



2020

capitol watch

## Legislative Day 28 *Crossover Edition*

**\*BREAKING NEWS\*** Georgia to declare a public health emergency amid coronavirus outbreak. Governor Kemp's declaration tomorrow will constitute Georgia's first ever public health emergency. Per State Law in the applicable Code Section O.C.G.A 38-3-51, the legislature must meet to ratify the Governor's proclamation within 48 hours of the announcement. Click [here](#) for more details and stay tuned as more information becomes available.

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## Legislative Session Suspended Indefinitely

Crossover Day came and went in a unique way this year under the Gold Dome. Legislators rushed to vote on a multitude of issues yesterday - some of which were the products of months of discussion and others have appeared in only the last few days. It was all about the money in the House, which has finally signed off on its version of the FY 21 Budget, which restores many of the reductions proposed by Governor Kemp while reducing the proposed teacher raises from \$2,000 to \$1,000. Afterward, the House moved to adopt the comprehensive tax reform measure unveiled by Speaker David Ralston Tuesday that purports to lower the income tax for individuals to 5.375%. Meanwhile, the Senate focused on polarizing policy issues, including tabling a discussion on tort reform by a 27-26 vote, and ultimately dying in the Senate.

Amid growing concerns of a wide-spread coronavirus outbreak, the Georgia General Assembly will suspend its 2020 legislative session indefinitely starting after Friday. The House and Senate will reconvene for the 30th Legislative Day at a future date at the discretion of Lt. Governor Duncan and Speaker Ralston as outlined by the joint adjournment resolution adopted by both chambers. Both chambers agreed on the Amended Fiscal Year 2020 state budget. It would include \$100 million in funding addressing any concerns which may stem from a coronavirus outbreak.

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### House Bills Awaiting Senate Consideration

**HB 719**, by Rep. Deborah Silcox, seeks a modernization of Georgia's HIV laws. The goal is to align services and policies with the best public health practices. It does add that certain conduct by an individual who has HIV is unlawful if the conduct has a significant risk of transmission. This legislation addresses Georgia's laws which were originally implemented in the 1980s and addresses criminal code changes so as to require an "intent to harm;" and addresses the needle exchange law passed in 2019. This bill passed the House Floor with a vote of 124-40. The legislation now moves to the Senate where it awaits further consideration.

**HB 759**, by Rep. Butch Parrish, is the annual drug bill update and amends the Code Section pertaining to the Dangerous Drug list. The bill passed the House Floor with a vote of 163-4. The bill awaits a hearing in the Senate Public Safety Committee.

**HB 789**, by Rep. Mark Newton, creates a surprise bill rating system based upon the number of certain physician specialty groups contracted with a hospital within a health insurer's network. The House approved the measure by a 170-1 vote, and it moves to the Senate for further consideration in the Health and Human Services Committee.

**HB 791** by Rep. Ron Stephens, seeks to amend and add authorization so that a pharmacist may dispense (exercising his/her professional judgment and in consultation with the patient) up to a 90-day supply of a maintenance medication (unless the prescriber has specified on the prescription that dispensing a maintenance medication in an initial amount followed by periodic refills is medically necessary – this authorization **does not apply to Schedules II, III, IV, or V controlled substances**). The bill passed the House Floor with a vote of 164-0 and now awaits a hearing in the Senate Health and Human Services Committee.

**HB 816**, by Rep. Karen Mathiak, seeks to allow chiropractors and physicians the ability to form professional corporations. Currently, they are limited to forming Limited Liability Companies with one another. This bill passed the House 161-5. The bill has moved on to the Senate where it awaits the Health and Human Services Committee.

**HB 888**, by Rep. Lee Hawkins, is the Surprise Billing Consumer Protection Act similar to Sen. Chuck Hufstetler's **SB 359** which passed in the Senate. The House approved the measure by a 164-4 vote. The bill has moved on to the Senate Health and Human Services Committee where it awaits further consideration.

**HB 918**, by Rep. Sharon Cooper, addresses pharmacy practices and eliminates steering practices by pharmacy benefit managers to certain pharmacies and seeks to reign in audit processes on pharmacies by pharmacy benefit managers. HB 918 passed the House Floor with a vote of 169-0. The bill has moved onto the Senate where it awaits further consideration in the Health and Human Services Committee.

**HB 932**, by Rep. Houston Gaines, amends the Georgia Podiatry Practice Act to change certain provisions relating to podiatric medicine and surgery. The bill also allows for Doctors of Podiatric Medicine to join professional corporations with Doctors of Medicine or Doctors of Osteopathy. The House approved the measure by a 167-0 vote. The bill has moved to the Senate for further consideration in the Regulated Industries and Utilities Committee.

**HB 946**, by Rep. David Knight, seeks a comprehensive set of revisions to Georgia's regulations of Pharmacy Benefit Managers (PBM). The bill addresses pharmacy benefit managers from denying payment when a patient is not utilizing one of the pharmacy benefit manager's pharmacies. It also seeks to address steering in state contracts for healthcare and eliminates the use of spread pricing, which has cost Georgia roughly \$93 million in years 2018 and 2019. This bill passed the House Floor with a vote of 165-1. It has moved to the Senate where it awaits further consideration in the Insurance and Labor Committee.

**HB 947**, by Rep. Knight, also addresses PBM issues and requires that the Department of Community Health engage a third-party actuary to conduct a study of the potential savings if the state were to carve out pharmacy benefits from the state's Medicaid CMO contracts. This bill also passed the House Floor with a vote of 168-0. The bill has moved onto the Senate for further consideration in the Health and Human Services Committee.

**HB 991**, by Rep. Matt Hatchett, adds a Code Section known as the Healthcare Transparency and Accountability Act. The Act creates an authority to review the performance and conduct of all state healthcare plan contractors and their subcontractors. The bill passed the House Floor with a vote of 166-1. The bill now moves to the Senate where it awaits further consideration.

**HB 994**, by Rep. Bert Reeves, amends code to provide for enhanced enforcement of gang-related crime. The legislation was passed out of committee via substitute language to clarify that individuals ages 13-17 are not subject to begin in adult court. Significantly altering original language that would have caused a child between the ages of 13-17 to be tried as an adult. The bill also gives courts the ability to require individuals divest from corporations or enterprises in the state when found guilty of gang-related violations. Issues remain surrounding the definition of 'gang' pertaining to

the identifiers in the legislation. This legislation passed the House Floor 93-65 and now moves to the Senate where it awaits further consideration.

**HB 1032**, by Rep. Matt Hatchett, seeks to amend Georgia's Certificate of Need ("CON") Laws and specifically provide an exemption for ambulatory surgery centers which perform medical procedures in non-sterile procedure rooms and not in ORs and have a letter of determination from the Department of Community Health so that such would not be subject to CON review. The legislation also seeks to create a new Code Section to provide that DCH must provide Medicaid reimbursement at 100% of the cost for any behavioral rehabilitation joint venture in the second year of the operation of the venture. Additionally, the bill specifies that any proceeds from the rural health tax credit shall not count against a hospital's cap. The bill passed the House Floor with a vote of 124-41. The bill now moves to the Senate where it awaits further consideration.

**HB 1092**, by Rep. Alan Powell, seeks to address scope of practice for APRNs so that they can order radiological tests and the nurses would work under the protocols of their physicians. This bill passed the House Floor 114-38 and moves to the Senate where it awaits further consideration.

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### **House Bills (Failed / No Action)**

**HB 725**, by Rep. Darlene Taylor - Dental CMO Carveout

**HB 739**, by Rep. Rick Jasperse - Surgical Technologists Licensure

**HB 744**, by Rep. Mike Wilensky - Opioid Prescribing Regulations

**HB 760**, by Rep. Sharon Cooper - Peace Officers: Mental Health Transport

**HB 813**, by Rep. Karen Mathiak - Chiropractor / Physician PC (partnership)

**HB 938** - Rep. Erick Allen - Ethylene Oxide Restrictions & Reporting

**HB 996**, by Rep. Sharon Cooper - Cosmetic Laser Services Act

**HB 864**, by Rep. Bonnie Rich - Taxes on Vaping

**HB 1024**, by Rep. Mark Newton - Free-Standing Emergency Departments

**HB 1027**, by Rep. Lee Hawkins - PBM Rebate Transparency

**HB 1060**, by Rep. Ginny Ehrhart - Vulnerable Child Protection Act

**HB 1077**, by Rep. Tom Kirby - Georgia Administrative Procedures Act Exemption for the State Board of Workers' Compensation

**HB 1079**, by Rep. Kim Schofield - 1115 Medicaid Waiver for 138 Percent of FPL

**HB 1089**, by Rep. Tom McCall - Tort Reform

**HR 1282**, by Rep. Shelly Hutchinson - House Study Committee on Evaluating, Simplifying, and Eliminating Duplication of Regulatory Requirements for Mental Health and Social Services Providers

### **Senate Bills Awaiting House Consideration**

**SB 272**, by Sen. Randy Robertson, seeks to amend Code Section pertaining to the sale of dextromethorphan to the sale of minors. This legislation passed the Senate Floor 44-7 and now moves the House where it awaits further consideration.

**SB 303**, by Sen. Ben Watson, seeks to enact the 'Georgia Right to Shop Act.' As it stands, the bill is a transparency measure to allow consumers to have a better understanding of their health care costs through a series of quality metrics. The way in which those metrics are written would ultimately be up to the Insurance Commissioner to promulgate. The House Committee on Access to Quality Healthcare continues to hold the bill for further consideration.

**SB 311**, by Sen. Kay Kirkpatrick, relates to patient brokering within the recovery housing industry. As it stands, recovery homes are not regulated as they do not provide services. The bill would prohibit kickbacks and referrals within the industry and outlaws fraudulent marketing techniques designed to deceive individuals into expensive long-term recovery facilities. The bill passed the Senate Floor 56-0. The bill has moved to the House where it awaits further consideration in the Special Committee on Access to Quality Health Care.

**SB 313**, by Sen. Dean Burke, seeks to amend current law regarding the licensure and regulation of pharmacy benefit managers. The bill passed the Senate Floor 52-0 and moves onto the House where it awaits further consideration in the Special Committee on Access to Quality Health Care.

**SB 323**, by Sen. Kay Kirkpatrick, would establish standards for sedation in dentist and physician offices. This bill passed the Senate Floor 53-0 and moves to the House where it awaits further consideration in the Health and Human Services Committee.

**SB 352**, by Sen. Dean Burke, would require insurer's provider directory includes a provider as a participating provider for a network plan at such time as a prospective covered person selects his or her health benefit plan and such insurer shall cover the provider charges at in-network rates for the duration of the contract year for such covered person. This bill passed the Senate Floor 52-0. It has been assigned to the House Insurance Committee where it awaits further consideration.

**SB 359**, by Sen. Chuck Hufstetler, addresses the Surprise Billing Consumer Protection Act. The bill passed the Senate Floor 54-0 and awaits further consideration in the House Special Committee on Access to Quality Healthcare.

**SB 372**, by Sen. Blake Tillery, is a Department of Public Health cleanup bill which brings the state up to speed with procedures that the Department has already implemented in accordance with state law. The bill passed the Senate Floor 52-0 and now awaits consideration in the House Health and Human Services committee in the House.

**SB 395**, by Sen. Ben Watson, seeks to increase the standard of indigency for hospital authority trusts. It would also provide more flexibility in how investments by hospital authorities are made. This bill passed 52-0 and moved to the House where it awaits further consideration in the Special Committee on Access to Quality Health Care.

**SB 423**, by Sen. John Albers, also known as the Max Gruver Act seeks to reduce and prevent hazing within Georgia's universities and college systems. This bill establishes criminal penalties for anyone who carries out a hazing ritual on any minor or student. The bill passed the Senate Floor 52-0 and now moves to the House where it awaits further consideration.

**SB 482**, by Sen. Dean Burke, seeks to create a new Code Section to mandate a state all-payer claims database within the Office of Health Strategy and Coordination. This bill creates an advisory committee to develop a framework for the implementation and operation of the database. This bill passed the Senate Floor 53-0 and moves onto the House where it awaits further consideration.

**SB 483**, by Sen. Matt Brass, seeks to create a pilot program in up to three counties that increase behavioral health providers for indigent and Medicaid patients in rural areas of the State of Georgia. This bill passed the Senate Floor 51-0 and moves to the House where it awaits further consideration.

**SR 194**, by the late Sen. Greg Kirk, seeks to transfer oversight of the Division of Developmental Disabilities, within Department of Behavioral Health and Developmental Disabilities over to the Department of Community Health. The resolution passed the Senate Floor 51-0 and now awaits further consideration in the House.

### **Senate Bills (Failed / No Action)**

**SB 347**, by Sen. Gloria Butler - Surgical Smoke Prohibition

**SB 415**, by Sen. Steve Gooch - Tort Reform (Phantom Damages and Anchoring)

**SB 433**, by Sen. Burt Jones - Diabetes Prescriptions Drug Pricing

**SB 427**, by Sen. Jeff Mullis - Pharmacy Benefit Manager DCH Carve Out

**SB 481**, by Sen. Matt Brass - clarifying that certain definitions of marijuana or THC related products

## News of the Week

### **Atlanta Journal Constitution**

Kemp's anti-gang bill amended after swell of opposition...[Read More Here](#)

### **Georgia Health News**

Georgia reports first COVID-19 death; legislative session suspended...[Read More Here](#)

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Thank you for taking time out of your busy schedules to help protect our interests and our patients!

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