



PA lawmakers have huge to do list and so few (only 6) days to act

Still to be tackled background checks, CAPTA compliance, defining criminal offenses against children

October 17th - The clocking is ticking down to the final days of the 2015-2016 legislative session.

Members of the Pennsylvania House of Representatives and Senate have only 6 legislative session days scheduled where both chambers will be tackling legislative business before November 30th.

Any legislative bill not already passed by **both** the Pennsylvania House of Representatives and the Pennsylvania Senate and then sent to Governor Tom Wolf's desk by November 30th will become obsolete (at least temporarily).

In the current 2-year legislative session, more than 3,600 bills have been introduced. Another thousand plus resolutions were introduced. From that massive amount of proposed bills just over 200 bill have been signed into law (109 bills were enacted thus far in 2016¹ and 96 bills were enacted in 2015²).

The final days of any 2-year legislative cycle are filled with rumors, fast moving parts, massive (often secretive) deal making, and legislative drafting mistakes ripe with unintended consequences.

Increased anxiety is building this year due to lingering concerns about the stability of the state budget. The 2016-2017 state budget was crafted, in part, upon revenue that has yet to be generated because legislation hasn't been enacted.

Expanded gambling options was in the mix to balance this year's state budget, but such legislation hasn't yet reached Governor Tom Wolf. The lack of that budget-filling bill gained added urgency recently.

The Pennsylvania Department of Revenue is reporting that year-to-date revenue collections are more than \$200 million below projections – down about 3.2 percent overall.³ Corporate, personal income and sales taxes are all running below estimates. Corporate taxes are down nearly 10 percent or about \$61 million.⁴

¹http://www.legis.state.pa.us/cfdocs/legis/CL/Public/cl_view_action2.cfm?sess_yr=2016&sess_ind=0&cl_typ=GA&cl_nbr=

²http://www.legis.state.pa.us/cfdocs/legis/CL/Public/cl_view_action2.cfm?sess_yr=2015&sess_ind=0&cl_typ=GA&cl_nbr=

³http://www.revenue.pa.gov/GeneralTaxInformation/News%20and%20Statistics/Documents/MRR/2016/2016_09_mrr.pdf

⁴ Ibid.

Also at play during the final days of a legislative session is whether or not the balance of power shifts after the November election.

This November, all 203 seats in the Pennsylvania House of Representatives and half of the 50 seats in the Pennsylvania Senate are on the ballot.

The current makeup of the PA House of Representatives is 119 Republicans and 84 Democrats.

Only about half of the 203 House seats have a candidate on both the Republican and Democrat side of the ballot and many of these races are not considered competitive by political pundits. Fifteen PA House members will not return next year with some of these members retiring; while others are seeking to be

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Adoption records

For several legislative sessions, Pennsylvania state representative [Rep. Kerry Benninghoff \(R-Centre/Mifflin\)](#) has been intent on giving adult adoptees access to their original birth certificate “without redactions.”⁵

His latest attempt is embodied in [House Bill 162](#). House Bill 162 would grant adult adoptees access to their

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Background checks for clergy and medical professionals

An unintended consequence of recent updates to Pennsylvania’s Child Protective Services Law (CPSL) was there no longer exists a legal statutory requirement for some clergy, physicians, librarians and certain other professionals working with children to undergo comprehensive criminal and child abuse background checks.

[Senate Bill 1156](#) then was introduced to fix this problem and to also permit a county and the state to retain General Protective Services (GPS) files for up to ten years (or until the child who is the subject of the report reaches the age of 23). The Senate passed the bill unanimously in May.

The bill then took a turn that has left it stalled in the PA House of Representatives.

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Child Abuse Prevention and Treatment Act (CAPTA) compliance

[Senate Bill 1311](#) was introduced by [Senator Patricia Vance \(R-Cumberland\)](#) to ensure that “Pennsylvania is compliant with federal requirements under the Child Abuse Prevention and Treatment Act (CAPTA).” Vance’s legislation relates to “parents who have committed child sexual abuse and to the treatment of children who are the victims of human trafficking.”

⁵ <http://www.kerrybenninghoff.com/NewsItem.aspx?NewsID=18875>

At least some of what Senate Bill 1311 is attempting to change is driven by the 2015 federal enactment of the Justice for Victims of Trafficking Act of 2015 (S. 178).

Federal CAPTA now directs states (if they want to receive a share of the CAPTA state formula grant) to ensure the state's definition of child abuse includes the child who was a victim of severe trafficking of persons or sex trafficking.

Senate Bill 1311 accomplishes this, but also then amends PA's Juvenile Act (Title 42) with regard to aggravating circumstances. It also amends Title 23 specifically § 2511. Grounds for involuntary

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Childhood sexual abuse SOLs

Outside of pension reform, poll watching and state fiscal challenges; a top point of contention between the two legislative chambers remains where to next on reforming the statute of limitations (SOLs) for childhood sexual abuse.

The General Assembly has used [House Bill 1947](#) as the vehicle for SOL reforms. While there are stark differences between the Pennsylvania Senate and the Pennsylvania House of Representatives with regard to a retroactive civil provision in state law (e.g., applying an extended civil SOL retroactively or creating a 2-year "window" for once previously barred civil claims), there is also significant agreement overall between the PA House and the PA Senate on reforming the SOLs for childhood sexual abuse.

The chief champion advocating that House Bill 1947 include a retroactive provision, [Representative Mark Rozzi \(D-Berks\)](#),

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Early intervention and postpartum depression

Bipartisan leaders in both the PA Senate and PA House are collaborating to amend the definition of "at-risk child," birth to age three, directing the state to identify, assess and track these children for early intervention (EI) children "who have a parent that is either at high risk for or is diagnosed as having postpartum depression and who are referred to the Department of Human Services by a physician, health

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Enhancing penalties for endangering the welfare of children

[House Bill 74](#) amends Pennsylvania's Crimes Code specifically § 4304 related to endangering welfare of children (EWOC). [Representative Rob Kauffman \(R-Franklin\)](#) cited concerns that the EWOC offense in Pennsylvania "makes no distinction between an offender who places a very young child at risk versus an older child." His legislation then would make EWOC a felony of the 3rd degree if the "actor created a substantial risk of death or serious bodily injury" then the offense would be a felony of the 3rd degree. The

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Strangulation defined in the crimes code

According to the Pennsylvania Coalition Against Domestic Violence, 8 of the 113 victims in domestic violence fatalities were killed by strangulation.⁶

[House Bill 1581](#), which passed the PA House with 184 votes in April, amends the Crimes Code (Title 18) to create a felony offense when a person “knowingly or intentionally impedes the breathing or circulation of the blood of another person by applying pressure to the throat or neck or blocking the nose and mouth of the person.”⁷ The victim would not have to sustain a physical injury as an “element of the offense.” In other words, the lack of physical injury to the victim is not a reasonable defense. The offense would be a felony of

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⁶ http://www.pcadv.org/Resources/HB1581_StrangulationPosition_PCADV_062116.pdf

⁷ http://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2015&sind=0&body=H&type=B&bn=1581