NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 26, 2007

3:32 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, 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 would ask all those assembled to please rise and recite with me the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, I would ask that we bow our heads in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, February 25, the Senate met pursuant to adjournment. The Journal of Saturday, February 24, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved.

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.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator LaValle, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print 2860.

THE PRESIDENT: So ordered.

SENATOR FARLEY: Mr. President, on behalf of Senator Maziarz, on page 11 I offer the following amendments to Calendar Number 63, Senate Print 947, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a Resolution 574 at the desk, by Senator Bruno. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Bruno and Little, Legislative Resolution Number 574, congratulating Fred Abbott upon the occasion of celebrating his 100th birthday on February 25, 2007.

THE PRESIDENT: On the resolution, all those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: We will now have the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 21, by Senator Padavan, Senate Print 78A, an act to amend the Penal Law and others in --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: Calendar Number 49, by Senator DeFrancisco, Senate Print 1270, an act to amend the Estates, Powers and Trusts Law, in relation to disqualification.

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will call the roll, please.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 50, by Senator DeFrancisco, Senate Print 1271, an act to amend the Estates, Powers and Trusts

Law, in relation to the right of election.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 58, by Senator Flanagan, Senate Print 680 --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 60, by Senator Volker, Senate Print 856, an act to amend the Penal Law, in relation to burglary.

THE PRESIDENT: Last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 64, by Senator Maziarz, Senate Print 951, an act to amend the Penal Law, in relation to creating definitions.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 65, by Senator Maziarz, Senate Print 952, an act to amend the Criminal Procedure Law, in relation to permitting a social worker.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President, to explain my vote.

I commend the purpose of this bill, to allow those facing the traumatic experience of testifying before a grand jury the ability to have a social worker or a rape crisis counselor or a psychologist present with them at the grand jury to provide emotional support. And again, I think it's a great idea and something we should provide in fact to everyone who's testifying before a grand jury.

I don't think it's appropriate to imply that older people as a class need more emotional support than anyone else. And because we're excluding those who are not older from getting the emotional support, I'm going to vote no on this bill in the hope that the service of a professional to be with someone in a grand jury is available to everyone.

I'll be voting in the negative. Thank you, Mr. President.

THE PRESIDENT: Thank you,

Senator Duane.

Senator Duane will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 90, by Senator Larkin, Senate Print 189, an act to amend the Education Law, in relation to suspending.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Mr. President,

if we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell.

We'll have a moment to allow some of the members to get into the chamber, and then we will have the controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 21, by Senator Padavan, Senate Print 78A, an act to amend the Penal Law and others.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Mr. President, would the sponsor yield for a question.

SENATOR PADAVAN: Yes.

THE PRESIDENT: Senator Padavan yields.

SENATOR SABINI: Mr. President, since this bill or similar attempts have been made in this house before, I'm just wondering what the difference is between this bill and the prior years' version.

SENATOR PADAVAN: Yes. We increased the penalties, based on input from

many of the advocate organizations who felt the penalties were not severe enough. We went right down the line in every category contained within this bill and increased those penalties substantially.

It also expands to some degree the procedures where individuals who are victims can reach out for aid and assistance from both local and state authorities to get an opportunity to not only deal with their immediate problems but also to have an opportunity to deal with the trafficking.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Mr. President, I believe there's an amendment at the desk. And I'd ask that the reading be waived and I be heard on the amendment.

THE PRESIDENT: Reading of the amendment is waived.

Senator Sabini, on the amendment.

SENATOR SABINI: Thank you, Mr. President.

My amendment would substitute my bill, S1650, for the bill on the agenda today. Senator Padavan's bill is good, and I don't

think that the perfect should be the enemy of the good. That's not my goal. That's often the goal of a lot of people in legislative life, but not here, not in Albany, not in 2007.

I think what my bill does is more likely to get a law passed, because this topic has been floating around this Capitol for a long time. And it's been the subject of many commentaries in the media and by advocates of the damage that Albany gridlock does in the streets of New York State.

Human trafficking is a very tragic crime. People are taken, mostly from other countries, plopped down into areas of our state -- not just New York City; there was a situation in Rockland County a year ago -- and forced in some sort of servitude, slavery, forced labor, prostitution.

And while the bill that Senator Padavan has produced is a good one, the Assembly version has some benefits that are not in this legislation that's before us today. And what my bill seeks to do is what we should be doing all the time in this body,

which is having a conference committee. So I took it upon myself to try and take the best of both the bills.

How is mine different than Senator Padavan's? My bill does a number of very tough enforcement measures, just like Senator Padavan's does. But perhaps most importantly, it creates a whole section of law on the victims.

Because unlike trafficking in narcotics or stolen goods, cars, these are people. They have needs. Once the curtain is pulled away from the horrors of human trafficking, what's left is a bunch of human beings, mostly who don't have identities because their identities have been stripped from them, they don't have immigration status because they were brought here illegally, they don't have healthcare, they don't have job skills, they don't have dental care, they don't have any social services whatsoever.

And so what my bill seeks to do is set up a process by which people would be afforded those opportunities by the social service and healthcare and job providers that

are in government now.

Now, last year Senator Padavan and I had a colloquy on this and he said that he thought that, you know, the government structure through law enforcement was adequate. I submit to you I don't think it is. And I would also submit to you that it's not going to pass the Assembly in that version.

I want to see something done. So I want to advance this amendment in the hope that we can come to an agreement with the other house and that the Governor will see fit to make this a priority and to try to change what is a bad situation and show that New York cares about this issue.

Other states have passed laws that don't have problems anywhere near ours. Just in my district alone, we had a situation about 10 years ago of the deaf Mexicans, 40 hearing-impaired Mexicans who were living in a one-family house, forced to beg on the subway by their captors, and no one knew they were there for like three years.

And once they were there and the

people were brought to justice, the question then became, what do you do with them? And thankfully the City of New York opened its arms and tried to effect some positive things for them. But there's nothing in the law that says you have to do that.

And frankly, hearing-impaired folks may get a little more sympathy and publicity living 40 to a house than a prostitution ring where the girls are now forced to figure out what to do with the rest of their lives and their identities and their healthcare and their job prospects.

In January of 2004, federal authorities raided a home in Corona run by the Carreto brothers, who lured women from all over Central and South America, individually promising them the dreams of America, in some cases promising them marriage if they came to the United States with them. And what they wound up doing was the lowest form of street prostitution that we can imagine. And those men were arrested and brought to justice, but the women who remained were left without a net.

And I'm happy Senator Padavan's promoting this bill again. I'm happy we're doing this early enough in the year where perhaps we could get a conference committee. But I'd like to see the process moved along.

That's why I offer this amendment to substitute my bill, because I believe my bill would pass the Assembly and become the law and allow this to be an example of what we hear about in campaigns all the time, that we want to have the logjam broken and that problems get addressed. I would like to see that logjam broken now, early enough in session, and address this issue.

And I urge my colleagues to support the amendment. Thank you.

THE PRESIDENT: Senator Schneiderman, on the amendment.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Very briefly, I want to speak in support of Senator Sabini's amendment and urge my colleagues that this is an excellent use of our procedures in this house to try and come up with a compromise bill that can pass both

houses.

I think that it's important to recognize that we are very far from going anywhere in this critical area of criminal justice legislation because we keep passing bills that bear little resemblance to the Assembly's bill.

The Assembly has serious problems about doing anything about trafficking, and I think we should acknowledge that. Senator Volker held hearings on the issue. I do believe that the Senate Majority is willing to go to a conference committee, as Senator Sabini is urging them to do. But it's no longer acceptable for us to go year after year after year passing two one-house bills that don't change the law when there are thousands and thousands of people suffering under a tremendously brutal system that, quite honestly, is just another aspect of the law of supply and demand.

There is a demand for the work of these people, and it's really a tragedy that we can't take stronger action to prevent human trafficking in this day and age.

So I would urge everyone to support this amendment, and I also am going to vote for Senator Padavan's bill. But we have to do something this year. And that means we have to move as far as we can -- and I know we've moved already towards the position of some of the advocates with Senator Padavan's bill and with other proposals, but we have to get the Assembly to the table.

So let's not finish this year without a conference committee. I think Senator Sabini is showing us the way with a bill that would probably be significantly more likely to pass the Assembly than the current bill offered today.

I support the amendment. I hope that we will move forward together to get something done in this area of the law this year.

Thank you, Mr. President.

THE PRESIDENT: Senator Padavan, on the amendment.

SENATOR PADAVAN: Mr. President, I'd just like to draw attention to the simple fact that the amendment substitutes a bill

that would reduce the penalties that are before you, contrary to what the advocates have said to me, have said before a Senate committee that we held in Manhattan.

I think you were there, were you not, Senator Duane? You were there to see them, hear them, listen to them. We even had a victim there tell us her horrible experience. And we have tried to include all of that in this legislation.

Now, we passed this in 2005 and 2006. This body unanimously voted for it. Last year, in the last week of the session, the Assembly passed a bill. I don't fault Assemblyman Dinowitz, because I believe, as I and most of you, he is genuinely interested in passing a bill and having it become law. What his problems are with his leadership, I don't know.

I have already gone on record asking for a conference committee. And I'm prepared to deal with that in any way that I can. But they've got to pass a bill. We're doing it early. I want them to do it early. And then we'll sit down and try and iron out

any problems that we may have.

But this bill is about as comprehensive a proposal as you could have anywhere. It covers not only all of the categories of criminality, from servitude to sexual tourism, where individuals go on these sex trips from this country and have sexual activity with children. Children. Our bill deals with that in a very significant way in terms of the penalty.

We mandate that local law enforcement agencies work with a victim to provide an opportunity and the avenues of approach with immigration authorities so that they can get legal status. We provide an opportunity for the victim to get financial redress from the trafficker. Everything is in this bill.

Now, you know, you can do as much as there is to do and ask for your support, as I'm doing, and then we have to try and convince the other house. And so I would suggest to the last two speakers that you help me with the Assembly to get them moving on this issue.

It is a form of modern-day slavery, no doubt about it. The federal government tells us annually we have about 20,000 individuals trafficked into this country, the majority of them women and children, put into all kinds of horrible situations and circumstances. Internationally, it's a billion-dollar industry.

But we can do something here in New York, and this is what that bill is all about.

THE PRESIDENT: Senator Krueger, on the amendment.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Padavan's comments. But I also stand up to argue let's pass the hostile amendment as a replacement for your bill, or in addition to your bill.

Because while I respect the points you just made about the criminal penalties -- and the fact is I have met with the advocates, I have spoken on panels around this issue, and your description is absolutely correct. This is modern-day slavery. It is modern-day slavery here in this country. It is

exploitation of the most vulnerable women and men -- although, by and large, women and children -- in this country.

It also, while no one has mentioned it, we're talking about the crime of exploitation through tourism and basically companies in the U.S. advertising travel tours to foreign destinations where women can be victimized in their home countries.

But I have to agree with my colleague Senator Sabini that if you ask the question why won't Assembly pass the bill, it's because my understanding, in talking to many, is that while the Assembly has some concerns with the extreme increases in the criminal penalties in this bill -- but I would back you on those, Senator Padavan -- the Assembly is very concerned that a bill never comes out of the Senate that provides for social services and healthcare for the victims of human trafficking, and that they don't necessarily trust us to do that separately.

So I think what Senator Sabini is attempting in good faith to do with this amendment is saying let's take the good work

of Senator Padavan and his proposals, which we all agree are not yet moving in both houses, let's recognize the human side of the reality of the victims in these crimes, who often have been so desperately harmed and damaged that the truth is they can't even go back to their country if that was available to them because they would be so shunned and in some countries perhaps even killed for the activities they participated in, even though as victims, in our own country.

And that if we are serious about trying to move a bill through both houses for the Governor to sign to finally implement stronger criminal penalties for the abusers and stronger protections for the victims, that we need to try to come to some merging of the minds.

And I think that what Senator Sabini is doing here is simply trying to get us started on this. So however we get there, to the point of a conference committee, to the point of sitting down and saying what is stopping each of us in each house from moving forward with one bill, that let's take today

as an opportunity, perhaps even after session today, to talk about the differences between your own bill and Senator Sabini's amendments, and let's see if we can walk over to the Assembly and move this legislation.

So I do thank you for your work and appreciate that we are doing this relatively early in the session and that that gives us some time to try to move it through both houses. But I believe that what Senator Sabini has offered us is a road plan to get us from this chamber to a bill that will pass both houses and be signed by the Governor.

So I want to thank you both. I'll be voting for the amendment and Senator Padavan's bill.

Thank you, Mr. President.

THE PRESIDENT: There is an amendment before the house that we'll take up right after we hear from the Acting Minority Leader, Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I want to first say that the hearing that the Senate held on this issue was

really a wonderful experience. Incredibly painful, but extraordinarily helpful in gathering information and I think helping us work towards the best possible legislation we could put forward.

I want to particularly -- I believe it was Senator Volker's committee that held the hearing. It was really -- though painful and tragic and sad -- outstanding. Everyone got their say, and I think everyone was incredibly moved.

Senator Padavan has been passionate on this issue, and I commend him for that. It's great to see and to hear him. And Assemblymember Dinowitz has championed this in the other house.

But it is absolutely true that Senator Sabini's bill moves us much closer to, I believe, a place where we'll have a bill that the Governor could sign into law.

Compromise is a good thing. Blame is a bad thing. Already Senator Padavan changed some language in his bill that many were concerned about. And just one example, that someone that might be patronizing someone

who was forced into sexual slavery in order to get the higher punishment would have to knowingly engage in sexual activity with that person that was trapped into sexual slavery. The "knowingly" wasn't in there before. Now it is.

There are other instances where changes have been made to satisfy the concerns that were raised before, during and since the hearing.

Many of us have spoken to people in the other house, many of us have spoken to people on the other side in a very collegial way on how can we make this legislation move forward.

Again, the willingness to compromise, that's a good thing. Blaming is a bad thing. I don't think we can change what the Assembly is doing, just like we can't change what the sponsor of this legislation is doing. I don't believe any of the Minority members are on the bill and in a position to make the changes. If we could, we would.

So the next best thing is to be supportive of Senator Sabini's legislation,

which actually looks like something that would happen at the end of the day if we had a conference committee where compromise would take place. Not blame, which is a bad thing, but compromise, which is a good thing.

Now, just to show how far we've come, a few years ago this issue would not even have been on the floor here. How far we've come that we're even willing to talk about this incredibly painful, painful, horrible, inhuman issue. It wasn't even discussed before. It is now. We've taken that giant step. Just a few more steps and we would actually be able to have legislation that we could all be proud to support and that the Governor would be happy to sign.

So let's move forward on compromise. Let's not do blaming. That's the old way of how things are done in this Legislature. The new way is to try to work together, both parties, both houses. Let's get a bill signed into law. I commend Senator Sabini because I think he's given us a path to have a bill that will become law in our state.

Thank you.

THE PRESIDENT: Are there any other Senators wishing to speak on the amendment?

SENATOR MARCELLINO: Yes, Mr. President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. Senator Sabini's amendment to bring up a bill, that in effect is a negotiating employ and a negotiating position.

I take Senator Duane's comments seriously. I think he's right. But the negotiations ought to be done in the conference committees. And should conference committees be set up on this legislation, and I hope they will be, then perhaps Senator Sabini's position could be brought up there and then, because I think that's the place.

Why should we negotiate with ourselves? Let's negotiate with the other house in a serious way. I suggest we defeat the amendment and move the bill to the Assembly and get them to pass a bill. Instead of the last day of session or the last week of

session they did last year, let's pass it now and get committees set up so we can get this thing moving.

This bill is, in my mind, a serious issue and should be dealt with immediately. And we should not be negotiating here. So I suggest, Senator, it might be a wise idea if you would withdraw the amendment and let's move this bill, seriously move it, and ask that conference committees be started immediately.

Thank you, Senator.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Would Senator Sabini stand for a question?

SENATOR SABINI: Yes.

THE PRESIDENT: Senator Sabini yields for a question, Senator Diaz.

SENATOR DIAZ: Senator Sabini, it's clear that your bill and your amendment, as Senator Padavan's bill -- when we talk about negotiation, we're talking about your amendment includes two parts, human services

and crime punishment. Right?

SENATOR SABINI: Right.

SENATOR DIAZ: What is the difference between -- dealing with the crime punishment part, what is the difference between your amendment and Senator Padavan's bill? Who has the highest grade in punishment?

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: There's not an easy answer to that question, because there's different degrees of punishment depending on if you are the person who is the perpetrator of human trafficking, the person who patronizes someone who is a victim of human trafficking.

A lot of what my bill does is create new categories of felony, as does Senator Padavan's. I believe that my bill more closely reflects the Assembly version on penalties, which is a notch less, I believe.

But on the other side of the ledger, what my bill does is specifically outline what we have to do to get people immigration status. It creates a T status, a

T nonimmigrant status or U nonimmigrant status, and propels our social service people to ask the immigration service for that.

It asks for short-term and long-term housing from DHCR. It dictates that agencies go into motion to help these people.

The difference in that as opposed to Senator Padavan's bill, Senator Padavan's bill says: Law enforcement who cracks the case, you make the provisions. I don't think those are the best people to make those provisions.

SENATOR DIAZ: So, Mr. President, through you.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Would Senator Sabini allow some other question?

THE PRESIDENT: Senator Sabini, do you yield for a question from Senator Diaz?

SENATOR SABINI: Yes.

THE PRESIDENT: He yields.

SENATOR DIAZ: So are you saying, Senator Sabini, that your amendment -- let me be clear again -- your amendment and Senator Padavan's bill, when it deals regarding the

crime punishment parts, you have equally, or more, or who has less?

SENATOR SABINI: Mine is just, as I said earlier, a notch lower on the criminal aspect in an effort to more mirror the Assembly version.

SENATOR DIAZ: I'm talking about crimes and punishment.

SENATOR SABINI: Right. That's what I said. In an effort to more closely mirror the Assembly version, as an attempt to have a compromise.

SENATOR DIAZ: So that means -- Mr. President, through you, would Senator Sabini continue yielding?

SENATOR SABINI: Yes.

THE PRESIDENT: Senator Sabini continues to yield, Senator Diaz.

SENATOR DIAZ: So, Senator Sabini, are you saying that the Assembly bill's -- that the crime punishment part is less than Senator Padavan's?

SENATOR SABINI: First of all, both bills create special categories of crimes that aren't in the law today. So to say it's

less is sort of telling half the story.

No, it's not -- what my bill does is more closely reflect the Assembly's version. It's a new category of crime. The penalties are a notch less under felony law but more closely resembles the Assembly version.

Look, what we're trying to do here -- and I heard an earlier comment that we should just, you know, try to negotiate this. And I'm all for that. But, you know, they say that the definition of insanity is doing the same thing over and over and expecting a different result. So what I'm saying is maybe we should try something different to try and get a compromise.

But I think both bills are very good bills. All three bills are very good bills.

SENATOR DIAZ: Mr. President, through you, will Senator Sabini continue yielding?

SENATOR SABINI: Yes.

THE PRESIDENT: The Senator continues to yield, Senator Diaz.

SENATOR DIAZ: So to negotiate, the negotiation part means -- there are two parts, the social services part and the crime punishment part. Right?

SENATOR SABINI: Mm-hmm.

SENATOR DIAZ: So your amendment regarding the part of social services, your amendment includes or has more social services for the victims than Senator Padavan's bill?

SENATOR SABINI: Basically the same answer I'll give you on the crime end. It's not more, it's more closely defined as to what we want to see happen in terms of food stamps, in terms of job training, in terms of housing, in terms of dental, in terms of counseling and who should do it. That's the difference in the two bills, in my opinion.

Senator Padavan wants to provide the same things but says it will be taken care of, I guess -- in fact, last year we talked about that, and he said through law enforcement. Mine says we have law enforcement doing the enforcement piece, let's have social services people do the social services piece.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Mr. President, through you, will Senator Sabini --

THE PRESIDENT: The Senator continues to yield.

SENATOR DIAZ: So the bottom line, if I understand you right, is that Senator Padavan's bill isn't clear on who would be responsible for what?

SENATOR SABINI: It leaves it more up to the interpretation of the people enforcing the law.

We had a colloquy, as I said earlier, Senator, last year with Senator Padavan where he said that he thought that the Division of Criminal Justice and the Attorney General and the Police Department and federal agencies -- I assume he means like the INS, who cooperate under this statute -- would be sufficient to do the job if we give them the law and the tools to do it with.

I don't want to leave that up to the INS, the Police Department, and the Attorney General's office. I think we have a responsibility to the victims to spell out

under the law that they need to get all these things done for them and specifically do it so we're not -- if we're going to pass something, do something that we can be assured that the victims, the human beings, get the necessary services they require.

In fact, in Senator Padavan's bill it specifically says every police agency in the state, as defined in Subsection 835 of the Executive Law, shall provide these services. I'm just not convinced that the Assembly will pass a law that outlines it that way.

Let's hope they do. If my amendment fails, let's hope they do. But the point is, let's get something done.

SENATOR DIAZ: Thank you Mr. President. On the amendment.

THE PRESIDENT: Senator Diaz, on the amendment.

SENATOR DIAZ: I believe that the -- listening to Senator Sabini's explanation, it is clear to me that by supporting Senator Sabini's amendment we will be more clear and more precise in what is it that we're going to do for the -- not only for

the victim, but also for the perpetrators.

So the punishment is clear, who's going to take care of the punishment. And the services for the victim are also clear, and how -- the extent of the services.

So I asked the question to Senator Sabini so in order for us to be clear that by supporting Senator Sabini, even though Senator Padavan's bill is a good bill that we should all support in case that the amendment don't -- doesn't go through, but I'm clear now to support Senator Sabini's amendment. Because now I understand clearer that this would be better not only for the victim but also will be stronger, solid in the penalty for the perpetrator.

So thank you, Mr. President. And thank you, Senator Sabini. And thank you, Senator Padavan. And thank you, all of you, because you Senators are wonderful. God bless you all.

THE PRESIDENT: Are there any other Senators wishing to speak on the amendment?

The amendment stands before the

house. All those in agreement with the amendment should indicate so by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Breslin, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, C. Johnson, Klein, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

THE PRESIDENT: The amendment is not agreed to.

On the bill, Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

There is in New York State an antitrafficking coalition -- I'll tell you what they're made up of. Coalition Against Trafficking in Women, that's one group. Equality Now. GEMS. My Sisters' Place. National Organization for Women-New York State. National Organization for Women-New York City. And, finally, an organization known as Sanctuary for Families.

We've had a lot of dialogue with this organization over a period of years. Most recently, they asked for some changes to the bill we had last year. One of them was the definition of trafficking. They said our definition was too narrow. They made a suggestion; we incorporated it in the bill before us that you voted for.

However, in voting for the amendment, you didn't vote for that. You voted for something different. You voted for what they call the narrow definition.

They asked for an increase in penalties, and I'll read it to you: "The bill makes sex trafficking a C felony and labor trafficking a D felony. We believe that both crimes should be C violent felonies. Human trafficking should not be a probation-eligible offense."

We took that recommendation and we put it in the bill. The amendment you voted for did not, in addition to lesser penalties right down the lines. And we did a number of other things in the bill that's now before us to make it better.

Now, I have no problem, as I said earlier, in having dialogue. As a matter of fact, Assemblyman Dinowitz and I have talked on more than one occasion, and I applaud his sincerity. And I hope that he prevails in getting something moving over there.

I would urge you all to vote for this bill unanimously, to send a clear message that we're serious about this issue and we want the Assembly to move and move now, so that before the spring comes we'll have a bill on the books and one that the Governor can sign into law.

THE PRESIDENT: Is there any other Senator wishing to be heard on the bill?

The debate is closed.

The Secretary will ring the bell for the members that have stepped out for a moment.

The Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yeah, Mr. President, I'd like to explain my vote.

THE PRESIDENT: Thank you. Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Yes, Mr. President. You know, I appreciate the work that Senator Padavan has done on this very important piece of legislation.

And again, I urge my colleagues to vote for this bill. Because as I said earlier, the place for negotiation is not necessarily on the floor of the chamber. It should be in the conference committees that we hope will be set up as a result of passage of this particular piece of legislation.

So I will vote aye on this particular bill in the hopes that the Assembly will pass a version acceptable to them and that the members of the respective conference committees can get together, sit down and in good faith negotiate to bring together a bill that will do service to the people of the

State of New York.

Mr. President, I vote aye and urge all my colleagues to do the same. Thank you.

THE PRESIDENT: Senator Marcellino will be recorded in the affirmative on the bill.

The Secretary will announce the results we've all been waiting for.

THE SECRETARY: In relation to Calendar Number 21: Ayes, 55.

Absent from voting: Senators Alesi, Connor, and C. Kruger.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 58, by Senator Flanagan, Senate Print 680, an act to amend the Penal Law.

THE PRESIDENT: The Secretary will read the last section.

SENATOR MONTGOMERY: Mr. President.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

I would -- in the interests of time, I did have a question for the sponsor, but I'm just going to speak on this legislation, because it's --

THE PRESIDENT: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Thank you.

It really is pretty straightforward, as I read it. It is a bill which intends to protect children in child abuse cases. So initially, when the bill was passed, it was to cover children up to the age of 11. I believe this bill extends that up to age 14.

And, Mr. President, of course we certainly want to protect children as well as young teens. But I just -- I feel very, very much conflicted about this, because it also, in addition, to raising the age of the young person that it covers, it extends the statute of limitations, so to speak, so that once one is convicted under this legislation, for the next 10 years they carry the burden of having been convicted under this.

In addition, it raises the charge

from a misdemeanor to a felony. Which means now we're not talking 10 years anymore, we're talking life, because a felony is a lifetime charge. And we do not close -- we do not expunge, we do not have a means of expunging felonies at this point in time.

And, Mr. President, when we talk about 50 percent of the African-American men who are unemployed, we all must understand that a large percent of that 50 percent is based on felony convictions.

So I'm very, very cautious about this process. Every time that an opportunity seems to me that someone in this Legislature finds a need to increase the charge. If it's a misdemeanor, we always want to go up to a felony. If it's a felony E, we want to go to felony D. And so forth and so on. And we also are increasing the time that a person is charged.

Now, I understand, based on the memo from the sponsor, that in fact there have been a number of prosecutions under this law as it stands, but there have been no convictions. So that in and of itself, to me,

is a signal that we need to rethink this -- whatever the problem as we see it that causes us to want to change this legislation.

So for those reasons, I am going to continue to oppose this bill. And I know that people will try to say, Oh, soft on crime. I'm not soft on crime. I don't like criminals any more than anybody else. But in this Legislature, we have begun to criminalize everything. And eventually, everybody will be a criminal in one way or another.

So I think we need to rethink this process. And I'm not sure this is necessary. And certainly, even if we want to cover up to 14, I think we need to think about why we should make it -- suddenly change it from a misdemeanor to a felony. Which is a lifetime charge, Mr. President.

So I'm going to vote no on this bill. Thank you.

THE PRESIDENT: Is any other Senator wishing to speak on this bill?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

SENATOR FLANAGAN: Mr. President.

THE PRESIDENT: Senator Flanagan wishes to explain his vote.

SENATOR FLANAGAN: Thank you, Mr. President. To explain my vote. I just want to clarify two points that were raised in the comments by Senator Montgomery.

This bill is about expanding protections for kids who are 12, 13, and 14 years old. We're not talking about, you know, simple crimes. We're talking about aggravated assault in the first, second and third degree.

And what we're doing is we're extending the time period. We're not extending the statute of limitations, we're basically saying if you're convicted of a previous offense, we're now going to extend the look-back period from three to ten years.

So I kind of look at this as common sense, saying I don't mind going from three to 10 years. And if you are someone who has abused a child and been convicted of that crime twice, we're going to raise the penalty. And we're going to raise it to at least an E felony.

It's not a lifetime conviction. It can go to at least an E felony, which is one to three years. And for someone who's committed that type of crime twice within 10 years, I think one to three years is not much to pay at all. In fact, maybe we should be contemplating making it more severe.

This is about protecting children. It has nothing to do with race. It has everything to do with justice for victims of sexual assault and abuse.

THE PRESIDENT: Senator Flanagan will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 58: Ayes, 55. Nays, 1. Senator Montgomery recorded in the negative.

Absent from voting: Senators Alesi and Connor.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there any further business at the desk?

THE PRESIDENT: We have completed the controversial reading of the calendar.

We do have a motion at the desk.

SENATOR MARCELLINO: Can we have the motion, please.

THE PRESIDENT: The chair recognizes Senator Robach.

SENATOR ROBACH: Yes, Mr. President. On page 15 I offer the following amendments to Calendar Number 114, Senate Print Number 2084, and ask that the said bill retain its place on Third Reading Calendar, please.

THE PRESIDENT: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

That completes the order of business, Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

There being no further business, I move we adjourn until Tuesday, February 27th, at 3:00 p.m.

THE PRESIDENT: The Senate is adjourned until Tuesday, February 27th, at 3:00 p.m., intervening hours being legislative.

(Whereupon, at 4:28 p.m., the Senate adjourned.)