

# United Methodist Advocacy in Pennsylvania

November 30, 2019

November turned out to be a fairly robust period for legislation with several high-profile bills passed by the General Assembly. Governor Wolf also signed many of these measures into law.

I conducted a number of legislative visits in November to support legislation to reduce and restrict solitary confinement and also to support legislation related to human trafficking.

Detailed below are issues in state-level politics from this past month for United Methodist who want to be informed and up-to-date regarding public policy:

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## Long Awaited Child Sex Abuse Legislation

On Nov. 26, Gov. Tom Wolf signed three bills into law pertaining to child sex abuse: House Bill 962, House Bill 1051 and House Bill 1171. He expressed support for House Bill 963.

On Nov. 21, the state House passed HB962, by a vote of 182-5, to change the state's statute of limitations in cases of child sexual abuse. The Senate approved the measure the previous evening. HB962 joined three other child sexual abuse bills.

The package of bills addresses four recommendations made in 2018 by the state grand jury that investigated child sexual abuse in six Pennsylvania Roman Catholic dioceses—attracting national attention. The legislation faced stalemate for over a year. But, the four-bill package appears to have satisfied the questions that had delayed action.

**House Bill 962** would remove both civil and criminal statutes of limitations in child sexual abuse cases. It includes the removal of the “sovereign immunity” of public and governmental entities from being sued, and extends the cap on the time frame during which victims can seek civil recourse against

institutions from 12 years after one's 18th birthday to 37 years (age 55). Under current law, victims have until age 50 to seek criminal prosecution of their abusers and age 30 to sue their abusers.

The legislation includes provisions to allow a direct victim, regardless of age at the time of a sexual offense, to receive payment for counseling, with those payments to be made out of the state's Crime Victims Compensation Fund.

The bill would also bring sexual abuse victims age 18 through 23 into the bill's provisions, allowing those individuals to bring a civil action until they attain the age of 30 (current law gives them 2 years), and a criminal action within 20 years after the date of the offense, compared to the current 12 years in state law.

Sponsor of HB962, Rep. Mark Rozzi (D-Berks) commented, "This has been a long and trying process, and we are finally at the finish line."

**House Bill 1171** specifies that civil confidentiality agreements with child sex abuse victims that include bans on communicating with law enforcement are "void and unenforceable," applying to both past and present confidentiality agreements.

**House Bill 1051** applies a higher penalty of third degree felony for an "ongoing" failure to report continuing sexual abuse "while the person knows or has reasonable cause to believe the abuser is likely to commit additional acts of child abuse." HB1171 and HB1051 are also moving to the governor's desk.

**House Bill 963** seeks to amend the Pennsylvania Constitution to provide a two-year window for retroactive lawsuits in child sex abuse cases. Consequently, HB963 must be approved a second time by the General Assembly, during the coming 2021-22 legislative session. If this process is successful, the measure will go before the state's voters as a ballot referendum.

## **Sexual Extortion**

On Nov. 27, Governor Tom Wolf signed **House Bill 1402** into law.

On Nov. 22, the state House voted to concur with a Senate amendment to HB1402. The bill creates a crime of sexual extortion for cases where one person threatens or coerces another in return for not releasing sexually explicit or nude images of the threatened person. Bill sponsor, Rep. Tedd Nesbit (R-Mercer) said, "My legislation would help law enforcement and victim service organizations address this serious sex crime of sexual extortion, which often falls through the cracks of our current criminal justice system... we know that with new and expanding technology, our state laws need to keep up to protect the most vulnerable."

## **Vaping Limits**

On Nov. 27, Governor Tom Wolf signed **House Bill 97** into law.

On Nov. 22, the state House voted 185-0 to concur with a Senate amendment to HB97. The bill prohibits the sale or purchase of vaping products to or by minors and, furthermore, prohibits the use of vaping products on school grounds. Vaping products include electronic cigarettes, e-cigars and JUULS. HB97 was sponsored by Rep. Kathy Rapp (R-Warren).

## **Raising the Nicotine Products Purchasing Age**

On Nov. 27, Governor Tom Wolf signed **Senate Bill 473** into law.

On Nov. 21, the state General Assembly sent SB473, Tobacco21, to the Governor's desk. The bill will raise the age to purchase cigarettes and tobacco products from 18 to 21-years-old.

"Tobacco products" includes "nicotine products," "electronic cigarettes," and "any electronic device that delivers nicotine or another substance to a person inhaling from the device." It does not include medical marijuana delivery devices.

The House voted 135-49 and the Senate voted 44-5 to approve passage of SB473.

Bill sponsor Sen. Mario Scavello (R-Monroe) said that raising the age to 21 would make it easier for teenagers in the 16-year and 17-year age group to resist peer pressure to start smoking.

Some lawmakers opposing the bill said that the tobacco buying age shouldn't be higher than the voting age of 18. In fact, the House amended the bill to make an exception allowing the purchase of tobacco for members of the armed services or reserve units who are 18-years-old. The American Cancer Society switched its position from neutral to opposed to SB473 after the military exemption was included.

The enactment of SB473 would result in a loss of state revenue from collection of tobacco and sales taxes, according to an analysis by the House Appropriations Committee. The revenue loss for Fiscal Year 2020-21 is estimated at \$12.6 million.

## **Opioids for Pain Management**

On Nov. 27, Gov. Tom Wolf signed **Senate Bill 572** into law.

On Nov. 21, the state Senate voted 28-21 to concur with a House amendment to SB572. The bill would create a procedure for prescribers to enter into treatment agreements with a patient prior to prescribing an opioid treatment for chronic pain. The purpose is to help ensure that patients understands how to use opioids safely.

Bill sponsor Sen. Ryan Aument (R-Lancaster) said, "Instead of placing new roadblocks to existing pain management plans, the bill specifically focuses on the situations that are most likely to result in addiction... it is a vital piece of the puzzle to prevent more needless deaths in our communities."

## **Legislation to Raise the Minimum Wage**

On Nov. 20, the state Senate approved **Senate Bill 79**, to raise the minimum wage in Pennsylvania to \$9.50 by January 1, 2022. The proposal would also reflect the federal overtime threshold for salaried workers.

The bill now moves to the state House. SB79 appears to have resulted as a compromise between the governor and Senate Republican leaders. But, some of the House Republicans have expressed that they will not support the measure.

## **Democrats Discuss Minimum Wage Legislation**

On the evening of Nov. 20, Senate and House Democrats conducted a press conference outside the Lt. Governor's office in the Capitol to discuss **Senate Bill 79**, the minimum wage bill passed in the Senate earlier in the day.

The sponsor of SB79, Sen. Christine Tartaglione (D-Philadelphia), said that raising the wage to \$9.50 an hour is just a start. "We don't control both chambers. If we had, we would have had a \$15 minimum wage with a Consumer Price Index (CPI) tagged onto it, as well as local municipalities setting a rate of

their choice above the minimum wage,” she stated. “Any type of raise was a step in the right direction. This does not mean we are giving up. We are going to continue to fight.”

Sen. Arthur Haywood (D-Montgomery) affirmed that Democratic lawmakers will continue to fight for \$15 an hour. “\$9.50 is not where we want to be, but it is where we are today. If we get this passed in the House that’s about 600,000 people who will get a raise. It’s about \$31 million that we would pay in public assistance that won’t go out.”

Rep. Chris Rabb (D-Philadelphia) said that there was no assurance from House leadership that the bill will run, let alone pass. “The vast majority of the population in Pennsylvania and the nation support a living wage. This should not be a partisan issue, and yet it is.”

Sen. Vincent Hughes (D-Philadelphia) said, “We will not stop fighting for \$15 an hour for Pennsylvania citizens who are making a difference every day... If we [Democrats] were in charge, these numbers would be a lot higher and we would have done this a long time ago... Budgets, spending, and wages are not just an economic statement, they are a moral statement.”

## **Veto of Down Syndrome Abortion Prohibition**

On Nov. 21, the General Assembly sent **House Bill 321** to the governor’s desk. Gov. Tom Wolf, as promised, vetoed the bill.

NB321 would have prohibited abortions performed because of a Down Syndrome diagnosis.

In his veto message, Governor Wolf wrote, “This legislation is a restriction on women and the medical professionals and interferes with women’s health care and the crucial decision-making between patients and their physicians... The prohibitions under this bill are not consistent with the fundamental rights vested by the Fourteenth Amendment of the United States Constitution... I have significant concerns that enforcement of this legislation would upend the doctor-patient relationship and impede on patient confidentiality.” The governor also stated that he was unaware of any disability advocacy organization that supported the bill.

Eric Failing, Executive Director of the Pennsylvania Catholic Conference, reacted by saying, “Gov. Wolf’s veto will prevent all children with Down’s Syndrome from going on to live happy and fulfilled lives.”

## **Human Trafficking**

On Nov. 20, the state Senate passed **Senate Bill 60**, Buyer Beware, establishing penalties applying to users of sexual human trafficking. The bill now moves to the House of Representatives.

SB60 would change the state’s Crimes Code that addresses patronizing a victim of sexual servitude, increasing penalties for engaging in any sex act with another individual known to be a victim of human trafficking.

This bill is part of a series of bills, introduced over several years, focused on human trafficking. United Methodist Advocacy in Pa has been closely watching and supporting this progress. In fact, the day before SB60 passed, I was in Sen. Jake Corman’s (R-Center) office inquiring about this bill.

However, immediately after its passage in the Senate, I was informed by a legal specialist on this topic, that late amendments to the bill had watered down its language, greatly weakening enforcement potential. After seeing the amended language, I had to agree. Consequently, I intend to encourage reworking the bill in the House.

It is also important to understand that human trafficking encompasses more than sexual slavery. The law needs to account for users of all forms of human trafficking.

The House, furthermore, has its own version of SB60, House Bill 12, sitting in its Judiciary Committee.

## Legislation Regarding Corrections Officers

On Nov. 19, the state House Judiciary Committee approved six measures that relate to prison corrections officers.

House Judiciary Majority Chairman Rob Kauffman (R-Franklin) said the needs of corrections officers should be part of the overall debate about criminal justice reform. "Corrections officers are very frankly under attack every day in the Corrections facilities of the Commonwealth," said Rep. Kauffman. But, committee member Rep. Dan Miller (D-Allegheny) said it is necessary to take a deeper look at the underlying causes of prison violence.

The committee voted unanimously to approve **House Bill 44**, sponsored by Rep. Pam Snyder (D-Washington), to give corrections officers a voice in parole decisions. This bill would allow officers to submit a written statement or testify in person at parole hearings. The Pennsylvania State Corrections Officers Association has supported this legislation.

The committee approved **House Bill 1855**, Markie's Law, 19-6, which would prevent a parole board from releasing an inmate at the end of a minimum sentence if that individual was convicted of a violent offense while incarcerated or tried to escape, smuggle contraband or intimate a witness while incarcerated. The bill seeks to postpone consideration of parole for 24 months for a violent offense and 12 months for the other three offenses.

Sponsor of HB1855, Rep. Aaron Bernstine (R-Lawrence) said his bill is a response to a case where a man recently paroled at the end of his minimum sentence for a homicide conviction stabbed an 8-year-old boy to death.

Approved by split votes were **House Bills 256** and **257**, both toughening penalties for inmate assaults against corrections staff. The goal is to protect prison staffers said bill sponsor Rep. Carl Metzgar (R-Somerset).

The committee voted 17- 6 to approve **House Bill 1781**, sponsored by Rep. Stephanie Borowicz (R-Clinton), to give counties the option of allowing county corrections officers to carry and store a handgun and ammunition in a vehicle at a county correctional institution. A similar law involving state corrections officers was enacted last year.

The committee unanimously approved **House Resolution 178** urging the corrections department to provide ID badges for corrections officers.

The six measures now go before the full House.

## Lt. Gov. Says Commutations Reform Top Priority

On Nov. 25, Lt. Gov. John Fetterman was the guest speaker for November's Pennsylvania Press Club luncheon. He related that reforming the commutations process for life-sentence prisoners in Pennsylvania is his top priority.

The Lt. Governor highlighted two recently pardoned lifers who now hold jobs as communications specialists in his office, Naomi Blount and George Trudel. Blount and Trudel were hired to visit prisons, assist inmates who are applying for commutations and streamline the handling of pardons cases.

As Lt. Governor, Mr. Fetterman serves as chairman of the state Board of Pardons. He said he has come to consider commutations reform "one of the great causes of my life." He said he wants to end a "catastrophic bottleneck" that has clogged inmate pardon applications.

Fetterman is focusing on some 1,200 inmates who are serving mandatory sentences without parole for second-degree murder. In Pennsylvania, a person can be charged for second-degree murder if someone

died during the commission of crime, even if the accused was not actually present. The mandatory life sentence without parole for second-degree murder has led to cases where someone convicted of the actual murder has served shorter sentences than accomplices sentenced to second-degree murder.

## **Fetal Remains**

On Nov. 18, the state House approved **House Bill 1890** by a vote of 123-76, providing for the final disposition of fetal remains.

Upon the fetal death of an unborn child, a parent who so chooses may take possession of the remains for final disposition other than in a location that is usual for a health care facility. The parent then becomes responsible for the costs related to the final disposition.

I visited Rep. Frank Ryan (R-Lebanon) in his Capitol office. He related how he and his wife lost a child to premature birth and, many years later, still regret not having been able to personally conduct interment.

However, this bill became contentious. Opponents claim it is an anti-abortion measure. Rep. Dan Frankel (D-Allegheny) said, "...this bill would narrow patients' options and enforce a non-medical directive..." He argues that the bill would force families to obtain a death certificate and contract with a funeral home for ritual disposal, even for a fertilized egg. Frankel said, "It would force families, some of whom are making their way through very real grief, to travel a narrow path set by the people in this room, rather than their own hearts."

## **Initiative to Halt Closure of Care Facilities**

On Nov. 19, the state Senate passed **Senate Bill 906**, by a vote of 40-9, to delay the planned closures of the Polk State Center (Venango County) and the White Haven State Center (Luzerne County). The measure now goes to the House.

The bill would place a moratorium on the Department of Human Services' (DHS) plan to close the two special needs care facilities. It would require that the facilities not be closed until all Medicaid waiver-eligible individuals in the Commonwealth are authorized to begin receiving home and community-based services; that DHS provide notice in the Pennsylvania Bulletin when all individuals have received authorization to begin home and community-based services; that there be established a Task Force on the Closure of State Centers; and that the DHS Secretary convene an initial meeting of the task force.

When DHS announced its intention to close the two facilities, this past summer, it immediately became a source of contention. After the passage of SB906, Sen. Lisa Baker (R-Luzerne) said, "Whatever the financial and philosophical motivations of state government, too little consideration has been given to the interests of families, workers, and the communities surrounding the affected institutions. This bill is intended to make sure Pennsylvania lives up to the legal and moral obligations to the residents of these centers, especially those for whom the centers are the only home they have really known."

At the time it announced the plan to close the two facilities, DHS said it would work directly with each resident and family from Polk and White Haven to explore all options, meet with potential community service providers and develop individualized transition plans. Furthermore, each patient's transition into the community would be closely monitored by DHS social workers, licensing and regional staff to ensure they are safe and happy.

## **Sunday Hunting**

On Nov. 27, Gov. Tom Wolf signed legislation to allow hunting to take place in Pennsylvania on three Sundays during a calendar year.

**Senate Bill 147** was sent to the governor on November 18. It gives the Pennsylvania Game Commission authority to schedule Sunday hunting three days a year, one during deer rifle season, one during deer archery season and one on a third day during another hunting season.

Bill sponsor, Sen. Daniel Laughlin (R-Erie) said the measure removes one of the last remaining archaic blue laws in Pennsylvania.

Proponents say the bill could yield an additional \$2 to \$3 million in revenue from out-of-state hunters taking advantage of Sunday hunting. They suggest that some of that revenue could be used for research on chronic wasting disease and Lyme disease.

The bill includes provisions designed to address the concerns of landowners, farmers, sportsmen and law enforcement, including a requirement that Sunday hunters get written permission from a landowner to hunt on their property. It makes trespassing by hunting a primary and summary offense with fines ranging between \$250 to \$500.

Some hunters argue that Sunday hunting is a way to spur interest in the sport among youth, give hunters more time to hunt on the weekend, and encourage out-of-state hunters to spend money in Pennsylvania.

Farmers, hikers and other outdoor recreation enthusiasts have voiced concerns about an increased potential for shooting accidents with Sunday hunting and the loss of a day when they can be at ease in the woods or on their property without having to beware of hunters.

## **Mini-Casino License Vacated**

On Nov. 20, the Pennsylvania Gaming Control Board announced the denial of Mount Airy Casino Resort's application to build a mini-casino in Beaver County.

The application was denied on the grounds that Mount Airy failed to get the necessary financing for the project. Mount Airy won its bid for a mini-casino license in 2018, paying nearly \$21.2 million. Under state law, Mount Airy can only recover 75 percent of its bid—forfeiting \$5,297,222 to the state.

Furthermore, Gaming Board spokesman Doug Harbach noted, "The license is not open or available."

## **Cashless Turnpike Tolling**

Early in November the Pennsylvania Turnpike Commission announced its intention to complete a \$129 million project to fully transition to cashless all-electronic tolling (AET) by late 2021.

According to the commission, in 2010 E-Zpass users were at 60 percent. Today, 80 percent use E-ZPass.

The agency's ultimate goal is to convert the turnpike system to one where all tolls are collected at highway speeds between entry and exit points, called "open road tolling." Toll plazas and tollbooths are to be demolished, and overhead steel structures along the highway will be installed to house the electronic-tolling apparatus.

## **Nonprofits Security Grants**

On Nov. 7, Gov. Tom Wolf signed **House Bill 859** into law. Now Act 83 of 2019, the measure provides grant funding for religious and nonprofit organizations to implement security safeguards. It makes \$5 million available through the Pennsylvania Nonprofit Security Grant Program.

Supporters say the legislation was spurred by the 2018 mass shooting at the Tree of Life Synagogue in Pittsburgh.

## **Marsy's Law Unofficial Poll Results**

November 5 was General Election Day in Pennsylvania. Local elections predominated. However, statewide, there was a referendum question regarding a constitutional amendment, Marsy's Law, a so-called victims' rights measure.

More background about Marsy's Law can be found in my report from last month (October 2019).

The Pennsylvania Department of State posted an unofficial count showing over 70 percent of voters supported including the Marsy's Law provisions in the Pennsylvania Constitution. The vote count must remain unofficial until a Commonwealth Court case, involving the referendum question, is settled.

While a suit brought by opponents of the Marsy's Law provision is underway, a Commonwealth Court judge ruling has put a hold on tabulation and certification of the ballot question results. The judge's decision was upheld a day before the election by the state Supreme Court.

There is a distinct possibility that the courts will find the referendum question to be unconstitutional.

## **Elections Code Bill**

On October 31, Gov. Tom Wolf signed **Senate Bill 421**. Now Act 77 of 2019, updating the state's election code—see my report from last month (October 2019) for a comprehensive breakdown of the bill's elements.

The governor said, "This bill makes voting more convenient and more secure for millions of Pennsylvanians and continues my commitment to modernizing our elections. This is the biggest change to our elections in generations and will strengthen our democracy by removing barriers to the voting booth and encouraging more people to vote."

Though it is accurate to say that the bill received bipartisan support, the majority of the Legislature's Democrats voted against the bill.

## **Philadelphia Enacts Firearms Restrictions**

Earlier this year, Pittsburgh challenged Harrisburg regarding the right to enact local gun safety laws. Now Philadelphia is taking the spotlight.

On Nov. 21, Philadelphia City Council passed a bill banning firearms and other weapons from parks and recreation centers. The previous week, council passed a "Red Flag" law that would allow court orders to remove firearms from the possession of those determined to be at risk to themselves or others.

These acts defy state law that prevent municipalities from enacting firearms-related restrictions. Gun rights advocates are bound to file lawsuits challenging the city.

State Rep. Donna Bullock (D-Philadelphia) commented, "By Philadelphia enacting their legislation, it pushes the state legislature to have to do something. It has to respond to it, whether that means we have



another lawsuit or, somehow, we are going to have to continue to push and try everything we can possibly try to keep our children safe.” Rep. Bullock introduced a measure in the state House, House Bill 1764, Weapons in Public Parks. Her bill is stalled in the House Judiciary Committee.

### **Auditor General on Climate Action**

On Nov. 13, state Auditor General Eugene DePasquale released a report at a new conference on the subject of climate change and Pennsylvania. The 40-page report is entitled “Climate Crisis: The Rising Cost of Inaction.”

The Auditor General said that the changing climate has caused severe storms that cost the state more than \$260 million in 2018. A significant portion of the cost came from repairs to state roads damaged by flooding and landslides. The report recommends that the state be proactive to mitigate the damage and cost impacts of climate change. DePasquale proposed establishment of a state disaster relief trust fund of at least \$100 million and said that every dollar spent on prevention of natural disaster damage would save \$6 in recovery costs.

The Chair of the state House Environmental Resources and Energy Committee, Rep. Daryl Metcalfe (R-Cranberry), in a press release, accused DePasquale of “partisan pandering for the governor’s delusional climate change policy proposals.”

DePasquale also spoke of a need to reduce Pennsylvania’s greenhouse gas emissions and listed nine recommendations for a climate action plan.

### **Sen. Yudichak Changes Affiliation**

On Nov. 19, state Sen. John Yudichak (Luzerne) announced that he was leaving the Democratic Party to be registered as an Independent. He said he will caucus with the Senate Republicans. He noted that he has not been caucusing with the Democrats on a consistent basis and that he has been thinking of leaving the party for several years.

This change results in the state Senate having 27 Republicans, 21 Democrats, one independent and one vacancy (created by the resignation of Mike Folmer, to be replaced in a January special election).

The 21-year legislative veteran said his decision to leave the Democratic Caucus is motivated by a view that caucus members were becoming “purists” on such issues as reuse of waste coal and natural gas drilling. “I do see [Senate Republicans] as less of a purist party,” he said. His decision to caucus with the Republicans was also a pragmatic one. “If there was an independent caucus, I would be in the Independent caucus,” he said. “There are only two.”

In regard to some of his positions, he said he supports former Democratic Vice President Joe Biden for president in 2020 and supports Democratic Gov. Tom Wolf on issues like the minimum wage.

With his decision to leave the Democratic Caucus, Yudichak will lose his post as the Minority Chair of the Senate Environmental Resources and Energy Committee.

Senate Minority Leader Jay Costa (D-Allegheny) said Yudichak’s decision amounts to him turning his back on the Democratic Party’s values and his Senate Democrat colleagues.

Senate President Pro Tem Joe Scarnati (R-Jefferson) and Senate Majority Leader Jake Corman (R-Centre) said in a joint statement, “John is unquestionably a dedicated public servant and a strong voice in Harrisburg. We applaud his decision to do what is in the best interest of his constituents in Luzerne and Carbon counties. We look forward to Senator Yudichak joining our Republican members of the Senate in our Caucus, as we work together to create an appropriate balance in the Pennsylvania Legislature.”

**Dai Morgan**