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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

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 come to order.

4 I would ask all assembled to please
5 rise and recite with me the Pledge of
6 Allegiance.

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

9 THE PRESIDENT: In the absence of
10 clergy, and the absence of any spiritual
11 guidance from any of the members of the Senate
12 who have been invited to come up here and
13 offer a prayer or thought, we will entertain a
14 moment of silence.

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

17 THE PRESIDENT: The reading of
18 the Journal.

19 THE SECRETARY: In Senate,
20 Sunday, March 4, the Senate met pursuant to
21 adjournment. The Journal of Saturday,
22 March 3, was read and approved. On motion,
23 Senate adjourned.

24 THE PRESIDENT: Without
25 objection, the Journal stands approved.

1 Presentation of petitions.
2 Messages from the Assembly.
3 Messages from the Governor.
4 Reports of standing committees.
5 Reports of select committees.
6 Communications and reports from
7 state officers.

8 Motions and resolutions.
9 The chair recognizes Senator
10 Skelos.

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

15 And under the order of motions and
16 resolutions, there's a resolution at the desk,
17 339, by Senator Nozzolio, which was previously
18 adopted on February 6th. If we could have it
19 read in its entirety and then recognize
20 Senator Nozzolio.

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

24 The Secretary will read the
25 resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the gallery with its coach, David Whitcomb.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Thank you, Mr. President. I

1 appreciate this house's indulgence.

2 THE PRESIDENT: Thank you,
3 Senator Nozzolio.

4 Senator Farley.

5 SENATOR FARLEY: Thank you,
6 Mr. President.

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

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

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

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

1 THE PRESIDENT: Senator Breslin.

2 SENATOR BRESLIN: Thank you,
3 Mr. President.

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

9 (Laughter.)

10 SENATOR BRESLIN: Seriously. And
11 academic failures as well.

12 (Laughter.)

13 SENATOR BRESLIN: No.

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

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

21 Thank you, Mr. President.

22 THE PRESIDENT: Thank you,
23 Senator Breslin.

24 This resolution was already passed
25 earlier in our session.

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

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

17 (Applause.)

18 THE PRESIDENT: Senator Wright.

19 SENATOR WRIGHT: Thank you,
20 Mr. President.

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

23 THE PRESIDENT: The chair
24 recognizes Senator Farley.

25 SENATOR FARLEY: Thank you very

1 much. It's nice to be recognized.

2 On page 11 I offer the following
3 amendments to Calendar Number 18, Senate Print
4 42, and I ask that Senator Maziarz's bill
5 retain its place on the Third Reading
6 Calendar.

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

10 Senator Wright.

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

14 THE PRESIDENT: The Secretary
15 will read the noncontroversial calendar.

16 THE SECRETARY: Calendar Number
17 39, by Senator Maziarz, Senate Print 521A, an
18 act to amend the Judiciary Law, in relation to
19 the compensation of interpreters.

20 THE PRESIDENT: Last section.

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

23 THE PRESIDENT: Call the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 57.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 94, by Senator Saland, Senate Print --

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

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

9 THE SECRETARY: Calendar Number
10 125, by Senator Nozzolio, Senate Print 329, an
11 act to amend the Real Property Tax Law, in
12 relation to exemption.

13 THE PRESIDENT: Last section.

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

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE PRESIDENT: Results.

19 THE SECRETARY: Ayes, 56. Nays,
20 1. Senator Duane recorded in the negative.

21 THE PRESIDENT: The bill is
22 passed.

23 THE SECRETARY: Calendar Number
24 144, by Senator Marcellino, Senate Print 699,
25 an act to amend the Environmental Conservation

1 Law, in relation to special permits.

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

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

6 THE PRESIDENT: Call the roll.
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 57.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 148, by Senator Marcellino, Senate Print 618,
13 an act to amend the Penal Law, in relation to
14 criminally negligent homicide.

15 THE PRESIDENT: Last section.

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

19 THE PRESIDENT: Call the roll.
20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57.

22 THE PRESIDENT: The bill is
23 passed.

24 THE SECRETARY: Calendar Number
25 149, by Senator Skelos, Senate Print 638, an

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

4 THE PRESIDENT: Last section.

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

8 THE PRESIDENT: Call the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 57.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 150, by Senator Trunzo, Senate Print 754, an
15 act to amend the Penal Law, in relation to
16 unlawful sale of tobacco products to a child.

17 THE PRESIDENT: Read the last
18 section.

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

21 THE PRESIDENT: Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 57.

24 THE PRESIDENT: The bill is
25 passed.

1 THE SECRETARY: Calendar Number
2 162, by Senator Little, Senate Print 1117, an
3 act to amend the Penal Law, in relation to
4 increasing the penalties for hazing.

5 THE PRESIDENT: Read the last
6 section.

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

10 THE PRESIDENT: Call the roll.
11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 57.

13 THE PRESIDENT: The bill is
14 passed.

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

17 SENATOR WRIGHT: Thank you,
18 Mr. President.

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

22 THE PRESIDENT: The Secretary
23 will read.

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

1 following bills:

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

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

8 Both bills ordered direct to third
9 reading.

10 THE PRESIDENT: Senator Wright.

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

13 THE PRESIDENT: All in favor.

14 (Response of "Aye.")

15 THE PRESIDENT: Those opposed.

16 (No response.)

17 THE PRESIDENT: The Rules report
18 is accepted.

19 Senator Wright.

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

23 THE PRESIDENT: The Secretary
24 will read.

25 THE SECRETARY: Calendar Number

1 251, by Senator Volker, Senate Print 3318, an
2 act to amend the Mental Hygiene Law and
3 others, in relation to the treatment,
4 supervision and civil commitment of sex
5 offenders.

6 THE PRESIDENT: Last section.

7 SENATOR DUANE: Lay it aside,
8 please.

9 THE PRESIDENT: Lay it aside.
10 Senator Wright.

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

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

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 251, by Senator Volker, Senate Print 3318, an
21 act to amend the Mental Hygiene Law and
22 others, in relation to the treatment,
23 supervision, and civil commitment of sex
24 offenders.

25 SENATOR DUANE: Explanation,

1 please.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 250 could go to strict and intensive
2 supervision, and 50 would be released.

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

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

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

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

11 Well, in this bill, on pages 15 and
12 16, you will see the criteria for what "strict
13 and intensive supervision" means. And it is
14 the most complete, I think -- obviously, there
15 will be some changes, but it is the most
16 complete and mandates a number of parole
17 officers. In fact, the estimate is -- because
18 I asked for this. I said, "Well, what exactly
19 are we talking about here?"

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

1 And that was the numbers I gave you before.

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

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

20 The ratio, by the way, for sexually
21 violent predators out on the street would be
22 10 to 1 for parole officers. Now, if you
23 think of that, if you know anything about the
24 ratios, they're a heck of a lot bigger than
25 that now. They're as much as 40 to 50, in

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

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

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

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

1 it is possible.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 We have always been a leader here
18 in New York in criminal justice. Very little
19 attention by the media to the fact that one of
20 the main ways we brought down our prison
21 system was the best shock incarceration
22 program in the country and probably in the
23 world. Which is now, because we don't have
24 many people to let out anymore since about
25 75 percent of the people in our prison system

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

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

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

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

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

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

14 THE PRESIDENT: Senator Bruno.

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

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

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

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

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

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

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

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

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

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

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

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

5 And anyone that had talked to the
6 father of that little 9-year-old in Florida
7 and listened to his story about the repeat
8 offender who killed his 9-year-old daughter,
9 which you all read about, buried her
10 half-alive, you would never, ever err on the
11 side of the criminal and the perpetrator. You
12 would err on the side of protecting a
13 9-year-old, 12-year-old or any person that's
14 out there that truly deserves the protection
15 that we as legislators need to give them with
16 a result such as we want to get today.

17 Thank you. Thank you, Madam
18 President.

19 ACTING PRESIDENT LITTLE: Thank
20 you, Senator Bruno.

21 Senator Smith.

22 SENATOR SMITH: Thank you very
23 much, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Thank you.

24 ACTING PRESIDENT LITTLE: Thank
25 you, Senator Smith.

1 Senator Padavan.

2 SENATOR PADAVAN: Thank you,
3 Madam President.

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

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

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

1 must release them back onto the street.

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

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

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

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

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

14 Thank you, Madam President.

15 ACTING PRESIDENT LITTLE: Thank
16 you, Senator Padavan.

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

19 Senator Wright.

20 SENATOR WRIGHT: Thank you, Madam
21 President.

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

25 More importantly, I want to point

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

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

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

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

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

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

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

1 I will be voting aye, Madam
2 President.

3 ACTING PRESIDENT LITTLE: Thank
4 you, Senator Wright.

5 Senator Diaz.

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

8 Today we are dealing with this
9 piece of legislation, and I'm looking in the
10 legislative history of the bill. And I see
11 that for ten years a similar bill has passed
12 the Senate. In 1998, a bill, 7659, passed the
13 Senate, 59 to 1; Senator Leichter voted
14 against. In 1999, Senate Bill 5093 passed the
15 Senate 56 to 1, Senator Duane. 2000, Senate
16 Bill Number 5093 again passed the Senate.
17 Again, Senator Duane voted against. 2001,
18 Senate Bill 5385 passed the Senate 56 to 0.
19 2003, Senate Bill 5556 passed the Senate 59 to
20 2, Senator Duane and Montgomery. 2004, Senate
21 Bill 5556 passed the Senate 59 to 2, Senator
22 Duane and Montgomery. 2005, Senate Bill 3273
23 passed the Senate 58 to 2, Senator Duane and
24 Montgomery. 2006, Senate Bill 6325 passed the
25 Senate, Duane and Montgomery. 2006 again,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 my papasso [ph] -- you know what papasso?

2 Papasso means the way I stroke my hair.

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

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

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

19 Thank you, Madam Chair.

20 ACTING PRESIDENT LITTLE: Thank
21 you, Senator Diaz.

22 Senator Libous.

23 SENATOR LIBOUS: Thank you, Madam
24 President.

25 Twelve years this house has passed

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

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

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

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

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

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

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

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

25 And as Senator Padavan said

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

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

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

21 ACTING PRESIDENT LITTLE: Thank
22 you, Senator Libous.

23 Senator Klein.

24 SENATOR KLEIN: Thank you, Madam
25 President.

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

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

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

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

25 And very similar to the case of

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

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

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

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

1 crimes as they get older and older.

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

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

17 Unfortunately, Phillip Grant has
18 the dubious distinction, I believe, of being
19 the poster boy for civil confinement in New
20 York State. Phillip Grant was someone who
21 committed a horrible rape in the Bronx, served
22 25 years in prison, 23 years for rape. They
23 tacked on another two years because he tried
24 to kill someone with an ax while he was in
25 prison.

1 This is a man that was denied
2 parole nine times. Nine times. You know, the
3 Parole Board knew that this is not someone who
4 should once again rejoin society. Yet he was
5 released after serving a sentence, a very long
6 sentence under our rape laws in New York
7 State, and registered as he was required to do
8 under Megan's Law. As a matter of fact, he
9 reregistered as he was supposed to do every
10 90 days.

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

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

25 Because I think the Phillip Grant

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

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

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

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

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

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

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

1 ACTING PRESIDENT LITTLE: Thank
2 you, Senator Klein.

3 Senator Nozzolio.

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

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

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

1 predating.

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

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

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

21 Thank you.

22 ACTING PRESIDENT LITTLE: Thank
23 you, Senator Nozzolio.

24 Senator Montgomery.

25 SENATOR MONTGOMERY: Thank you,

1 Madam President.

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

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

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

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

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

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

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

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

1 commitment, civil commitment, possibly for
2 life.

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

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

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

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

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

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

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

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

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

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

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

21 ACTING PRESIDENT LITTLE: Thank
22 you, Senator.

23 Senator Marcellino.

24 SENATOR MARCELLINO: Thank you,
25 Madam President.

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

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

25 To those individuals who by their

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

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

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

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

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

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

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

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

6 Thank you.

7 ACTING PRESIDENT LITTLE: Thank
8 you, Senator.

9 Senator Morahan.

10 SENATOR MORAHAN: Thank you,
11 Madam President.

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

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

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

1 supported overwhelmingly in both houses.

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

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

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

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

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

5 (Laughter.)

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

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

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

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

7 Thank you very much, Madam
8 President.

9 ACTING PRESIDENT LITTLE: Thank
10 you, Senator Morahan.

11 Senator Griffo.

12 SENATOR GRIFFO: Thank you, Madam
13 President.

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

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

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

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

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

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

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

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

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

3 Thank you, Madam President.

4 ACTING PRESIDENT LITTLE: Thank
5 you, Senator Griffo.

6 Senator Farley.

7 SENATOR FARLEY: Thank you, Madam
8 President.

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

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

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

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

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

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

11 And I support the bill.

12 ACTING PRESIDENT LITTLE: Thank
13 you, Senator.

14 Senator Liz Krueger.

15 SENATOR LIZ KRUEGER: Thank you,
16 Madam President.

17 I'm also -- I have dilemmas with
18 this bill, I will tell you that. Twelve years
19 is what I heard people say, that we spent
20 12 years working only a version of the bill
21 here in the Senate. But it's not the version
22 we're passing today.

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

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

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

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

1 law applies to over time.

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

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

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

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

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

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

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

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

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

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

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

1 problem is, are not using up hundreds of
2 millions of dollars of our resources that will
3 then likely come out of other mental health
4 care services; and to remember that
5 99.9 percent of people with mental illness are
6 not violent predators and that it's very
7 important that we're not lumping everyone
8 together.

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

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

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

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

8 Thank you, Madam President.

9 ACTING PRESIDENT LITTLE: Thank
10 you, Senator Krueger.

11 Senator Young.

12 SENATOR YOUNG: Thank you, Madam
13 President.

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

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

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

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

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

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

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

1 was there.

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

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

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

24 ACTING PRESIDENT LITTLE: Thank
25 you, Senator Young.

1 Senator Parker.

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

4 ACTING PRESIDENT LITTLE: Yes, on
5 the bill.

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

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

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

25 The second thing that he says

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

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

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

1 But when we look at the fact that
2 only about 16 percent of the population of
3 New York State is African-American male, but
4 40 percent of the jailed population is
5 African-American male, it makes me then have
6 to look at bills like this when they come up.

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

11 Now, certainly we want to protect
12 our communities. Nobody is more committed to
13 that than I am. Trust me when I tell you.
14 And you talk to the commanders of the 70th
15 Precinct, the 63rd, the 67th, the 79th, the
16 66th, which cover my district, and they'll
17 tell you my biggest complaint is I don't get
18 enough police protection.

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

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

1 salaries of police officers. There's been a
2 big thing in the City of New York about the
3 fact that new police officers are only making
4 25 grand, we can't keep them on the force,
5 they're moving over to the Fire Department and
6 leaving and taking other jobs. Let's give
7 them more money. And let's put more cops on
8 the street.

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

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

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

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

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

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

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

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

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

17 And they said that to me in 2003,
18 and they said that in 2004, they said it in
19 2005. 2006, I heard the same thing. But now,
20 in 2007, I have still have not seen one bill
21 that in fact does any of these things.

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

1 credit for that.

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

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

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

1 what you see.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 convicted.

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

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

1 leadership on.

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

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

15 Thank you, Madam President.

16 ACTING PRESIDENT LITTLE: Thank
17 you.

18 Senator Huntley.

19 SENATOR HUNTLEY: Yes, Madam
20 President.

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

1 things that would affect my community.

2 Sex offenders in my community.

3 When I was president of the school board many
4 years ago, before I came here, I was one of
5 the presidents who searched out dollars so
6 that we could notify all the schools in the
7 areas about sexual predators.

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

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

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

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

5 So I could never support this.

6 ACTING PRESIDENT LITTLE: Thank
7 you, Senator.

8 Senator Adams.

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

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

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

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

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

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

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

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

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

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

1 my cousin will fall victim to this action.

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

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

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

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

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

5 So I will be voting against this
6 bill.

7 ACTING PRESIDENT LITTLE: Thank
8 you.

9 Senator Schneiderman.

10 SENATOR SCHNEIDERMAN: Thank you.

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

13 ACTING PRESIDENT LITTLE: Thank
14 you.

15 Senator Volker, do you yield?

16 SENATOR VOLKER: I certainly do.

17 ACTING PRESIDENT LITTLE: Thank
18 you. The Senator yields.

19 SENATOR SCHNEIDERMAN: Thank you.

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

25 On page 3, where it defines the

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

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

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

11 SENATOR VOLKER: That's true.

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

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

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

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

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

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

14 SENATOR VOLKER: We are. We are.

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

1 Is that not correct?

2 SENATOR VOLKER: That's true.

3 Because you're talking about, here, a mental
4 health statute. And let's not forget that
5 some of the people involved in these cases are
6 people that have in effect a mental disease.
7 Some of them may well have been found not
8 guilty by reason of a mental disease.

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

15 SENATOR SCHNEIDERMAN: Thank you.

16 And finally, last question, at page
17 12 and 13 of the bill there are the provisions
18 defining the annual examinations and the
19 petitions for discharge. And at line 55 and
20 56 of page 12 it makes it clear that the
21 evaluation that's conducted annually will be
22 in the Supreme or County Court where the
23 respondent is incarcerated; is that not
24 correct?

25 SENATOR VOLKER: That's true.

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

4 ACTING PRESIDENT LITTLE: On the
5 bill, Senator Schneiderman.

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

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

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

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

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

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

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

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

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

1 that are provided in that system.

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

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

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

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

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

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

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

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

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

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

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

25 So because of all those problems, I

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

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

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

20 ACTING PRESIDENT LITTLE: Thank
21 you, Senator Schneiderman.

22 Senator Thompson.

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

1 One, I stand today in support of
2 the bill, having an 11-year-old daughter who's
3 very active in a number of programs and a
4 number of activities, and also thinking about
5 this bill this morning when I left upstate --
6 the further part upstate -- at 5:00 a.m.,
7 thinking about, when I left the house, my
8 1-year-old son, who I would be devastated if
9 some sexual predator were to break into my
10 home and take him from us in the middle of the
11 night.

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

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

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

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

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

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

1 local police station websites.

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

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

13 Thank you.

14 ACTING PRESIDENT LITTLE: Thank
15 you, Senator Thompson.

16 Any Senator wishing to be heard?

17 The debate is closed.

18 The Secretary will ring the bell.

19 And we will read the last section.

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

22 ACTING PRESIDENT LITTLE: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT LITTLE: Senator

1 Maltese, to explain your vote.

2 SENATOR MALTESE: Madam

3 President, I explain my vote because I know
4 that many of my colleagues have wrestled with
5 this issue for more than 15 years.

6 In addition, many of them have
7 approached this subject with an open mind and
8 have given it a great amount of thought.

9 We've witnessed here today members saying that
10 they were of one mind when they came in and,
11 after giving it more thought and listening to
12 the debate, had undergone a change of mind.

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

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

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

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

16 Madam President, I vote aye.

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

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

23 Senator DeFrancisco, to explain his
24 vote.

25 SENATOR DeFRANCISCO: Members of

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

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

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

25 If the person is found to be a

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

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

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

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

1 especially children.

2 I vote yes.

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

6 Senator Volker, to explain his
7 vote.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 I vote aye.

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

7 Senator Fuschillo, to explain his
8 vote.

9 SENATOR FUSCHILLO: Thank you,
10 Madam President.

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

14 (Laughter.)

15 SENATOR FUSCHILLO: Everybody is
16 awake now; right?

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

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

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

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

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

13 Thank you.

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

17 Senator Golden, to explain his
18 vote.

19 SENATOR GOLDEN: Thank you, Madam
20 President.

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

1 will work and become law.

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

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

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

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

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

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

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

24 Thank you, Madam President.

25 ACTING PRESIDENT LITTLE: Thank

1 you. Senator Golden, you vote in the
2 affirmative?

3 SENATOR GOLDEN: Yes.

4 ACTING PRESIDENT LITTLE: Senator
5 Golden votes in the affirmative.

6 Senator Adams, to explain his vote.

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

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

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

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

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

10 Thank you.

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

14 Senator Stewart-Cousins, to explain
15 her vote.

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

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

1 hard decisions.

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

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

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

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

4 I cannot be part of that problem.
5 I cannot go back to the Russo family and for
6 the people in the community who have waited
7 10, 12, 14 years for a decision about civil
8 confinement to say, You know what? We just
9 couldn't get it done.

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

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

1 children who have been languishing because of
2 14 years of debate.

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

6 Senator Craig Johnson, to explain
7 his vote.

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

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

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

1 17 years of taking a four-page bill and
2 turning it into a 44-page bill, which shows a
3 thought and dedication and a demonstration of
4 protection for civil liberties.

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

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

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

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

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

11 Thank you.

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

15 Senator Diaz, to explain his vote.

16 SENATOR CRAIG JOHNSON: Thank
17 you, Madam President.

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

25 We pass it here, we send it to our

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

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

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

19 Thank you very much. I'm voting
20 yes.

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

24 Senator Padavan, to explain his
25 vote.

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

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

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

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

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

9 I vote aye.

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

13 Senator Onorato, to explain his
14 vote.

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

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

1 treat them.

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

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

9 Senator Perkins, to explain his
10 vote.

11 SENATOR PERKINS: Thank you very
12 much.

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

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

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

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

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

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

22 But nevertheless, they suffered for
23 13 years in jail and in some cases had to be
24 signed up for sex-offender-treatment type of
25 reporting through the system.

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

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

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

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

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

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

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

25 So I would hope that in the future

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

4 Thank you.

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

8 Senator Oppenheimer, to explain her
9 vote.

10 SENATOR OPPENHEIMER: I think I'm
11 the last.

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

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

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

1 But I'll be voting yes now.

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

5 The Secretary will announce the
6 results.

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

12 ACTING PRESIDENT LITTLE: The
13 bill is passed.

14 Senator Maltese.

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

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

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

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

25 SENATOR MALTESE: There being no

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

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

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

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