NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 9, 2006

3:43 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 please come to order.

Would everyone present 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 bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Friday, January 6, the Senate met pursuant to adjournment. The Journal of Thursday, January 5, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FARLEY: I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause:

On behalf of Senator Balboni, 1744, 2001, 2943, 4786, and 5400.

On behalf of Senator Flanagan, 1809, 1810, 1811, 1812, 1813, 1814, 2067, 3650, and 3686.

On behalf of Senator Fuschillo, 2161, 4378.

On behalf of Senator LaValle, Madam President, 585, 684, 836, 999, 1560, 1625, 2080, and 2599.

On behalf of Senator Skelos, 2725, 3046, 3442.

And on behalf of Senator Wright,

4379, 4488, and 5335.

THE PRESIDENT: So ordered, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President, please recognize Senator Schneiderman.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Madam President, I would move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause:

Senate Bill Number 3123, by Senator Breslin, and 675, by Senator Toby Stavisky.

THE PRESIDENT: So ordered, Senator.

SENATOR VOLKER: Thank you.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in

the Majority Conference Room.

(Whereupon, the Senate stood at ease at 3:49 p.m.)

(Whereupon, the Senate reconvened at 3:57 p.m.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk, if we could take it up at this time.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 6007, by the Senate Committee on Rules, an act to amend the Tax Law;

And Senate Print 6019, by Senator Skelos, an act to amend the Correction Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Without objection, both bills ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up the calendar, noncontroversial.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 29, by the Senate Committee on Rules, Senate Print 6007, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 30, by Senator Skelos, Senate Print 6019, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Can we go to the controversial reading, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 29, by the Senate Committee on Rules, Senate Print 6007, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN: Brief explanation.

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

SENATOR VOLKER: Madam President,

I think as everyone here knows, the County of Erie last year went through a prolonged fiscal crisis, and the county in reality is still not functioning by any means at one hundred percent. A number of the agencies in Erie County are down to bare minimums. The Erie County Clerk's Office is just catching up from a mess that was created earlier in the year by layoffs of probably about half the clerk's office.

What happened was that the county legislature, after agonizing for most of the year, finally, after we in this chamber passed legislation for an Emergency Control Board, finally came to an agreement at the last minute, just before the control board took over total and firm control.

And part of the agreement was that the county legislature, as part of the budget for 2006 -- and, by the way, 2007, because this bill applies to the budgets for this year and for next year -- that the county legislature would authorize an additional 1/2 of 1 percent for the County of Erie to keep their budget functioning.

There was a great deal of concern. And what happened was, because of the fact it was unclear whether we would come back in December, a bill was introduced by both houses of the Legislature -- this is agreement between the Assembly, the Senate, and the Governor that a bill would be introduced, the county legislature would pass a home rule message, as they did, and we would then, before January 15th, pass legislation which affirms the 1/2 percent sales tax.

I must point out -- it's something I've pointed out before -- this is not a state sales tax, this is a local sales tax. The only reason we're doing this is because this bill is a home rule bill.

The final thing I want to say is that in reality we were asked to make a commitment to Wall Street that this bill would pass today, because otherwise the county would have its ratings reduced and downgraded. We did, and that's what this bill is for. It will keep the bond rating of the county at a higher rate and will also stabilize the County of Erie for the rest of this year.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

I know we're on a short time frame today. I thank the sponsor for his explanation and request that we move forward on this piece of legislation.

THE PRESIDENT: Does any other Senator wish to be heard?

Then the debate is closed.

The Secretary will ring the bell.

The Secretary will first read the substitution.

THE SECRETARY: In relation to Calendar Number 29, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9081 and substitute it for the identical Senate Bill Number 6007, Third Reading Calendar 29.

THE PRESIDENT: Substitution ordered.

There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Calendar Number

29, by the Assembly Committee on Rules, Assembly Print Number 9081, an act to amend the Tax Law.

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, 56. Nays, 1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 30, by Senator Skelos, Senate Print 6019, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SKELOS: Madam President,

this legislation would require all sex offenders currently registered, and those who would be prospectively registered after they've committed their crime, to have to register for life. That would be all Level 1, 2, and 3.

For Level 1 offenders who are not designated as a sexual predator, sexually violent offender, or a predicate sex offender, they would have to register for 20 years and then after 20 years they could petition the sentencing court to be removed from the registry.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I believe there's an amendment at the desk. I ask that the reading of the amendment be waived and that I be heard on the amendment.

THE PRESIDENT: The reading is waived, and you may be heard on the amendment.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

This is an amendment in the spirit

of the day, in which we are setting out the criminal justice agenda of the house. We've already been notified that the civil commitment for sexual predators bill is going to be accelerated so it can be considered next week.

Senator Volker has advised us that the calendar of the Codes Committee that met today is being moved so that we can consider that legislation next week, which includes bills on gang sexual assaults, DNA evidence, and other matters.

And today we are moving on Senator Skelos's bill to extend the registry for sex offenders, which is something that we are certainly committed to doing before the expiration of Megan's Law.

I would add in this amendment something that has passed the Assembly today but is noticeably and glaringly absent from the criminal justice agenda in this house, and that is a package of bills to follow up on our success in the special session a few weeks ago to deal with the plague of illegal guns that in the hands of criminals are causing

devastation across the state.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If I could interrupt for a moment, I think we have a real germaneness problem right now in terms of -- I understand the amendments that are going to be offered. But in consultation with Senator Bruno, I think I should indicate we're not going to raise the germaneness issues, but certainly we're not looking to detract, which I believe is a ploy of the Minority right now, from the importance of passing this amendment to Megan's Law, this reforming of Megan's Law to protect our children and to protect our communities.

So I think it's very, very important that we recognize we're not going to raise the germaneness issue, but the issue of the day is the fact that unless the Assembly follows the lead of the Senate, there will be hundreds and hundreds and thousands of sex offenders off the registry who the police, our parents, our communities, our children will not be able to track because of that.

So thank you, and again, we will

not raise the germaneness issue at this time.

SENATOR SCHNEIDERMAN: Thank you. I appreciate it. And certainly I do want to speak on the amendment --

THE PRESIDENT: You may continue to speak, Senator Schneiderman.

SENATOR SCHNEIDERMAN: -- and then we'll get to the substance of this important legislation.

I would note that the Assembly has already passed their own version of an extension, so that this is a problem that really should be able to be resolved between the two houses.

But as to that, this amendment is something that I believe we committed ourselves in the special session to acting on. The Assembly today has demonstrated its commitment to dealing with the issue of gun violence and of guns that are used in crimes by passing a comprehensive package of gun violence and gun safety legislation.

Unfortunately, in spite of the rhetoric in the special session, this house is the graveyard of gun safety and gun control

bills. This house is the place that, as recognized by the Daily News, New York Times and other sources, is called NRA-friendly. This is where the NRA can block gun safety and gun violence bills. And it's time for that to end.

We heard rhetoric during the special session that we are prepared, as we move forward, to take action against sexual predators, to take action against gang violence, to take action against those who would harm our communities, that we are going to add to that this year, that the Senate is going to stop being the barrier to gun safety and enact the other critically important community-safety legislation that this state needs.

Today was the arraignment of the two men charged in the shooting of New York City police officer Enchautegui. That was the arraignment. We spoke about it at the special session. Let's not take one step, let's not put one piece in place of a 10-piece puzzle, as we would be doing if we stopped after we passed the important gun-trafficking

legislation in the special session and failed to take action on the other bills that have passed the Assembly today.

So this amendment would get us started and show the commitment of this house to taking action in the 2006 legislative session on the critical issues of guns used in crimes.

The three elements of the amendment are very, very straightforward. First of all, this would enact provisions that are in a piece of legislation carried by Assembly Member Paulin that impose common-sense requirements on gun dealers.

There's a fiction that is advanced by some -- certainly promoted by NRA and its related agencies -- there's a fiction advanced that there's a difference between legal guns and illegal guns. There's no one down at the Smith & Wesson or the Glock factory who says, Oh, 10 p.m., time to stop making the legal guns, let's start making the illegal guns.

These all start as legal guns, and they are diverted by a very small number of gun dealers into the illegal market. We know,

from the Bureau of Alcohol, Tobacco and Firearms, that 1.2 percent of the federally licensed gun dealers are responsible for 57 percent of the guns used in crimes.

Most gun dealers are honorable businessmen and -women, but there's a small portion that the Assembly wants to crack down on, that this amendment would allow us to crack down on by imposing simple requirements -- requiring that they maintain records, back up the records, and provide them to law enforcement officers, requiring that employees who sell guns are at least 21 years old and receive training.

This amendment would require that guns are safely stored. Some of you may recall that right here in the Capital District there was a robbery at Accurate Arms & Ammo gun store, which is in Colonie, where 29 handguns ended up in the hands of a notorious drug dealer and one was used in a homicide in New York City. This amendment would solve that problem.

This amendment would also enact a piece of legislation that Senator Stavisky

carries separately. And it is astonishing to me that the members of the Majority in this house would not support that bill. It's a bill that would prevent violent felons from being able to obtain gun licenses. Understand, that bill passed the Assembly. The Majority in this house will not let to the floor a bill that would prevent violent felons from being able to obtain gun licenses. That we should move forward, and that's in this amendment.

And, finally, there's a component of this amendment that corresponds to a bill carried by Assembly Member Koon that requires the submissions of crime guns and shell casings to the database so that we can track them.

Right now we have a database that's of very little use because there's no requirement that law enforcement agencies, when they find crime guns, submit it to the database so we can see if the guns were used in other crimes in other parts of the state. That's what this amendment would do.

And I'm going to stay very, very

brief on this issue -- although as many of you know, I feel strongly about it and can speak about it at length -- in the spirit of cooperation indicated by Senator Skelos. It is critical that this house act on the rhetoric during the special session, that this house stop being the barrier to gun safety and gun control laws.

If we care about protecting our police officers from violent criminals armed with guns that they obtained from the legal market diverted into the illegal market, we must take action. 2006 cannot pass -- we cannot finish this session without addressing the critical issues of gun safety and gun violence.

And we suggest this in the true spirit of cooperation today that this amendment be accepted, that this amendment be added to Senator Skelos's critically important bill. Let's get the issue of gun violence and gun safety on the floor of the Senate this year. Let's bring these bills that never make it to the floor in this house to the floor and vote on them. Let's provide our citizens with

the protection they deserve.

I hope that everyone will support this amendment, Madam President. And then we look forward to speaking on the substance of the bill itself when we are done with this vote.

Thank you.

THE PRESIDENT: All Senators in favor of the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Connor, Diaz, Dilan --

SENATOR DIAZ: No.

THE SECRETARY: Excuse me. Those recorded in agreement are Senators Andrews, Breslin, Connor, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Stavisky.

THE PRESIDENT: The amendment is not agreed to.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, very briefly, Madam President, as I indicated, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: I just want to note I will vote in support of this legislation. It's obviously essential that we deal with this issue before the deadline.

I would note that the Assembly today has passed its own version of an extension, which requires sex offenders to register annually until March 31, 2007, in anticipation of what we hope will be action by the federal government to create a national registry.

So if we pass this bill today and the Assembly passes its bill, I would urge that this is an excellent example of a case in which a conference committee should immediately be convened. And that if we had adopted the rule that has been proposed for mandatory conference committees, that would happen.

In the absence of that, we urge the

leadership in both houses to act to move this along as quickly as possible.

I will be voting in support of Senator Skelos's bill.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, Madam President, briefly on the bill.

THE PRESIDENT: You may proceed.

SENATOR MONTGOMERY: I just want to raise an issue that I think I raised last session, and I will maintain my position on this legislation.

One, unfortunately, we can't just do a bill that extends what we already have. We have to go one step beyond that and try to catch many, many more people into this web. So I'm very unhappy about that.

The bill would require all sex offenders, including Level 1 -- and my fear is that I see some young men up there who sit here and watch this session right now. If one of those young men got caught up as a Level 1 offender, unfortunately, in this, you are

asking that person to be -- to have their names as part of this registry for the rest of their lives. Then, in 20 years, they could possibly apply for -- to have -- am I on the wrong bill?

SENATOR SKELOS: No, no. If you could yield for a moment.

Under what circumstances would those young men have to register for life?

SENATOR MONTGOMERY: Under your bill, if they were Level 1 sex offenders.

SENATOR SKELOS: What crime would they have committed?

SENATOR MONTGOMERY: Well, it would depend on whatever you define as a Level 1 sex offense.

Are you saying that there are some sex offenses that are not -- that under this law would not be covered?

SENATOR SKELOS: If we had -- it depends on the activity that took place. The laws of the State of New York have made as public policy a very definite decision that the age of consent is 17, over 17. And also that for a person to be convicted of statutory

rape, that that person would have to be over the age of 21.

So you're dealing in a situation and I think what you're trying to bring out is if it was two 16-year-olds and it was -- there's no statutory rape, and this would not take place.

If an individual was over 21 and the young woman is under 17, then you have, yes, then you do have statutory rape, because this Legislature has made a very definite decision as a matter of public policy -- now, you may want to lower the age of consent -- but has made a definite decision that it is under the age of 17 that you cannot give that type of consent.

So you're sort of wrong in terms of saying all these individuals would be categorized as Level 1.

SENATOR MONTGOMERY: Thank you for that explanation.

But let me just respond by saying to you that what I intend to say is that any young college student -- 17, 18, 19 -- that has a charge against that young person that

results in that young person being charged with Level 2, no matter if it's with that person's sweetheart, who is 16, maybe, or 17, maybe, they could still be charged under your law here.

SENATOR SKELOS: If the crime that they have committed would require that they be categorized as a Level 1 sex offender --

SENATOR MONTGOMERY: Exactly.

SENATOR SKELOS: -- they could petition the sentencing court after 20 years to be removed from the registry unless they have been categorized as a sexually violent -- let me get the words correctly here -- sexually violent predator, there's a predicate offense that's involved, or they're a sexual predator.

SENATOR MONTGOMERY: Thank you, Senator Skelos, for your explanation.

I think you've agreed with me that there are some cases where we would question whether or not we would want that young person to be registered in your sex registry based on the fact that there was a charge based on a

19-year-old having an encounter with a 17-year-old even though they may have been -- or there could be very, very minor contact here and they would still fall under your law.

SENATOR SKELOS: If the existing law --

SENATOR SCHNEIDERMAN: Point of order. Is Senator Skelos asking Senator Montgomery to yield?

THE PRESIDENT: Senator Skelos -- Senator Skelos -- do you have a point of order?

SENATOR MONTGOMERY: Oh, we forgot.

SENATOR SKELOS: Madam President, I think we're having a very good discussion. It's interesting how Senator Schneiderman, when issues of germaneness are not raised, he's happy, but if we're having a very civil discussion to enlighten the chamber, Senator Schneiderman is on his feet objecting.

SENATOR SCHNEIDERMAN: I mean no disrespect. I'm just protecting the prerogative of the presiding officer to keep us on track here.

Thank you.

THE PRESIDENT: Senator Montgomery, do you yield some time for Senator Skelos to speak?

SENATOR MONTGOMERY: Well, yes, I --

THE PRESIDENT: You may proceed, Senator Skelos.

SENATOR SKELOS: Senator Montgomery, you realize that if the crime that's committed by the young people is considered a sexual offense under existing law, then they would have to register.

But I think existing law takes into account certain ones of these crimes if they fall within certain age limits and there's been no force and there's been no drugs used and there's been no coercion. Then they are protected.

SENATOR MONTGOMERY: Okay, thank you.

On the bill, Madam President.

THE PRESIDENT: You may proceed on the bill, Senator Montgomery.

SENATOR MONTGOMERY: Yes. The

bill would require all offenders, regardless of risk level, to register with the sex offender registry for life. Certain Level 1 offenders are permitted to petition for relief from registration once they have been registered for 20 years.

The crimes for which an individual may be required to register as a Level 1 sex offender are oftentimes very minimal offenses. For example, consensual sex between teenagers and acts of lewdness or forceable touching could potentially result in an individual having to register for the rest of their life.

For that reason, I am adamantly opposed. I have a son who is in college, I know many of us in this room have sons who are in college -- maybe they're going to be going off to college, maybe they're 21 now, maybe they're out of college -- but they could still be required to register for the rest of their lives.

And you and I know who it's going to fall on most. And I do not want one more reason for young men in my district to be charged with something where they have to

register for the rest of their lives for something they did when they were 17 or 18.

So I vote no.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed bill, Senator Nozzolio.

SENATOR NOZZOLIO: Madam President and my colleagues, I first, as chairman of the Crime Victims, Crime and Corrections Committee of the New York State Senate, wish to thank my colleagues who were so instrumental in pushing this legislation, particularly Senator Skelos.

Senator Skelos, thank you for your leadership on this issue. Ten years ago, when Megan's Law was first created, you brought New York State out of the dark ages into establishing again a zero tolerance for violence and sexual assault in this state.

Also, I wish to thank my colleagues who participated in the hearings that we have conducted across this state on updating, modernizing Megan's Law as it has existed now

for 10 years.

Our mission was clear. We wanted to modernize it, update it, ensure that law enforcement had appropriate input into how we could, overall, protect more children. That was the objective of the Senate Republican Majority. That was our objective, to ensure that there would be a broader scope of Megan's Law, that the most successful notification program in the history of the nation needed to be modernized, updated, changed so that we would have more children protected.

By requiring lifetime registration for all levels, that that is something, as Senator Montgomery very surprisingly protested against, it's our view that those very important crimes that were committed shouldn't be overlooked. Level 1 offenses are very serious offenses. They involve, in many cases, the use of power and authority over the innocent, and that there are children that are the victims of those who have committed Level 1 sex offenses.

That I believe you should very much support this legislation, as I know most of,

if not all of our colleagues on this side of the aisle are going to do, because it protects more children, pure and simple, and that it is cried out for time and time again.

This is not additional punishment. It's a notification. It's letting the sun shine on the fact that there was a criminality involved and that people have the right to have notification when an individual that committed this crime moves into the area.

If you're a parent, I believe you certainly would want this type of notice. You'd want to do all you could to protect your children. That's what the objectives of this conference were. That's why I congratulate Senator Skelos for pushing hard to establish this legislation. That's why I look forward to voting aye.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. On the bill.

Now, I'm amazed to see the level of hypocrisy when people try to use the suffering of our minority community. We say we are supposed to protect our community. Today I

voted against an amendment to this magnificent and good piece of legislation. I want to tell you why.

Two weeks ago they called us back here in Albany to deal with a piece of legislation to increase the penalties on those that kill a police officer. And I said on that occasion that my daughter, my only daughter, is a police sergeant in the New York City Police Department, and I'm concerned with that.

But I said on that occasion that if we want to protect the community and we are really concerned in protecting our community, the life of a police officer should not be worth more than the life of a bodeguero, of a taxi driver, of a senior citizen, of any other New York State citizen.

And on that occasion, nobody cared about -- nobody showed care about the bodegueros, the senior citizens, the taxi drivers, the whole community. We came here and everybody voted in favor of increasing the penalty for those that kill police officers.

So where was the concern for our

community on that occasion? Where was the concern for our community, for our people? Only two of us voted against it, Senator Parker and myself. Not because we don't believe in increasing the penalty, but we believe that we are to put an end to crime, we should increase the penalty for everybody.

But today we come here trying to put an amendment because we've got to protect our community. We've got to protect our community. That's pure hypocrisy.

And I'm voting yes on this piece of legislation. Thank you.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, when I first got elected, one of the first press conferences I attended was on the Capitol steps, and Senator Skelos was there with a bunch of people, and we were championing the beginning and the opening salvo in the movement to pass Megan's Law for the first time.

And I was very pleased to be there. It was an important piece of legislation that

was the result of a lot of work on the part of Senator Skelos, for which he is to be congratulated. And I congratulate him again on recognizing the fact that this law has to be amended. This law needs to be changed.

When this law expires, thousands of sexual predators will simply disappear. They will no longer be recognized where they are, they will no longer have to register, they will disappear from the public's view. We have to ask ourselves, where will they go? In whose neighborhood will they move? Who will they move next door to? Where will they work? How many more children will they abuse and rape and murder?

That's what's at stake here. Never let that escape your mind. Never forget that point. We're trying to protect our children from people who cannot control their own urges. Even they say so. They ask for help in many cases. The system fails them, and it fails our children when we allow them to continue their perverted behavior. We must take firm action to protect our communities and our children's very lives.

Ladies and gentlemen, this is an important piece of legislation. The Assembly has suggested we should wait, we should wait for the federal government to act on this issue.

I remember a couple of years ago when we passed legislation on the minimum wage and the statement was made by some we should wait because the federal government will act soon and we will not have to. Ladies and gentlemen, we acted. The federal government minimum wage is still what it was, $5.15 an hour. It hasn't moved.

There's no guarantee the federal government will act. The way their bills are moving now, chances are they will not act in a timely fashion. In the meantime, this law will have expired, kids will be put at risk, communities will be put at risk, and parents will be threatened and given great anxiety.

I commend Senator Skelos for his efforts and his great work on this issue. But this bill has to pass now and pass unanimously. There is no excuse for not passing this bill in both houses. There is no

excuse for this bill not becoming the law of the State of New York. I urge an aye vote from everyone.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Thank you, Madam President.

I have three things to say on this issue. First, to follow up on what Senator Marcellino said, to suggest that this has suddenly become a national issue is ridiculous.

I've spoke on the floor before about the issue of preemption; that is, the federal government taking away the purview of the states, the constitutionally granted purview of the states, particularly as it relates to police power to protect our own citizens.

Well, there's no more local issue, no more community-based issue than this one. I've said it time and time again, when you pick up the phone and you dial 911, it does not ring in Washington. We must preserve the police powers we have always maintained. We should not wait for the federal government to

act on this.

The second is that it was suggested before by one of the prior speakers that we should wait for the Assembly; if we pass the amendments, that the Assembly would do this.

Well, I offer a counterview. Madam President, I've come to learn that actions speak louder than words. Just last week in the State of the State address, when Governor Pataki urged the State Legislature to pass his legislation, there were two reactions as relates to Megan's Law. One was a standing ovation from many of the people in this chamber, and the other was a deafening silence on the part of the Assembly majority. If you don't believe me, go back and look at the tape.

And the last aspect is, you know in this Legislature we get a chance to hopefully make our mark on a particular issue. And as a result of diligent work, of commitment and persistence, when someone carves out an issue that they believe in, have researched and care deeply about, we should listen to them.

And on this issue, Senator Skelos

has become not only a state leader but a national leader. And so when he's urging us to do this particular measure, I think we should take him and his leadership at his word.

Thank you, Madam President.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: On the bill, Madam President.

I've had the distinction of voting for Megan's Law and being one of the original cosponsors 10 years ago. It was Senator Skelos' bill in the Senate and then Assembly Member Dan Feldman.

I think what we're seeing now is, 10 years later, I'm hopeful that we're now judging its effectiveness. While I'm a firm believer in the importance of notification, I think we really have to make some changes. Because I think what we're doing now, we're giving the public, I think, sort of a sense of safety that we're just releasing these individuals, Level 1, 2 and 3 -- more specifically, Level 3, the most dangerous -- into their communities.

While I think it's important to be able to track their whereabouts and know where they live, I think what we're doing time and time again is releasing ticking time bombs into our community.

So I really think the answer -- and I know we're going to be debating this, hopefully next week -- is civil confinement. I think anything we do as far as Megan's Law is truly a Band-Aid approach, but an important one.

And I think today the legislation which we're going to pass I understand is an extension. And I certainly agree with the lifetime notification for 1, 2 and 3 level offenders. I think we really need to do a lot more. And I'm hopeful we're going to pass the legislation again that I know Senator Skelos passed last year.

But I want to highlight, I think, one specific example which is very, very important. Over the summer my office conducted a study where we looked at over 250 zip codes which make up New York City and Westchester County. And what we found was

there was seven Level 3 sexual predators living in each of those zip codes. Seven. That's a real problem.

And I think what we're seeing now is again, 10 years later, while some communities, I think, around the state take the notification requirement very, very seriously, I don't think it's being done as well in New York City. And I think everyone knows that the law says that local law enforcement may notify the community. And I think in many cases, especially in New York City, that's just not getting done.

Just over the last two months, in my community of the Zerega community, which I represent within my Senate district, we had three Level 3 sexual predators moving into one zip code in a three-month period, living right across the street from a school, up the block from a school. The community never knew.

You know, I'm not blaming my local law enforcement. But they in some cases have something else to do or just aren't doing it in a timely fashion.

I also represent the Tuckhoe

community in Westchester County. When they had a Level 3 sexual predator moving into their community, there was instant notification. Local law enforcement went door to door with handouts, they held community meetings, I think in a very, very orderly fashion.

So I think what we're seeing now is that places around the state -- in New York City, in Westchester, around the state -- are really handling this requirement very, very differently.

So one of the things that I'm advocating, and I hope it's going to be in the final version of the legislation that's passed in the Senate, as well as which ultimately becomes law, I think we need a system of instant email notification.

If you think about it for a moment, we use the Internet for a whole host of things -- up-to-the-minute weather forecasts, up-to-the-minute stock market quotations. I think we should be using it to give our local communities and our families the ability to take matters into their own hands in

protecting their children.

I think in this instance knowledge is power. And I think we have to give people the ability to be able to register online, give the zip codes they're interested in knowing about, where their kids go to school, where their grandkids go to school. And I think, again, that's still a Band-Aid approach, but at least we're allowing our communities to be notified when a dangerous sexual predator moves into their community.

Thank you.

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: Yes, Madam President. On the bill.

I would just quickly like to add, I think we should be taking a very pragmatic and somewhat populist approach to this. I would agree with my colleague from the Bronx, we should do more. But this is an important piece of many of the things we have to do.

While it is not the cure-all, it has been helpful. It was much better than we were at prior to the 10-year time period. And we are now asking for this to be extended and

somewhat strengthened.

This has to get done. There should have to be agreement. If people think we aren't doing enough or this is important, I would suggest we go to where the debate may occur. And I don't think any of those bills will have trouble passing this house.

My feeling is -- not my feeling, I know that the difficulty would be actually in the other house, the Assembly. Maybe we should go to conference committees or use our collective independent powers perhaps to move them so we can get the right thing done to protect our children.

On the populist side, I've spent an inordinate amount of time in the urban part of my district and the suburban part of my district with the PAC-TACers, the neighborhood crime watch people, neighborhood preservation groups. And I can assure you that every one of those people, every one of those groups wants us to pass this bill and go on for GPS tracking, longer sentences, and many other things that would protect kids.

And you know what? We should be

responsive to them. Waiting for the federal government, in my opinion, is crazy. We got elected to be here to lead, to take action, not wait for anybody else. And as my colleague Senator Marcellino said, whether it's been labor policy, education policy, social service policy, one of the reasons why I've been very proud to be part of this house, this government, is because we don't wait, we lead. And it should be no different on this.

These are our most vulnerable, our kids. We should be doing everything. This should be permanent, this should be strengthened. And this should just be the start of what we need to do to continue to protect our kids.

Hopefully this bill will pass here overwhelmingly. And if we need to go to conference committees, so be it. But in the interim, I would ask all my colleagues who support this, and I believe we all should, to do what we can to get the other side to make these permanent changes. We need not rely on another level of government to do the right things for our kids, the people we represent,

and do what we got sent down here to do.

Thank you, Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

Most of what I was going to say has already been said. There was only one point I guess at this juncture that I would like to make, and that is that I feel the federal registry is so much preferred to the state registry, because there can be sex offenders living in Connecticut five minutes from my house that will be coming into Westchester.

So I guess the point I want to make here is that if the federal government is not responding to what we see as a very grave need for legislation in this area, we really ought to be holding their feet to the fire. Because just having it in our state, while it's comfortable and makes us feel good that we are doing something, unless it is throughout our nation, people move around too easily. We are a very transient society.

And I think it has much less value than if it were federally based. And we

really ought to be holding all our representatives' feet to the fire.

Thank you.

THE PRESIDENT: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President. On the bill.

Obviously I've listened to the comments of my colleagues, and I have great respect for people's thoughts and opinions, but I don't necessarily always agree.

I don't agree with Senator Schneiderman that we should be dealing with the gun violence bills today. I think they are separate issues. I respect his passion. And I hope that we do have an engaging debate on that at some point, and some point in the short term rather than the long term.

I respect Senator Skelos for his leadership, Senator Nozzolio for his leadership on these issues.

And there are three things that I just want to say. One just sort of ties into what Senator Oppenheimer just mentioned. And this ties into all issues about security.

If you look at some of the

tremendous issues we've had to deal with, the bulk of the work, even when there's federal legislation that gets done, always gets done at the local level. If you look at the thousands of law enforcement personnel, the overwhelming majority of them are New York State people. Yes, we have people from the FBI and from the federal government, but the real work is done at the local level.

So I think we should be focusing on our local efforts. Yes, if the federal government wants to do something, great. But we should also bear in mind that what they have set is minimum standards. We should be doing better than that. I mean, think, it's just minimum standards. We have an opportunity and an obligation to go beyond that.

And it's not like all this is new information. We have statistics and facts and horrific stories all across this state and all across this country. I listened to Senator Golden today describe some details of some sexual offenses. I'm getting like sick to my stomach, because he's talking about young boys

who are being molested. I have two sons who are 15 and 12. It scares me that this type of activity goes on. And it scares me that we haven't been as aggressive as we possibly could be.

Now, I am slightly unique to the rest of my colleagues in this body because we all get an opportunity to listen and learn from our constituents. I have a constituent named Laura Ahearn who lives in Stony Brook and is the executive director of Parents for Megan's Law. Certainly our colleagues are respected in this field, but she's nationally recognized for her passion, her perseverance, her -- I can think of a hundred different words, all pushing in the right direction, talking about protecting children.

You know, this is not -- we can all be accused of being political to a degree, even when we're being governmental. Here's somebody who is dispassionate and yet very passionate. She's an expert. She's a great resource for me, as her Senate representative, but also for all of us in the context of the work that we're attempting to do. To hear her

speak today, you really don't need anything else. If people were to hear this, it's common sense.

And I'll make a distinction with the Assembly, as opposed to the work that she does. Senator Schneiderman mentioned the efforts of the New York State Assembly. And there's no question that they do do some good things. But if we're going to look to their efforts in this area, for 10 years we've tried to get the language in the statutes changed about notification. We cannot get the New York State Assembly to go for one word, switch from "may" to "shall."

That was part of the compromise. That's one of the ways that it got done 10 years ago. Most people, I would bet 90 percent of the people, if you asked them that question, yes, absolutely. Senator Klein, law enforcement should have that obligation, I agree with you. Make that notification.

So the Assembly has lagged way behind in that respect, and I don't want to lag behind with them on this issue. Parents for Megan's Law have underscored, in their

efforts -- and I'll give you one example. They have a program out in Stony Brook where they do mock trials. They have a children's therapy room to help children get ready for having to appear in court to relive these nightmares.

I've met with the people who work on this. I met with Laura Ahearn. If you were to go out and see this, you'd think to yourself, again, this is common sense. We should be moving forward, we should be passing this bill. And the Assembly doesn't want to do it, we should immediately go to conference committees and have a great public airing and public debate about the real safety of children.

Thank you.

THE PRESIDENT: Senator Alesi.

SENATOR ALESI: Thank you, Madam President.

It seems as though at least once a year or so, maybe even more often than that, back in my district we hear about the presence of a sex offender. And neighbors come to a town meeting and express their concern and

their fear for their children. And they're amazed to learn how many sex offenders there really are living among us. And amazed even more so how many we don't know are living among us.

And probably one of the most effective tools that people have to protect their families is the sex offender registry.

When I listen to my colleague Senator Montgomery express her concerns that Level 1 or 2 sex offenders would bear the scars of being on this registry for life, I respect her passion for caring about her constituents. But her constituents, like all of ours, would also be the victims of sex offense, not just the perpetrators. And the scars that those victims bear will last a lifetime, whether you see them or not.

And those perpetrators -- and I should underscore, Level 1 or 2 doesn't mean they're any less dangerous than Level 3. There are extenuating circumstances that determine the level. Those sex offenders we know have an extremely high recidivism rate. The chances are very good that they will find

another way, seize another opportunity, destroy another life.

And all we're suggesting in this legislation is that we continue to make those dangerous people known to their neighbors so that they can be protected. That's all we're asking. And if 10 years for a Level 1 or 2 has proven to be good enough, then why not a lifetime? Because as I said before, the scars of being a victim of a sex offender last a lifetime.

Now, I don't know what's going to happen in the Assembly. I'm not entirely sure whether it's a political game that's being played over there or not. But what I can tell you is this. In a few short weeks, if we don't have a bill in both houses, in my district, where I live, 122 sex offenders are going to fall off the screen. They'll be lost. But they will not be changed. They will be invisible, and they'll be more dangerous as a result of that.

For the life of me, I can't imagine why anybody would not support this legislation. If I know that 122 sex offenders

are going to disappear from scrutiny in my district, then ask yourselves how many are going to disappear in your district and your district and in Senator Montgomery's district.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Madam President.

I too rise to speak on the bill and to thank Senator Skelos and all of my colleagues here.

But there is no Democratic or Republican way in protecting our children. And I don't think the families of the children that are assaulted want to hear about our squabbles. They want action.

And in Kings County, in Brooklyn, where I come from, there are 1619 sex offenders living in Brooklyn. A number of them will fall off by the end of this month, and a tremendous number of them will fall off by the end of this year. There are 5400 in all the city of New York and 20,000 in the state of New York. And there are over 550,000 nationwide. Pretty sad numbers.

Before one of these people are

arrested, they assault over 100 children. Their lifetime record is about 350, although some go on to do thousands. Take a look at these numbers of children that are being assaulted, the families that are being hurt, the scars that we are putting on those children and those families.

We have to pass this legislation because it's the right thing to do. Mr. Lunsford was here in June, and he'll be back up again probably next week or the week after. Mark Lunsford's child Jessica, they didn't know that 50 feet from them was a Level 3. They didn't know that Jessica was still alive 48 hours after and that she was hidden in a closet, tied up. And that if they had the proper tools for the police department, either GPS or civil confinement, they could track, that child would be alive today.

I dare to say I'd hate to see a Jessica in the city, I'd hate to see a Jessica in Brooklyn, I'd hate to see a Jessica anyplace across this country and have to face that family and tell them we couldn't get it

together.

So I'm hoping that everybody in this body sees the reason why we should vote for this and that we should give the police departments across this state the tools they need to protect our children and our families.

I vote yes. Thank you.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. On the bill.

I will be voting for this bill, but I think that we're both oversimplifying and losing track of a few things here today.

One, we don't have to worry about people falling off this list as long as we go to conference committee. The Assembly today has passed a bill. We will pass this bill. What is incumbent on us is to get to a conference committee as quickly as possible to come to agreement.

So I don't want people to walk away or for the press to tell a story that the actions of the Senate or the Assembly in some way are putting us at risk of having people fall off this registry, because that is not

correct.

Second, I do think we oversimplify the question with this bill by not going far enough. My colleague Senator Klein raised some of the concerns, and I will go further.

I worry that after 10 years of putting people on a registry list, that we perhaps have comforted ourselves or the public that that protects them. Knowing that there is a sex offender in a community does not necessarily do anything to address a better coordinated model of law enforcement, to provide the funding for the services that may be required, in coordination with law enforcement, to ensure monitoring and supervision and treatment of sex offenders.

I think we oversimplify when we mostly talk about attacks on children, when of course this is attacks on everyone, adults -- primarily women, but sometimes men -- and children.

And we do oversimplify, and I share the concerns of my colleagues such as Senator Montgomery who pointed out that there are differences between Levels 1, 2, and 3.

And I respect Senator Skelos's argument that a crime is a crime. But I think we do danger to our own planning that we ought to be doing to expand protections in our own communities if we do label the response to a flasher the same as the response to someone who is a rapist or a pedophile, because we know that those are different activities.

And so simply defining Level 1, 2, 3, whatever the realities of the crime were, as "go in the computer for the rest of your life and be looked up that way," that that's not smart public policy.

So I hope we do go into conference committee quickly and that we actually have substantive discussion about how do we address these concerns in our communities. Because a number of my colleagues have mentioned numbers, and those numbers are scary. And the truth is, and I think Senator Golden knows this, and he referenced the New York City numbers, we don't have a system in place for the police to actually follow up if somebody chooses not to reenter their information into the computer.

I had a situation in my own district this year where we learned that in fact there are quite a few Level 3 sex offenders who don't seem to go and report, and no one does anything about it.

And so one can argue that, well, we have the law -- but if we don't have the plan, the funding, the resources at the level of the community where our police professionals, our treatment providers, our case managers can in fact figure out what we're doing to do about this, I feel that simply saying we passed a law, you have to sign up on the computer for life, isn't really going to get us any real increased security for our communities.

My colleague Senator Bonacic had a bill last year that I believe talked about GPS bracelet monitoring. I believe that was your bill, Senator. Am I right? You're listening. I think it was Senator Bonacic's bill on GPS monitoring and bracelets. And that may in fact be a very important response for some level of sex offenders.

We should be having conference committee with the Assembly immediately.

Let's put out all these various proposals that go far further than just this one bill today, and let's see where we can get. But let's also not panic our communities that some cliff is about to be fallen off of, because we all know that is not the case.

I think our assignment is to see, after 10 years of Megan's Law's existence, what can we do to better protect our communities and not oversimplify the questions.

I will be voting yes. Thank you, Madam President.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

We've been discussing this bill for an hour and five minutes. This bill is dated 16 December '05. Since that time, I discussed it back in my district with people from all walks of life. Their general comment was: What is taking you so long to do something so simple to protect people?

Now, I just heard Senator Krueger talk like this was just, you know, a little

toothache. It isn't a toothache. This is a very serious matter.

On Saturday I celebrated the birth, one year old, of a 12th grandchild and a 13th grandchild. And as I looked at them, I said, I have to worry, because there's people out there that people want to protect.

We want to protect our families. And I can't believe that anybody in this chamber in reality, who thinks right, doesn't put protection of our families and our children first.

When we talk about lifetime on the registry, I think it's a wonderful idea. Because at my age, I won't have to worry about my grandchildren. Somebody else will after me.

You know, it's a shame that we are talking here at this time of the year about an issue that should have been done before. And then I hear someone say, Well, let's wait until the federal government does in March of '07. I've heard in this chamber people say, We can't wait for the federal government, we have to do it.

Yes, we should do it. And we should do it now. And I'd be ashamed of anybody who says they can't vote for this. Why can't you vote for it? Because it's the right thing to do?

And I heard someone say, Well, a conference committee. Well, you know, Senator Bruno said that before. He and Senator Skelos said it this morning at a press conference. We're waiting. We'll be willing to discuss it with the other house. But every time we come up to this, it's protect the criminal, not protect the innocent.

I think it's about time we started to remember what our mission is here, what we were elected to do. We were elected to protect the people of the State of New York. And we should be in the front line of showing the rest of the nation that the State of New York takes care of its people.

Thank you, Madam President.

THE PRESIDENT: Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President. I'm going to be very brief.

First, I wanted to commend Senator

Skelos for his good work on this issue and his focus; Laura Ahearn, who is an advocate on this issue and has done a lot of work.

But there's -- for me, I'm sitting here listening to the debate, and I'm saying, what am I missing? In the '05 session we passed I don't know how many bills and how many debates that we had on this very issue -- not only Megan's Law, but the sexual predator issue. We looked at it from every angle that we could look at it.

As everyone is remindful, towards the end of '05 this issue got a lot of attention in the press. And there was even discussion that in December we might deal with Megan's Law, civil commitment and other related issues. That did not happen.

We are now into January. I am reminded -- and I think everyone here will identify with what I'm going say -- when I was first elected, there was a bill dealing with students. It was a bus safety issue. And having been the former director of the Education Committee, I looked at the bill and I was really being a techie, and I said, Oh,

you know, there's problems with this bill, I'm not going to vote for this bill.

The senior member came over to me and said: "Ken, I would be very, very careful of voting against this bill. Because God forbid one student is injured or killed and you will have voted in the negative and we will not have passed -- or the bill doesn't pass if you get up and debate it." And I've always thought about it.

This bill takes effect immediately. Everyone has talked about this issue ad infinitum. And I think it is about our children. And to further delay this issue is really a disappointment. It's a disappointment in this body because we've taken such great leadership on all the bills, and it's passed with bipartisan support in this house, and yet the Assembly has not come to the table on a critical issue to protect our children. Shame, shame on them.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you, Madam Speaker.

I'd like to speak on the bill for a

moment and certainly thank Senator Skelos for putting this bill forward. I'm very pleased to be a cosponsor of it.

I know that anytime I read about a sexual offense, a child, an adult, a girl or a boy, I get a very sickening feeling in my stomach. And I'm sure that I'm not the only one who feels that way.

My second thought is always how would I feel if this were one of my children or my parent or my loved one, my grandchild. And then you get very angry, because you can't help but think how can this be prevented, how can we protect our children.

One of the tools that we have had to protect our children is Megan's Law. And this bill helps reinforce that and extend it.

Certainly there is no way to identify a sexual offender. They come from all walks of life, all sizes, all ages. But the one thing we can use to identify a convicted sexual offender in our neighborhoods, in our municipalities, is Megan's Law. And our schools use it, our parents use it. People need this. They need

this way of identifying those who are convicted.

Keep in mind, there are thousands of sex offenders out there who are not on Megan's list that we have no way of identifying. But let's make sure that we continue to have Megan's list, that we can identify every convicted sexual offender, Level 1, 2, or 3, for their lifetime.

Thank you.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

This has certainly been a spirited discussion about such a critical issue. But as I sit hear and I listen to all the comments, I think about myself as a parent.

From the minute my wife and I wake up, and I'm sure it's similar in other households, we think about everything to protect our children. We make sure they eat the right foods, we make sure they dress properly, we make sure they get to school safely. We drive them ourselves to ensure

that. When they come home, we make sure they know where we were to pick them up. We monitor their activities. We watch every single thing they do in their lives every minute of the day till they go to bed and we go to bed, and the cycle starts over.

Now, my kids, my oldest just turned 15, my middle guy is 11 1/2, and my daughter is 6. And I'm sure this is going to be for the rest of my life, even when they go out of the house.

This is a no-brainer. But what's upsetting to me on this particular issue -- and my compliments to Senator Skelos. And unfortunately, Dean, 10 years went by like that. And this has to be reevaluated, and the right thing has to be done.

But what's upsetting is on an issue like this, to protect what we cherish so much, our children and parents throughout this state, is that 212 legislators aren't screaming, yelling that this has to be done immediately. It shouldn't be debated. It shouldn't be conferenced, in my opinion. It should be done, the right thing that should be

done.

It's not a federal issue. Today we're dealing with a state issue. And in the absence of any federal agreement, we have an obligation to protect the children and families of this state. I'll be voting in the affirmative.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam Speaker.

I ask you, take a moment and think that you're not a politician, you're not an elected official. And I ask you a simple question: What is the most sacred thing in your life? Think about it. Is it your wealth? Is it your friends? It's simple. It's your family. And it's the protection of your family.

Now, whenever we have an opportunity when it comes to children and especially women, who I think are the quarterbacks in taking care of a family -- tending to their health care needs of children, making sure that they get to school on time. They're there every day, for the

most part, taking care of the family while the man is out working, bringing money home.

How can anyone not pass bills that safeguard the safety of children and women from sexual predators? It's unheard-of. And any elected official that doesn't stand up and run to vote to make more strict and more harsher laws to protect our women and children should be impeached, in my opinion.

Now, the people in this chamber will vote for this bill, for the most part. We are talking about who is the strongest and the voice of the Democratic Party in the State of New York. And I will tell you who that is. That's Sheldon Silver. And he is the Assembly leadership. He is the head of the Democratic Party.

And the philosophy that we have seen when it comes to criminal enforcement legislation is they're more concerned with the rights of the criminals than they are with the victims.

Just take two weeks ago. Sheldon Silver made a stupid remark that "I don't go to cops' funerals." That set off a lightning

rod of public pressure, of law enforcement officials throughout the state of New York. And Democrats, good Democrats from the state of New York were nervous. It didn't agree with their values. And they pressured Sheldon Silver and the leadership to vote to change cop-killer legislation and make it tougher, and they voted for gun trafficking.

Did he want to do it? He didn't want to do it. He was backed into a corner. That's why he reacted. And it's the same kind of tactics that are going on with this legislation.

So I know we will be together when it comes to protecting our children and our families from sexual predators. But I will say to you we have a greater obligation.

Every Democrat in this chamber that votes yes for this legislation and every woman Democrat should be standing up with us at press conferences and bashing Sheldon Silver, the leader of the Democratic Party, and that Assembly leadership, of why they are not doing everything in their power to protect our children and our women from the most deviant

and dangerous criminals out there. That's what I ask of you.

Thank you, Madam Speaker.

THE PRESIDENT: Thank you. It's "President."

To close, Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

Recently I was asked by a reporter why I feel so passionate about the reforming of Megan's Law. Number one, it makes those who commit these crimes accountable to the victim and accountable to society.

I've met with Maureen Kanka, young Megan's mom, who talked to me about what happened to her daughter. Her daughter would be in college right now. Three convicted pedophiles living across the street, and they didn't know.

Sitting down with Mark Klaas, whose daughter Polly out in California was just taken out of her bedroom, brutally raped and murdered; with Mark Lunsford -- we know the story of Jessica -- with Laura Ahearn and other experts in the field, how important it

is to have zero tolerance for sexual offenders.

We've had a very good discussion today, and certainly people feel very passionate about this. I mean, the only regret I have about the debate today, quite frankly, is the Minority putting up an amendment that certainly was not germane, that was intended to deflect attention away from what this chamber is doing today, and using inappropriate, inflammatory language that somehow if you're a Republican you're in the pocket or you just take the lead from the NRA.

That would be like me saying that if you vote against this or you're a Democrat legislator, you're controlled by pedophiles. Right? If you want to use inflammatory language. It's inappropriate to have used that type of language and try to deflect away from what we are doing today.

We're elected to lead. We're not elected to follow. And Senator Marcellino mentioned about the minimum wage. I heard all our good friends on the other side of the aisle say raise the minimum wage, don't wait

for the federal government. But yet when it comes to protecting children and women, we're being asked to support an extender for over one year, until March of '07 -- till March of '07 -- to see if the federal government may act. Not that they're going to act.

And what the Speaker has not pointed out, and the Assembly majority, is the bill that they hang their hat on is dead in the Congress. Because we've discussed it with the Judiciary Committee. There's a new bill that, quite honestly, is starting the watering-down process. Because the federal government establishes the minimum standards.

And we can go beyond those and establish maximum standards. And that would be, quite frankly, the bill that we have before us today with lifetime registration.

If we had waited for the federal government, we wouldn't have the EPIC program which we passed in 1986 in this state. If we waited for the federal government, and we mentioned the minimum wage increase, we wouldn't have college-tuition deductibility in this state.

So I just find it very interesting that our friends on the other side of the aisle and the Democrat majority in the Assembly now wants us to be led by the federal government. I think that's wrong.

And Senator Klein mentioned the list of legislation. Email notification. We passed it in the Senate. GPS tracking, Senator Bonacic's bill, we passed it in the Senate. Civil commitment or confinement, Senator Volker's bill, we've passed it in the Senate. All on the Internet, we've passed it in the Senate. Statute of limitations, eliminating the five-year statute of limitations on rape, we've passed it in the Senate.

Spend your time in the Assembly to get your colleagues to pass this legislation. That's what it's about, getting your colleagues to pass legislation that is going to protect our children from individuals who would take a young girl, brutally rape them, kill them, and then throw them in the forest or in the street like they're a piece of garbage. That's what we're dealing with.

So there should be zero tolerance when it comes to sexual offenders. And all of us, the Assembly, should be talking about passing this legislation, not passing an extender.

Now, Senator Bruno has indicated, willing to go to conference committee. We have a bill that's real. The Assembly has passed an extender changing a couple of words. It's not even their position in terms of what type of notification there should be. So we're going to go to conference committee with a real bill, and we're going to discuss with the Assembly to see whether there should be a moratorium for over a year to see if the federal government acts? That's absurd.

So the bottom line is we have to act, we have to act in a timely fashion, or by the end of January there are going to be several hundred people off the registry, 800 more in February, over a thousand more in March, and, by the end of this year, 3579 Level 1 and Level 2 offenders will no longer be in the registry so that we'll have the information to protect our kids.

So I urge you, vote for this bill and certainly talk to your colleagues in the other house to make sure that they pass this bill to protect our children.

Thank you, Madam President.

THE PRESIDENT: The members being present, I'll ask the last section to be read, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

Even after the debate on the bill, I remain concerned about the potential mistakes or miscarriages of justice that could happen even for those or maybe particularly for those who are considered Level 1 offenders who might be captured in the category of someone having sex with someone who is underage. And I have raised this before.

The law doesn't take into account

the difference -- the law as it is now doesn't take into account, and this wouldn't be changed under this legislation either, the difference between a 21-year-old having sex with a 17-year-old, which is entirely different than a 40-year-old having sex with a is a year old. And I don't want to at this time put at risk juveniles being put on the list for 20 years. For a 21-year-old, that's a very long time.

Now, I also think that the bill does disregard level designations and the reasons that we have level designations. You know, a Level 1 is not a Level 2, a Level 2 is not a Level 3, a Level 3 is not a Level 1.

So I also predict that we'll have another chance to debate and vote on this bill, and I hope that we'll also cover the issue of rehabilitation then.

And finally, I also think that we have our work cut out for us in terms of lengthening the statute of limitations for civil cases --

THE PRESIDENT: Senator Duane, how do you vote? Your time is up.

SENATOR DUANE: -- and also the statute of limitations for rape now that we have DNA.

I vote no.

THE PRESIDENT: Thank you, Senator. You will be so recorded as voting in the negative on this bill.

Senator Bonacic, to explain your vote.

SENATOR BONACIC: Madam President, in my district, if we do not have an agreement on this legislation, we will have a little less than a hundred sexual predators preying on our families in my particular Senate district.

And the other point that I'd like to make -- and I wanted to thank Senator Skelos and the conference who has exercised leadership on this role. But we have many working men and women that are out there in the marketplace. And their children many times are unattended, and they need even more protection from the sexual predators. They need information in order to help themselves protect their children.

I'd like to thank every member in this chamber, on both sides of the aisle, that vote yes for this legislation. I vote aye.

Thank you.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote yes.

I heard some of the opposition concerned about the individual who may be the perpetrator. I think what's most important when we deal with legislation is we're always balancing things. There's no clear-cut anything in this world. We're always balancing things.

And, first of all, I think it's important that before someone gets on a registry, they've either pled guilty to a sex crime or they were found guilty. And when you balance that person being on a registry to protect other people, especially children, against the embarrassment of someone who is convicted of a crime such as this, I don't

think the balance is even close.

For those reasons, I'm voting aye.

THE PRESIDENT: Senator DeFrancisco, you will be recorded as voting in the affirmative.

Senator Nozzolio, to explain your vote.

SENATOR NOZZOLIO: Thank you, Madam President. I ask permission to explain my vote.

As chairman of the committee that reviewed this legislation, I wish to thank all the law enforcement officers who provided testimony, all the educators who provided us input, all the citizen activists who came before the committee time and again, and thank them for their assistance in making this law a law that will achieve the objective of protecting more children.

Lastly, I'd like to thank our members, the leadership of Senator Bruno and Deputy Majority Leader Senator Skelos for their leadership on this very important issue.

I vote aye, Madam President. Thank you.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

Senator Johnson, to explain your vote.

SENATOR JOHNSON: I'd like to thank Laura Ahearn for being here today, for leading the charge against this continuing child sex abuse and doing something about it. She came to my district and put a program on for my constituents, we passed out information. It was very helpful and enlightening to a lot of people.

And I want to thank you for being here all day today to make sure that we got this done.

Thank you.

THE PRESIDENT: You will be recorded as voting in the affirmative.

Senator Maziarz, to explain your vote.

SENATOR MAZIARZ: Thank you very much, Madam President. Just very briefly to explain my vote.

You know, it's almost -- I listened to this entire debate, and it's almost

incomprehensible that the Assembly passed today and some of my colleagues positively reflected on the fact that they passed an extender today. You know, we pass extenders for budget bills, for programs in the Health Department and DEC and things like that. We're talking about legislation that protects children.

There's no deadline, there should be no deadline on legislation that protects children from sexual predators. To have a deadline of March 31, 2007, which some policy person on the other side just pulled out, and then to use the excuse that we're waiting for the federal government -- some of my colleagues, Senator Skelos and Senator Marcellino and others pointed out how we didn't wait for the federal government. We've always been the leader on issues like this, and we should continue to be the leader on issues just like this.

I'm going to be voting in the affirmative. Thank you, Madam President.

THE PRESIDENT: And you will be so recorded.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 30 are Senators Duane, Montgomery, and Parker.

Ayes, 54. Nays, 3.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, is there any further business there at the desk?

THE PRESIDENT: No, there is not. The calendar is completed.

SENATOR BRUNO: There being no further business, I would move that we stand adjourned until tomorrow at 11:00 a.m.

Thank you, Madam President.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday, January 10th, at 11:00 a.m.

(Whereupon, at 5:30 p.m., the Senate adjourned.)