NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 28, 1999

11:05 a.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 rise and repeat with me 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 a moment of silence was observed.)

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 27th. The Senate met pursuant to adjournment. The Journal of Monday, April 26th was read and approved. On motion, Senate adjourned.

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

Senator Skelos.

SENATOR SKELOS: If we could just stand at ease for a moment, please.

THE PRESIDENT: The Senate stands

at ease.

(The Senate stood at ease from 11:06 to 11:07.)

SENATOR SKELOS: Madam President, if we could continue now.

THE PRESIDENT: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator McGee.

SENATOR McGEE: Thank you, Madam President.

On page number 30 I offer the following amendments to Calendar Number 455, Senate Print Number 3874, and ask that the said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendment is received and the bill will retain its place on the Third Reading Calendar.

SENATOR McGEE: Madam President, on page number 38, on behalf of Senator Nozzolio, I offer the following amendments to Calendar Number 578, Senate Print Number 3776 and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendment is received and the bill will retain its place on the Third Reading Calendar.

SENATOR McGEE: Thank you.

THE PRESIDENT: You are welcome. Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are some substitutions at the desk if we could please make them.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 8, Senator Skelos moves to discharge from the Committee on Codes Assembly Bill 4575 and substitute it for the identical first report 738.

On page 9, Senator Maltese moves to discharge from the Committee on Codes Assembly Bill 1738-A and substitute it for the

identical first report 749.

On page 12, Senator Goodman moves to discharge from the Committee on Investigations, Taxation and Government Operations, Assembly Bill 811 and substitute it for the identical first report 778.

THE PRESIDENT: Substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: I believe there is a privileged resolution at the desk by Senator Connor. May we have the title read and move for its immediate adoption?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Connor, legislative resolution commemorating the Richard Carp Annual Cooperative Village Breakfast on behalf of the 1999 New York Metropolitan Campaign for the UJA Federation.

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, if we could take up the non-controversial calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 100, by Senator Saland, Senate Print 1013-A, an act to amend the Family Court Act, in relation to extensions of child placement.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 341, by Senator Kuhl, Senate Print 3187-A, an act to amend the Agriculture and Markets Law,

in relation to certain land use in agricultural production.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Seward, Senate Print 2898, an act to amend the Tax Law, in relation to extending the expiration of provisions.

SENATOR PATERSON: Lay that aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 430, by Senator Wright, Senate Print 1479-A, an act to amend the Real Property Tax Law, in relation to the real property tax exemption for veterans.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 495, by Senator Balboni, Senate Print 3653, an act to amend the Environmental Conservation Law, in relation to dam safety.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 511, by Senator Skelos, Senate Print 3275, an act to amend Chapter 583 of the laws of 1998 relating to authorizing.

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 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 524, by Senator Stafford, Senate Print 3843, an act to amend the Executive Law, the Arts and Cultural Affairs Law, in relation to excluding the secretary of state.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

561, by Senator Bonacic, Senate Print 3719, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Lay that aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 579, by Senator Nozzollio, Senate Print 3781, an act to amend the Correction Law, in relation to inmate use of controlled substances and marijuana.

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: Aye 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 636, by Senator Meier, Senate Print 4159, an act, in relation to the transfer of portion of

a highway in the County of St. Lawrence.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 642, by Senator Trunzo, Senate Print 4410, an act to amend the Vehicle and Traffic Law, in relation to fire trucks.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar 784, by Senator Kuhl, Senate Print 5535.

SENATOR SKELOS: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Madam President, if we could stand at ease for a moment, please.

THE PRESIDENT: The Senate stands at ease.

(Whereupon the Senate stood at ease from 11:14 to 11:31.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Majority Conference in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon the Senate stood at ease from 11:31 to 12:38.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: The Senate will please come to order.

Senator Skelos.

SENATOR SKELOS: If we could continue with the controversial calendar now, starting with Calendar Number 386, by Senator Seward. We will then take up Calendar Number 561, by Senator Bonacic, and then 784, by Senator Kuhl.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar beginning with Calendar 386.

SENATOR SKELOS: Prior to starting, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

The Secretary will read. Senator Duane, why do you rise?

SENATOR DUANE: I wanted to ask for unanimous consent. I wish to be recorded in the negative on Calendar Number 579.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 579.

The Secretary will read.

THE SECRETARY: Calendar Number 386, by Senator Seward, Senate Print 2898, an act to amend the Tax Law, in relation to extending expiration of provisions.

ACTING PRESIDENT MEIER: Senator Dollinger. No?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 2. Senators Dollinger and Gentile recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 561, Senator Bonacic, Senate Print 3719, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the

last section.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Bonacic, an explanation has been requested of Calendar Number 561 by Senator Dollinger.

SENATOR BONACIC: This is an act to amendment the Criminal Procedure Law, which would result in the denial of bail or releasing an individual on their own recognizance in certain cases and providing for a quick trial.

The long and the short of this is that if a person had been convicted of a felony, and we're talking of 11 categories of crime which deals in the past with violent acts and they were arrested a second time that they would not have the liberty of bail or recognizance if that conviction of a crime had occurred in the last 20 years. Or if a person had been arrested for a violent felony in 11 categories going from murder to rape to robbery with the use of a weapon and they were arrested on a second charge for a different crime of violence, in those circumstances they

would not have bail or be released in their own recognizance.

That is the purpose of the bill.

ACTING PRESIDENT MEIER: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: I believe we had some questions on the bill. Senator Waldon?

ACTING PRESIDENT MEIER: Senator Waldon?

SENATOR WALDON: Mr. President, I would respectfully ask to speak regarding my vote on 579. I was confused about the numbers.

ACTING PRESIDENT MEIER: All right. Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those reported in the negative on Calendar 561 are Senators

Connor, Duane, Montgomery, Sampson, Schneiderman, Seabrook, Smith, Stavisky, and Waldon. Ayes 48, nays 9.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator Kuhl, Senate Print 5535, an act to amend the Education Law, in relation to improving school safety.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on the motion to accept the message of necessity. All those in favor, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: Message is accepted. Bill is before the house. The

Chair recognizes Senator Kuhl.

The Secretary will read. The Chair recognizes Senator Kuhl.

SENATOR KUHL: Thank you, Mr. President.

When I became Chairman of the Senate Education Committee earlier this year I said that the timing of the assignment was incredibly fortunate. I also said that New York State has a great and long standing tradition of seeking to provide our young people with a quality system of education. I further said that here on the brink of a new century in a world that is changing more rapidly than it has ever changed before that this nation was perhaps more focused than ever on the value of education. And I said that this meant that we could expect here in New York State to be at the forefront of educational challenges and reforms. But, Mr. President, I didn't have this day in mind. And so I rise today with some dismay. I rise with some dismay that in my first session as Chairman of the Senate Education Committee we're forced to confront challenges that are

not really about what many of us have always envisioned as the fundamentals of education.

We're forced to confront challenges as far away from reading and writing and learning as we could ever have imagined. We're forced to confront challenges not about how to teach our children how to read and write and learn well, but about how to keep them safe in school. We're forced to confront the challenges of violence in our schools.

We don't want to think about metal detectors in schools. We don't want to think about a police presence in our schools. We don't want to think about guns or assaults or security cameras in our schools. But that is the reality of what we must face today. Our actions today represents for me and for all of those who will support this legislation the opening of the most important debate and then dialogue facing New York State.

Recent events have refocused our priorities in very terrible and heart wrenching ways. The communities, the state, the nation have great challenges to confront. There is a lot of work to do. And the

legislation before us is an important piece of that work here in New York State. The Safe Schools Against Violence in Education Act is a 17 point program to help prevent and better respond to incidence of school violence. Our plan calls for, number one, a creation of a code of conduct. It requires that schools adopt codes of conduct for the maintenance of order on school grounds and such codes shall be filed with the State Educational Department.

Some of the items include appropriate dress, language and behavior, which we would expect; security issues, removal from the class room, discipline procedures, detention, suspension, expulsion procedures, procedures for reporting codes violations, determining violations, imposing penalties. It would also require a process for reporting violent incidents to law enforcement. It also requires districts to establish committees to review actions relating to the code.

A second point is a violent incident reporting system that requires that

the Commission of Education and the Division of Criminal Justice Services develop a statewide system for reporting violent incidences on school grounds. Schools would report a minimum of the number and types of violent incidences, the number of suspensions and other forms of discipline and actions taken by the school, the age, grade and other relevant information of disciplined pupils. Also, an annual report to this body and to the Governor would be required regarding the prevalence of violent incidents on school grounds, and the inclusion of such information on school report cards, which many of you have just read for the second time just in the last couple of weeks.

Thirdly, a school safety plan, which would be incredibly important in today's world is required. And this would require local school boards and law enforcement agencies to develop and adopt a school safety plan for crisis response and management. Schools will be required to develop such plans in conjunction with the appropriate law enforcement officials.

Fourth point of the plan is court notification, which would be requiring family and criminal courts, which is not currently required, to notify schools about juvenile criminal adjudications and convictions.

A fifth piece would require that disruptive pupils be removed and the proposal would allow teachers to remove disruptive from their, and I underline their, class rooms for up to ten days.

The sixth point would be that there would be increased suspension periods, periods which now maximize to five days would be increased to ten. And it would add principals to those empowered people to suspend pupils from school directly. Currently the board, the superintendent, the district superintendent have the power to suspended pupils from school up to five days.

The seventh point with regard to penalties, penalties for possession and use of fire arms. It increases the penalty from a misdemeanor to a Class "D" felony for the possession of unloaded fire arms on school grounds. It increases other weapons

possessions on school grounds from a violation to a Class "A" demeanor. Those weapons would include such things as air guns, spring guns, CO2 cartridge propelled guns.

It also would include mandatory sentences for making use or sale of weapons on school grounds as felonies, five year sentence for the use of a fire arm on school grounds, a Class "B" felony. Five year sentence for criminal sale of a fire arm on school grounds, a Class "B" felony. Three year sentence mandatory for criminal sale of a fire arm on school grounds in the second degree.

It also prevents those convicted of these crimes from receiving youthful offender status, particularly as 14 and 15 year-olds. And they in particular would be tried as adults.

The eighth point of the proposal would elevate assault on teachers or school personnel that results in an injury from a misdemeanor to a Class "D" felony.

The ninth point of the proposal increases from a misdemeanor to a felony as an assault by a non student that results in an

injury to a student while on school grounds.

A tenth point is that while New York has some of the toughest gun laws, in New York there are cases when federal law provides for even greater criminal sanction. In such instances this bill would provide that the state will work with local prosecutors too facilitate the transfer of certain school gun crimes to the U.S. attorney's office for maximum sanction prosecution.

The eleventh proposal point is there is whistle blower protection included. Protections for employees who report violent incidences whereby an employ may not be disciplined or fired for these incidents.

The proposal also includes a provision which would allow for blanket waivers relative to salary caps contained in sections 211 and 212 of the Retirement and Social Security Law which would allow retired law enforcement officers to go to work in our schools.

The thirteenth point deals with prevention initiatives and outreach. The proposal would require that the Commissioner

of Education develop and distribute interpersonal violence prevention packages for distribution to schools for use in health and other related curriculum. Packages would include student pamphlets, parent pamphlets, video tapes and other material. It would also include a teacher training package with lesson plans and pamphlets, video tapes and other informative materials.

The fourteenth point deals with state police safe schools programs, and this program would be expanded statewide from several counties where it now operates and would insure that schools are prepared in case of a violent emergency.

The program includes curriculum to teach school personnel to recognize and address troubled students and how to react when confronted with a violent situation. This program includes courses addressing early detection, conflict resolution, calling in deescalation techniques, gang identification, hostage situations, emergency planning, legal issues related to locker searches and a stand alone course on the relationship between

school and familial violence.

The fifteenth piece of the proposal deals with expanding building aid to cover reimbursement for hand held metal detectors and security cameras. Currently school districts are allowed to receive reimbursement for fixed metal detectors but not the hand held metal detectors or security cameras.

The sixteenth point deals with public outreach. And there is a requirement that a public service campaign on school violence prevention and parental responsibility be conducted.

The seventeenth point deals with the task force on school violence, investigating methods to coordinate state efforts in violence prevention and psychological and mental health and alcohol and substance abuse services for troubled youth.

Tragically too many of our schools are experiencing increases of violence. If we value the integrity of the learning process we must face the reality that many administrators, teachers and other school

staff, as well as the students themselves really fear for their own safety. A climate of fear certainly is not conducive to a quality education.

Many of us recall our childhoods and we can recall fist fights in class rooms and disruption from our school days. But what is happening today has moved certainly to a different level. The disruptions are becoming more violent, the use of weapons is becoming more wide spread. This Safe Schools Against Violence in Education Act before us today represents for me an opening effort in what I see as a long term and constantly evolving response in safety in schools.

I thank the Governor for this initiative to immediately bring this proposal before us. We really have an opportunity to do some great work today.

I appreciate the work that the Lieutenant Governor is going to be doing and has already started on the Task Force on School Violence. And I know that I speak for many of you anyway throughout this chamber when I say that looking forward we can

anticipate working very closely with Governor Pataki and Lieutenant Governor Donohue and many of you and certainly our legislative colleagues in the Assembly to put in place the most comprehensive, effective strategy for keeping schools safe in the state.

There is no time or place for partisan squabble on this matter. This work is too important. Let me stress that this legislation before us today is not a single magical answer and we must vote a great deal and devote a great deal of care and thought and consistent diligent attention to the issue of safety in our schools and the broader issue of trouble among our youth. But the Safe Schools Against Violence in Education Act constitutes, in my opinion, a very solid, a very good first response.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senate Waldon.

SENATOR WALDON: Mr. President, I may wish to defer to Senator Paterson or to Senator Dollinger who I believe may have something they want to propose to us, but in

the event that that is not the case, then I would like to ask some questions of the sponsor.

SENATOR DOLLINGER: Thank you, Senator Waldon for yielding to me.

Mr. President, there is an amendment at the desk. I would ask that the reading of the amendment be waived and that I be allowed to explain it.

ACTING PRESIDENT MEIER: Senator Dollinger, if you would permit us a moment to review the amendment for germaneness we'll be with you shortly.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT MEIER: Thank you, Senator Dollinger. The amendment is germane. We will waive the reading of the amendment and you now have an opportunity to explain the amendment.

SENATOR DOLLINGER: Thank you, Mr. President.

This amendment, if accepted by this house, would allow -- I appreciate Senator Kuhl's description of his bill as a long term evolving commitment to solving this problem.

We, on this side of the aisle I think recognize that that type of long term commitment, whether it comes from the Governor's office or comes from the Lieutenant Governor's office or comes from the Majority of this house or the Majority of the other house, is an appropriate step to take in this state to begin to deal with the problem of violence generally and the problem of violence in our schools. But what this amendment seeks to do, Mr. President, is to look at the issue of the weapons that are available in our society generally and too often appear in our schools. This bill would restrict access to military style assault weapons, just the kind of weapons that were used by the two youths in Littleton, Colorado.

One of the weapons that specifically was used in Littleton was a Tech 9. Probably the most vicious type of assault weapon made. This bill would specifically ban the sale and the ownership of a Tech 9 in New York State.

I have spoken before on this floor about assault weapons and their relationship

to violence. I agree with Senator Kuhl. There is no one approach that is going to solve the problem of violence in this state. There is no one approach that will solve the problem of violence in our schools in this state or in this nation. So what we have to look at is a multifaceted approach. This amendment would allow a portion of that approach; the restriction on access to weapons of mass violence. That is what these are. These are weapons that allow a single individual to kill 13 people in a school.

I would suggest to you that if the conventional weapons that were prominent when I was a kid, a baseball bat, a knife, if those weapons had been used we would not be talking about 13 people killed in the school. The reason why we're talking about 13 is because of the violent possibility that these weapons pose. These are weapons of mass destruction in our schools. These are weapons that are built for the confined spaces of school or post offices or school yards as someone in California about seven years ago used one. These are weapons that are used in close

quarters in a room maybe perhaps not even unlike this room here and they are used to kill many people in short moments. It seems to me that if we are going to be realistic about decreasing the propensity for violence and decrease the possibility of violence we need to take back and take away from people the opportunity to kill many people in a short time.

I thought about this bill today as I was driving here to the chamber and I walked up to the second floor and I walked by the war room. You ought to go see it. It is really an impressive part of this building. It has been restored. It has a ceiling that depicts the wars that New York State has fought right from the wars against our native American brethren right up to the time of the second - I belive just the first world war. There is a doughboy in one of the pictures.

I think the tendency is in this debate to say, wait a second, the guns are not bad, the guns aren't bad in and of themselves, it is the people firing the guns that are the problem. And I guess I look at that and I

could say to everyone in this chamber, the Germans weren't the problem in World War II, it was their leader. The Japanese were never the problem, it was their leader. It was the one person that drove them to hate and drove them to violence. And I would suggest to everybody in this room that there a side of everyone's character in nation, if not on this planet that could also drive them to violence. And that what we need to do is face this war among ourselves and this war over the dark side of the human character, whether it is exhibited by the trenchcoat Mafia or others. That what we need to do is recognize that in order to stop that war, in order to take back the violent power of that war we need to take away the weapons of war as well. The weapons that are referred to in this bill which would be banned or restricted access to are the weapons war. They have no place in our schools. They have no place in our neighborhoods.

And I would just suggest to everyone in this chamber that if we adopt this amendment and include it in this bill and it

goes off to a conference committee and becomes part of the law of this state, as even the Governor of this state would like it to, I would just suggest we could do what has ended all the other wars. We could today sign a little treaty, a little treaty with the dark side of our nature and we could simply call it the treaty of Columbine. A treaty under which we agreed to voluntarily give up access to these terrible weapons of war. We step back from the precipice of violence. And that one thing that we do all of the time in this chamber, no matter how we do it, everything that we do sends a message to the people that we represent, whether it the message that we sent with the death penalty that I violently disagreed with, or whether it is a message that we send when we increase penalties as this bill does and we have done hundreds of other times, or when we lessen penalties, all of those things send a message to our constituents, and to our children in schools about what is right and what is wrong.

I would suggest by signing this treaty with ourselves with the dark side of

human nature and taking these weapons of violence away and reducing the possibility for violence in this state we will send a message to the school children, the message that we all want to send, which is that there is no place for violence in the schools. There is no place for the weapons of violence in the schools. School is for learning. School is for improvement. And not a place where you take out terror on your fellow students.

Mr. President, I would strongly recommend that we adopt this amendment today. I think it will take us that next step. It will continue us down the road to decreasing violence in our schools and improving the quality of education therein.

ACTING PRESIDENT MEIER: Excuse me, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I rise to speak in support of this amendment also. I have a daughter in the public schools in New York City and it is something that troubles me greatly when issues come up in my school district about whether or not you need metal detectors in the elementary

schools versus just metal detectors in the high schools.

I think that it is elemental that we are currently the laughing stock of the industrial world because of our lack of gun control policies. And at the very least we can send a strong message in the wake of the tragedy in Colorado that the weapons of war are not something we need to tolerate in our society and this will make the provisions of the school safety bill that much stronger. It is a perfect time to send that message and I rise to urge everyone to vote for this amendment.

ACTING PRESIDENT MEIER: The question is on the amendment. All those in favor signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative, with an exception.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 22, nays 35.

Party vote with exception.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Dollinger.

SENATOR DOLLINGER: I believe there is a second amendment at the desk. I ask that the reading of it be waived and that I be allowed to address it.

ACTING PRESIDENT MEIER: Give us a moment, Senator Dollinger.

Thank you, Senator Dollinger. We have reviewed your amendment. The reading of the amendment is waives as you requested and you now have an opportunity to explain it.

SENATOR DOLLINGER: Thank you, Mr. President.

This bill does two things. I have expressed my view generally about the issue of violence in school, but this bill really does two things, Mr. President. It would pass the children's access to weapons act and amend it to the underlying bill.

The children's access prevention act would do two things, Mr. President, would create criminal responsibilities on the part

of parents who neglect to properly keep weapons stored in their homes and it would create accelerated penalties if those weapons were used by a child in the commission of a crime or the in the physical injure or shooting of another individual. So it creates parental responsibility where guns are concerned. Which I think in the wake of the Littleton episode there has been a great deal of concern in this nation about parental responsibility in dealing with weapons.

This bill will send a message to all parents, the same way we have sent messages before. Same way we have heard a discussion from all sides of this chamber that it is important to lay out as a socially unacceptable behavior that keeping a gun without it being locked and stored properly is unacceptable and excessively dangerous conduct.

The second thing this bill would do, Mr. President, is this bill would require trigger locks on guns sold in the State of New York. Trigger locks would prevent the discharge of a weapon without the responsible

adult and the owner of the combination or key to unlock the weapon so it could be discharged. It would, I believe, go a long way to eliminating the accidental discharge of weapons which too often occurs.

Right in Livingston County, not far from Rochester, a three year old child is killed when a weapon owned by an off duty sheriff is improperly stored. His six year old brother gets a hold of it and accidentally shoots and kills his three year old brother.

Mr. President, this is another part of the steps down that long stair way to making our society safer and making our schools safer because it is these weapons that are left lying around the house which are taken to school. It is these weapons which do not have triggering devices that are sold to students that end up in our schools as weapons of modern school terror.

Lets take a step back from that. We applaud what Senator Kuhl is trying to do. We feel this is another important step in getting to that goal.

I move the amendment, Mr.

President.

ACTING PRESIDENT MEIER: The question is on the amendment. All those in favor, signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 23, nays 34. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Dollinger.

SENATOR DOLLINGER: I yield my time back to Senator Waldon, Mr. President.

ACTING PRESIDENT MEIER: Senator Waldon.

SENATOR WALDON: Sounds more like the Congress every day in here.

ACTING PRESIDENT MEIER: God help us, Senator Waldon.

You may proceed.

SENATOR WALDON: Would the gentleman who is the sponsor of this measure yield for a question or two?

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield to a question?

SENATOR KUHL: I would be happy to.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR WALDON: Thank you, very much, Mr. President.

Senator, permit me please to do a bit of a preamble to the few questions that I have. First of all, this legislation was here last year. It was part of our process even the year before. I voted for it last year. I will do that again this year, but I have some real concerns this year as last year.

In the wake of the Columbine tragedy we are all looking for answers. I don't think this is a knee jerk reaction to that because we did view this last year. But looking for answers to the question, how could this have happened.

Knowing what we know about the two

young boys in Colorado would this legislation, if in place there, have prevented their assault on their school? Would it have identified them as threats? Would it have kept them from getting the weapons of destruction? Would it have dealt with the credible hate and psychological chaos they were experiencing? Would the threat of locking them up have deterred them?

The fact is that the Columbine tragedy was a terrorist act akin to machine gunning women and children in an Athens airport or bombing an outdoor market in Tel Aviv. Tough laws and security do not prevent individuals who are bent on self destruction from committing the most heinous acts. We have to deal with the under lying causes; hate and alienation.

What I want to find out from you is will this bill do that, so I will now pose a question or two.

Does your measure provide psychological counseling to students who are suspended according to your bill from our school system?

SENATOR KUHL: Students who are suspended?

SENATOR WALDON: Yes.

SENATOR KUHL: I don't believe so.

SENATOR WALDON: Does this bill if it were to become law -- will this bill I should say -- if it were to become law engage the parents in an ongoing dialogue and interaction with the school, the child, and the school's authorities so that there can be some kind of symbiotic relationship amongst those three entities?

SENATOR KUHL: The bill does have some portions of it, Senator, that do engage the entire community, yes.

SENATOR WALDON: Thank you. May I continue, Mr. President?

ACTING PRESIDENT MEIER: You wish the sponsor to continue to yield?

SENATOR WALDON: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR WALDON: Considering what you just said, Senator Kuhl, will your proposal help these troubled children deal with the pressures and stresses they are obviously experiencing in the school environment and perhaps even in their homes? Does it do anything in that regards?

SENATOR KUHL: I believe so, Senator.

SENATOR WALDON: Could you give us an example, please?

SENATOR KUHL: Lets take first of all the conduct. As I outlined in the bill to you, it involves the entire community in coming to what is acceptable conduct. And when you start to involve parents about what things are acceptable and what are not, school boards, law enforcement agencies, all of those kinds of things are brought in, you really get the community working together toward the safety of the school. Now, that is a where we start to engage the entire community in that process. That is just one example.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?.

ACTING PRESIDENT MEIER: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR WALDON: America has been accused of being rather prudish in its approach to life.

SENATOR KUHL: Excuse me?

SENATOR WALDON: America has been accused as a nation of being rather prudish in its approach to life, in its attitude. I believe though that basic morals, basic moral fiber is absolutely necessary for us to have a safe society for people to not yield to the temptations of violence.

Does this proposal in any way help to instill morals? Will it teach our children right from wrong?

SENATOR KUHL: Senator, you have obviously a philosophy that you have developed. I have a similar philosophy that I have developed in my 55 years, 56 years now,

in this world. And one of the things that I learned or I thought I had learned is that there is a great need for family. And there is a responsibility of every parent, of every mother and every father to actually help in the nurture of their children that they bring to this world. And that in fact as part of that they are supposed to be teaching right from wrong.

As you know, in our society we have families that are dysfunctional. We have families today that are not considered to be families. And that lends a different kind of element to our society today that was not there years ago. It has never been my thought or my up bringing that the school was meant to replace that parental responsibility. And so you will not find anything in this particular proposal that aims at taking away any responsibility that has been normally that of a family and a parent and replacing it with a school.

SENATOR WALDON: Thank you for that answer, Senator. Would the gentleman continue to yield?

ACTING PRESIDENT MEIER: Do you continue to yield, Senator Kuhl?.

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR WALDON: One of the major provisions of your proposal, Senator Kuhl, and it was well thought out and comprehensive, I am absolutely certain that in terms of all that you are as a legislator, as a caring New Yorker, as someone who is experienced in this particular milieu, where you attempt to establish public policy that will insure the safety and security not only of our schools, but our streets, our highways and byways, that you are really well intentioned in doing this. But when the child is suspended, when the child is suspended, is there anything in that suspension that you can relate to us which may intensify his or her interest in school?

SENATOR KUHL: Well, let me just kind of through two things your way as far as an explanation goes, Senator. Number one, you talked about this being a first approach or the second approach that this body has really

dealt with this issue. And I understand as we all get a little older things kind of, particularly our service here in this body blends together or gets lengthier that things tend to blend together a little bit.

Well, we have been dealing as a Senate body with this issue since 1993. And we have had a variety of different proposals dealing with school violence that this house has dealt with. This piece that is before you today is the most comprehensive piece that we have in fact put forward to dealing with violence in schools. And as I indicated in my remarks, and I do not know whether you heard me say specifically, I tried to underline it, this is a terrific first response. But there is an on going need to continue to evolve a system that provides absolute protection to our students.

Can I guarantee that this bill will do that? The answer is, No, I can't guarantee that this bill will do it. I can tell you that this bill will provide significant safety to many students, and it may even, in response to your question I think which I didn't

directly answer, would it have made a difference in Colorado, I believe this bill, had it been in Colorado, would have made a significant difference because this bill requires that every school have a system in place that deals with emergencies so that we would not have had a school system that was really at loss as to what to do for hours. There would have been an immediate response and it could have saved that person who bled to death on the floor of the school in Colorado over three to four hours. This bill has a significant very positive response to a factual circumstance that we never envisioned when you started upon this course to provide protection to our students.

SENATOR WALDON: Thank you, Senator Kuhl.

Mr. President, if I may, on the bill.

ACTING PRESIDENT MEIER: Senator Waldon, on the bill.

SENATOR WALDON: Let me again thank Senator Kuhl for a very comprehensive approach to a very thorny and complex issue.

Our children are our greatest resource and we should do all that we can to insure that they realize their fullest potential and become productive citizens. Let me also applaud the Governor for drafting this legislation, crafting this legislation, and giving it to such a capable senator as Senator Kuhl. However, I will support the bill, but however, I believe that we still have a long way to go.

In the communities I serve a teacher having the authority to suspend a student without what I call or envision as proper oversight is an ominous tool. I believe there should be an immediate review which will preclude that child's suspension if it is found that it was a personal matter between the student and the teacher or any other untoward occurrence that is not professionally sound. Sometimes teachers make mistakes. Sometimes teachers are very vindictive.

I don't believe that the future of a child should be in the hands of just one person in terms of not just his or her education but that persons image of self. So

I am very concerned about that.

I am concerned about characterizing our children as criminals so easily. I believe that there should be some checks and balances in regard to the whole concept of guns in school. I don't condone guns in schools. I don't think anyone in the chamber condones guns in schools. But when children have access to weapons at home and bring them into the school I think we need to look behind the cause of that gun arriving in the school. I think there are some real concerns.

And despite how we may posture and pontificate in this chamber, my dear colleagues, there is a difference in the application of this proposal and many like proposals in our communities. When I say our, it is just for the purposes of discussions of this issue. I am talking about people of color. People whose origins are from Latin American and Latin experiences. There is a different application of the law, if you will, for our children as opposed to other children. And this is not knee jerk reaction because the bill was here last year. And as Senator Kuhl

so clearly evidenced to me, we have been dealing with the issue since 1993, violence in schools. But Columbine wasn't in a black area. That area in Colorado had only one student of color who was killed and not many black students.

One of the our dearest friends has a very dear relative in that area and we spoke on the phone. There is not a lot of Latin kids in that school, or African-American or Caribbean-American kids in that school. And when you look back over the last two years, these tragedies with mass killings occurred in places that would be characterized as wealthy, upper-class, some, almost all white. And yet we're dealing with this legislation today which will have in my opinion its most dramatic negative impact on people of color and their children.

And for some of us all we have is our children. Welfare mother, single parent, head of household struggling to make ends meet and her child is inadvertently suspended from school when somebody should have been able to say to that teacher, hey, wait a minute, lets

really examine what your doing.

I will vote for this because we can not permit chaos in our schools. We can not permit mass killings in our school. We can not permit our children to be destroyed not only physically but psychologically and spiritually. But I think we have a long way to go. And I pray that when we convene the conference committees that reason will step forward, that goods minds will work together and that each of us despite whether we're Republican or Democrats or whatever else we may be in terms of our political persuasion recognize that the children are the greatest resource and that we must come together and insure that they become all that they can be.

Thank you, very much, Mr. President. I will vote yes.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, will the sponsor yield for a question?

ACTING PRESIDENT MEIER: Senator Kuhl to you yield to a question from Senator Stavisky?

SENATOR KUHL: Happy to.

ACTING PRESIDENT MEIER: The sponsor yields. Senator Stavisky.

SENATOR STAVISKY: Senator Kuhl, is there an Assembly sponsor to your legislation?

SENATOR KUHL: I don't believe so, sir.

SENATOR STAVISKY: It is my understanding that an Assembly bill has passed. What is the difference between that bill and your bill?

SENATOR KUHL: Senator Stavisky, there is an Assembly violence bill that is A-6899. It was past roughly a month ago. There are a variety of similarities in the bills. There are some difference in the bills. Difference being, and let me kind of, if you want me to do, if you are really that interested detailwise, I can go through it. It probably will take me 15, maybe 10 minutes, but I can maybe be briefer than that. I will try.

Let me just kind of briefly tell you, to deal with the codes of conduct, I

outlined in my presentation what was required under our bill. The Assembly bill requires schools to adopt codes of conduct for the maintenance of order on school grounds. Requires that the policy shall be reviewed annually and shall be filed with SED. Requires schools districts to provide an appeal process in regards to an official action or decisions of the school board that relates to the code of conduct.

So both bills have a piece dealing with the codes of conduct.

The question of violent incidence reporting systems, the Assembly bill would require that the Commissioner of Education and DCJS to develop a statewide system of reporting violent incidence on school grounds. Again, both bills includes a provision dealing with violent incident reporting.

School safety plan, which I mentioned, would be required by our bill. The Assembly, each school is required to adopt and implement a written uniform school district safety plan. The plan is reviewed on an annual basis. Similar, not exactly the same

language as our proposal.

Court notification. The Assembly bill would require a school district and BOCES to facility and comply with court orders of protection and temporary orders and includes a designated education official to assess educational needs of children who are in Family Court proceedings. Again, requirement, but not exactly the same.

Disruptive pupil removal. Assembly bill, our bill as you may remember when I outlined it allows for teachers to remove pupils from a classroom for up to ten days. Not from school. It doesn't allow school removal, it allows a removal from the class room but an alternative education program, as you know, Senator, having been a long time involved person in the education arena, has to be provided. So there is no disruption in the education program under our plan. The Assembly bill would allow teachers to place children in an alternative setting only if the students presents an immediate threat to the safety or health of others. Our bill is a little bit different again, and when children

are disruptive in a class the teacher has a right to remove those children from that particular. Our bill takes it just one step further.

Increased suspension period application. The Assembly does not increase existing suspension period and they do not add principals to the empowered group able to suspend pupils as our bill does.

Relative to the penalties for firearms, the Assembly bill does not deal with the possession of weapons on school grounds. They do with regard to the use and sale of fire arms. They establish a Class "D" or a Class "C" felony depending on the circumstances. There are a some additional provisions that they do that are similar to what we do in that area.

Assault on teachers, another one of the points. The Assembly bill would increase from a misdemeanor to a Class "D" felony where there are assaults on teachers which result in injury. Our bill does essentially the same thing except includes school personnel and not just single out teachers.

Relative to assaults by non students, both bills are pretty identical here in that we increase from a misdemeanor to a felony assault by a non student that results in injury to a student while on school grounds.

The Assembly does not deal with increasing penalties where there are federal prosecution for gun offenses which are stiffer than they are under state law. Our bill does. Whistle blower protection, the Assembly bill protects employees who report violent incidents as does our bill.

The retirement penalty provision which allows former law enforcement agents and officers to go to work for school districts with a waiver of the restrictions, the Assembly bill does not deal with that issue.

The Assembly bill does not contain a comparable provision that deals with the inter-personal violence protection or prevention package that our bill does, talking about the development of that involving teachers and video tapes and all that kind of stuff.

The Assembly bill does not include an expansion of the program which was the state police safe schools program.

The building aid reform, the Assembly bill expands building aid to cover the cost of construction of alternative settings for students who are suspended due to disruptive behavior. Our bill deals with expanding coverage and reimbursement for security devices in the temporary situations.

Public outreach proposal in our bill is not carried out in the Assembly proposal. The task force issue that was in our bill the Assembly bill does not deal with.

There are some provisions dealing with efficiency grants, parent and child school visitation, Family Court incarcerated youth program continuations, false reporting of incidents that are included in the Assembly bill that are not included in our bill.

You didn't ask, but my overview of this is there are a lot of pieces of the Assembly bill that are very, very similar to ours that we could jointly come together on relatively quickly. There are some issues

that they have included in their bill that I think we could warm up to and actual include in our bill in a joint bill. There are some pieces in their bill that we could not warm up to.

That is a brief, I think as brief as I can be, analytical comparison of the two bills.

SENATOR STAVISKY: I thank the sponsor for the detailed explanation and I believe that what we end up with is a conference committee of Senate members and Assembly members if this bill passes. And I urge support of this bill.

I also urge that those who represent the Senate and those who represent the Assembly come together agreeably, come together in the spirit of cooperation so that there will be ultimately a united front for the passage of a safe educational environment act.

I am going to support this legislation and ask my colleagues to do that and I hope that the conference committee members will agreeably come together with a

combined report that will reflect the thinking of the Senate and the Assembly.

I'm going to vote aye on the major bill. Thank you.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like to ask a couple of questions of the sponsor, Senator Kuhl.

ACTING PRESIDENT MEIER: Senator Kuhl do you yield for some questions?

SENATOR KUHL: I would be happy to yield.

ACTING PRESIDENT MEIER: The sponsor yields. Senator Montgomery.

SENATOR MONTGOMERY: Thank you. Senator Kuhl, I recognize that the stated purpose of this legislation is a school safety environment bill and I think that is a noble purpose. But I would like to ask you, the bill, first of all you increase from five to ten days the length of time a student maybe suspended without a fair hearing. And the only students who seem to have some protection under this law are students with disabilities

based on protections under the Disabilities Education Act.

I do not know what those protections are, but my question to you is, why do we decide that we are going to suspend students for two weeks rather than one week without a fair hearing where that student can come before some official tribunal with the person who has accused that student in many instances the teacher so that student has an opportunity to at least present a case?

SENATOR KUHL: Senator, first of all let me tell you that I don't know as I have the benefit of the wisdom why every word and every provision in this bill was changed because this is not the Senate bill, this a bill that I am sponsoring which is a Governor's program bill, which he sent to both houses which was picked up by our house because it contains most everything that we had in our prior bill that we passed. So I don't know as I can explain every reason behind every change.

One of the things that I do note in this bill is that there is, depending on the

severity of the suspension, either a requirement for a formal fair hearing or an informal hearing. And I don't think any student, and I was quickly reading the language here, there is a requirement -- I do not know if you read the language on page 3, Senator, or not, but certainly there is a requirement here for the student to be informed as to why that student is being suspended. And there is a requirement as you can see on page 3 as I indicated earlier for the continued education programing to be continued during the period of the suspension, so there really is no break in education for this child at any time during that school year.

So suspension, what I guess I am saying to you is regardless of whether there is a formal hearing or an informal notice given to the student, there really is a continuity of the education program which is provided to the student. There is no system under this law which would allow for the student just to say, for instance, be sent home without any kind of a continued

educational program.

SENATOR MONTGOMERY: Senator, if you would continue to yield, in the event that we have a student who has been suspended from say a science lab or class or a student who for whatever reason based on conflict of personality or otherwise, which very often happens as we all know between teacher and student, especially as they get into junior high and high school, and that is that class happens to be a required class course, foreign language or a science, some other class, math, that is extremely important as it relates to that young person's meeting graduation requirements. Is there any where in this legislation that requires that school to provide exactly that level -- access to that level of classroom activity in that subject for two weeks that that young person has been suspended without a fair hearing?

SENATOR KUHL: You are talking about suspension from class?

SENATOR MONTGOMERY: Yes, by the teacher, which you are going to allow.

SENATOR KUHL: That is exactly

what the language provides for is that there is appropriate education, alternative education for that student.

SENATOR MONTGOMERY: In that subject.

SENATOR KUHL: Yes. It could be that the -- the practical reality is in larger school districts, Senator, where you have a student who is, because a student is being disruptive, okay, in a class, the teacher says, Fine, you don't want to study, fine, you are not going to be in this class, you are out of my class, and that teacher goes on and teaches the rest of the students. It is now incumbent upon that school district to find an alternative class. Now, in many cases in bigger school districts they may just take that student and move that student to another building and have the same class. Different teacher, but the same class. Same level.

SENATOR MONTGOMERY: What about the smaller school districts with one high school?

SENATOR KUHL: Smaller school districts will have to find under this

proposal a place where they can teach the same kind of program, maybe in the same building at a different time under a different teacher, but they are obligated to do that.

SENATOR MONTGOMERY: All right. If the Senator will continue to yield?

ACTING PRESIDENT MEIER: Senator Kuhl, do you continue to yield.

SENATOR KUHL: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: All right, thank you.

Senator Kuhl, on page 5, the bill says consistent with the Federal Gun Free Schools Act of 1994, a superintendent of schools has the authority to modify a suspension on a case by case basis. A superintendent shall refer the pupil under the age of 16 who has been determined to have brought a weapon to school, etcetera, to a presentment agency for a juvenile delinquency proceeding consistent with Article 3 of the Family Court Act, except under this bill that superintendent now will refer 14 and 15 year

olds to be tried and sentenced as adults.

It sounds like -- and it increases from a misdemeanor to a Class "D" felony possession of an unloaded fire arm on school grounds. So it sounds to me like a 14 year old who ends up with a gun in their book bag that maybe belongs to whom ever at their house, comes to school, that weapon is not loaded, but even so that 14 year old will now be referred, based on your law, not to the Family Court but to be tried and sentenced as an you adult and with a Class "D" felony charge.

Is that what the bill does?

SENATOR KUHL: No, I don't believe so, Senator. There is a difference between treating a child is an adult at 14 or 15 and a youthful offender offense. Those are still criminal violations. It is just the treatment with which those children are treated. It doesn't have anything to do with the jurisdictional aspect of Family Court as opposed to County Court or Supreme Court, wherever those cases may be tried.

SENATOR MONTGOMERY: If the

sponsor will continue to yield?

ACTING PRESIDENT MEIER: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Be happy to.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Does the bill not say that those children convicted under the crimes identified in your bill lose the opportunity for a youthful offender status?

SENATOR KUHL: That is correct.

SENATOR MONTGOMERY: How does that relate to them being eligible for -- to go into the Family Court first before going into criminal court?

SENATOR KUHL: Family Court -- I do not know whether if your counsel explained the difference to you or not.

SENATOR MONTGOMERY: No, no, not quite.

SENATOR KUHL: The last I knew, Senator, Family Court didn't try criminal offenses necessarily.

I am sure there are young people

who are petitioned in the Family Court for various violations. So what I am saying to you, youthful offender as opposed to being tried as an adult doesn't necessarily deal with Family Court, the change there.

SENATOR MONTGOMERY: Youthful offender? I'm sorry?

SENATOR KUHL: As I understand it. Now, I may be wrong. What this essentially, what our bill does is says that a 14 year old or a 15 year old who can commits these crimes will no longer be afforded youthful offender treatment, which would be a less severe sentence penalty if convicted. But they have the opportunity to be tried as adults, much like we do with several other crimes, more particularly I think murder now. Those people are no longer afforded that opportunity so they are tried as an adult and could suffer the same consequences as an adult if convicted.

SENATOR MONTGOMERY: And do they go to Family Court first? Do these young people, 14 and 15 year olds, go into Family Court first or is this automatically going

into criminal court?

SENATOR KUHL: The bill doesn't necessarily define that. I think that is a perhaps a local determination made by a district attorney on the prosecution of the offense.

SENATOR MONTGOMERY: All right, thank you. Just a couple more questions, Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl do you continue to yield?

SENATOR KUHL: I would be happy to.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: Thank you. Senator Kuhl, I note that the bill talks about on page 10 that the reporting includes the number -- the reporting of incidents that is required of the school districts I presume - the number and types of violent and disruptive incidents by level of offense, the grounds for such discipline for suspension, the actions taken by the school and the school district and the age and grade level of each student.

Why do you leave out reporting by race and gender? And the reason that I ask you that is because we have an experience which goes back for some years with special education in the City of New York that special education has become a dumping ground for black and Latino male young people in particular and it grew exponentially when teachers were given the authority to refer to special ed along with everybody else in the school.

So I would like to know why we are not requiring those districts to report by race and gender since we know that there is a disparity not only in suspensions but even in the placement in special ed classes.

SENATOR KUHL: Senator, I do not know the answer to your question, but I think you have to understand that as I understand this -

SENATOR MONTGOMERY: I believe, Senator, previous versions of the bill did include this, so for some risen it is not in this latest version and I just would wonder why. Why would we take that out because that

is a critical aspect in terms of being able to evaluate whether or not the use of suspension is being used against a particular group as opposed to any other group.

SENATOR KUHL: There is a one phrase there Senator that why it was excluded I do not know that in every particular case that is an absolute requirement. If you look on line 3 of page 10 under subparagraph 2, you see it talks about at a minimum.

My belief is to not impose any unnecessary mandates perhaps what the Governor's office did is say, Look, this is what we need as a minimum because the issues of race and gender may not be something that is necessary in every school district across the state. So if it is necessary in the City of New York, certainly that district could require it. But for instance in upstate in one of my districts it may not be of any requirement. So to require additional information that is essentially not necessary for what the ultimate or need is, it is that way.

Now, that is my guess. I do not

know exactly because I did not draft this language. I'm not disowning it, I am just saying I can't explain to you absolutely.

SENATOR MONTGOMERY: Thank you, Senator. I understand your not wanting to disown it. But we all have to deal with it now that it is before us and I understand.

I just would like one last question regarding the reporting issue.

ACTING PRESIDENT MEIER: Senator Kuhl do you continue to yield?

SENATOR KUHL: I would be happy to.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: Senator, on page 20, the bill talks about whenever a person under the age of 19 was enrolled as a student in public, private, parochial, intermediate, junior high, vocational or high school is sentenced for a crime the court has -- the court that has sentenced such person shall deliver the certificate of conviction and provide notification of the sentence imposed to the school. And any youngster who

is an adjudicated youthful offender or who has been charged of a crime is enrolled as a student in a public school that shall be - the school shall be notified of such adjudication forthright.

My question to you is, that we certainly want the school to know that there is a youngster who is being reintegrated I presume whose had some problems with the juvenile justice system and as I asked in the Committee meeting I wanted to ask this question on record here, we know that that poses a particular issue for not only the young person who is being reintegrated but all of the students in that school who now have a person coming back who may present particular problems, the school that may or may not have the capacity to deal with that young person or may not even know that there is a needs for some special support.

What do we have in place that requires and supports a district and a school to deal with these young people who come back and the court is saying to them, we're requiring the court to give them the

information but what are we requiring of ourselves to provide for those young people who are being reintegrated to help that school district or that school deal with it?

SENATOR KUHL: I don't know that I can answer that question all inclusively without a fact pad because I don't know really what is going to be included in the sentence. It may be something to the effect that you will attend school regularly. Well, if the school doesn't know that that is part of the condition, how do they know they are supposed to report that truancy if it occurs.

Or it maybe something being as - and I am being facetious now -- that you will wear clothes that are customarily accepted in accordance with the code of conduct developed by the school district, meaning that you will wear collared shirts, you will wear long pants, you will wear a blazer, you might even be required to wear a tie like we are when we enter this chamber.

Now, how would that school know that it was a condition of that sentence in fact if they never saw the sentencing

certificate. So I think what this is to provide continuity and communication from a system that really hasn't been interacting as efficiently as we would like to see it interact with a school system which is particularly maybe being included but not necessarily notified. So I think that is really what the whole basis of that language is all about.

SENATOR MONTGOMERY: Okay. Thank you, Senator Kuhl, for your patience.

Mr. President on the bill.

ACTING PRESIDENT MEIER: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Briefly, I just, the questions that I have raised on this legislation leave me very troubled and obviously I am not able to vote in good conscience on this bill. We're talking about the lives of young people perhaps for generations to come and of course many of us have forgotten what it means to be 13 or 14 or 15 and the kinds of things that we do at that age, or that we did at that age, we have long forgotten and we think that we're all perfect

because obviously by now at our age we are. We have no choice.

But I want to read from a memo from the NEA which I think sums up what I think we need to be talking about if we are really going to provide a safe and wholesome environment for young people in our state.

We need to be providing resources for schools to implement effective mediation and conflict resolution programs for young people and for children. We need to provide training for teachers and bus drivers and administrators and everyone in the school to be able to identify and report warning signs of violence and mental health problems. We need to make sure that there are enough guidance counselors and school psychologists and sociologists and health professionals and mental health professionals in our schools so that they are there to provide immediate support when young people are in crises and we know that obviously many of them are.

We need to urge every adult to reconnect with children, including ourselves. Our children need role models and mentors and

adults to listen and to support them.

We need to demand that the media and the entertainment industry stop the endless violence paraded before our children every night, every day on television, in the movies, in video games, in the -- in their music, every where they go.

There are a lot of things that we can be doing to make our schools safe and our community safe and our children safe, but I'm not sure that this is an answer and any way it certainly is not an answer to what happened in Columbine High School.

So Mr. President, I will be voting in the negative.

Thank you.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I can appreciate what my colleagues have said. I, however, went on this bill because I think we have to move ahead with a bill in this house. I feel strongly that it is essential that we have a conference committee so we'll be able to sit down and work out a single bill that

will meet with approval in both of the houses.

My concern is that we really have to be dealing with what I see as the root cause and not the consequence, as horrible as the consequence has been. And the root cause can only, in my opinion, be handled through intervention very early with programs and education and violence prevention. And the earlier the better, starting at kindergarten with discussions of alternative dispute resolution. There are other ways to settle fights and to settle unresolved negative hostile feelings than by pulling out weapons of destruction.

I think it is time we put our money where our mouths have been and we fund these kinds of programs throughout the school curricula from K through 12. It is not enough to mention these programs in passing at young years. They must be reinforced year after year with different curricula for each year. And that is the only way that I can see that we have hopes of preventing violence.

That is not to say that we should turn our heads away from the instruments of

mass violence which our amendment dealt with earlier today. I think it is essential that we ban assault weapons that were only intended or use in war. I think it is essential that we put safe storage of guns into a law. And that we separate the guns that are safely stored from the bullets must be safety stored in a different place from the guns. I think it is important that we get those safety locks put on the guns also.

But I think in looking at the two bills, the one in the Assembly and the one in our house that the one feature that they have not addressed adequately for me is sufficient funding to address alternative dispute resolution.

I feel this is a good bill and I hope we will get to conference committee as soon as possible.

I am voting yes.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 35. This act shall take effect July 1st, 1999.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Is this the vote on the bill?

ACTING PRESIDENT MEIER: Yes it is, Senator.

SENATOR MARCHI: I wish to speak to it.

ACTING PRESIDENT MEIER: Senator Marchi to explain his vote.

SENATOR MARCHI: Well, I would rather you withdraw the roll call. I move that we withdraw the role call and permit me to speak to this bill.

ACTING PRESIDENT MEIER: The motion is to withdraw the roll call. All in favor of the motion signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, if any?

(No response.)

ACTING PRESIDENT MEIER: Without objection you may proceed on the bill, Senator

March.

SENATOR MARCHI: Mr. President, I am very pleased to see the growing and evident concurrence on both sides of the aisle. I haven't heard anything said that doesn't sound a strong tone of resonance on what we ought to be doing.

I had characterized the actions taken in the other house as death bed repentance. And perhaps that is overstating the case because the impact of the tragedy that took place in Colorado has made a profound impression on everyone. And the fact that we have been on this and alert to it in this house with measures that we have passed repeatedly and now we embody it in a total bill gives me great satisfaction.

However, I wish to point out one item that we don't have, and I am not going to suggest that we include it this is time. I am in the process of formulating it. Those of you who have had the opportunity of reading the article by emeritus professor of UCLA, James Keil Wilson, who is a close friend of mine, and member of the Rand Corporation, in

academic circles has established himself so well in an article, an op ed piece in the New York Times yesterday had a magnificent article and many of the principles that he espoused then he repeats.

He closes with this remark. In the meantime, a small suggestion. Schools can require all their students to conform to dress codes or even wear uniforms so as to reduce the chances of cults forming around modes of dress. This may be a debatable issue with some people. However, and the last one, stop telling schools that they can not teach about spiritual alternatives to modish culture and a grim thought that we have created a new kind of adolescent culture, one that we may never be able to fix.

Mr. President, before you started and before you presided over many of these meetings and for 43 years we have opened all of our sessions with prayers from ministers, priests, rabbis, imam, and those thousands of times, this is my 43rd year, I have never heard one that didn't elicit the best from us.

We have in our Pledge of Allegiance

we are endowed by our creator with certain inalienable rights. That was reformulated and that was part of the Education Law. In Section 801, Article 17 of the Education Law was reformulated in 1936 in order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities. And it goes on to say in preparing to meet the obligations of citizenship in peace or in war the Regents of the University of the State of New York shall prescribe courses of instruction and they go on to mention subjects such as slavery, holocaust, the potato famine in Ireland and so on.

Number 3, Section 3, says the regents shall determine the subjects to be included in such courses of instruction in patriotism, citizenship, human rights, the amendments thereto, the provisions of the constitution of the United States. The amendments thereto, Declaration of Independence. The Constitution of the State of New York.

That's part of the Education Law

and the regents are supposed to be doing these things.

I invite your attention, Mr. President, that this Declaration of Independence that was formulated mostly by Thomas Jefferson and provided and undergirded our Declaration of Independence as a new nation provides, "We hold these truths to be self-evident that all men are created equal, that they are endowed by their creator with certain unalienable rights. Among these are life, liberty and pursuit of happiness." And also phrases appealing to the supreme judge of the world and reliance on the protection of divine providence. This was in our declaration of independence.

When it came around to manmade formulation we had slavery but for purposes of representation three-fifths of a person was recognized as a balancing factor. Until in 1860 the moral stirrings in this nation moved us to change that.

We mention the Constitution of the State of New York. Mr. President, do we know that the preamble of constitution prescribes,

"We the people of the State of New York grateful to almighty god for our freedom in order to secure his blessing do establish this constitution."

I am preparing, in the process of preparing, making it precise as it relates to the Declaration of Independence to include those very words that I articulated that come directly from our Declaration of Independence. As well as what the words that are in the preamble in our instructions to the Board of Regents in their formulation.

Unless we have a spiritual conception of man, and I mean that in the generic sense, of person we have missed our greatest opportunity. The same thing that I have heard for thousands of time from ministers, priests and rabbis and imam about love, love of our fellow man as we love ourselves. Unless we hold this conception of our fellow man as a person created in the imagine and likeness of God again going back to our basic foundations of this nation, we will have missed a great opportunity to give it a content that will further dramatize the

formulations that we make from time to time, and this is a good one that we're making today and which is enjoying our support. But unless we do those things, Mr. President, we miss an important opportunity to reinforcing, reinforcing those human expressions and ordinations that we make in a free and democratic society, small D, as well as a big D and big R and a big anything else. But we miss that important opportunity, Mr. President.

I thought it germane to make these remarks during the course of debate and I will have my bill ready for introduction this week.

I certainly wanted to compliment those who have spoken to this, especially Senator Kuhl, who with great dignity and with great responsiveness has met all of the challenges and I am very happy to exhort all of my colleagues to support this unanimously.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 35, this act shall take effect July 1st, 1999.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those reported in the negative on Calendar 784, Senators Duane, Mendez, Montgomery and Seabrook.

Ayes 53, nays 4.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR WALDON: Mr. President.

ACTING PRESIDENT MEIER: Senator Waldon.

SENATOR WALDON: Mr. President, I request respectfully unanimous consent. I was out of the chamber on other business when we voted on Calendar 579, to be recorded in the negative on 579.

ACTING PRESIDENT MEIER: You will be recorded as voting in the negative on Calendar 579.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there is a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT MEIER: Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following bill directly for third reading, Senate Print 5538, by the Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 800, Senate 5538.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 800, Senator Stafford moves to discharge from the Committee on Finance Assembly Print 8080 and substitute it for the identical third reading 800.

ACTING PRESIDENT MEIER: Sub stitution ordered.

Senator Skelos. The Secretary will read.

THE SECRETARY: Calendar Number 800, by the Assembly Committee on Rules, Assembly Print 8080, an act making appropriation for the support of government.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The motion is to accept the message of appropriation and necessity. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. The bill is before the house.

Reads the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: On page number 18 I offer the following amendment to Calendar Number 128 on behalf of Senator Alesi, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendment is the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Paterson.

SENATOR PATERSON: Mr. President, I would like to be recorded in the negative on Calender Number 561 with unanimous consent.

ACTING PRESIDENT MEIER: Without objection, Senator Paterson will be recorded in the negative on Calendar Number 561.

Senator Skelos.

SENATOR SKELOS: Any other housekeeping at the desk?

ACTING PRESIDENT MEIER: Nothing more at the desk, Senator.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno I hand up the following committee assignment and that it be filed.

ACTING PRESIDENT MEIER: It has been received and it will be filed.

SENATOR SKELOS: There being no further business I move we adjourn until Monday, May 3rd at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, May 3rd at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 2:14 p.m., the Senate adjourned.)