NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 5, 2007

3:20 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 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, and the absence of any spiritual guidance from any of the members of the Senate who have been invited to come up here and offer a prayer or thought, we will entertain a moment of silence.

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

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 4, the Senate met pursuant to adjournment. The Journal of Saturday, March 3, 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.

The chair recognizes Senator Skelos.

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

And under the order of motions and resolutions, there's a resolution at the desk, 339, by Senator Nozzolio, which was previously adopted on February 6th. If we could have it read in its entirety and then recognize Senator Nozzolio.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Secretary will read the resolution.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 339, congratulating the Geneva High School Football Team and Coach David Whitcomb upon the occasion of capturing the 2006 New York State Class B Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play, and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, The 2006 New York State Class B champions, the Geneva High School Panthers Football Team, defeated Albany Academy 33-7 at the Carrier Dome in Syracuse, New York, to finish the season with an 11-2 record; and.

WHEREAS, The Panthers were led this season by 2006 New York State Class B Player of the Year Brian Fowler, who rushed for 2,042 yards and scored 36 touchdowns. In addition, Torrell Northrup was named to the New York State Class B First Team and John Warner and Kelvin Cruz were named to the Second Team; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach David Whitcomb and his team of outstanding assistant coaches, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Geneva High School Football team, from the opening game of the season to participation in the championship game at the Carrier Dome, were a brotherhood of athletic ability, of good sportsmanship, of honor and of

scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on Geneva High School; and

"WHEREAS, Coach David Whitcomb and his dedicated staff have done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach David Whitcomb and the outstanding athletes on the Geneva High School Football Team have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Geneva High School Football Team, its members -- Tom Price, Jeff Springmeier, Jimmy Warner, Junior Collins, Tyler Travis, Bobby Martin, Tremaine Green,

Ronnie Collins, David Deraddo, Matt Schutz, Brian Fowler, Matt Augustine, Shamar Bridges, Carrington Johnson, Jeremiah Allen, Tyler Knight, Robert Sapp, Cheagan Wilson, Derrious Thomas, Andy Torruella, Andrew Graves, Ben Chilbert, Matt Hegel, Mike Raplee, Dom Carter, John Warner, John Cosentino, Antaun Wright, Tyler Sollenne, Kelvin Cruz, Joe Passalacqua, Kyle Olschewske, Carlos Patino, Nick Morlang, Torrell Northrup, Harrison Hardy, Willie Smallwood, Kevin Cook, Shane Beer, Tim Blancke -- Assistant Coaches Mike Pane, Steve Marchitell, Brad Roach, Jasper Collins, Pat Martin, Bob Greco, Mike Cooper, Marc Tapscott, Matt Nolin, Nate Schnekenburger and Justin P, and Coach David Whitcomb on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Geneva High School Football Team and to Coach David Whitcomb."

THE PRESIDENT: This resolution was passed earlier in the session. We are pleased to have the football team located in

the gallery with its coach, David Whitcomb.

And on the resolution that we have adopted, the chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. And thank you very much for having the resolution read in its entirety.

And I ask my colleagues to join with me in welcoming a group of fine young New Yorkers here to the State Capitol; fitting that the state champions be recognized for their contributions here, where we make the laws, in our State Capitol.

The journey for this team was a long one. It was one that was marked with the highest success. But before the Geneva Panthers became successful, they faced adversaries very strong a year before. This was the second opportunity I believe in its history that Geneva, the Geneva Panthers had an opportunity to win the New York State football championship. And they won it.

But the first time, they were met with some very strong opposition from a team in Amsterdam represented here by the great

Senator Hugh Farley. That defeat -- out of the seeds of that defeat were born the fruits of victory a year later.

And I want to congratulate Coach David Whitcomb and his excellent staff for molding together a fine group of athletes who are much more than athletes, they're truly gentlemen, gentlemen who are great representatives of their school and their community.

We oftentimes hear about the foibles of young people and, when young people go astray, read about their defeats and their passages in a negative sense. This team is all positive. They care about each other. That's why they are as successful and became state champions, in beating, I daresay, a team again from this region, revenge on the eastern part of the state in the victory this last year, a resounding 33 to 7 victory over Albany Academy.

Today the team is accompanied by some fine adults who have helped mold the spirit, cooperation, and are great educators. I mentioned him once and I daresay he deserves

mention again, and that's Coach Dave Whitcomb, head coach. He's also here today with Mike Pane, Brad Roach, Pat Martin, Jasper Collins and Marc Tapscott, all assistant coaches. Mike Cooper, another assistant coach, could not be with us.

Also listening just outside the chamber, because he is confined to a wheelchair -- but that young man, assistant coach, team leader, team spiritual leader Bobby Greco, has also made the trip.

Two fine people from the Board of Education. First, the superintendent of schools, Bob Young, as well as Tom Scherer, a member of the school board, are also here today to be part of this recognition.

Mr. President, I appreciate very much the pause in the proceedings today to welcome these state champions here to Albany, to congratulate them on their significant victory, a victory even sweeter because it came after a year of disappointment at the final championship game. But they came back, and that's the measure of a true champion.

Thank you, Mr. President. I

appreciate this house's indulgence.

THE PRESIDENT: Thank you, Senator Nozzolio.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise to congratulate this school of champions. You know, they were involved in one of the most exciting, fierce football games at the Carrier Dome last year where Amsterdam, one of my schools, survived to be champions.

But the school, what a tradition you have. It's kind of interesting, you are getting your revenge, because my daughter graduated from the Albany Academy. She didn't play football.

But you certainly had a very big win this year, and I congratulate you for that. The record that you're already maintaining as two years in the state finals is really something. You're all champions. I'm very proud of you. Congratulations.

And, Senator Nozzolio, you really got even in a hurry.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I rise to commend the Geneva Football Team. In the finals, they beat Albany Academy, a team from my district. Of course Albany Academy at the time was besieged with injuries and --

(Laughter.)

SENATOR BRESLIN: Seriously. And academic failures as well.

(Laughter.)

SENATOR BRESLIN: No.

Seriously, I commend the Geneva team because they won it without any doubt being left to who was the best team.

So to the Geneva Football Team and its coaches and administrators, from the representative of Albany Academy, I congratulate you.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Breslin.

This resolution was already passed earlier in our session.

And so therefore, to Coach Whitcomb and all of his assistant coaches, to Superintendent Bob Young of Geneva and all of your staff and the people in the educational system who helped all of these young men, and to the players themselves, who were victors by a score of 33 to 7 over Albany Academy at this year's 2006 Class B finals at the Carrier Dome in Syracuse, we in the Senate want to extend to you our congratulations.

And we know that Senator Breslin will take all of the inspirational messages that Senator Nozzolio just brought back so that another school may reign supreme next year. But for right now, you are the champions, and congratulations.

(Applause.)

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Would you please recognize Senator Farley, who has an amendment.

THE PRESIDENT: The chair recognizes Senator Farley.

SENATOR FARLEY: Thank you very

much. It's nice to be recognized.

On page 11 I offer the following amendments to Calendar Number 18, Senate Print 42, and I ask that Senator Maziarz's bill retain its place on the Third Reading Calendar.

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

Senator Wright.

SENATOR WRIGHT: Mr. President, can we take up the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 39, by Senator Maziarz, Senate Print 521A, an act to amend the Judiciary Law, in relation to the compensation of interpreters.

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 SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 94, by Senator Saland, Senate Print --

SENATOR WRIGHT: Lay that aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 125, by Senator Nozzolio, Senate Print 329, an act to amend the Real Property Tax Law, in relation to exemption.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 144, by Senator Marcellino, Senate Print 699, an act to amend the Environmental Conservation

Law, in relation to special permits.

THE PRESIDENT: The Secretary will read the last section, please.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 148, by Senator Marcellino, Senate Print 618, an act to amend the Penal Law, in relation to criminally negligent homicide.

THE PRESIDENT: Last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 149, by Senator Skelos, Senate Print 638, an

act to amend the Criminal Procedure Law and the Family Court Act, in relation to evidence of identification.

THE PRESIDENT: Last section.

THE SECRETARY: Section 6. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 150, by Senator Trunzo, Senate Print 754, an act to amend the Penal Law, in relation to unlawful sale of tobacco products to a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 162, by Senator Little, Senate Print 1117, an act to amend the Penal Law, in relation to increasing the penalties for hazing.

THE PRESIDENT: Read the 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, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR WRIGHT: Thank you, Mr. President.

May we please return to reports of standing committees. I believe there's a report of the Rules Committee at the desk.

THE PRESIDENT: The Secretary will read.

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

following bills:

Senate Print 3318, by Senator Volker, an act to amend the Mental Hygiene Law and others;

And Senate Print 3322, by Senator Bruno, an act to amend the Workers' Compensation Law and others.

Both bills ordered direct to third reading.

THE PRESIDENT: Senator Wright.

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

THE PRESIDENT: All in favor.

(Response of "Aye.")

THE PRESIDENT: Those opposed.

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Wright.

SENATOR WRIGHT: May we please take up Calendar Number 251, which was just reported from the Rules Committee.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

251, by Senator Volker, Senate Print 3318, an act to amend the Mental Hygiene Law and others, in relation to the treatment, supervision and civil commitment of sex offenders.

THE PRESIDENT: Last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: Lay it aside.

Senator Wright.

SENATOR WRIGHT: Mr. President. Can we take up the controversial reading of the calendar, please.

THE PRESIDENT: The Secretary will conduct the controversial reading of the calendar. And we will ring the bells for the members.

The Secretary will read.

THE SECRETARY: Calendar Number 251, by Senator Volker, Senate Print 3318, an act to amend the Mental Hygiene Law and others, in relation to the treatment, supervision, and civil commitment of sex offenders.

SENATOR DUANE: Explanation,

please.

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

SENATOR VOLKER: Yeah. Just as a point of reference, I have here the initial bill -- we found it in the archives -- that I put in June 30, 1994. It is four pages. And this bill is 44 pages. So actually, we have come a long way.

And we've had hearings on the bills. One year I passed it four times, different bills, Governor's bills and -- and I only point that out because we only put the bill in when the Hendricks v. Kansas decision was decided in '94.

I read an interesting article yesterday by the New York Times that as I read the first three paragraphs I said, Well, what this means is that they're going to editorialize against the bill. It was obvious, because I've heard the story that they had from the critics in Kansas.

I was on a national group one time, and I listened to the people in Kansas

complain. Interestingly enough, there was people from Texas and various places, and when I listened to their explanations, I said, "The biggest problem you seem to have is you don't really want to do civil confinement." "Oh, yes, we do, but we can't pay for it." I said, "Well, how do you do civil confinement unless you're going to pay for it?" And they said, "That's our problem."

So I said, "What are you going to do?" I asked these people from all across the country, I said, "Well, what's your solution?" "We'll let them out, and we'll watch them." I said, "Well, that's a big problem."

By the way, Hendricks, who -- I don't want to say anything except that my suspicion is that the reason that Hendricks is still civilly confined since 1994 is maybe that's a good place for him. That's all I can say.

If you know anything about some of these people, they're pretty bad people, many of them. And by "bad," I mean they're sick people. I've listened to mental health people tell me stories. And I say to them: "Well,

what would you propose we do?" And many of them say, "We don't know. We don't want them mixed in with regular mental health people."

And I say to them, but how do we in conscience let people -- for instance, just in the last two weeks, a seven-time rapist was about to be let out. He had raped seven different women.

Now, if you know anything about the rape cases -- and years ago when I did a big investigation, we figured at least four for every one that you know about. We had good reason to come up with that number, because we charged the guy with 29 counts and we -- amazing the number of people who came forward afterward and said, you know, "I don't want to tell my husband," this and that. It was amazing, the numbers.

I only say that because there's one thing you have to realize about this issue. In many ways the reason that those of us that are in criminal justice -- and Frank Padavan and I are the last members in the Senate of the original Mental Health Committee. We've been on since, what, '74, Frank? I think so.

Both of us have been on Mental Health all that time. And of course we've been involved in criminal justice, and I have most of my life.

This is a very difficult bill, I'm not kidding you, because it crosses the line between mental health and criminal. The reason it's such a tough concept is because neither side really likes this kind of thing. And I tell that you very honestly. By "sides" I mean neither the criminal side nor the civil side.

But the people that are involved here, many of them child sex offenders, ordinary sex offenders of women and sometimes men, they're different. I think everyone does agree with that. Glenn Goord used to tell me, who was the head prison system, they were the biggest single problem in his prison system other than murderers of pregnant women.

Because there's a caste system in prison. If you kill a pregnant women, you're a target by other inmates wherever you go. Once they find out about it, that's a complete no-no. We are amazed because we live outside the whole prison situation.

I've been in most of the major prisons in this state. I've met some real characters. I've met people that did not want to get out. We offered to let them out with, what do you call it, medical parole. The one guy cried and carried on, I've been here -- he was there fifty years for two murders. He said, "I have nothing to go back to." And, you know, it's a tragic case.

But you know, there's another factor. And that's what this bill, which is the Sex Offender Management and Treatment Act, it deals with people who eventually, and through a very intricate process -- and by the way, I've heard people say, "Well, how soon are these people going to be in there?" Well, it's going to take a little time. I mean, this is not something that's going to happen overnight.

The Budget Bureau, that I'm not so sure is a great judge of some of this stuff, they claim that it will take a couple of years. But they feel that of 400 people who will eventually reach trial in the next couple of years, a hundred would be civilly confined,

250 could go to strict and intensive supervision, and 50 would be released.

The reason that they figure that -- it does make some sense. Because remember, the chances of someone being put before a jury is fairly slim. And the reason is you have to be a pretty clear and convincing case before it's going to happen. You've already gone through all this stuff, you've got psychiatrists, you've got the case management people, you've got the case review team, you've got the Attorney General and then the judge reviews it.

And then it goes to the judge, and what happens is that a jury doesn't say whether the person should go and be confined or not, it says that the predator is found to be dangerous and that he is mentally abnormal. That is, he's got a major -- he or she has got a major problem. And then the judge formally decides whether that person should be civilly confined or put out on strict and intensive supervision.

One thing I want to point out in the bill is -- and this is a big bill, it's 44

pages -- there is a provision in here, and I only mention -- on page 15 and 16 that I believe has never been put in any civil confinement bill. One of the issues that came up in our conference committee is, what does strict and intensive supervision mean? Because that was a major issue with the Assembly, and this house was asking that question. What does it mean? They said, well, it's going to be a lot of people.

Well, in this bill, on pages 15 and 16, you will see the criteria for what "strict and intensive supervision" means. And it is the most complete, I think -- obviously, there will be some changes, but it is the most complete and mandates a number of parole officers. In fact, the estimate is -- because I asked for this. I said, "Well, what exactly are we talking about here?"

And the civil commitment people, the Governor and the Attorney General and the people involved in this Legislature, feel that on an annual basis about 1500 people are annually released from DOCS. The number that would be screened would probably be about 400.

And that was the numbers I gave you before.

Now, it is estimated that the need will be -- and I'm not kidding anybody here, and I've said this. And that's what the New York Times, they said. Whenever you're opposed to something the big thing is, well, this is way too expensive. Is it way too expensive to keep people from being assaulted in the streets and so forth? I don't know.

This would take over a thousand new full-time employees. At least 60 of them initially would be parole officers. Now, one of the things we said, I said to Governor Pataki and now Governor Spitzer, we have to know that we are going to put the people out there to do the kind of job that needs to be done. To their credit, both Governors have said yes, we will do it. And this is what they're talking about doing.

The ratio, by the way, for sexually violent predators out on the street would be 10 to 1 for parole officers. Now, if you think of that, if you know anything about the ratios, they're a heck of a lot bigger than that now. They're as much as 40 to 50, in

some places as much as 70 to 1 or bigger. I know in Buffalo they're 45 to 1. In New York City I understand they're bigger than that. I'm not exactly sure.

What that means is, how many parole officers per parolees? Now, we know that that's been a problem. So they are ready to provide people for this.

The bill creates the new crime of sexually motivated felony, where potentially -- we've had a lot of discussion about this. As an example, you have somebody that was involved in a rape and maybe even a murder or, more likely, arson or something of that nature, he pleads to the arson, let's say, and the rape is dropped for whatever reason. That person could potentially be indicated later -- because of the sexual motivation of how the arson happened, could be checked before he's let out.

By the way, it's hard to -- there's been cases on this. Very difficult to prove, by the way. You'd have to bring in all the evidence surrounding the initial case and so forth. The only reason I use that is because

it is possible.

Let's see. Persons currently on parole could potentially be subject to civil confinement proceeding. That would be tough to do. I was a little surprised the Assembly accepted this, because initially they wanted no part of it. But the Governor, to his credit, I think, felt that that provision should be in here in case you get somebody who is out on parole.

Normally, the way that would be done is that a person literally commits a crime while on parole, is not yet convicted, but still could be checked if the crime is a sexually motivated crime. So that occasionally happens. If the previous crime was sexually motivated and if the present crime is, that that person could be checked for civil confinement.

There's a whole series of provisions in here relating to how the proceeding comes forth. All kinds of protections of all sorts. I was asked questions in the committee about the parole officers. The only thing a parole officer

would have to do is refer it to someone. His power is he could put a person, for violation of parole, in jail for five days. Which is what you can now for a violation of parole at any time.

After that, the rest of the process takes over and you decide whether the person should be civilly confined or not and go through the case management committee and the case review team and all that other stuff. Has to be checked by psychiatrists and a whole series of things.

This bill, in my opinion -- and I've been, as I say, around criminal justice for quite a few years -- represents what I consider -- it's hard to call it reform. It is reform. It's change of epic proportions. This will be the class bill for the whole country, there's no question in my mind. No one has done a bill like this.

That is, people have done bills like this, but they have never gone to the extent that we have to protect the individuals, to deal with the issue of sexual depravity, and to actually put the money up,

which is substantial, to put the people in a confined situation and then give them a treatment that as far as we know no one else in the country has done.

By the way, also involved in this bill is a provision that says that people who are sexually motivated criminals will have additional treatment in prison. That is, when they're in there initially, before they ever get to civil confinement and all the rest of this, they're going to be treated in prison.

There's a reason why that's significant, is because by putting these people in to deal with them, it won't detract from the mental health for the other inmates. Right now a lot of the mental health people are trying to deal with the sexual predator people in prison. And an enormous amount of time is taken away from other inmates who merely -- and I say merely -- have mental health problems.

What this bill will do is provide additional people to help out with that situation and actually will deal with some of these. The Assembly wanted that in the bill,

and I think it was a very good idea. There's going to be a number of additional people helping out with mental health in the prisons to specifically deal with sexual motivation, which would relieve some of the people now to deal with other problems, mental health problems, in the prison. Finally, there will be new parole officers in the prison, also in addition to being outside.

So this is a bill that will cost a lot of money, no question. The bill will come into effect 30 days after the bill is signed by the Governor. And as I say, I think it is the most comprehensive approach to dealing with sexual predators that this nation has ever seen.

We have always been a leader here in New York in criminal justice. Very little attention by the media to the fact that one of the main ways we brought down our prison system was the best shock incarceration program in the country and probably in the world. Which is now, because we don't have many people to let out anymore since about 75 percent of the people in our prison system

are now violent people, where years ago it was the reverse, 75 nonviolent, 25 -- that's all changed. There's an enormous amount of very violent predators.

And that's why we have to be careful with this. That's another issue in the prison system. These people are extremely disruptive in the prison system itself. It's no secret. They will always tell you that, that -- I have inmates when I walk through the prisons they say: "Hey, Volker, you've got something to do with this stuff, get these crazies out of here." A murderer tells me they want to get the crazies out of here because they're dangerous to the system.

Literally, that's happened to me as I'm walking through the prison system. Especially at Attica, where unfortunately too many of them know me. But at any rate, it's amazing the knowledge the inmates have of what's going on there.

So I say to you I personally think that this is a bill that will make New York way ahead of the rest of the country in an effort to deal with an epidemic of sexual

predators in our streets. People have said to me, What about this? What about that? I say if we get this under control, a lot of the problems that we have in some of the neighborhoods we believe will begin to remedy themselves.

And there's a lot more to be done. Senator Skelos has some more notification work that he's been doing in relation to Megan's Law, and we'll be able to track these people more easily. But if you get the worst of the worst out of the system, you will then be in a much better situation to deal with this issue.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you very much, Mr. President, Senator Volker, colleagues.

Senator Volker, thanks for your diligence and your efforts over the last I don't know how many years -- 18, 20 years -- that you have been involved in this issue.

But to our colleagues here, what we're doing here this afternoon is one of the most important things that we can do on behalf of our mutual constituency. And what we're

doing today would not have happened and taken place without the direct intervention of Governor Spitzer. He made a commitment that he was going to help get this done.

Now, I say that his direct leadership helped us get this bill on the floor of the Senate on its way to becoming law. And for many of you that partner and relate very, very closely, I'd like to have you bear that in mind.

Because I am reading, as you are, some of the editorials that really advocate on behalf of the perpetrator, the predator, the convicts, and be careful that you don't tamper with their civil liberties. And I didn't hear of all of what Senator Volker had to say, but I know he's pretty comprehensive in his explanations and his diligence.

But think about this. When those that advocate "be careful, be lenient," half to two-thirds of these violent, violent predators go out and do it again. And it has been determined by professionals they are not able, most of them, to help themselves. They know they can't help themselves. And so many

of them want a barrier, some rehab protection to keep them from recommitting. They are disruptive. They need to be segregated after they serve whatever sentence they're given.

But I'm asking you to focus. This is something we've been debating, we've been deliberating ever since I've been leader here and as a Senator before. And we're now here. And it's time for people to make a commitment. And the commitment is that we protect your constituency, our constituencies, from the predator, that person that will violently attack, rape, murder, maim.

And I'm reminded of case after case that we read about, people that come in who are truly scarred. Even though they go on with their lives, they're scarred for life. So I am appealing here that we join together to think about the victims, the innocent potential victims.

And for those that would rather coddle that person that has been convicted -- that's what we're talking about, violent, violent criminals -- think about your constituents with children, with the

vulnerability that's there. And heaven forbid and God forbid that one of these people are out on the streets and they do it all over again, as they have done.

And anyone that had talked to the father of that little 9-year-old in Florida and listened to his story about the repeat offender who killed his 9-year-old daughter, which you all read about, buried her half-alive, you would never, ever err on the side of the criminal and the perpetrator. You would err on the side of protecting a 9-year-old, 12-year-old or any person that's out there that truly deserves the protection that we as legislators need to give them with a result such as we want to get today.

Thank you. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Bruno.

Senator Smith.

SENATOR SMITH: Thank you very much, Madam President.

And let me also congratulate the Governor, who, as Senator Bruno said, had the

fortitude and took the time to bring both houses together. Obviously Senator Volker has put a great amount of time into this particular bill, as well as Senator Klein and Senator Tom Duane.

We have moved very rapidly over the last 50 or so days on a number of issues in this particular house and with the Governor as well. And that goes back for not only workers' comp but ethics reform. And now we are doing a very important bill today, civil confinement.

I can't speak for everyone in this room, but I can only tell you if you ever had the unfortunate privilege, if you will, to have to talk to a family member or talk to a parent who had come to your office because of an incident that happened with their child, their daughter or even their son, we would not be debating this or even discussing it right now, we just would have passed it short of what the process requires.

Anyone here who has a child or a son or a daughter needs to clearly understand what it means to protect that person. And

whether you are a surrogate parent or a parent or a godparent, the bottom line is your ultimate responsibility is to protect your family and the children that are in your family and those that are associated with them as well.

This particular bill, granted, there was some debate about treatment. And yes, there was an agreement to provide some treatment. We also understand the importance of providing what we would call humane responses to individuals, and we don't want to just blanketly indicate that their lives are completely out of order and cannot be resuscitated, if you will.

However, this particular bill goes to the safety of individuals in our communities. And if you ask anyone, there are basic things that all of us agree upon. One, we want to be able to educate our family. Two, we want to be able to live in a neighborhood where you can raise your family. Three, you want to be able to know that your family is going to be safe, whether you are at home with them or when you leave.

All of us leave our homes. All of us leave our neighbors. The last thing you want is that phone call to come in to say that this particular individual who was living two doors away or four doors away -- and many of us have seen the statistics, many of us have seen the reports. And I would daresay if you read it, many of you know that someone of this background lives in close proximity to your home.

And that is a challenge that we face and a challenge that we face as a society. But how you can mitigate some of that challenge is by virtue of having this particular law in place.

I again want to congratulate my partner Senator Bruno, who has not only had the fortitude to fight for this over the years that he was here but also knows, according to Assemblyman Tedisco, this particular bill was introduced in '93, I think he says. Almost 14 years ago. And here we are now, 14 years later, just passing that bill.

I think it says a couple of things. One, to the public, as I always say, that

their message was delivered, their message was received, and today we are taking action.

But more importantly, I think it says to our family that we recognize that while we may not always be there for them because of what this job requires, that we are doing things not only to protect the other individuals that live in this state but protect them as well. And that's a very important thing, not only to myself but I'm sure to each and every one of you.

So this is a day where, while we may not be happy about the fact of what we're doing because of what it says about individuals within our society, you need to be pleased about the fact that you are making a hard decision and a tough decision. But when you are in leadership, that's what it requires. And that's what the people that are sitting in this room are, leaders of this state. And today they're showing that to the rest of the people of the state.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Smith.

Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

First let me congratulate Senator Volker and the Majority Leader and all those who made this possible to bring us to this point we are today.

I'd like to put this legislation in a particular context that might in part respond to these editorials that have been written in opposition to it, or some of the questions individuals might have relative to its efficacy.

Several decades ago the state and the City of New York in particular dealt with very thorny issue: individuals out on the street, many high-profile cases -- the Bumpers case, the Harris case -- individuals who were mentally ill who had caused a great deal of problems for themselves and their community, violent and otherwise, and who were being removed from the street, brought to an acute-care hospital, treated, given medication, they were fine, and then the civil libertarians would say, You must be back, you

must release them back onto the street.

Well, this cycle never produced any desired result until we came up with civil confinement for those who are mentally disabled, who either are unable, unwilling or incapable of taking those medications and being treated in the fashion that would prevent them from continuing to be a danger to themselves or others. And so for many years now we have had the benefit of civil confinement for the mentally disabled, the mentally ill.

Now, pedophilia is a defined mental illness. Unfortunately, there is no medication. There is no Prozac, there is no Valium, there is nothing you could give someone who has this illness which will enable them to function in society without reverting to their base instincts. They have to be treated in some fashion best known, of course, to clinicians and those who deal with this particular mental disability.

And so what we are doing here is taking a mentally ill individual and putting that individual in a structure where that

illness will be treated, until such time as those who are in a position to make that judgment will decide that they're cured.

It makes abundant sense. Long overdue, as several have already said. And so it's certainly a great day and a landmark day that we've finally reached this point in time where this law will become part of the laws of the State of New York and, as all our laws previously in prior decades were, emulated throughout the nation. State after state began to do the same thing, which I think benefits our entire society.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Senator Diaz. Oh, I'm sorry, Senator Diaz left the room.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

I too want to join in commending the sponsor for his efforts and the Governor for bringing this together.

More importantly, I want to point

out that for each of the years I've been in the Senate, I voted in favor of this bill. And it is my intention to do so again this afternoon.

But I would also point out that there is a headline in the local newspaper today pointing out that "Sex Offender Bill Brings New Worries." And it spoke to the situation in the city of Ogdensburg, which I happen to represent.

And there are several concerns, even as we have reached agreement, even as this bill has expanded from four pages to 44 pages, that remain concerns for the citizens of the host communities, those concerns being two issues.

Number one, the issue of discharge planning, what happens to the patients at the end of their civil confinement. The host community is looking for an assurance that those individuals return to their community of origin, that they return to their families, that they return to their neighborhoods and not remain in the neighborhoods of the community of confinement.

I think that's only a reasonable expectation, that they too enjoy the same level of safety, having met their obligation to serve the citizens of this state.

The second issue is relative to security staffing levels. I fully recognize, as does everyone, the focus of this confinement is treatment. Yet at the same time these individuals are not psychiatric patients being committed to a psychiatric facility, they are violent predators who have completed their tenure on felony counts in a criminal institution in one of our correctional facilities. And as a result, I believe that warrants the highest level of training and security that we can provide relative to the manpower involved in that task.

I would hope that the new administration will work with us and with our community on those two issues, just as they have worked with Senator Bruno bringing this bill to the floor so that we can all vote to protect the children and the citizens of this state.

I will be voting aye, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Wright.

Senator Diaz.

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

Today we are dealing with this piece of legislation, and I'm looking in the legislative history of the bill. And I see that for ten years a similar bill has passed the Senate. In 1998, a bill, 7659, passed the Senate, 59 to 1; Senator Leichter voted against. In 1999, Senate Bill 5093 passed the Senate 56 to 1, Senator Duane. 2000, Senate Bill Number 5093 again passed the Senate. Again, Senator Duane voted against. 2001, Senate Bill 5385 passed the Senate 56 to 0. 2003, Senate Bill 5556 passed the Senate 59 to 2, Senator Duane and Montgomery. 2004, Senate Bill 5556 passed the Senate 59 to 2, Senator Duane and Montgomery. 2005, Senate Bill 3273 passed the Senate 58 to 2, Senator Duane and Montgomery. 2006, Senate Bill 6325 passed the Senate, Duane and Montgomery. 2006 again,

Senate Bill 7001 passed the Senate in extraordinary session. In 2007, Senate Bill 650 passed the Senate 56 to 3, Duane, Montgomery, and Perkins.

I'm saying this because this is a bill that has passed the Senate, but today we're facing one bill with different -- some kind of different things that was included. And this morning in the committee, Mental Health Committee, which I am the ranking minority member, I asked some questions. And I would like -- you know, I still have some concerns.

And I'm saying that because the part of town that I represent, in the part of town that I represent, things happen. Weird things happen. Things that don't happen in other parts of other towns. But in the part of the town that I represent, in school, for example, in school Hispanic children or minority children are placed in something called special education because a teacher or a counselor thinks that they are mental -- that they are dysfunctioning, that something's is wrong with their mental.

And because sometimes we in the Hispanic community we speak with our hands, we have a high tone of voice, people think that we are mentally retarded or mentally ill. And there are so many children placed, so many children placed in special education, their life completely ruined because somebody decided that that child has something wrong with him or with her.

In this bill there are some things that I still have some concern for. For example, in this bill it says that once the person comes out of jail and goes into a parole office and has to report to the parole, the parole office will -- the person will go into an intensive -- what's the word, intensive supervision. And during that time, at any time the parole officer could decide that that person has become dangerous and could be sent back to a mental institution for the rest of his -- maybe of his life.

So what I'm saying is, suppose that that person, that parolee are not engraced [sic] with the parole officer and that parole officer decides that for whatever reason he

becomes dangerous to the society and has to be placed in an institution?

And there is another question that I have. It says that an individual, in conjunction with an Article 10 proceeding, and to testify at such proceeding and to provide that such examiner receives compensation and reimbursement for expenses. And also it says that two, two doctors are allowed to testify in the proceeding.

So what I'm saying is in the part of town -- in my part of town, black and Hispanic, especially Hispanic residents, even the blacks in my community, we are subject to different treatment, we are subject to different conditions, we are subject to different measures.

So suppose that a person that just was accused by a woman of sexual -- because there have been cases where a person has sexual relations with a woman because they used to go together and suddenly that woman doesn't like that man anymore or that man doesn't like that woman anymore, and then, you know, he gets to be accused of sexual -- of

rape or whatever, and that person is placed into one of these institutions for life or for as long as someone decided that that person is okay.

So, you know, I'm voting for this bill, I am voting for the bill, but I have some concerns on the bill. I have some concerns. And I am afraid that members of the minority community will be put to different measurement.

And I hope that Senator Volker and the people that are instituting, are responsible for this bill takes into consideration that we have to be sure, we have to be specific, sure, definitely certain that this bill doesn't fall into the wrong hands. Because this bill could be used to put our people in more jeopardy than what they are already.

So those are my concerns, Madam President. It's different in my part of town. It's different. We are placed in two different categories of definition because we don't speak good English, they don't like us, they don't like our mustache, they don't like

my papasso [ph] -- you know what papasso? Papasso means the way I stroke my hair.

You know, so because they don't like some -- you know, and then a parole officer will have a tool here, a parole officer will have a different tool here that could be very dangerous to our people and our community.

You might say, oh, no, no, we have to protect the community, I am here to protect the community. For what I'm here? To protect the community, not the perpetrator.

I'm just saying this bill gives the parole officer and other people such a power to do whatever they want with our community that I'm afraid that it might be used against black and Hispanic, another tool to be used against black and Hispanic.

Thank you, Madam Chair.

ACTING PRESIDENT LITTLE: Thank you, Senator Diaz.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

Twelve years this house has passed

legislation on civil confinement but did not have a partner or companion in the other house. Twelve years we've tried to protect the children of our communities throughout New York State but did not have a partner or companion in the other house.

We were called back here in special session by the Governor in December for the purposes of coming to a compromise on civil confinement, and we came back and the Senate did what it did for the last 12 years -- it passed a tough civil confinement bill -- and the Assembly left town.

Early in January I had to go to a local grade school and read to a class. It was a fourth-grade class. And after I got done, a parent came up to me and scolded me, said: "Senator, why can't you folks in Albany get your act together on protecting us from sexual predators, protecting our children from sexual predators? Why is it that you can't get legislation together? What's the problem?"

And I politely said to this woman that, well, we didn't have a partner, that the

Senate passed it for 12 years, and we did it again in December, but we did not have a partner and the Assembly went home and did nothing.

So today is a great day, Madam President. Today is a great day because we have legislation that once and for all will protect our children.

And, you know, I wonder, looking at these children that I read to that day, wondering how many children we lost because we couldn't come together or that the Assembly decided to do nothing or just leave town, as they did in December. How many children did we lose in this state to sexual predators, violent ones who should not have been put back out on the street but should have been civilly confined?

So today is a great day because we are protecting our children, we are protecting families. We are building families throughout this state, and we are protecting them, as my other colleague said, from the most violent of individuals, sexual predators.

And as Senator Padavan said

earlier, there is no cure. I spent 12 years as the chairman of the Mental Health and Developmental Disabilities Committee. I've spoken to experts in the field. And each time they've shared with me that there is no cure. There is treatment, and we can hope to stop individuals from maybe the number of attacks, but there is no cure.

So today is a great day. And I want to applaud Senator Volker and certainly his efforts and his hard work. Dale, thank you for all the children of New York State, and to Senator Bruno.

But I want to say thank you to the Governor. Because, Governor, if you're listening, I don't know what magic you have, but you have brought the Assembly to the table again to join us here in the Senate. And I thank you for that, and so do the children of this state.

ACTING PRESIDENT LITTLE: Thank you, Senator Libous.

Senator Klein.

SENATOR KLEIN: Thank you, Madam President.

I too want to thank Senator Volker for his leadership on this issue for such a long time.

And I agree with Senator Bruno, who said our Governor, Governor Spitzer, provided, I think, the leadership necessarily to finally pass this legislation.

Last year I did an investigation where I looked at over 50 zip codes which make up the City of New York and Westchester County. And what I found was, on average, there's six Level 3 sexual predators living in each of those zip codes, near our schools, near daycare centers, near playgrounds.

And when I released it, it was on some of the local TV shows, it was in newspapers. And Governor Spitzer, then Attorney General Spitzer, saw one of the newsclips. He came over to me in an event up here in Albany, and he said to me: "Now, let me ask you a question. You seem to be very actively involved in the whole issue of civil confinement. Why is it that we haven't passed a bill yet? Why hasn't anything happened?"

And very similar to the case of

Senator Libous talking to an outraged parent in his district, I looked at him and I said, "I can't really tell you the answer. I mean, the Assembly finally passed a bill, the Senate has been passing a bill for years."

Differences between the two bills weren't all that different, but I guess we needed a leader like Eliot Spitzer who goes after an issue, talks about an issue, and really takes the issue to the public. Because when you talk to people in our respective communities, they can't understand why a piece of legislation like this just doesn't pass, it just doesn't happen.

I also wanted to relay a hearing that I held in the Bronxville community of my district. And I know some of the stats were already mentioned, and I know Senator Volker knows them well. But when we're dealing with a dangerous sexual predator, we're dealing with someone who's like no other criminal.

First of all, they're four times more likely to commit the same or similar crime. It's the only type of criminal that has a greater propensity to commit these

crimes as they get older and older.

I mean, if you rob banks for a living, if you rob cars, you slow down with age. These people actually have a greater propensity to commit these crimes as they get older and older.

I guess more on a very personal, local level, I think many of you here heard of the horrible case which took place in White Plains in Westchester County, the murder of Connie Russo. Connie Russo was a woman who worked in a law firm for 15 years in downtown White Plains, parked her car in the parking lot of the Galleria Mall, which she did every day for 15 years. One day she went into the parking lot and was killed by Phillip Grant.

Unfortunately, Phillip Grant has the dubious distinction, I believe, of being the poster boy for civil confinement in New York State. Phillip Grant was someone who committed a horrible rape in the Bronx, served 25 years in prison, 23 years for rape. They tacked on another two years because he tried to kill someone with an ax while he was in prison.

This is a man that was denied parole nine times. Nine times. You know, the Parole Board knew that this is not someone who should once again rejoin society. Yet he was released after serving a sentence, a very long sentence under our rape laws in New York State, and registered as he was required to do under Megan's Law. As a matter of fact, he reregistered as he was supposed to do every 90 days.

Yet he went into the Galleria Mall, stole a knife, and killed the first person who walked in the parking lot that day. And that's Connie Russo.

Connie Russo's family, Jonathan and Michael, have become very dear friends during this whole process. They're two very brave young men. They started a petition drive. They testified at my hearing, they testified at an Assembly hearing. They really didn't want their mother's life to mean nothing. They don't want her death to be in vain. They want to pass a civil confinement law so this doesn't happen to others.

Because I think the Phillip Grant

case not only illustrates the need for civil confinement, but it also illustrates how what we're doing now in our present laws just aren't working.

I was a big supporter of Megan's Law when I was an Assemblymember. I was one of the original cosponsors of Senator Skelos's bill. It was Dan Feldman's bill in the Assembly. But I can tell you right now, Megan's Law is no longer working. It's only a Band-Aid approach. What we're doing is giving people a false sense of hope that we're releasing these dangerous sexual predators onto the streets of our community and that the local law enforcement is somehow going to let the community know.

I'm not saying local law enforcement doesn't do their job. But in a place like New York City, they just don't have the time to keep track of every Level 3 sexual predator in their precinct. They don't have the time to notify principals of schools or our communities. And also, the law is not mandatory, so they don't have to notify the community.

We also see now, every day when we open up a newspaper, laws throughout our state attempting to be passed by localities, villages, cities to ban sexual predators from living anywhere in their communities near schools, near daycare centers, in some cases banning them from living in the city and locality at all.

That's another Band-Aid approach. That's not going to work. The City of Yonkers attempted to pass one of these bills. I believe they were successful. So what are we going to do, have all the sexual predators move from Yonkers to Mount Vernon or from Yonkers to the Bronx? You know, that's not the way we're supposed to do legislation in this state.

So I think really the only answer is a civil confinement law. I think we have a duty to those we represent, a duty to families, a duty to children, to make sure that before someone is released on the streets of our state that they're safe to do so.

So I vote in favor of this legislation, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Klein.

Senator Nozzolio.

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

Madam President and my colleagues, as chairman of this house's Crime Victims, Crime and Corrections Committee, what we have heard time and time again over these last dozen years from countless witnesses in many, many hearings in every corner of the state -- including Maureen Kanka, the mother of Megan Kanka, for whom Megan's Law is named -- time and time again what we had heard was that once a sex predator, always a sex predator.

And time and time again what we heard from the victims of these crimes was that these crimes certainly are the most horrific, but they also carry scars that last a lifetime. The emotional scars of those who have been victimized by sex predators do not heal. They do not go away. They are not erased by time. They are there for the life of the victim. That could be said of any crime, but no crime scars as deeply as sex

predating.

That's why Senator Volker needs to be thanked for his dogged persistence, year after year, in promoting this legislation as a way to prevent victims from happening in the first place. Thank you, Senator. Thank you for your leadership on this issue. Thank you for your continued hard work.

My colleagues spoke eloquently on this issue. You all know how important it is. We cannot allow victims to be victimized further. We cannot stand back while there are laws that do not prevent victims from occurring. That's why this law is so important. This protection will help ensure those objectives.

And for that, Madam President, I fully support this measure and am honored to be a cosponsor and am pleased this house will be passing it in a very short period of time.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you,

Madam President.

I have some concerns on the bill. I would like to speak on the bill. I have some concerns about this legislation, but I would like to preface my comments on the bill with this.

This is page 3 of the New York Post. I'm going to show it to everybody in here, those of you who can stand to look at this. This is page 3 of the New York Post. And it's an article on something or other, Tony Soprano and something something. And my son and your children and all of the children and the sex predators in the state have full and complete access to this. This is the news that is printed -- that is unfit to print, but it's printed and it's available.

And that's not all. I turn on my television at prime time and I see in the back of a red van a couple making love, having sex, as part of a sitcom.

So that's where we are with sex in our city and in our nation. It is available to everyone. I don't know how any person who is a little bit sick -- even the well people

must have a difficult time when we see this and we watch those kinds of programs where sex is the topic of the story.

Now, Madam President, I do have some problems with this legislation. And I just want to start with the fact that we're going to be spending a lot of money. This is going to be very costly, in both capital to retrofit the facilities -- apparently we're going to need a lot of them -- and we're also going to be spending mental health dollars. The Governor has funding for 335 new OMH employees for the purpose of managing these sex offenders. So it's not going to be easy.

Now, I've heard a lot of people say, oh, we're protecting the children. And I agree. I applaud my colleagues who want to put away pedophiles and any other violent sex offenders. I think we should put them away.

However, the legislation does not speak specifically to pedophiles. So I hope everybody understands that. This is not a pedophile bill. And in fact, there are a number of areas that I'm not sure we intend to be in here for purposes of this kind of

commitment, civil commitment, possibly for life.

I.e., one sex offense that falls under this legislation is a prostitution offense as defined in Section 230.06. Now, someone explained to me that that were the johns. I'm not sure, something to do with prostitution. That, it seems to me, goes beyond what we actually intend. Although, you know, I don't -- I'm not saying that I'm for the pimps or the johns. But I'm just wondering if we intended for this to cover that.

It also includes burglary. I'm not sure if this was intended. Arson, robbery and et cetera. So there's a lot.

It expands the definition of sex offense. And the way that it includes them, it says if they are sexually motivated. How that gets defined, when it gets defined, is a question. But anything that you do as long as it can be proven by the psychiatrists who are going to be examining these sex predators that whatever they did, whatever the charge under the original charge under the original arrest,

whatever that was, if -- after the point when they are being examined, if it's found to be sexually motivated, then they fall under this category.

So I think there are some very serious issues. I associate myself with the comments that Senator Diaz made. Obviously any of these kinds of bills fall very, very heavily on people in my district, especially young people, especially young men of color. So I always am very, very suspicious and concerned about this legislation with such a broad sweep of everything that we can think of to possibly put into such a bill.

And I want to just point out that there are some concerns about us rushing to judgment. There was an editorial in the Times Union that talks about the fact that -- how we rush to judgment.

And I can't imagine -- all of the testimony that I'm hearing today, I can just imagine that I'm sitting here, I'm listening and I'm wondering, although I don't think anyone in this room was present and part of that discussion, I can imagine that exact same

hallelujahs going on, people praising the bill, the Rockefeller drug laws. Because we were going to get all the drugs off the street, we were going to clean up our communities, we were going to do all of these things.

And what did we end up doing? Tripling the number of people in prison that were incarcerated in those 30 years. And not only did we triple, but who went in? People, young men especially, of color. Black and brown men. That's who I see when I go into prison these days.

So I just am very cautious about this. And I think we could take a lot more time and think more carefully and not sweep in everybody under this law.

Madam President, I have so many questions I think I will continue to oppose this legislation. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

One of the prime responsibilities of government is to protect those citizens within its boundaries. To that end, I too would like to stand up and add my voice to those commending Senator Volker, Senator Bruno, the Governor, and everyone else who had a role in making this bill come to fruition. I think it's an important piece of legislation.

It may be a difficult vote for some, and I can understand some of the arguments presented. However, I too, like probably many of you, have had the occasion to speak to victims or family members of victims of what some have described as sexual predators. These are horrendous stories. These are horrific stories. The victims never get over it. They simply never get over it. No matter what you do, no matter all the counseling they go through, no matter all the time that -- you know, the old saying "time heals all wounds"? Well, it doesn't heal this one. It's there, and it stays there. It only gets worse. It festers.

To those individuals who by their

actions have demonstrated that they cannot function in society without causing harm to others, I think government has an obligation to see that they are off the streets.

If they cannot be treated, if they cannot be helped -- which we should try, which when they're in confinement for one of their crimes we should try to offer them and give them and provide to them whatever medical or mental treatment we can provide them with to try to take this pattern of behavior out of their system, if you will -- when that is demonstrated that it cannot be done, then society, as I said earlier, has no other alternative but to take them off the streets.

This bill doesn't give anybody a blanket commitment. It's reviewable. They have access to the courts periodically. Their case is looked at periodically. So that there is always the appeal to whatever authority is available to them. But I think we have, as I said, no choice but to act here.

I agree with Senator Klein. Megan's Law has problems. The issues of government tracking these individuals is very

difficult, very expensive, time-consuming and consuming of personnel. And these days people just don't want to pay what has to be paid to do that. We in government have no choice but to make that decision for them and say, Look, this is something you've got to do. If you want these people off the streets and you want them taken care of and you want them monitored, then you have to pay the price. We must put the money into the system so that we can track these people and provide local governments with the efforts and with the wherewithal to do the job.

I'm almost a little bit nervous about grouping them with the mentally ill, because I don't think that's the case here. I'm no expert, but most mental illnesses are treatable in one form or another, in one manner or another. This situation doesn't seem -- this type of criminality does not seem to be treatable, does not seem to respond to almost any form of treatment that is out there now that we know of now.

So until we find something that works to protect society as a whole from these

individuals, as I've said earlier, that have demonstrated by their actions that they are incapable of functioning in society, then I intend to vote aye on this legislation. And I urge us all to do the same.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

First, I would like to also congratulate Senator Volker to deal with all the frustrations that you have had over the years in trying to get to where we are today.

I want to congratulate our new Governor and commend the former Governor for trying to implement this policy, if you will, outside of legislative action, which the courts ruled it was our responsibility to come to the table and get this done.

And I congratulate the Speaker in the Assembly for coming to the table as well, and all his members who support this particular bill. And I think it will be

supported overwhelmingly in both houses.

It's important to realize, however, that this is a first step. It's important to realize, as Carl -- Senator Marcellino pointed out, there's going to be money involved in this bill. There's going to be money for treatment, there's going to be an obligation to build facilities.

Because there will not be, as long as I'm chairman of the Mental Health Committee in this house, any commingling of the criminal sex offenders with our regular New York population who suffers with mental diseases. We cannot allow that. We cannot allow them to become victims.

We'll also have to deal, as we go through the coming months, with the staffing of these facilities between the Corrections Department and the Office of Mental Health. And we can expect that that will be something that will be difficult as we move forward.

So today we take the first step in assuring the people of the State of New York that their safety, the safety of their teenagers and their children and our women and

our men, in some cases, are protected. That we offer them the safety that society ought to -- excuse me. Am I being signaled to here? Okay, thank you. I am? Okay.

(Laughter.)

SENATOR MORAHAN: Really, now that we've assured their safety, we have to be mindful of our other obligations to make sure the implementation of this legislation is done in a meaningful way, one where we deal with treatment of those sex offenders while they're in doing their time in our Department of Corrections, that we start to address the issues of the SHU, special housing units within our prison system, that we start to address separation of patients from criminals.

Because what we're speaking of here today is not a vast, vast number. We're speaking about those violent sex offenders that are deemed by a professional board to be high-risk repeaters putting our people in jeopardy.

So I commend, again, Senator Bruno, Senator Volker, all of those who worked so hard, even those on the other side of the

aisle that worked on the joint conference over the last couple of years, to bring this day here to the Senate. Again we vote for this bill, but today we have the hope that it will become law with the agreement of the Assembly and the approval of our new Governor.

Thank you very much, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Morahan.

Senator Griffo.

SENATOR GRIFFO: Thank you, Madam President.

It's imperative that we do everything we can to protect society from these unconscionable acts by these dangerous people that prey upon our innocents. So this legislation is not only important but necessary.

And I also want to commend the Governor and the leaders for their efforts and specifically to thank Senator Volker for his persistence and his leadership throughout this period to recognize how this problem had to be dealt with.

Because many communities, as you've heard today, across the state are already beginning to take action. So it's very appropriate that this state take the lead to develop a policy such as civil confinement so that we can show the communities across this state that we're serious about tackling this issue.

But I also want to echo what Senator Wright indicated earlier, that as we begin to place these individuals in facilities that we're mindful of a number of things, particularly the level of security. Because its important to know that these individuals are coming from correctional facilities.

And they will be interacting with staff, and it is important that we ensure -- and I hope the executive branch will look at this very carefully -- that the appropriate level of staffing and the appropriate individuals are assigned for security purposes to ensure that there's no problem. Because while we're protecting our community, we owe it to the people who work for this state to protect them also.

So I'm very hopeful that the Executive will approach this not only looking at money but looking at what is necessary to have the utmost and the highest level of security in these facilities.

Beyond that, the Department of Correctional Services has a model and a policy, when individuals are released, that they are returned to their point of origin. As Senator Wright said, this is something that we need to look at and should be incorporated. Because many host communities where these facilities are located need and require that we have action that will not just dump these individuals, upon completion of their treatment, into these host communities. So I think this is something that needs to be looked at administratively or legislatively.

And also, we should be in continued communication with these host communities to ensure that we are not burdening them with any additional expense or concerns that they may have. So we should interact and communicate, because they are playing a role in helping all of us deal with a very important problem.

So I believe this is significant, and I support it.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Griffo.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I'm going to be brief because I understand there's 11 more speakers. And consequently, I think we ought to get this over with.

And Senator Dale "Relentless" Volker, I'm proud of you. He's like a dog on your pants leg; he won't let go until he gets that issue solved.

You know, we're criticized for doing one-house bills around here. This is an example of a one-house bill that has become law. And I support and congratulate my colleagues on the other side of the aisle, because you've also supported this overwhelmingly.

It is an important piece of legislation. If this is a hot-button issue

for all parents, it's really the issue that they say "Why can't you get it done?" And I try to say we do it in the Senate, but that doesn't mean anything to the general public.

It's going to happen. It's going to happen because of the people that put it together, our new Governor and Senator Bruno and so forth. And all the people that worked so hard on this, I congratulate them, because this is an issue has must be resolved.

And I support the bill.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I'm also -- I have dilemmas with this bill, I will tell you that. Twelve years is what I heard people say, that we spent 12 years working only a version of the bill here in the Senate. But it's not the version we're passing today.

And so while people are thanking everyone, I will thank Governor Spitzer for getting us to a point where we've got a bill

that most of us can be at least comfortable enough to vote for.

I also thank the Assembly for frankly holding out and saying, with all due respect, the bill that the Senate was pushing for all these years wasn't the right bill because it didn't provide for enough due process and protection to ensure that we didn't end up in a situation where we were exploiting our mental health system to lock people away forever without fair review and due process.

But I'm also mindful of my colleague Senator Diaz's point earlier today when he spoke, that we do have a system of racial injustice that we have seen in our court system over and over again. And for the same reasons that we have documented that the death penalty has been applied unfairly and with racial prejudice throughout this country, that I have concerns that we have to make sure that, as this bill becomes law and regulations are written, that we make sure and that we are doubly careful in due process to prevent any risk of racial prejudice impacting who this

law applies to over time.

But I also will tell you that I met with experts in this field, psychiatrists who work in the field of sexually violent criminals, who reminded me -- and I want to say it, because these words get thrown around on this floor too quickly -- that not all rapists are mentally ill. They would argue only a small percentage of people who are sexual predators are in fact mentally ill and therefore potentially treatable.

They would argue, and they did to me, that many of these people should simply go to jail for life without parole and not be costing us enormous amounts of money in the mental health system which will then be taken away from other people who could be treated. That some of these people are literally sociopathic, dangerous people that we should make sure are not in a situation where they may be doing harm to other mentally ill people in a mental health system.

They also highlight that we are defining in this law something called mental abnormality. And we are saying, through the

definition we're using here, that people who are defined as mentally abnormal can be civilly committed. But psychiatrists will tell you they don't have that definition, not till we put it into law today.

So I'm very concerned that as we in fact, I believe, pass this law in both houses and get it signed by the Governor, that it is critical for us to have a better understanding and to work with both the mental health community, the community of experts in healthcare, in prison structure, and in due process through the court system to make sure when we're defining people under a law, such a definition actually exists, makes sense, and can be applied.

Because I do believe that a vast improvement in this bill over the previous bills that came through this house for the last 12 years, is, I suspect, many fewer people will end up in civil confinement than under the previous versions.

I think there will be greater protections for our communities because we're increasing the length of time we can put you

in prison for for sexually violent crimes. Because, again, Senator Bruno, I believe, talked about let's not coddle people. I have absolutely no interest in coddling sexual predators. And again, in fact, for the vast majority of them who are not defined or definable as mentally ill or mentally abnormal, I am perfectly happy to see them go into our prison system for extended periods of time.

But I also think that we have to be very, very careful, when implementing this law, to recognize we're going into territory that, as we see from other states' research, isn't necessarily the outcomes they expected.

I think the lesson for us here in New York is not to make the mistakes other states have been making, to continue to ask the questions and evaluate how we go forward once this law is implemented, and to make sure we've got our definitions clear so that people who in fact can be helped with treatment are offered that treatment.

That people who can't be, because if it's the wrong definition of what their

problem is, are not using up hundreds of millions of dollars of our resources that will then likely come out of other mental health care services; and to remember that 99.9 percent of people with mental illness are not violent predators and that it's very important that we're not lumping everyone together.

And also to recognize that this issue affects everyone and everyone's community. So to try to simply state that somebody from one part of the state or one party has a different position on wanting to protect the people in their community than someone from a different part of the state or from a different party is truly something we need to steer away from, because of course these kinds of crimes can affect anyone at any time. There are no socioeconomic lines, there are no race lines, there are no gender lines.

And we have to make sure that we are legislating both in the best interests of all of our constituents but also with an eye to make making sure that we are double-protecting due process in our system,

because we don't want to have to explain to our constituents that after 12 years, when we finally came to an agreement even on an imperfect bill, that we had not thought these issues through very, very carefully.

But I will be voting yes on this bill despite my concerns.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

Senator Young.

SENATOR YOUNG: Thank you, Madam President.

First of all, I want to sincerely thank my colleague Dale Volker for his diligence. I know he's worked on this issue for close to 17 years.

But I also want to commend Governor Spitzer for his leadership in making sure that this crucial piece of legislation is getting passed. And I'm so proud to stand in support of civil confinement.

You know, if you go through the court records in New York State, you can come upon case after case after case of situations

where sexually violent predators were apprehended, went to jail, got out and repeated their behavior.

And one very notorious case just comes to my mind, and that is of Arthur Shawcross, who killed a 10-year-old boy, sexually molested him after he was dead, and an 8-year-old girl in Watertown several years ago. After he was caught, he went to prison. And after he served his sentence, he was released. He moved to Rochester and proceeded to become a serial killer. He raped, tortured, and killed 11 women before he was caught.

That's in New York State. That's in New York State. And we have other cases that are similar.

But there's a very poignant case going on right now in this country in the state of Florida, and that's the trial of John Couey, who killed little Jessica Lunsford. He kidnapped her from her own bedroom, he raped her, and he buried her alive in a black plastic garbage bag behind his house after the police came and visited to see whether Jessica

was there.

And one of the things that stands out to me is the fact that Jessica's father was here to meet with the Senate about a year or so ago when we were considering Jessica's Law to upgrade our laws on dealing with sexual predators. And he held a press conference with us. And he said -- it was the day after Father's Day, and he said: "I spent Father's Day in a motel room, look at Jessica's picture and crying."

No father should have to spend Father's Day like that. This legislation is going to help us avoid those situations. And maybe if they had had civil confinement in Florida, maybe Jessica would be alive today.

These are all things that we need to consider. We have a moral obligation as legislators to protect the public, to protect children, to protect 89-year-old ladies who might be raped. We need to do that. This legislation does that. And I commend everyone who made it happen.

ACTING PRESIDENT LITTLE: Thank you, Senator Young.

Senator Parker.

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

ACTING PRESIDENT LITTLE: Yes, on the bill.

SENATOR PARKER: First let me just congratulate the Governor and the members of house, Senator Volker and others, Senator Duane, who I know represented us on the conference committee in the past.

I've voted for this bill in the past, understanding it to be a one-house bill and really, essentially, taking a coward's way out. Because I didn't want to take flack for looking like I was protecting sexual predators. And I no longer can hide behind the veil of a one-house bill.

There's a professor at the Kennedy School for Government named Martin Linsky, and he wrote a book called "Leadership on the Line." And what Dr. Linsky says in "Leadership on the Line" is that nobody is a leader, you just have moments in which you're exhibiting leadership.

The second thing that he says

that's profound in the book is that leadership by definition is dangerous, that in fact when you're just doing what everybody wants you to do, you're not in fact providing leadership, you're just servicing people.

I came in here prepared to service the forces that be that I thought would want me to vote for this bill, despite the fact that I know this is not the right bill to do. And not because, Senator Volker, I am looking to, you know, protect -- this is not -- I'm not in defense of the indefensible. I'm not interested at all in protecting sexual predators, pedophiles or otherwise. But this bill is not the way to do it.

And particularly, we spend a lot of time when we talk about crime and criminal justice and our conceptions of seeing white victim/black criminal. Whether people want to admit that or not. Nobody enlightened in here, I mean, but other people. But the reality is that most of the crime that happens in our communities happens intraracially. So that, you know, black crimes happen amongst blacks, white crime happens amongst whites.

But when we look at the fact that only about 16 percent of the population of New York State is African-American male, but 40 percent of the jailed population is African-American male, it makes me then have to look at bills like this when they come up.

That in fact, since I've been here, almost five years, all we ever do is raise penalties. And we never, ever get to the point of actually treating people.

Now, certainly we want to protect our communities. Nobody is more committed to that than I am. Trust me when I tell you. And you talk to the commanders of the 70th Precinct, the 63rd, the 67th, the 79th, the 66th, which cover my district, and they'll tell you my biggest complaint is I don't get enough police protection.

I have the 70th Precinct in my district, and it's the largest command in the City of New York. And we're still about fifty cops less than we were the morning of 9/11.

We want to do something to stop crime, let's pass a bill to increase monies for more police officers. Let's raise the

salaries of police officers. There's been a big thing in the City of New York about the fact that new police officers are only making 25 grand, we can't keep them on the force, they're moving over to the Fire Department and leaving and taking other jobs. Let's give them more money. And let's put more cops on the street.

As I said when we had a debate around raising penalties for selling drugs near a school, if you want to stop people from selling drugs near a school, post a cop. Don't raise penalties, because we know that raising penalties does not work.

I want to protect the people in my community, and particularly the children. And I'm glad so many people here want to protect the children in my community, because I'm hoping that you're going to vote for CFE this year, finally. While we talk about raising penalties, nobody's interested in protecting my children when it's talking about giving more money for their schools.

We have not put any significant money in youth services, youth development or

youth leadership in this state in over ten years. Probably longer. Where's the money for youth programs? We've gotten rid of music, art and dance and athletics as regular parts of the curriculum. We have no money coming out of -- the Department of Youth Services is gone, so there's no money going to community organizations to in fact do stuff with our young people after school.

The PSAL, which is run by Alan Arbuse, who used to be my football coach when I played football at Midwood High School, is coming to me every week because he's like, We need to get more money.

Where's our opportunity to help our young people on that end? And in fact, as we look at how do we in fact stop sexual predators, let's stop them into the future. Let's stop a sexual predator today by in fact doing programming around our families and our children today. Because these sexual predators are not just growing off trees. We're growing them in our communities.

And we're growing them in our communities because we are not properly

providing programs for young people and for families. We're not providing proper economic opportunity, we're not providing proper mental health services in our communities as inpatient services. Let's do some of that.

And if we did some of that some of the time, I think, Madam President, when we in fact have bills like this that I'd feel easier in fact voting for these bills. But every time these bills come up, we want to raise penalties, we want to keep people in prison for more time. But we never get to the point of actually doing -- and everybody admits, yeah, we need to put more money in for programs, you're right. You're right. Next time.

And they said that to me in 2003, and they said that in 2004, they said it in 2005. 2006, I heard the same thing. But now, in 2007, I have still have not seen one bill that in fact does any of these things.

Thank God, I think, that the Governor is looking like he's going to take care of CFE in the budget this year, so that's a good thing. And I'm going to give him

credit for that.

And I know where everybody's coming from. Be clear, this is not about protecting sexual predators. I want them off the streets and away from anybody as well as anybody else. Actually, on my way here I was just told that a young lady in my community was raped by her supervisor. At a psychiatric center, if that makes any sense. I mean, this is real to me. So I'm with you when we say we need to do it.

I'm not clear that this bill in fact takes us where we want to go. This looks more like, you know, more economic development for upstate to me, and more of what we see in the prison industrial complex.

And Senator Liz Krueger alluded to this, but let me expound on this. That she says she's concerned about the administration of justice. Let me be clear. Because I'm going to make it plain for you so nobody will walk out of here thinking that they weren't sure about what Senator Parker said. That in fact the way that police, the way that judges and the way that other law enforcement officials act in our communities is counter

what you see.

There are a lot of racist people out there, and they pick up blacks and Latinos because they feel that they can. And they get away with it. And that's why you see the vast numbers in the disparities between blacks and Latinos and whites as relates to incarceration rates for things across the board. That's absolutely true.

And we know -- like let's look at the Rockefeller drug law, which we in fact have had to deal with recently. When we did that, everyone said this is going to end drugs. And you want to tell me that when we look at the disparities between blacks and whites as relates to people who are affected by the Rockefeller drug law, you're saying that many more black people are using drugs and selling drugs than whites in this state? Come on. You all couldn't possibly believe that. I certainly don't believe it.

And we had to come back and redo that law and not fully. In fact, I voted against, you know, the sentencing reform -- it wasn't the Rockefeller drug law, the

sentencing reform that we did at that time, because that didn't go far enough.

And just like we've had to go back and revisit that because we had not had the intended policy outcome in terms of results in our communities, we're going to have to come back to this in 10 or 15 years exactly for the same reason. And the same way that we are now looking at the death penalty. Why? Because we have gotten no good response from the death penalty.

So we talk about, Madam President, we talk about, you know, confining people and, you know, talk about have the death penalty and people will be afraid of being killed and so they're going to do the right thing all of a sudden. And the reality is, it doesn't happen. It hasn't happened in all the states that had the death penalty, and it didn't change the murder rate in this state significantly.

So we do the same thing -- you know, the definition of insanity, if we talk about mental health, is to do the same thing over and over and expect a different result.

This bill is too broad. It's way too broad. I could vote for this bill if it was more specific and I was clear that we were just targeting sexual predators and pedophiles. But the reality is that this bill doesn't do what we need it to do.

And I know I'm going to take a hit for doing this. When I voted against the Nixzmary law, you know, I took a hit for that too. And the reality is voting no on this bill is the right thing to do, particularly for people who represent large black and Latino populations. Because this is going to insurmountably hurt your communities more than any other community here.

Because the numbers of people -- and I disagree with -- very, very respectfully to the Majority Leader, I disagree that we ought to be erring on the side of putting innocent people in jail. I want to protect young children. I want to protect people from sexual violence as much as anybody in here. But the reality is we have a whole government that is predicated on the idea of protecting individual rights, that is based on -- and a

justice system that says better a hundred guilty people go free than one innocent man go to jail.

And that's not what we're doing here. We're doing just the opposite. We're saying put a hundred innocent people in jail just so we make sure that we get the one guilty person. And I cannot vote for a bill that does that. And for a system that I know, standing here today, is going to do it.

I can't understand why we haven't -- you know, we all know what it's going to do. But we know what the police do. The Attorney General is telling us now what the police do in terms of stops and frisks. Imagine what they're going to do with this.

We need to protect our communities, and we certainly need to protect them from sexual predators, but this is not the way to do it. Raising penalties does not work in terms of providing the kind of protection in our community that we need to.

We need more police officers. We need better police work. We need to give them the equipment that they need and the

technology and the information technology that they need, the training that they need so they can protect our communities. But this bill doesn't do it.

And even civil confinement -- again, I'm not against the idea of civil confinement. But we simply need to do it in a way that is not overarching and sweeping. Because the reality of this in terms of how it's going to be applied is that once somebody is in this system, they are never going to get out. And everybody can blow smoke as much as they want about all the protections and the access to the courts and all the safeguards and constitutional rights that we're protecting. And the reality is no one ever going to get out. Ever.

Because just like I have some trepidations about voting no against a bill that I know is bad, although good-intentioned, there are going to be people who sit on those boards, there's going to be judges who oversee them, there's going to be parole officers who are feeling a significant amount of pressure not to let anybody out who's ever been

convicted.

And as we know, convictions, you know, are not prayer books, as my grandmother says. You know, no judge in the state his mouth is a prayer book. And so, you know, there's going to be mistakes made, there's going to be people who, you know, are prejudiced for whatever reason or -- none of our judges, but other people's judges. Other cops. Not the cops in your municipality, because I know there are no racist cops in none of our municipalities, but in other people's municipalities, those racist cops are going to be picking people up and charging people.

And, you know, African-Americans and Latinos who don't have the money to have the proper representation are going to be shuttled through a system that is going to put them under civil confinement, and they are never going to get out. Ever. I don't care how much money you throw into the Innocence Project and other things, there are people who are never going to get out. And for me, that is too much of a burden for me not to take

leadership on.

And if you want to be a leader, a real leader in this state, you vote no on this bill. Let's bring it back. Let's rework it. We can do civil confinement in this state and I'd vote for it, but it can't be this bill, because it can't be this overarching, it can't be this broad. And it needs to be specific and it needs to have some real outcomes.

And we need to then revisit how, in fact, justice is administered in this state. Because that's the real danger that we have here, and that's the thing that I'm most afraid of.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Huntley.

SENATOR HUNTLEY: Yes, Madam President.

First of all, let me just commend Senator Parker for his words. I had frankly planned to vote no for the bill, but after listening to him I really realize deep down all the things that he said would be the

things that would affect my community.

Sex offenders in my community. When I was president of the school board many years ago, before I came here, I was one of the presidents who searched out dollars so that we could notify all the schools in the areas about sexual predators.

But this bill is not about sexual predators. This bill tells me when I look -- I want to know "sexually motivated" -- a bank robber can be sexually motivated if the people running this, the correction officers, whoever they are, decide that that person is.

It's a broad bill. I could not support something that is going to affect the community where I live when, as Senator Parker said, you're basically suspect by being Afro-American. I would not add to that -- there's enough difficulty proving that everyone of African-American descent is not a criminal, as I stand here to tell you that.

So I would support a bill if it was about pedophiles, but this is not a bill about pedophilia. This is a bill about people going to jail, being confined, lost in the system,

never getting out. And I could almost at this point guarantee -- in fact, I am so sure I would bet my life that most of them would be my people.

So I could never support this.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Adams.

SENATOR ADAMS: You know, I've changed my mind and my opinion about the process, in this Senate, of debate. Because I sat here a few moments ago and was voting one way, and then I changed my way of voting because we have opened the opportunity to debate.

I met a person who was violated. They were violated, and the scar remained with them. And often we talk about this scar and we romanticize what it does to the individual, but it actually violates and scars the entire family. This person has a scar that will be with them for the rest of their life. Their entire existence was violated.

His name was Alan Newton, a young man arrested and charged with a crime that he

never committed. Spent his entire adult life in jail. He was raped of his childhood. He was raped of his ability to raise a family. He was raped. That's who I thought about when I heard my colleague Kevin Parker speak.

The law enforcement side of me made me think about the days in Brooklyn Hospital, Kings County Hospital, and so many other hospitals when I saw women with torn clothing, I saw women who were violated by men with their sick minds. So many times I knocked on doors and spoke to parents, telling them that their sons or daughters, babies, were in hospital because they were preyed on by some sick mind. Some sick mind.

So truly I know the spirit and heart of my colleague when he presents this bill, because there's something different from those of us who knocked on the doors and wore blue uniforms, only to wear blue suits here. But our desires are the same. We want to protect our children.

But the protection of our children don't only end with the violation of those who are sexually preyed on, but the violation of

countless numbers of men and women, particularly who have the skin pigmentation of mine, that are violated by a criminal justice system, that no longer believe justice is blind. I viewed it not only as a man who was arrested as a child, but I also viewed it as a man who rose through the police department as a captain to supervise how we treat people in this state.

So my desire is real. I think a person who commits a predatory crime should be locked up and throw away the key. There's no one on either side of this aisle that's more conservative than I am when it comes to people who commit predatory crimes against the people of this state. But it's also a crime what we did to Alan Newton. It's also a crime what we have done historically in this great country of ours of incarcerating people of color.

So I agree with my colleague. You changed my mind. You made me realize that I cannot do what is popular, I've got to do what is right. What is right. And if I make the mistake of doing what is popular, then one of my four brothers or my neighbor or my uncle or

my cousin will fall victim to this action.

We need a bill that is right, not a bill that feels right. We need a bill that will protect our children from Rochester all the way down to Ralph Avenue. We need a bill that will make sure that people who can no longer exist in our society could not prey on our innocent family members. But it cannot take away those who can exist in our society and are falsely and wrongly accused.

So yes, it takes a lot to go back to Park Slope and Bed-Sty and Brownsville and East New York and Crown Heights and tell them that I voted against this bill. Because it's much easier to say that I voted for this bill.

But when you look through it and read through it, page by page, they robbed Volker of his desire to deal with the issues of sick predators on our families. They robbed him of that. They took all the years of his experience and desire and commitment, and they put their own will in this.

We need to return back to his original spirit, protecting our children. There's no short road. I believe that we

started a process where the boat of concern has left the shores that surround the island of prosperity. We must blow it back on course to ensure everyone is protected.

So I will be voting against this bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Madam President, if the sponsor would yield for a few very brief questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Volker, do you yield?

SENATOR VOLKER: I certainly do.

ACTING PRESIDENT LITTLE: Thank you. The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

And I am going to try and expedite the process by proceeding on cross. No, actually, I'm expediting the process because I've gone over this with Senator Volker beforehand.

On page 3, where it defines the

offenses that are listed as designated felonies, that includes nonviolent as well as violent crimes, does it not?

SENATOR VOLKER: Yeah. In certain cases it could do that, that's true.

SENATOR SCHNEIDERMAN: And on page 4 there's a definition of what's called related offenses, which includes any offenses that are prosecuted as part of the same criminal action.

SENATOR VOLKER: That's true.

SENATOR SCHNEIDERMAN: And that refers to the fact that some people can be labeled as designated felons and dangerous sex offenders even if they were not actually convicted of a sex offense; is that correct?

SENATOR VOLKER: That's true. And I think you know how that would be. And the problem here is I don't think people realize the difficulty in proving those kinds of things.

And there's more protections in this bill, by the way, than any bill I've ever been involved in. I'm not exactly sure what my compatriots from New York City were talking

about. But as you know, there's up and down in this bill.

The chances, by the way, of racism involved in mental health is so slim that I've never heard an argument -- I just have to say this -- and an allegation of pedophiles and racism. This is the first time I've ever heard that argument, I just have to say it. I'm sorry, Senator.

SENATOR SCHNEIDERMAN: No, that's okay. I can't move to strike the last part, because we're here in open debate, so that's --

SENATOR VOLKER: We are. We are.

SENATOR SCHNEIDERMAN: But finally -- or not finally, one more to go. Page 3, at the bottom of page 3, line 41, and the bottom of page 8, line 45, it clearly states that a detained sex offender may be someone who is in prison but it also may be someone who is committed having been found not guilty by reason of a mental disease or a person who was determined to be incapable of standing trial, so that the trial never went to a verdict on the underlying offense.

Is that not correct?

SENATOR VOLKER: That's true. Because you're talking about, here, a mental health statute. And let's not forget that some of the people involved in these cases are people that have in effect a mental disease. Some of them may well have been found not guilty by reason of a mental disease.

But if they're pedophiles, and if there's evidence of it, they need assistance. And the way you get assistance is to come under either the bill as far as a civil confinement or the case could be intensive supervision.

SENATOR SCHNEIDERMAN: Thank you.

And finally, last question, at page 12 and 13 of the bill there are the provisions defining the annual examinations and the petitions for discharge. And at line 55 and 56 of page 12 it makes it clear that the evaluation that's conducted annually will be in the Supreme or County Court where the respondent is incarcerated; is that not correct?

SENATOR VOLKER: That's true.

SENATOR SCHNEIDERMAN: Okay. I'd like to thank the sponsor for his answers, Madam President, and be heard on the bill.

ACTING PRESIDENT LITTLE: On the bill, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I feel a little bit as though I just was laying a foundation after the summations which we've heard from the gentlemen who on this occasion, I must say, sit to my left, which is unusual for me, Senators Adams and Parker, and raised by Senators Diaz and Krueger and others.

Whether you're voting for or against this bill, which is a very difficult decision, I think it's important for us to recognize something. This is, as Senator Volker said, a change of epic proportions. And when you're making a change of epic proportions, you certainly have to be careful.

Now, this particular version of the bill I gather went into print on Friday. I didn't see it until today. And I would like to have had a little more time to look at it. Because what I'm concluding, based on my review today, is the following. That in an

effort to catch every possible sexual predator, we have cast an extraordinarily broad net. We have defined, we have defined sex offense to include lots of offenses that don't have to do with sex on their face. We've also included in this people who have never committed a sex offense but were accused of a sex offense and pled guilty to some lesser charge.

Now, I appreciate it that it's hard to convict. But we do have a principle in this state and this country that says people shouldn't do time for the rest of their lives if they've never been convicted of a crime. I think. I think that's a principle. When I was in law school it was. I don't think that's changed in the last twenty years or so.

And I guess my concern is that if we're talking about proceeding with something to stop sexual predators, isn't what we should be looking at -- I mean if you're honest about it, why don't you just say you want life without parole for anyone who commits a serious sex offense? That's the front-door way to deal with this.

What we've got here is kind of a contraption that gets more and more complicated as it -- I actually think it could have been done more simply. And I liked some of the earlier versions of it better, although I would have liked to make some changes. But this is a contraption by its length that demonstrates, this legislation by its length demonstrates how complicated and difficult an issue this is.

But I'm afraid I have to come out on the side of saying it doesn't provide adequate protections. It's got a lot of process. It's got a lot of process. But in order to make up for that, I suppose, it casts a very, very broad net.

This provides -- this doesn't just change the criminal process to have convicted predators kept in jail longer. This deals with people who were never convicted of any crime who were found incompetent to stand trial, who were found not guilty by reason of mental defect. So it takes away the system of confinement that we have now, of civil commitment and the due-process protections

that are provided in that system.

So this is, as Senator Volker said, a change of epic proportions. I would very much like to vote for a bill that addresses this issue. I do support this. And I was convinced by Senator Klein when he was working in the Assembly that civil confinement was something we have to pursue. And I respect the people who will be voting for this for their effort to deal with a very serious problem.

But I have to say that this legislation, which deals with people who are burglars and deals with people who are convicted of conspiracy to commit nonviolent offenses, which deals with people who have never been convicted of any crime, is a problem for me.

And the final thing, and that has always been my biggest concern -- and I've said every time this bill has come up, or similar bills have come up in this house -- the problem is not so much even with getting people in, because you do have a lot of due-process protection on the front end. The

problem is that once people are incarcerated, once people are put into civil confinement under this bill, they will never -- it's virtually impossible for them to get out.

What commissioner is going to err on the side of the predator and take a chance that person to going to commit another crime and you'll be blamed for it? What court is going to err on the side of the incarcerated person, the sex offender, as it's defined?

I don't know. But I have to note, with due respect to everyone involved -- and representing one of the most diverse districts in the state, that has both a high white high population, a high Dominican and high black population -- there is a double standard here. And we can see this in sentencing, the sentencing under the Rockefeller drug laws most graphically, where courts in different parts of the state treat like offenses differently.

And I strongly object to the provision that the court that determines whether you can get out or not, once you're civilly confined, is the court where the

respondent is located; that is, the court where the prison is located. That is not a place where someone is going to necessarily get a fair hearing.

And I have to say, with regard to Senator Diaz, who I disagree with on a lot of issues, I think he did make a fair point about the fact that there are defendants from my district who will have a very hard time explaining themselves, being understood and getting a fair hearing in courts in overwhelmingly white jurisdictions where prisons are located.

And I say that without impugning the integrity of any judge in any of those jurisdictions. It's just a fact of life. It's something they're not used to, they don't have experience with.

And it would be a very different bill, I believe, if there was a process that provided that people can go back to the community they came from, back to where they were originally convicted, and litigate the issue there.

So because of all those problems, I

feel that I have to vote against this bill. I have voted for prior bills and noted my objections on the record and hoped that when we got to a two-house bill that they would be met. They have not been met.

I think that there has been a tremendous amount of effort put into this. This will become law. And I hope that we will not wait the decades we waited about the Rockefeller drug laws to revisit it and see if it really is doing the job or if we are just keeping a lot of people in jail doing life without parole without calling it life without parole. Unintended consequences can really be monsters in the area of criminal justice.

So, Madam President, I will reluctantly be voting no on this bill. And I hope that we will be able to revisit this issue in the near future.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

Senator Thompson.

SENATOR THOMPSON: Madam President, I'll be quick, but I just wanted to make a couple of quick things.

One, I stand today in support of the bill, having an 11-year-old daughter who's very active in a number of programs and a number of activities, and also thinking about this bill this morning when I left upstate -- the further part upstate -- at 5:00 a.m., thinking about, when I left the house, my 1-year-old son, who I would be devastated if some sexual predator were to break into my home and take him from us in the middle of the night.

No, this bill is not a perfect bill. But I know that in the Western New York community it's been a concern for some time. And I think during the implementation process, hopefully, with this Governor and with a lot of concerned activists, we'll make sure that it's properly implemented.

I am appreciative of the fact that each year people will have the opportunity to come up for review. We know that there's always going to be a concern to make sure that they have the proper legal representation when they go for their hearing, and we'll be there to make sure that we monitor this situation.

And I think through our various committees we can stay out front of this.

The other thing I wanted to mention that I think is important is I think that this body should enhance Megan's Law. Something I talked about about a month ago is that big cities like Buffalo really cannot afford to notify the local police stations, the school districts. And so many of us have sexual predators living right in our neighborhoods.

And we have to empower the residents so they can at least know who's living in their neighborhood and take the necessary precautions. Unfortunately, a lot of the cities and communities like Buffalo, even Niagara Falls, cannot afford that.

The last thing deals with the issue of making sure that the local police stations begin -- I'm not sure if we can do it as a requirement, but at least all of the local police stations have on their websites, in terms of we look at reforming Megan's Law, in terms of making sure that those sexual predators, particularly the Class 3 ones that are out in the community, that they are on the

local police station websites.

So I think I would commend Senator Klein, who spent a lot of time, and a number of members on the Democratic side, also Senator Volker, and all the people on the other side of the aisle for working on this with the Governor.

And it's not a perfect law. No law is ever perfect. But I believe that it is a step and if we're not on the right track, we will have the time, through the legislative process, to amend it in the future.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Thompson.

Any Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

And we will read the last section.

THE SECRETARY: Section 52. This act shall take effect on the 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator

Maltese, to explain your vote.

SENATOR MALTESE: Madam President, I explain my vote because I know that many of my colleagues have wrestled with this issue for more than 15 years.

In addition, many of them have approached this subject with an open mind and have given it a great amount of thought. We've witnessed here today members saying that they were of one mind when they came in and, after giving it more thought and listening to the debate, had undergone a change of mind.

This is important to me. I served for years as a prosecutor and deputy chief of the homicide bureau. I came in touch and in contact with victims of sexual predators. I know after those years, and years in different aspects of law enforcement, that they are the lowest form of criminal. They are men that in many -- men and women in many cases that cannot help themselves and ask and plead for assistance or to be incarcerated.

We have to do what's best for the victims of the crimes. Certainly anyone listening here, as I did, to Senator Young

speaking of the terrible, heinous crimes that took place in upstate New York can hear young victims crying out from the shrouds, buried alive by sexual predators seeking to work their wills on these poor boys and girls and young men and young women.

We have to act after all these years. And we have to make a decision. These victims cannot wait another 10 or 15 or 20 years. We cannot rest easy having on our conscience the lives of those or the futures of those victims who would be victims of these sexual predators in the future who would be out on the streets if we fail to do what we feel is right.

Madam President, I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Maltese will be recorded in the affirmative.

We have several Senators who wish to explain their vote. Could we refrain from speaking while they are talking? Thank you.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Members of

this body from both sides of the aisle opened up the debate by expressing how people in their districts kept asking why it took so long, why 14 years. Well, listening to the debate, you can figure it out. That there are people that have a different point of view, that other issues are important that they feel overlap with the civil confinement. That's why it's difficult to get a consensus.

And I hope the people out there that are voting make very clear their decisions in voting as to how people vote and what their reasons are, because people have their own reasons and they should be accordingly.

But with respect to this bill, the reason I support it is it's called civil confinement. And the purpose of it is all these different crimes that people commit that relate to a sexual predator or that they were originally charged with that relate to sexual predators, the purpose of civil confinement, through the criminal justice system, we're identifying these people.

If the person is found to be a

sexual predator through the investigation and through the process and isn't technically convicted of a sexual offense, that doesn't mean the person hasn't been identified. And if the person is identified, there should be a process to deal with it. And that's what civil confinement is.

And the process is to have the person evaluated. If the person is at risk, they stay confined. If they're not, they need treatment, they get treatment. Rather than just ignore someone that they have identified.

And with all due respect to Senator Parker, we can have all the programs in the world and fund all the programs in the world. There are certain people in our society that simply are predators, and that isn't going to make a difference.

And with due respect to some of the other speakers, I don't think the parent of the young child gives a darn whether the predator is white, black, yellow or red. That person should be out of society until they're capable of acting like a human and not be a predator against other human beings,

especially children.

I vote yes.

ACTING PRESIDENT LITTLE: Thank you. Senator DeFrancisco will be recorded in the affirmative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Madam President, first of all, unfortunately, Senator Parker, by voting no you don't get to vote for the biggest treatment bill in my time in the Legislature. This bill provides more treatment to more people specifically than any bill I know of. And including in prison. As I said, included in this bill is money and numbers for sexual predators in prison to treat them.

I'll give you the total number that it's estimated that will be hired under this bill. Over a thousand. Sixty new parole officers. And this is initial. To say that this bill is not a treatment bill is outrageous.

Now, I know it's not understood. The reason that we have put some of these

things in here -- and the problem Senator Schneiderman has -- and we're both criminal justice people. This is not a criminal justice bill.

And let me tell you, what irritates me about some college professors, and I personally think that -- especially law professors -- they don't live in our world. They live in a different world than we do. They don't understand that these are real people. They don't understand -- these people are not going to stay in forever, most of them, unless -- now, there are some. One was mentioned in the New York Times story, that he's been there ever since. From what I've heard, he's in a good place.

You've got to remember something. Some of these people are bad people. And let me just give you one quick story about one of the most famous cases in Western New York that I happen to have been involved in. We arrested a guy -- I forget, 29, 30 rapes, whatever, burglary, all kinds of things. And it was one of the cases that brought me to the Legislature, and I'll tell you why.

We caught the guy, and I personally was able to tell him after he threatened to kill me, that he was under arrest and so forth. But we convicted him twice of first-degree rape. We were never able to make it stick. They threw those out, and he ended up convicted of burglaries.

Here was one of the biggest sexual predators -- we believe he raped as many as a hundred women throughout all of upstate New York. I won't get into the details. He eventually murdered a border patrolman and then made his biggest mistake, he murdered a Mafia chieftain's son and got the death penalty.

And I remember telling some of these poor women that were attacked by him, who were airline stewardesses, I said he got the death penalty. "But, Senator, you haven't restored the death penalty." I said: "For some people, there is a death penalty."

The gentleman -- gentleman? He wasn't a gentleman. By the way, I was glad, because I was going to start carrying my gun again. I was in the Senate by then -- he

ended up with two bullet holes in the back of his head and a wire around his neck. And a lawyer who I went to school with got him out from federal prison, but I won't get into that. But he got justice.

The reason I'm pointing that out is -- I was just thinking about that -- here's a guy that had never been convicted of a sexual crime. He would have been only in on burglary and a couple of federal crimes. And if this guy wasn't a sexual predator, I don't think I -- I don't know one. I mean, he was a really bad dude.

That's the problem here. The problem here is this is a civil process. Who is going to want to keep somebody in one of our facilities for no reason? This is not like a criminal thing where you want to put people in jail and keep them there. This is altogether different.

The estimates are, by a very good authority -- not by those people in the street who don't believe in this, or by the national people who are, oh, this is not going to work. Because they don't want to try it. They don't

want to try it. Four hundred, they estimate, within the next few years will reach trial. A hundred will be civilly confined. Two hundred fifty will presumably go out on strict and intensive supervision, and 50 will be released. Those are the estimates.

This number that they have, that there's this huge number, is crazy. Because most of the people who are reviewed, it's expected by this team, will probably say, well, they should get some sort of treatment.

By the way, there's one more thing and I'll finish. I think it was Senator Krueger said we should update criminal sentences. We have, in this bill, dramatically. And we made indefinite sentences definite, so that a lot of people who could be up to 15 years or whatever for serious sex crimes, it's going to be 15. I just want to make that clear.

But finally I'm going to say, on behalf of Senator Bruno, anyone who would like to be a cosponsor of this bill is welcome to do so. And just -- we'll just notify the desk or however you want to do it. But you can be

a sponsor of this bill, I just want to tell you.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Volker will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you, Madam President.

Knowing that we only have two minutes to explain my vote, I'll be very brief.

(Laughter.)

SENATOR FUSCHILLO: Everybody is awake now; right?

I must say that I do appreciate the comments that I heard today -- a difficult decision, wrong bill, right bill. With all due respect to my colleagues, I never looked upon civil commitment as a race issue.

I'll say it, I haven't heard it said today, these are sick people. These are sick people that prey on the most vulnerable of our society. And I look upon this bill as

an attempt to add greater protection to those who need it.

Senator Volker, I commend you. Seventeen years, certainly perseverance on your part to get this bill done. Maybe it took a change in administration. So be it. I compliment the Governor and the Assembly for finally coming to the table.

But this is a good bill. This is the right bill. This bill will add protection to those who need it most in our society. I'll be voting in the affirmative.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Fuschillo will be recorded in the affirmative.

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Madam President.

I too rise to say congratulations to Senator Volker, to Senator Bruno, to all the Senators here in this chamber, to our colleagues in the Assembly, and to the Governor. We are finally passing a bill that

will work and become law.

There are too many children, some of them that would have never been covered by this anyway. But if we just look here in the city and state of New York, it would be Etan Patz, Adam Walsh, or more familiar to most people would be Jessica Lunsford, who the father was up here last year. And the man cried as he tried to get a bill passed here, physically broke down and cried. Not once, but several times, outside here in the hallway. So for him, for Mr. Lunsford, I say to all of you, thank you.

For the thousands of children over the last 12 years that have perished, all I can say is that I'm sorry. But I can say one thing. I'm one of those skeptics. I believe this bill doesn't go far enough. But I hope I'm wrong. And I'm hoping that the children here and the families of the city and state of New York will see a real bill and that this bill will work.

We don't want to see any more Etans, Adams, or Jessicas. And we want to make sure that the legislation we're putting

here today works for all of those that live here in the city and state of New York.

I dare to say there's 550,000 sexual predators across this nation, of which we cannot find over 100,000. And today we see the feds down in the city of New York going through public housing, trying to locate sexual predators that have addresses in the city of New York, and they cannot find hundreds of them. The task force this past week talked of that, talked about those that cannot be found that are here in the city and state of New York and those that come into the city of New York and hide in plain sight.

This bill I hope will put those who are the most egregious where they belong, in jail and, after that, civilly confined, and that in the future we don't have to deal with this.

So for Etan, Adam, Jessica, to all of you I say thank you that there will no more future, that these children, their children will be recognized.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank

you. Senator Golden, you vote in the affirmative?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT LITTLE: Senator Golden votes in the affirmative.

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you. I also want to add my voice to my colleague Senator Volker. I believe that clearly his desire is the desire of many of us who have been in the law enforcement community. And I think that the mere fact that he kept this on the forefront is compelling us to deal with this issue.

There is nothing in our conversation that states that the issue of dealing with the sick minds of pedophiles is an issue that deals with race. And for those who misinterpret our concern, I want to be very clear that my vote has nothing to do with the ethnicity of a person that carries out a predatory act.

Unlike many in this chamber, I put handcuffs on people. And the last thing I was concerned with was what ethnicity they were.

I was more concerned on the crime they committed against the people.

I believe that your heart is right, my colleague. And I stand with you in agreement that we need to get rid of these sick individuals. But I vote negative because of the mere points in this bill that don't do the correct job on taking care of what we need to do.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Adams will be recorded negatively.

Senator Stewart-Cousins, to explain her vote.

SENATOR STEWART-COUSINS: Yes, thank you, Madam President. I rise to, yes, explain my vote.

I am joined by someone who is working with me for the very first time and was listening to the debate and fascinated by the pros and the cons. And she came over to me, and she said: "This is really hard." And I said, "Yes, it is." And it is what it is that we're here to do, make those very, very

hard decisions.

And I've listened to my brothers Adams and Parker talk about what we know happens in terms of the disparate treatment of many people of colors in communities of colors, where whether it was something you could prove or not prove, very often it is the presumption of guilt. And it is the presumption of guilt that so many who are dealing with the safety of their children, parents who are so concerned that their children will be presumed guilty, are frightened of. And that's what was being spoken about.

On the other hand, I come from Westchester County. And it's a county like so many other counties that for the past two, three years have been consumed by this discussion of what to do with sexual predators, what to do with people who we know will be recidivists, what to do with people who will be in our communities for lack of action.

And I was one of those critics who stood by and said, Why, why can't we make a

decision? Why can we be in a position where everyone agrees something must be done yet nothing is done?

I cannot be part of that problem. I cannot go back to the Russo family and for the people in the community who have waited 10, 12, 14 years for a decision about civil confinement to say, You know what? We just couldn't get it done.

We have to get it done. It is our job to get it done. I am at a moment, I believe a historic moment where things are being done differently. And this getting it done after all these years is very much a part of that for me. And I know that getting it done right time and time again and forcing the issue, putting these issues forward, saying that we don't like the status quo or the way it's been done will help to create the type of justice, in sometimes a very unjust system, that we can all be proud of.

But right now, today, I vote in the affirmative for this bill, in this moment, for this moment where we can finally say this is done and hopefully move forward to save the

children who have been languishing because of 14 years of debate.

ACTING PRESIDENT LITTLE: Thank you. Senator Stewart-Cousins will be recorded in the affirmative.

Senator Craig Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you. I rise to explain my vote, which will be a vote in the affirmative. And I will take Senator Volker's offer up and ask to join as a cosponsor.

I too served in a county legislature, in Nassau County, just up until recently. And we have been faced for years with the problem of sexual predators out of jail, on parole or on probation, coming into our communities. And the hodgepodges of laws that have been developed in Nassau and Suffolk, all across New York State, dealing with where they can live and how far from schools and from parks, we need to do something about that.

This bill, a hard-fought battle -- and I commend you, Senator Volker, for

17 years of taking a four-page bill and turning it into a 44-page bill, which shows a thought and dedication and a demonstration of protection for civil liberties.

When you read this bill and you understand the step-by-step process that's required in the terms of the treatment, in terms of what needs to be required in order to go through the process to obtain civil confinement, it should give comfort to people to understand that there's a process in place to not just ensure the treatment that's necessary for these monsters -- and it's not just pedophilia, it's the rapists. And it's not just the rapists, it's those who go onto child pornography websites. That's who we're trying to protect our society from.

And we have the protections in place to ensure that those cases of misjustice don't get repeated in the process, and to ensure that the monsters stay where the monsters belong.

And so when I make this vote I vote yes. It's not just about the victims that Senator Golden talked about, or Senator Bruno,

or others. I think about my 2-year-old; I think about my 5-year-old. I think about my wife and my mother-in-law and my sister, and my father and my brother-in-law, those who potentially could be victims in one way or another of a sexual crime.

And so I vote in the affirmative for a bill that today starts the process of protecting our families, protecting our loved ones.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator C. Johnson will be recorded in the affirmative.

Senator Diaz, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you, Madam President.

As I said before, 10 times this bill has come to this Senate floor. I have been here for the last four years. And I said before that every time that the bill has come to this chamber and have passed, the only two persons that have opposed this bill have been Senator Duane and Senator Montgomery.

We pass it here, we send it to our

colleagues, our Democratic colleagues in the Assembly, and they have voted no. For 10 years we passed it, our democratic colleagues in the Assembly voted no.

Now we've got a Democratic governor, he got our Democratic colleagues in the Assembly to join and to vote yes, and now we oppose. So for the last four years, having voted yes, I'm not about to change my vote now. I know I expressed my concern before. I have concern, I had it before, I have it now and I will have it tomorrow.

But, ladies and gentlemen, we have voted yes before 10 times. The other side, our Democratic colleagues, have voted no. Now they're voting yes and we are opposing it. So, Madam President, would you please explain that to me?

Thank you very much. I'm voting yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Diaz will be recorded in the affirmative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: Yes, Madam President. Earlier one of our colleagues, in indicating his negative vote on this bill, said he was unaware of the fact of any legislation, any law that would put someone in a place of confinement for an extended period of time without having been convicted of a crime.

And, you know, I just can't understand how anybody could say that. Everybody here knows that in this state and in most states, probably all the states in our country, we have civil commitment laws for those acquitted by reason of insanity, found incompetent to stand trial.

And today there are hundreds of such individuals in our state mental hospitals. Many of them have been there for years, and regrettably many of them will always be there. Just a fact of life.

And the Senator in question doesn't have to go far, there's a footbridge over from Manhattan, from Manhattan Psychiatric Hospital, and I'm sure they'll give him a tour of that secure ward. And it is a secure ward.

So we have the precedent here. And by the way, it's been challenged over the decades -- one way or the other, all of these statutes have -- and deemed to be constitutional and appropriate, appropriate for the individuals in question and certainly appropriate and necessary for society in general.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Padavan will be recorded in the affirmative.

Senator Onorato, to explain his vote.

SENATOR ONORATO: Madam President, I rise to join my colleagues in supporting this piece of legislation. We've had it before for many, many years without some of the very, very important safeguards that have now been put in.

Some of the questions raised here earlier was that the prior bills had no -- where is the money to provide treatment. Well, this is not a criminal justice bill, as was pointed out. But there is funds now to

treat them.

And I can't see any particular reason why we would not support this here to give these people the needed treatment. And in that respect, I vote aye.

ACTING PRESIDENT LITTLE: Thank you, Senator. Senator Onorato will be recorded in the affirmative.

Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you very much.

I want to first associate myself with the remarks of my colleagues Senator Adams, Senator Parker, Senator Krueger, Senator Montgomery and Senator Schneiderman.

Where I come from, we say if you do the crime, you have to do the time. If you do the crime you should do the time. If you are a pedophile or a predator, then you should do the time, whether it be life or whatever is appropriate.

This bill is not speaking to that. This bill says after you do the time, do some more. We say that in terms of something

called civil confinement, or maybe in terms of something called mental abnormality.

But the reality is this is, I don't believe, simply a medical treatment or some kind of confinement for health reasons but rather has a potential, as does the death penalty, as has been evidenced by the Rockefeller drug laws, as even has been evidenced by me in terms of the Central Park jogger case, of creating a slippery slope that in the moment of hysteria brings people into a process that is unjust but nevertheless justified.

I can't but remember Donald Trump taking out ads in the New York Times during the course of the Central Park jogger case calling for the death penalty. And if in fact his voice had been heard and this Legislature had complied, those five young men, who were ultimately found to be innocent, would no longer be with us today.

But nevertheless, they suffered for 13 years in jail and in some cases had to be signed up for sex-offender-treatment type of reporting through the system.

I see this as a similar slippery slope, a similar problem as was represented by my colleagues in terms of racial profiling. We don't want to accept the fact that our criminal justice system at times is injustice, and is injustice from a racial point of view. But the evidence is there, so we don't need to face it because that's the fact.

So I think that for me, this is that slippery slope once again. I don't doubt that anyone here is truly interested in justice and trying to do the right things by rape victims and trying to prevent rape and providing the appropriate treatment for those who are so-called pedophiles.

But this legislation, to me, doesn't speak to that. In fact, it seems to me that, based on what Senator Schneiderman pointed out, it opens up the door to other types of arrangements that would be really unfair and unjust. So I'm strongly voting in the negative on this legislation.

And I also wanted to mention one other thing, which is this. I'm concerned about the fact that I recently heard this

legislation being agreed upon by the Governor and the leadership, which I'm concerned about because I did not -- I was not even aware of the legislation. Nor was I aware of the changes in the legislation that took place until today.

So that concerns me about the process that we use when we are dealing with very, very important legislation. It would seem to me that beyond just a conference opportunity before today's session, even hearings would be appropriate, so that we can really truly hear what this legislation is all about from the various stakeholders that are a part of it.

So I would hope that as we move forward that we would provide for hearings on very, very important pieces of legislation like this. I don't think my constituency wants me simply to be told through a press conference about an agreement or deal or however you want to characterize it, as a signal for how I or any one of us should be voting.

So I would hope that in the future

we would avoid that process, even as I am also more strongly in disagreement with the substance of this bill.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Perkins will be recorded in the negative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I think I'm the last.

This bill is named for someone who died in my district, a very terrific woman.

And this isn't the best of all bills. There's things I find objectionable. But I often say that you can't make the good be the enemy of the best. And we have been struggling with this for so many years.

And so I'm definitely going to be supporting it and hope that when we do an analysis of the bill and how it has been implemented in two or three years, we will be able to assess where we have done well and where we have not and make the necessary changes then.

But I'll be voting yes now.

ACTING PRESIDENT LITTLE: Thank you. Senator Oppenheimer will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 251 are Senators Adams, Duane, Hassell-Thompson, Huntley, Montgomery, Parker, Perkins and Schneiderman. Ayes, 53. Nays, 8.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Maltese.

SENATOR MALTESE: Is there any other business at the desk?

ACTING PRESIDENT LITTLE: No, Senator, there is not.

SENATOR MALTESE: Madam President, on behalf of Senator Bruno, I hand up the following committee assignments and ask that they be filed in the Journal.

ACTING PRESIDENT LITTLE: Thank you. They will be filed.

SENATOR MALTESE: There being no

further business, I move to adjourn until Tuesday, March 6th, at 3:00 p.m.

ACTING PRESIDENT LITTLE: Thank you. The Senate stands adjourned until Tuesday, March 6th, at 3:00 p.m.

(Whereupon, at 6:13 p.m., the Senate adjourned.)