to fight the opioid epidemic."²

Republican Senators praised it citing its "increased funding for education."³

Meanwhile, House Republicans also promoted the investments in education writing that the bill "Increases basic education funding through the Fair Funding Formula by \$100 million" and

¹<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2017&slnd=0&body=H&type=B&bn=0218>
² <https://www.governor.pa.gov/governor-wolf-commends-passage-of-bipartisan-general-appropriations-bill-commits> <http://www.pasenategop.com/blog/senate->

[budget-plan-holds-line-spending-boosts-education-funding/-to-finishing-budget/](#)
³ <http://www.pasenategop.com/blog/senate-budget-plan-holds-line-spending-boosts-education-funding/>

“Increases early childhood funding (Pre-K Counts and Head Start) by \$30 million.”

Positive spins abounded and then everyone headed home for the July 4th holiday.

Once the bill arrived on the Governor’s desk an important clock started ticking. Within 10 days of receiving legislation, Pennsylvania’s governor must:

1. Sign it so that it becomes law with his/her signature;
2. Veto (or partially veto it – known as blue lining); or
3. Do nothing and have the bill become law automatically without his/her signature

A budget bill has additional caveats, because the state budget is required to be balanced.

All parties, including those who celebrated the figures in House Bill 218, knew that the spending bill was really only a first (and easy) step. The hard work would require the Governor, 26 members of the Pennsylvania Senate and 102 members of the Pennsylvania House of Representatives to agree on how to pay for those much celebrated investments in House Bill 218.

Governor Wolf sounded a cautionary note on June 30th writing, “But there is still work to do: We need a sustainable revenue package that gets Pennsylvania on track. For too many years, Pennsylvania has lurched from crisis to crisis. We began to address it with pension reform, and by fully funding our pension obligation, we have taken another important step. But Pennsylvania cannot get ahead if we do not take our responsibility for long term financial stability seriously. Let’s redouble our efforts, and continue

to show people the progress we can make by working together.”⁴

There are now fewer than 24 hours in which lawmakers and Governor Wolf can “redouble” their efforts to demonstrate they can find a path forward to pay for and balance the 2017-2018 spending bill. Absent an agreement on the revenue tough choices may be required about all those celebrated investments included within House Bill 218.

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After earlier veto, Pennsylvania lawmakers again seek to create Office of State Inspector General able to work “independently from the influence of any governor”

Last October, [Pennsylvania State Representative Mindy Fee \(R-Lancaster\)](#) witnessed her legislation ([House Bill 1618](#)) creating an independent Office of Inspector General land on Governor Tom Wolf’s desk.⁵ [Senator Ryan Aument \(R-Lancaster\)](#) sponsored similar legislation ([Senate Bill 1025](#)) in the 2015-2016 legislative session.

Fee’s bill successfully was before the governor for his signature absent any tangible bipartisan support.

Votes on the measure, in both state legislative chambers, were divided almost entirely along party lines, with a vote of 115 to 82 in the Pennsylvania House of Representatives⁶ and a vote of 29 to 18 in the Pennsylvania Senate⁷.

Both Representative Fee and Senator Aument stipulated such legislation was necessary to

⁴ <https://www.governor.pa.gov/governor-wolf-commends-passage-of-bipartisan-general-appropriations-bill-commits-to-finishing-budget/>

⁵ <http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?Year=2015&Ind=0&body=h&type=b&bn=1618>

⁶ http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2015&sess_ind=0&rc_body=H&rc_nbr=919

⁷ http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2015&sess_ind=0&rc_body=S&rc_nbr=708

ensure that Pennsylvania's Inspector General is able to "work independently from the influence of any one Governor, who now can unilaterally direct the detection of waste, fraud and abuse in state government." Both lawmakers also utilized their co-sponsor memos to underscore, "The important work of preventing, investigating and eradicating fraud, waste, abuse, and misconduct in programs, operations and contracting demands independence."⁸⁹

This debate about creating such an office might prove confusing for those familiar with Pennsylvania's General Fund Budget – a budget for 2017-2018 that hopes to spend \$15.34 million for the Office of Inspector General.¹⁰ This office already boasts 216 employees and receives another \$14.4 million in federal funds.

Clearly the office is up and running in the Commonwealth.

In fact the office has existed for three decades. Therefore, the issue at hand is not should it exist, but instead how should it operate in relationship to, independent of the governor.

In 1987, Governor Robert Casey utilized an executive order (EO) to create the Office of State Inspector General.¹¹ Since that time, the Office has been housed within the Executive Office of the Governor.

The Office was created "to deter, detect, prevent, and eradicate fraud, waste, misconduct, and abuse in the programs, operations, and contracting of executive agencies." The Office was also intended "To keep the heads of executive agencies and the Governor fully informed about problems and

deficiencies relating to the administration of programs, operations, and contracting in executive agencies."

Bruce Beemer currently serves as Pennsylvania's Inspector General. Beemer left the post for a brief time when he served as Pennsylvania's Attorney General. Upon the election and swearing in of Shapiro as Pennsylvania's Attorney General, Beemer returned to his duties as Inspector General.¹²

The Office of Inspector General has proven itself successful through the years.

Last year, the Pennsylvania State Police (PSP) turned to the Inspector General in order to advance "a comprehensive investigation into allegations raised about the Pennsylvania State Police (PSP) Academy" specifically cheating allegations within the 114th Cadet class.¹³

Each month, the Office of Inspector General releases a press providing insight about the scope of "welfare fraud" and resulting criminal charges each month.¹⁴

Last month, Inspector General Beemer received an added level of media attention when he spoke about the degree to which his office is now seeing a link between "fraud" and the heroin and prescription opioid crisis. A crisis proving so far-reaching and relentless in Pennsylvania.

Beemer noted that recipients of public benefits are selling their electronic benefit cards (along with their pin) and then using the money "to purchase heroin or other types of narcotics." Beemer continued, "The people that are

⁸<http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20150&cosponId=18935>

⁹<http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20150&cosponId=18936>

¹⁰ <http://www.pahousegop.com/Display/SiteFiles/109/BudgetDocs/201718%20GF%20Budget%20063017.pdf>

¹¹ http://www.oig.pa.gov/Documents/eo_1987_7.pdf

¹² <http://www.oig.pa.gov/Reports/Documents/OIG%20AR%202015-16%20fnal.pdf>

¹³ [http://www.oig.pa.gov/Documents/PSP%20Investigative%20Report%20Released%20\(2\)%20\(OIG-16-0043-I\).pdf](http://www.oig.pa.gov/Documents/PSP%20Investigative%20Report%20Released%20(2)%20(OIG-16-0043-I).pdf)

¹⁴ <http://www.media.pa.gov/Pages/Inspector-General.aspx>

oftentimes getting hurt are children and others, where that money is supposed to be going.”¹⁵

Still the Office right now reports to, is accountable to the Governor.

A number of Republican Senators, including Senator Aument, have expressed concerns that the Office of Inspector General has not sufficiently focused on (or been staffed for) investigating fraud in the Commonwealth’s *welfare* programs.¹⁶

Last session, [Republican Senator David Argall \(R-Schuylkill, Berks\)](#) offered an amendment to Fee’s House Bill 1618¹⁷ requiring that the office beef up its staff (by 50 percent) for a period of at least two years to “investigate fraud, waste, misconduct and abuse claims from the Department of Human Services and the Department of Health.”¹⁸ That amendment is back again this legislative session this time as Senate Bill 425.¹⁹

Last October, when House Bill 1618 reached Governor Wolf’s desk; the governor quickly vetoed the measure.²⁰

Wolf asserted that he remained committed, as he was in the private sector, to “an internal watchdog” as such an entity is “vital to ensuring the proper functioning of the executive branch.”

He argued then that if he would have signed the legislation creating an independent agency he still would be forced “to establish a replacement entity to perform the tasks now undertaken by the OIG.” He also advocated that the “functions” set forth then in House Bill 1618 were already those within the jurisdiction of the Auditor General and the Office of Attorney General. In other words the bill intended to safeguard precious public resources

would, according to Governor Wolf, “result in wasteful spending.”

The bill advancing toward Governor Wolf’s desk this year ([Senate Bill 527](#)) has its differences from last year’s vetoed bill, even as it is quite similar. Among the differences this year that may factor into Governor Wolf putting his signature (or not) on Senate Bill 527:

- The legislation has gained votes from both sides of the political aisle. In other words there are many fewer negative votes in both legislative chambers (only 8 PA House members voted no this year compared with 82 no votes last year and 12 senators were no votes this year compared to 18 last year).
- The Governor would still appoint the Inspector General and the appointment would run concurrent with the governor’s term of office (versus a six year appointment). Also, unlike other cabinet-level appointments, there would not be a required confirmation vote by the Pennsylvania Senate.
- The Governor has the ability to remove the Inspector General “including for cause.”
- It is clear that the Inspector General is to keep the heads of executive agencies “and the Governor” fully informed about “a problem and deficiency relating to the operation or administration of a program or contracts entered into by an executive agency.”
- A reference to “criminal” is removed from the reference to the Inspector General “shall conduct” civil and administrative investigations.

¹⁵ <http://abc27.com/2017/06/15/inspector-general-heroin-epidemic-fueling-welfare-fraud/>

¹⁶ Pa. senators seek more welfare abuse investigators

¹⁷ http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2015&sess_ind=0&rc_body=S&rc_nbr=690

¹⁸ <http://www.legis.state.pa.us/cfdocs/legis/HA/public/HaCheck.cfm?txtType=HTM&syar=2015&sind=0&body=H&>

<http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?type=B&bn=1618&pn=2569&ayear=2015&an=10628&aType=DAY>

¹⁹ <http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syar=2017&sind=0&body=S&type=B&bn=425>

²⁰ <http://www.legis.state.pa.us/cfdocs/legis/cl/public/VieVetoMessage.cfm?sessyr=2016&sessInd=0&billbody=H&billtype=B&billnbr=1618&pn=4068&vetonbr=3>

- Language requiring that the Inspector General “monitor implementation” of recommendations made by his/her office as well as “other audit agencies” is removed.
- There is no requirement that the Office grow its staff by 50 percent (or any percentage). Instead the Senate’s Fiscal Note states, “It is possible that a newly appointed Independent Inspector General may seek to expand the scope and amount of investigative actions requiring additional investigative personal, auditors and legal staff. Funding to provide the independent Office Inspector General with additional resources to guard against malfeasance will be dependent upon appropriations made by the General Assembly through the annual appropriations process.”²¹

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Public Assistance Integrity Act on the move in PA Senate

Freshman [Pennsylvania Senator Mike Regan \(R-Cumberland, York\)](#) opened his senate career this past January with a powerpoint presentation where he “diagnosed” the problem of “welfare fraud” with three key findings²²:

1. Public assistance (“welfare”) fraud is a multifaceted and expensive issue facing the Commonwealth of Pennsylvania.
2. Individuals who abuse our welfare system cheat taxpayers and divert critical resources from our most vulnerable friends and neighbors.

²¹
<http://www.legis.state.pa.us/WU01/LI/BI/SFN/2017/0/SB0527P0911.pdf>

²²
http://www.legis.state.pa.us/WU01/LI/CSM/2017/0/21857_13042.pdf

3. Comprehensive legislation is needed to address glaring deficiencies in current law.

The solution to reducing welfare fraud, Senator Regan asserted requires:

- Withholding public assistance from convicted criminals and deviants.
- Closing loopholes in the Public Welfare Code.
- Ensuring taxpayer-funded welfare benefits are spent appropriately.
- Increasing penalties for willful fraud and deterring fraudulent activity.

Regan translated his findings and suggested solutions into [Senate Bill 6](#), which is officially known as the Public Assistance Integrity Act (PAIA).

This past weekend, Senate Bill 6 was reported out of the Senate Appropriations Committee with a partisan vote of 17 to 9.²³ Last month, the bill was reported out of the Health and Human Services Committee, again along a party-line vote, this time the vote tally was 8 to 4.²⁴

After must dissent from Democrats, one Democrat stepped forward on Sunday.

[Philadelphia Senator Sharif Street](#) was provided the opportunity to offer an (agreed-to) amendment when Senate Bill 6 was on 3rd consideration. Amending a bill on 3rd consideration is unusual.

Street’s amendment (#2448) was included in the bill, which now stands ready for a final vote in the PA Senate.

Senator Street offered his amendment to infuse into the bill some of the legislature’s recent work

²³<http://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/li stVoteSummary.cfm?sYear=2017&sInd=0&chamber=S&ct eeCde=3&theDate=07/08/2017&RollCallId=413>

²⁴<http://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/li stVotes.cfm?sPick=20170&chamber=S&cteeCde=33&bBo dy=S&type=B&nbr=6>

around “redemption” for those previously convicted of a crime.

Specifically, he was able to alter the provisions of the bill that make certain persons convicted of criminal offenses ineligible for Temporary Assistance for Needy Families (TANF), general assistance or state supplemental assistance.

It also reduced certain fees for persons 65 and older who lose an electronic benefit transfer (EBT) card.

Street appreciated the efforts of Republicans to work with him so that the “minority in the chamber” could have some say in the bill.

He also stipulated, “I don’t agree with everything in this bill, but I ask you to vote for amendment and then the bill.”

Among the highlights of the bill:

- **Defines public assistance** – The bill defines “public assistance” to mean Temporary Assistance to Needy Families (TANF), general assistance and State supplemental assistance.”
- **Motor vehicle exemption** - One motor vehicle can be exempt from being counted as a “resource” in determining public assistance benefits so long as its “fair market value” is “less than forty thousand dollars (\$40,000) per assistance group.”
- **Lottery winnings** - Included in the “resource” calculations must be lottery winnings “of six hundred dollars (\$600) or more.”
- **Denial of benefits to certain individuals convicted of drug trafficking charges** - Persons “convicted of drug distribution” or certain “drug trafficking” criminal charges will be eligible for public assistance only if the individual “is complying with or has already complied with obligations imposed by the criminal court” and the individual is “actively engaged in or has completed a court-ordered substance

abuse treatment program and participates in periodic drug tests for ten years after the drug-related conviction or for the duration of probation, whichever is of longer duration.”

Initially Senator Regan wanted any individual convicted of a “second or subsequent” type offense to forever be denied public assistance. The Street amendment adopted on Sunday night changed the language to say that such persons should be “suspected from receiving public assistance for a period of ten years” and after that 10 year period they can then reapply for benefits.

- **Consequence of failed drug test** - Persons subject to court-ordered drug tests who fail the test for “the first time” will be “provided an assessment for addiction and provided treatment for addiction as indicated by treatment criteria developed by the Single State Authority on Drugs and Alcohol.”

The Single County Authorities (SCAs) will conduct the assessment (or identify a designee to do so). If the individual “cooperates with the assessment and treatment” then they will face no penalty. If they refuse “to cooperate” then the person’s public assistance can be suspended for six months.

A person who fails a “drug test or retest the second time” would have been denied benefits going forward, but Senator Street’s amendment altered this to be a suspension from eligibility for 10 years. Senate Bill 6 also states that unaffected should be “benefits which are afforded to the minor children of those individuals who are denied eligibility” and nothing in the bill should be “constued to render applicants or recipients ineligible for a substance abuse treatment program or a medical assistance program.

- **Replacement fees** – A person who requests replacement of their electronic benefit card “shall pay a replacement fee of five dollars (\$5) for the first replacement.” Any replacements after that will require a fee of one hundred dollars (\$100).

Senator Street’s amendment limits the fee to \$5 for persons 65 or older (regardless the number of times the request a replacement).

Any person seeking a replacement “two or more” times in a calendar year should trigger notice to the Office of Inspector General.

- **Persons required to register as sex offenders** – Any person required to register, upon conviction, as a sex offender must be in “compliance” with the “statutory registration requirements” to be eligible for public assistance. A person who is ineligible for benefits can reapply once they can show compliance with the registration requirements. Also, “the eligibility of minor children living in the household will be unaffected.”
- **Increased criminal penalties for “fraudulent benefit activity”** with regard to public assistance or food stamps.

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PA Senate supports bill promoting risk assessment tools toward informing bail decisions in domestic violence cases

This weekend, the Pennsylvania Senate approved one of the bills announced earlier this year by Republican senators seeking to “Strengthen PA’s Protection From Abuse Laws.”²⁵

The Pennsylvania Senate unanimously approved Senate Bill 449 on Saturday.

This legislation permits members of the minor judiciary deciding bail in domestic violence cases to “use a risk assessment tool” in order “to aid in evaluating the relative risk that a defendant will assault the defendant’s alleged victim while on bail.”

When the domestic violence bills were unveiled in March and again this past weekend, [Senator Camera Bartolotta \(R-Beaver, Greene, Washington\)](#) recounted the chilling details of the brutal kidnapping and murder of Tierne Ewing. The 48-year-old daughter, mother, grandmother and sister died last August.²⁶

The Pittsburgh Post-Gazette recounted Tierne’s life and death, including a headline that read “Long-time abusive relationship ends with death of Washington County couple.”²⁷

Bartolotta, who refers to her legislation as Tierne’s Law, stressed, “In July 2016, prior to the incident that resulted in her murder, the estranged husband had been arrested for domestic violence and other offenses. Despite a prosecutor’s request to raise or revoke bail due to the husband’s history of abuse and the existence of an active protection from abuse order (PFA), the individual’s bail was not increased. The courts did, however, require that he be confined to his home and monitored with an electronic device on his ankle while awaiting trial for the July arrest. Unfortunately, it was during this time that he

²⁵ <http://www.pasenategop.com/blog/senators-unveil-bills-to-strengthen-pas-protection-from-abuse-laws/>

²⁶ <http://www.legacy.com/obituaries/observer-reporter/obituary.aspx?pid=181265310>

²⁷ <http://www.post-gazette.com/local/washington/2016/08/31/Man-who-abducted-killed-wife-in-Washington-County-dies-from-self-inflicted-wound/stories/201608310345>

removed the ankle monitor and then kidnapped and murdered Tierne Ewing.”²⁸

This weekend, she encouraged a yes vote on the bill stipulating that the legislation provides judges “the tools they need to keep the most dangerous offenders behind bars.”

Other bills put forth by Republican Senators awaiting Senate action include:

- [Senate Bill 500](#) sponsored by [Senator Randy Vulakovich \(R-Allegheny\)](#) seeks to ensure that among the “assistance” extended to a plaintiff in a PFA case is that she/he can be accompanied by the “police, sheriff or other individual approved by the court as an alternate designee” to the plaintiff’s residence “before or during service of the petition and orders.”
- [Senate Bill 501](#) sponsored by [Senator Thomas H. Killion \(R-Delaware, Chester\)](#) eliminates the opportunity for a defendant in a PFA case to relinquish his/her firearms, weapons and ammunition to a third party for safe keeping. Instead Killion’s legislation would require that such firearms (again belonging to a defendant in a PFA case) are relinquished “to the County Sheriff or other law enforcement agency or to a Federal Firearms Licensed dealer.” Killion’s co-sponsorship memo underscores, “No longer would a person be able to transfer the firearms to a relative, friend, neighbor, etc. Defendants in final PFA cases would be required to surrender their firearms.”²⁹

Statewide 2-1-1 System Grant Program slated for final vote in PA Senate

²⁸<http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponId=21562>

²⁹<http://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponId=21693>

Pennsylvania Senate Appropriations Committee Chairman Pat Browne (R-Lehigh) and [Pennsylvania State Representative Stephen Bloom \(R-Cumberland\)](#) have worked to ensure that 100 percent of Pennsylvania counties and community members have “easy access to customized health, housing and human services information in one place” through the information and referral [2-1-1 system](#).

The United Way of Pennsylvania (UWP) underscores the importance of 2-1-1 writing, “Nonprofits like United Way and various government agencies provide excellent programs to support people in need. The problem: The people who need these programs often don’t know they exist. Most Pennsylvanians only need to dial 2-1-1 to be connected with an operator who has access to a database of health and human services available in your local communities.”³⁰

Representative Bloom’s House Bill 211 (action on Senator Browne’s bill has been deferred) was approved in the Pennsylvania House of Representatives by a vote of 193 to 2 in early June. House Bill 211 is now awaiting a final vote in the Pennsylvania Senate.³¹

Bloom’s bill is identical to Senator Browne’s Senate Bill 211. Both bills:

- Establish a Statewide 2-1-1 system Grant Program within the Pennsylvania Department of Human Services (PA DHS).
- Provide for the selection of a “qualified applicant” chosen by PA DHS for the “development, implementation, operation and support of a statewide 2-1-1 system from funds appropriated or made available to the department for that purpose.”

³⁰ <http://www.uwp.org/what-2-1-1>

³¹

<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2017&sInd=0&body=H&type=B&bn=0211>

- Require that the PA DHS develop a grant “to a qualified applicant” with the award intended to:
 1. “Provide statewide 2-1-1 system services 24 hours each day throughout this Commonwealth, including to regions of this Commonwealth that do not have access to a provider of 2-1-1 system services as of the effective date of this section.
 2. To expand access to 2-1-1 system services and the database to a 2-1-1 system through text-to-chat, mobile application and a publicly accessible Internet website.
 3. To permit the disbursement of funds, with the approval of the department, to regional providers of 2-1-1 system services for satisfying 2-1-1 quality assurance standards used by similar programs in other states.”

Along with the legislation reaching Governor Wolf’s desk, champions of 2-1-1 sought \$1.5 million in state funding which would combine with other non-state funding toward fully supporting 2-1-1 across the Commonwealth.