THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 23, 1999

3:03 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please stand with me to state the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: In the absence of clergy, may we all bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 22nd. The Senate met pursuant to adjournment. The Journal of Friday, February 19th, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Libous, from the Committee on Mental Health and Developmental Disabilities, reports:

Senate Prints 2091, by Senator Libous, an act to amend the Mental Hygiene Law;

2102, by Senator Libous, an act to amend the Mental Hygiene Law and the Executive Law;

2114, by Senator Libous, an act to enact consumer-oriented reform efforts.

Senator McGee, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Prints 183, by Senator Alesi, an act to amend the Vehicle and Traffic Law;

1014, by Senator Skelos, an act to amend the Vehicle and Traffic Law;

1214, by Senator Velella, an act to amend the Vehicle and Traffic Law;

2451, by Senator McGee, an act to amend the Vehicle and Traffic Law.

Senator LaValle, from the Committee on Higher Education, reports:

Senate Prints 27, by Senator LaValle, an act to amend the Education Law;

1029, by Senator Nozzolio, an act to amend the Education Law;

1067, by Senator LaValle, an act to amend the Education Law and the Public Officers Law;

1068, by Senator LaValle, an act to amend the Education Law;

1737, by Senator Balboni, an act to amend the Education Law;

2399, by Senator Johnson, an act to amend the Education Law;

2521, by Senator LaValle, an act to amend the Education Law;

2578, by Senator LaValle, an act to amend the Education Law;

2862, by Senator Bruno, an act to amend the Education Law.

Senator Spano, from the Committee on Labor, reports:

Senate Prints 1143, by Senator Lack, an act to amend the Labor Law;

1371, by Senator Spano, an act to amend the Workers' Compensation Law;

1509, by Senator Stafford, an act to amend the Labor Law;

1881, by Senator Wright, an act to amend the Workers' Compensation Law.

Senator Volker, from the Committee on Codes, reports:

Senate Prints 135, by Senator Nozzolio, an act to amend the Civil Practice Law and Rules;

150, by Senator Holland, an act to amend the Penal Law;

760, by Senator Johnson, an act to amend the Penal Law;

922, by Senator Meier, an act to amend the Penal Law;

966, by Senator Skelos, an act to amend the Penal Law;

1047, by Senator Padavan, an act to amend the Penal Law;

1071, by Senator Rath, an act to amend the Penal Law;

1094, by Senator Nozzolio, an act to amend the Penal Law;

1109, by Senator Goodman, an act to amend the Penal Law;

1117, by Senator Goodman, an act to amend the Penal Law;

1223, by Senator Wright, an act to amend the Penal Law;

1232, by Senator Wright, an act to amend the Penal Law;

1259, by Senator Spano, an act to amend the Penal Law;

1325, by Senator Marcellino, an act to amend the Penal Law;

1397, by Senator Padavan, an act to amend the Penal Law;

1398, by Senator Padavan, an act to amend the Penal Law;

1400, by Senator Padavan, an act to amend the Penal Law;

1588, by Senator Johnson, an act to amend the Criminal Procedure Law;

1912, by Senator Volker, an act to enact;

2085, by Senator Libous, an act to amend the Penal Law;

2191, by Senator Maltese, an act to

amend the Penal Law.

Senator Kuhl, from the Committee on Education, reports:

Senate Prints 598, by Senator Johnson, an act to amend the Education Law;

1746, by Senator LaValle, an act to authorize payment of transportation.

Senator Wright, from the Committee on Energy and Telecommunication, reports:

Senate Prints 2421, by Senator Wright, an act to amend the Public Service Law;

2422, by Senator Wright, an act to amend the Public Service Law;

2426, by Senator Wright, an act to amend the Public Service Law;

2427, by Senator Wright, an act to amend the Economic Development Law.

Senator Meier, from the Committee on Veterans and Military Affairs, reports:

Senate Prints 557, by Senator Fuschillo, an act to amend the Real Property Tax Law;

923, by Senator Meier, an act to amend the Public Officers Law;

1908, by Senator Meier, an act to amend the Real Property Tax Law.

Senator Goodman, from the committee on Investigations, Taxation, and Government Operations, reports:

Senate Prints 1419, by Senator Libous, an act to authorize the commissioner;

1932, by Senator Stafford, an act to amend the Alcoholic Beverage Control Law;

2068, by Senator Seward, an act to amend the Tax Law.

Senator Holland, from the Committee on Social Services, reports:

Senate Prints 19, by Senator Holland, an act to amend the Social Services Law;

107, by Senator Larkin, an act to amend the Social Services Law;

178, by Senator Larkin, an act to amend the Social Services Law;

1350, by Senator Holland, an act to amend the Social Services Law;

1351, by Senator Holland, an act to amend the Social Services Law.

All bills directly for third

reading.

THE PRESIDENT: Without objection, all bills directed to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Madam President, on page number 8 I offer the following amendments to Calendar Number 104, Senate Print Number 116, and ask that said bill retain its place on the third calendar reading.

THE PRESIDENT: The amendment is received, Senator, and the bill will retain its place on third reading -

SENATOR WRIGHT: Thank you.

THE PRESIDENT: -- as amended.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time may we please adopt the Resolution Calendar, with the exception of Resolution 407.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolution 407, signify by saying Aye.

(Response of Aye.)

THE PRESIDENT: Opposed, Nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, may we please have the title read on Resolution 407, by Senator Rath, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution 407, memorializing Governor George E. Pataki to proclaim March 1999 as Women's History Month in New York State.

THE PRESIDENT: The question is on the resolution. All in favor, signify by saying Aye.

(Response of Aye.)

THE PRESIDENT: Opposed, Nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, with the consent of Senator Rath, we'd like to open up the resolution for cosponsorship by all the members. If somebody does not wish to be on the resolution, they should notify the desk.

We'll put everybody on the resolution.

THE PRESIDENT: Thank you.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time may we please have the non-controversial reading of the calendar.

THE PRESIDENT: The secretary will read.

THE SECRETARY: Calendar Number 34, by Senator DeFrancisco, Senate Print 709, an act to amend the Surrogate's Court Procedure Act in relation to computation.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 67, by Senator Stafford, Senate Print 775, an act to amend the Environmental Conservation Law in relation to nonhazardous municipal landfill.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 84, by Senator Hannon, Senate Print 817, an

act to amend the Real Property Tax Law in relation to complaints.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 85, by Senator Meier, Senate Print 924, an act to amend the Real Property Tax Law in relation to the repayment of delinquent property taxes.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

103, by Senator Skelos, Senate Print 115, an act to amend the Correction Law in relation to the definition.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 106, by Senator Nozzolio, Senate Print 635, an act to amend the Executive Law in relation to making available.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 112, by Senator Skelos, Senate Print 1015, an

act to amend the Executive Law in relation to permitting.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 124, by Senator Rath, Senate Print 1293, an act to amend the Education Law in relation to requirements.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 126, by Senator LaValle, Senate Print 1971, an act to amend the Education Law in relation to the unlawful sale.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar.

SENATOR SKELOS: Madam President, if we could go to the controversial calendar, there are two bills to be debated. And I won't take it personally.

(Laughter.)

THE PRESIDENT: The Secretary will read, then.

THE SECRETARY: Calendar Number 103, by Senator Skelos, Senate Print 115, an act to amend the Correction Law in relation to the definition.

SENATOR SKELOS: Call the roll. Call the roll.

THE PRESIDENT: Call the roll.

First we'll read the last section, Senator.

THE SECRETARY: Section 2. This act will take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: All right. Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I'm going to vote no on this, and I'd like to explain my vote. I just -- I don't want us to continue down the path of what I think was an ill-conceived, New-York-style Megan's Law.

Many of us recently read about a person in New Jersey who was recently convicted of shooting into the home of someone who had -- whose name had appeared on a Megan's Law list. And I -- I think that to jam even more people into the Megan's Law framework and to have their names publicized is just ill-conceived public policy, and I vote no.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator.

Senator Duane will be recorded in the negative.

All right. Results.

THE SECRETARY: Ayes 47. Nays 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar No. 112, by Senator Skelos, Senate Print 1015, an act to amend the Executive Law in relation to permitting.

SENATOR PATERSON: Explanation, please.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Yes. Madam President, this bill, which passed unanimously in 1997 and 1998, would basically require that if a minor, a person under the age of 18, has reported sexual harassment to their employer in a public setting such as a library -- which occurred in my village -- that they would be required to notify the parents immediately before any discussions could be held with the minor concerning settlement with the

institution or whatever -- whatever procedures they would like to take on behalf of that infant.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield to a question.

THE PRESIDENT: Senator, do you yield?

SENATOR SKELOS: Yes.

THE PRESIDENT: You may proceed with the question, Senator Duane.

SENATOR DUANE: I certainly understand why it is that we would not want a case settled between a young person and an institution in a sexual harassment case without having adult involvement on behalf of the young person. But I am concerned about how it is that the bill -- some of the language in the bill.

For instance, the bill says that the adult has to be a parent or parents or legal guardian. I -- would it not be more appropriate to allow the opportunity of the young person to choose an adult that they

would like to represent them who may or may not be a parent or legal guardian?

SENATOR SKELOS: My opinion? If you're under 18, it's the responsibility of your parent or legal guardian.

SENATOR DUANE: Madam President, on the -- another question on the bill, if the sponsor would continue to yield.

THE PRESIDENT: Do you continue to yield, Senator Skelos?

SENATOR SKELOS: Yes.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: I think that it's entirely possible that a young person might be concerned that their parent or guardian would want to settle the case too quickly or discount what actually had happened. And in some ways, it could take on the format of the institution and the parent in opposition to the young person.

And that's why I think that it would be better to allow the young person the opportunity to choose someone -- it could be a counselor in the school, it could be a whole

host of other adults -- to represent them in the case, in the proceeding.

SENATOR SKELOS: That's your opinion. I have a differing opinion.

SENATOR DUANE: I have another concern, Madam President, which I would like to ask the sponsor about.

THE PRESIDENT: Senator Skelos, do you continue to yield?

SENATOR SKELOS: Yup.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm also concerned that in the case of a family where the parents might be separated or divorced, how is it that the parent would be chosen in a case like this? Is it the custodial parent again, or is it up to the child or the young adult on who it is that would be representing them?

The bill doesn't allow for any - any way to decide who it is who would be the adult to represent the young person in such a case.

SENATOR SKELOS: The bill says

parent, parents, or legal guardian. Even if there is a custodial parent, I believe that both parents still have a responsibility to care for their child.

The main -- the main purpose of this bill, Senator Duane, is to get a family member involved in the process when there's a minor involved as soon as possible. I'm not looking to have a long, drawn-out procedure.

But I'd like to set a mechanism up where -- for example, in my home community a young girl was working in a library, she was sexually harassed, the person was quietly moved out -- you know, the silent resignation that Senator Saland has been discussing that occurs many times within school districts, or here it was a library setting -- moved on to another municipality, a library, perhaps, to sexually harass others.

And what this would say -- and plus the minor signed documents with the library before the parents were notified of the sexual harassment allegations.

I think it's appropriate that as soon as this occurs, the library very simply

or the school district very simply calls up and says, "Mr. Skelos, your child has been sexually -- alleged to have been sexually harassed. We think you should be part of the process."

SENATOR DUANE: Madam President, one final comment on the bill.

SENATOR SKELOS: Yes.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: I wholeheartedly endorse what I believe is the bulk of the intent of this legislation. But I am concerned that it doesn't take into account, again, that a young person should have the ability to choose the adult that he or she would want to be their advocate, their representative, as the case moved forward.

And also that it doesn't take into account the reality of what our families are like today. Which aren't the way I think that we've always imagined they have been in the past -- maybe they haven't been, but that it seemed they are, but which they are in many cases not now.

And what I would further like to do is to work with the sponsor, if I may, on - on maybe incorporating in other legislation some of the ideas which I've brought about the advocacy parts of this bill.

Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 30 days after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51. Nays 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the controversial reading of the calendar.

SENATOR SKELOS: Is there any housekeeping at the desk?

THE PRESIDENT: Yes.

Senator Wright?

SENATOR WRIGHT: Thank you, Madam President.

On behalf of Senator Saland, on page number 5 I offer the following amendments to Calendar Number 36, Senate Print Number 1031, and ask that said bill retain its place on third calendar reading.

THE PRESIDENT: All right. The amendment is received, and the amended bill will retain its place on third calendar reading.

Senator Skelos?

SENATOR SKELOS: Is there any other housekeeping?

THE PRESIDENT: No, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I'm just rising to note that there is a resolution being prepared honoring the students of the Horace Mann School, who are with us today. And Senator Velella and I welcome all of our colleagues to join in recognizing one of the great schools in the Bronx -- indeed, in the state of New York. We're happy the students are here.

I have vivid recollections of being

beaten brutally by their soccer team when I was a high school senior, and I'm glad to honor them here today.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: And I believe that based on that potential resolution, that Senator Fuschillo may have a resolution in the works also.

But I -- I do want to remind the membership about the rules concerning introductions. But certainly we welcome everybody.

Senator Fuschillo.

THE PRESIDENT: Senator Fuschillo, go ahead.

SENATOR FUSCHILLO: Thank you, Senator Skelos. We do have a potential resolution in the works. Senator Schneiderman as well.

But I too would like to recognize a group of kids that are here from the East Meadow High School, the Leaf Program. They're here with Jerry Barash, who's the head of One in Nine, the leading advocates for breast cancer research. And I just want to recognize

them and welcome them to the chambers.

Thank you.

THE PRESIDENT: Thank you, Senators.

As president of the Senate, I recognize your presence and welcome you to the Senate and wish you the best days.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business, I move we adjourn until Monday, March 1st, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate hereby stands adjourned until Monday, March 1st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 3:25 p.m., the Senate adjourned.)