NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 8, 2020

4:13 p.m.

REGULAR SESSION

SENATOR BRIAN A. BENJAMIN, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BENJAMIN: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

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

ACTING PRESIDENT BENJAMIN: In the absence of clergy, let us bow our heads in a moment of silent reflection or prayer.

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

ACTING PRESIDENT BENJAMIN: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 7, 2020, the Senate met pursuant to adjournment. The Journal of Saturday, June 6, 2020, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT BENJAMIN: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, there will be an immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT BENJAMIN: There will be an immediate meeting of the Finance Committee in Room 332.

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BENJAMIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:14 p.m.)

(Whereupon, the Senate reconvened at 4:32 p.m.)

ACTING PRESIDENT BENJAMIN: The Senate will return to order.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT BENJAMIN: There will be an immediate meeting of the Rules Committee in Room 332.

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BENJAMIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:32 p.m.)

(Whereupon, the Senate reconvened at 5:04 p.m.)

ACTING PRESIDENT BENJAMIN: The Senate will return to order.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, is there a Rules Committee report at the desk?

ACTING PRESIDENT BENJAMIN: There is a report of the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Stewart-Cousins, from the Committee on Rules, reports the following bills:

Senate Print 59, by Senator Robach, an act to amend the Highway Law;

Senate Print 1830C, by Senator

Hoylman, an act to amend the Criminal Procedure Law and the Judiciary Law;

Senate Print 2574C, by Senator Bailey, an act to amend the Executive Law;

Senate Print 2575B, by Senator Bailey, an act to amend the Executive Law;

Senate Print 3253A, by Senator Parker, an act to amend the Civil Rights Law;

Senate Print 3595C, by Senator Parker, an act to amend the Executive Law, the Public Authorities Law, and Chapter 154 of the Laws of 1921;

Senate Print 3856, by Senator Lanza, an act to amend the State Law, the Highway Law and the Administrative Code of the City of New York;

Senate Print 3860, by Senator Lanza, an act to amend the Vehicle and Traffic Law;

Senate Print 4334B, by Senator Metzger, an act to amend the Highway Law;

Senate Print 4701A, by Senator Brooks, an act in relation to permitting Roosevelt Fire District to file an application for a retroactive real property tax exemption;

Senate Print 5571, by Senator

LaValle, an act in relation to the designation of the East Hampton Volunteer Ocean Rescue and Auxiliary Squad as an emergency rescue and first aid squad;

Senate Print 5667B, by Senator Thomas, an act to authorize the assessor of the County of Nassau to accept an application for exemption from real property taxes;

Senate Print 5948, by Senator Skoufis, an act authorizing the Commissioner of General Services to transfer and convey certain unappropriated state land to Rockland Recovery Homes, Inc.;

Senate Print 5993, by Senator Serino, an act to amend the Highway Law;

Senate Print 6224B, by Senator Metzger, an act to amend the General Municipal Law and the Tax Law;

Senate Print 6369A, by Senator O'Mara, an act to amend the Village Law and the Public Officers Law;

Senate Print 6379, by Senator LaValle, an act to amend the Town Law;

Senate Print 6601B, by Senator Bailey, an act to amend the Civil Rights Law;

Senate Print 6611, by Senator Brooks, an act relating to authorizing the Town of Hempstead to be able to grant the Roosevelt Fire District of Roosevelt a property tax exemption;

Senate Print 6670B, by Senator Benjamin, an act to amend the Penal Law;

Senate Print 6768A, by Senator Akshar, an act to amend the Village Law;

Senate Print 6823, by Senator Gallivan, an act to amend the Highway Law;

Senate Print 6854, by Senator Little, an act to amend the Executive Law;

Senate Print 6915, by Senator Flanagan, an act to authorize the Town of Smithtown to extend the boundaries of the St. James Fire District to include the Village of Head of the Harbor;

Senate Print 7012, by Senator Ranzenhofer, an act to amend the Highway Law;

Senate Print 7069A, by Senator Kaminsky, an act to authorize the assessor of the County of Nassau to accept a retroactive application for exemption from real property taxes from the West Hempstead-Hempstead Garden

Water District;

Senate Print 7070, by Senator Kaminsky, an act to authorize the assessor of the City of Long Beach in the County of Nassau to accept a retroactive application;

Senate Print 7158, by Senator Liu, an act to amend Chapter 667 of the Laws of 1868;

Senate Print 7281, by Senator Borrello, an act to amend the Highway Law;

Senate Print 7282A, by Senator Borrello, an act to amend the Highway Law;

Senate Print 7295, by Senator Addabbo, an act to amend the Environmental Conservation Law;

Senate Print 7359, by Senator Stewart-Cousins, an act authorizing Beth El Synagogue Center to file an application for retroactive real property tax exemption;

Senate Print 7360, by Senator Breslin, an act in relation to authorizing the assessor of the City of Albany to accept from the Koinonia Primary Care, Inc., an application for exemption from real property taxes;

Senate Print 7538, by Senator Borrello, an act to amend the General City Law;

Senate Print 7574, by Senator Martinez, an act in relation to creating the Davis Park Fire Department Benevolent Association;

Senate Print 7579, by Senator Borrello, an act to authorize the Towns of Mina and French Creek in Chautauqua County to elect a single town justice to preside in the town courts of such towns;

Senate Print 7586A, by Senator Thomas, an act in relation to permitting Uniondale Land Trust to file an application for certain real property tax exemptions;

Senate Print 7714, by Senator Seward, an act relating to the dissolution of the Village of Groton Industrial Development Agency and the disposition of the assets thereof;

Senate Print 7729, by Senator Borrello, an act to amend the Town Law and the Public Officers Law;

Senate Print 7749, by Senator Akshar, an act to authorize the Town of Union in the County of Broome to convey to New York State Electric & Gas an easement;

Senate Print 7750, by Senator

Jacobs, an act to amend the Town Law;

Senate Print 7790, by Senator Amedore, an act to amend the Public Officers Law;

Senate Print 7794, by Senator Harckham, an act to amend the Village Law;

Senate Print 7857, by Senator Gaughran, an act to amend the Vehicle and Traffic Law;

Senate Print 7867, by Senator Metzger, an act to amend Chapter 262 of the Laws of 2005;

Senate Print 7880B, by Senator Breslin, an act prohibiting the incineration of aqueous film-forming foam;

Senate Print 7897B, by Senator Metzger, an act to amend the Highway Law;

Senate Print 7901B, by Senator Martinez, an act in relation to authorizing the Village of Patchogue to file an application for exemption from real property taxes for certain assessment rolls;

Senate Print 7923, by Senator Serino, an act to amend the Highway Law;

Senate Print 7953, by Senator Thomas, an act in relation to authorizing the

Town of Hempstead to grant Southern Tier Environments for Living Inc. a property tax exemption;

Senate Print 7973, by Senator LaValle, an act to amend Chapter 238 of the Laws of 1963;

Senate Print 7999, by Senator May, an act to amend the Judiciary Law;

Senate Print 8019, by Senator Boyle, an act in relation to authorizing the Good Samaritan Hospital Medical Center to file an application for a real property tax exemption;

Senate Print 8027A, by Senator Kaminsky, an act to authorize the assessor of the Town of Hempstead, County of Nassau, to accept from Mercy Medical Center an application for exemption from real property taxes;

Senate Print 8054, by Senator Persaud, an act to amend the Highway Law;

Senate Print 8068B, by Senator Kaminsky, an act to authorize the assessor of the County of Nassau to accept a retroactive application for exemption from real property taxes;

Senate Print 8075, by Senator

Harckham, an act to amend the Real Property Tax Law;

Senate Print 8087B, by Senator Helming, an act to amend the Alcoholic Beverage Control Law;

Senate Print 8093, by Senator Martinez, an act to amend the Town Law;

Senate Print 8136, by Senator Gaughran, an act in relation to authorizing the assessor of the Town of Huntington, County of Suffolk, to accept from Chabad Lubavitch Chai Center, Inc., an application for exemption from real property taxes;

Senate Print 8158, by Senator Kennedy, an act to amend the Public Authorities Law, the Highway Law, the Transportation Law and the Vehicle and Traffic Law;

Senate Print 8204, by Senator Harckham, an act to amend the Real Property Tax Law;

Senate Print 8225, by Senator Montgomery, an act to amend the Alcoholic Beverage Control Law;

Senate Print 8285, by Senator Brooks, an act to amend the Nassau County Civil

Divisions Act;

Senate Print 8299, by Senator Jordan, an act to amend the Public Officers Law;

Senate Print 8344A, by Senator O'Mara, an act authorizing the alienation of certain reforested lands in the County of Yates;

Senate Print 8350B, by Senator Thomas, an act in relation to authorizing the Nassau County assessor to accept an application from NGIP, Inc., for a real property tax exemption;

Senate Print 8378, by Senator Jacobs, an act to amend the General City Law;

Senate Print 8409A, by Senator Little, an act to authorize certain healthcare professionals licensed to practice in other jurisdictions to practice in this state in connection with an event sanctioned by the World Triathlon Corporation;

Senate Print 8484, by Senator Metzger, an act to amend the Alcoholic Beverage Control Law;

Senate Print 8485, by Senator Montgomery, an act authorizing the Commissioner of General Services to sell certain land to TCH

Holdings, LLC;

Senate Print 8489, by Senator Kaminsky, an act in relation to authorizing the assessor of the County of Nassau to accept from the Eglise Baptiste Etolie Du Matin an application for exemption from real property taxes;

Senate Print 8491, by Senator Bailey, an act to amend the Highway Law;

Senate Print 8492, by Senator Parker, an act to amend the Civil Rights Law;

Senate Print 8493, by Senator Parker, an act to amend the Executive Law;

Senate Print 8495, by Senator Benjamin, an act to amend the Executive Law;

Senate Print 8496, by Senator Bailey, an act to amend the Civil Rights Law and the Public Officers Law; and

Senate Print 8522, by Senator Helming, an act to amend the Environmental Conservation Law.

All bills reported direct to third reading.

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

ACTING PRESIDENT BENJAMIN: All in favor of accepting the Committee on Rules report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay?

(No response.)

ACTING PRESIDENT BENJAMIN: The record is accepted and before the house.

SENATOR GIANARIS: Please take up the supplemental calendar at this time.

ACTING PRESIDENT BENJAMIN: There's a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Hoylman moves to discharge, from the Committee on Rules, Assembly Bill Number 10609 and substitute it for the identical Senate Bill 1830C, Third Reading Calendar 675.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 675, Assembly Bill Number 10609, by the Assembly Committee on Rules, an act to amend the Criminal

Procedure Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you.

I rise to support this legislation and the entire legislative package that we'll be voting on this week.

I want to thank my colleagues in the Senate and in the Assembly who have waged a fight for justice for far too long and for raising my -- for persisting in raising my consciousness and the consciousness of this legislative body.

I want to honor the hundreds of thousands of New Yorkers who have left the comfort of their homes in a time of physical illness, of mental distress and economic loss, to go to the streets to ring liberty's bell, to

demand change and to demand action. I want to thank all of the New Yorkers that risk their own physical health to fight to protect the soul of our state and the soul of our nation.

We must continue to act with empathy, not anger. We have to act with love, not hate. And we have to act with urgency. I want to thank my colleagues in this chamber and in the Assembly for coming together to pass this legislative package of reform so that we can continue to walk the walk of fighting injustice and rooting out racism wherever it exists in this nation.

Mr. President, I'll be supporting this legislation and the entire legislative package. Thank you.

ACTING PRESIDENT BENJAMIN: Senator Carlucci to be recorded in the affirmative.

Senator Hoylman to explain his vote.

SENATOR HOYLMAN: Thank you, Mr. President.

I rise to echo the important message that Black Lives Matter today on this history-making day in the State Senate, in humility and deference and as an ally to my black

and brown legislative colleagues -- and especially Senate Leader Andrea Stewart-Cousins, the first woman, the first black woman ever to lead a legislative chamber in New York.

The bill we're voting on is the Police Statistics and Transparency Act, also known as the Police STAT Act.

We've all seen the horrific videos of black Americans killed through police brutality. But what happens, Mr. President, when the cameras aren't rolling? How many other George Floyds or Eric Garners have there been? How many other black and brown New Yorkers have been brutalized at the hands of law enforcement? How many other black and brown New Yorkers have been murdered by the police? We can't say their names, Mr. President, because we don't even know who they are.

The Police STAT act will finally lift the veil on this secrecy and create new transparency around misdemeanor arrests and violations and deaths in police custody.

If we're going to root out the systematic and discriminatory policing practices used to target black and brown New Yorkers, we're

going to need more data and transparency than currently availability. The Police STAT Act is going to give us this much-needed information.

I'm honored that this legislation is passing today, thanks to Leader Stewart-Cousins, to the Senate staff, to Codes Chairman Jamaal Bailey, the original Senate sponsor Daniel Squadron, and Gwen Carr, the mother of Eric Garner, who personally came to Albany to campaign for this bill.

It's also Pride, Mr. President, so I pay homage to three important figures I'm thinking about as we pass these bills today: Marsha P. Johnson, a black transgender woman who helped found the LGBTQ human rights movement, through leading an uprising at the Stonewall Inn 51 years ago this month in my Senate district; Judge Deborah Batts, who died earlier this year, a black woman and the first openly LGBTQ federal judge, who served a quarter-century on the United States District Court for the Southern District of New York; and Bayard Rustin, a gay black man who lived in Chelsea, in my district, who was one of Dr. King's top lieutenants and the organizer of the 1963 March on Washington.

I can imagine, Mr. President, that they're all looking down on us today, proud of the votes we're taking but urging us to continue the fight for racial equality and justice.

I vote aye, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Hoylman to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 675, those Senators voting in the negative are Senators Funke and Helming.

Ayes, 60. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, can we please just take the next bill up out of order and move to Calendar 678 next.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 678, Senate Print 3253A, by Senator Parker, an act to amend the Civil Rights Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 678, those Senators voting in the negative are Senators Helming and Seward.

Ayes, 60. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

SENATOR GIANARIS: Mr. President, can we now continue with Calendar 677 and then take the other two bills in order from there. Thank you.

ACTING PRESIDENT BENJAMIN: There's a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Bailey moves to discharge, from the Committee on Rules, Assembly Bill Number 10608 and substitute it for the identical Senate Bill 2575B, Third Reading

Calendar 677.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 677, Assembly Bill Number 10608, by the Assembly Committee on Rules, an act to amend the Executive Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 677, those Senators voting in the negative are Senators Funke, Helming and Seward.

Ayes, 59. Nays, 3.

ACTING PRESIDENT BENJAMIN: The bill is passed.

There is a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Benjamin moves to discharge, from the Committee on Rules, Assembly Bill Number 6144B and substitute it for the identical Senate Bill Number 6670B, Third Reading Calendar 693.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 693, Assembly Print Number 6144B, by the Assembly Committee on Rules, an act to amend the Penal Law.

SENATOR GALLIVAN: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

There is a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 1531B and substitute it for the identical Senate Bill 8492, Third Reading Calendar 748.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 748, Assembly Print Number 1531B, by the Assembly Committee on Rules, an act to amend the Civil Rights Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

ACTING PRESIDENT MAYER: Senator Gianaris, that completes the reading of today's supplemental calendar.

SENATOR GIANARIS: Thank you, Madam President. Can we now take up the controversial calendar, please.

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 693, Assembly Print Number 6144B, by the Assembly Committee on Rules, an act to amend the Penal Law.

ACTING PRESIDENT MAYER: Senator Akshar.

SENATOR AKSHAR: Madam President, thank you. Through you, if the sponsor would yield to a few questions.

SENATOR BENJAMIN: Yes, I will.

ACTING PRESIDENT MAYER: The Senator will yield.

SENATOR AKSHAR: Thank you, Madam President.

Through you, would the sponsor -- can the sponsor define what exactly a chokehold is, or point me in the direction where I find the definition of a chokehold?

SENATOR BENJAMIN: The definition of the chokehold is in the Executive Law, Section 837-T. It's actually in the bill 6607B, where -- and it's defined as an act where there is a criminal obstruction of breathing or blood circulation, and it's defined in that manner.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

SENATOR BENJAMIN: The sponsor yields, yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR AKSHAR: Thank you, Madam President. Through you.

I want to talk specifically to the sponsor -- and we spoke about this earlier in a committee meeting, about the defense of justification. As I said in the committee meeting earlier, my concern with this particular piece of legislation is that I would want to be assured that if a member of law enforcement found themselves in a position in which this was a life or death situation and the only thing that member of law enforcement could do was to apply a chokehold to save his or her life or the life of another, would that member of law enforcement have the defense of justification?

SENATOR BENJAMIN: I apologize, can you repeat that?

SENATOR AKSHAR: Would that member

who applied the chokehold have the defense of justification?

SENATOR BENJAMIN: Yes. Under section 35.30 of the Penal Law, it is very clear that a police officer will have that justification, yes.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Does the sponsor yield?

SENATOR BENJAMIN: Yes.

SENATOR AKSHAR: I draw your attention to section -- I just want to talk a little bit about the language in the bill that talks about the affirmative defense where the defendant performed the conduct for a valid medical reason or a dental purpose. That -- how does that -- what would happen in that situation regarding that affirmative defense?

SENATOR BENJAMIN: -- aware that the law enforcer is putting pressure on that person's neck, it defines where that's allowed.

SENATOR AKSHAR: I'm sorry, Madam President, if the medical professional or

the dental professional was applying pressure to one's neck, they would have the defense?

SENATOR BENJAMIN: No, the police officer. Yes, if the police officer was applying the pressure on someone's neck.

SENATOR AKSHAR: We will be -- Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Will the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR AKSHAR: So it's the sponsor's position that in the event a member of law enforcement found themselves in a situation in which he or she had to apply this chokehold -- which by the way, I think we both know specifically around the Division of Criminal Justice Services, in their training curriculum, they no longer promote the chokehold. I think that that was stopped in the training curriculum several years ago. Many police departments throughout this great state have banned the use of a chokehold.

But for my own mind, let me use the example of the Brooklyn cop, just a few days ago, that was stabbed in the neck. If he found himself not being able to -- the only way that he could have responded to that attack was to grab that person around the neck or apply a chokehold to stop him from stabbing him or stabbing his partner, that particular member of law enforcement would have had the defense of justification?

SENATOR BENJAMIN: That is correct.

But let me also add that the chokehold has been banned by police departments all over the state. However, it still has been used. And in the case of Eric Garner, that chokehold did not lead to an arrest. As a matter of fact, it took about six years for Officer Pantaleo to only lose his job.

And so one of the things we wanted to make sure that we did with this bill was that we took out any discretion as it relates to the chokehold. We wanted to specifically criminalize it and to have a penalty particularly attached to it as it relates to police officers in the line of duty.

And so that is something I want to make sure that is part of this conversation, because it has been banned but there isn't -- it isn't sort of criminally specifically defined, we have to do that here in order to make sure that there's accountability with police departments around the state.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: Does the sponsor yield? The sponsor yields.

SENATOR AKSHAR: How would the crime of strangulation -- how would a regular citizen be affected by the crime of strangulation who found themselves in a similar situation in which that citizen of this great state was authorized to use deadly physical force, and that's what that citizen employed to save his life, his or her life?

SENATOR BENJAMIN: So self-defense applies to any individual in that -- in that -- in that case. And if in the situation where a citizen actually used strangulation in a way

that -- where self defense didn't apply, it actually will be -- you actually would be charged on the strangulation, which is what, 121.13.

So this is just creating a level of aggravated strangulation, which would specifically deal with police officer activity in this manner.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Does the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR AKSHAR: And what level crime is that for an average citizen.

SENATOR BENJAMIN: Class C, a Class C violent felony.

SENATOR AKSHAR: So both these crimes, aggravated strangulation and strangulation in the first degree, are both violent C felonies.

SENATOR BENJAMIN: Correct.

SENATOR AKSHAR: Madam President,

through you, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Would the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR AKSHAR: I just want to talk about --

SENATOR BENJAMIN: I'm sorry, if I could add --

SENATOR AKSHAR: Of course.

SENATOR BENJAMIN: -- one provision, which is that with strangulation, the result is serious physical injury, whereas with aggravated strangulation, the result is either serious physical injury or murder.

So I just wanted to -- that's the one little nuance, but I just want to add that.

SENATOR AKSHAR: Will you still yield?

SENATOR BENJAMIN: Of course.

SENATOR AKSHAR: Thank you.

You spoke about the Eric Garner case in New York City. I read the sponsor's memo.

Between 2009 and 2013, there were nine complaints by the Civilian Complaint Review Board against the NYPD specific to chokeholds. Is the sponsor aware of how many complaints regarding chokeholds were filed between that -- between 2009 and 2013?

SENATOR BENJAMIN: No, I'm not aware.

SENATOR AKSHAR: Okay. Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Will the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR AKSHAR: This question or this line of questioning is I guess somewhat hypothetical. However, I know that -- I know the direction that this house and the Assembly are moving in throughout the balance of the week.

I want to specifically ask a question about process post-case or post when somebody deployed a chokehold, specifically around what would happen to the police officer in the event that he or she used a chokehold and

that resulted in the death of either an armed or unarmed civilian.

SENATOR BENJAMIN: The person would be charged by the district attorney, and in that case they would have access to this defense.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Will the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT MAYER: Yes, the sponsor yields.

SENATOR AKSHAR: Under the current statutory framework, the district attorney would make that determination.

SENATOR BENJAMIN: Right.

SENATOR AKSHAR: But we are going in such a direction in which these houses, both houses in the State Legislature will pass a bill that would automatically require the Attorney General to investigate those complaints.

And really, I'll just -- I think I'll cut to the chase in terms of the question. Would the Attorney General in this particular

case automatically charge someone? Or would the Attorney General have the ability to make a determination, after reviewing the facts of the case, whether or not that member of law enforcement in fact should be charged with the crime of aggravated strangulation?

SENATOR BENJAMIN: The Attorney General, like any current DA, could do their own investigation and make their own determination on the matter. So it would not be automatic.

SENATOR AKSHAR: Okay. I'm on the bill, Madam President.

ACTING PRESIDENT MAYER: Senator Akshar on the bill.

SENATOR AKSHAR: You know, I struggle with this bill because, you know, at the end of the day the men and women of law enforcement I think to some degree are kind of taking the brunt of the fire right now because of everything that's going on throughout the nation.

And with this particular bill that we're discussing today, you know, I take some solace in the fact that DCJS no longer has this particular chokehold in their training curriculum or many police departments throughout this great

state have banned its use.

The most important thing for me really on this bill -- and as I walked into this chamber, I was a hard no on this bill. And the more I get to talk to the sponsor, I feel as though you have reassured me that this will be no different than any other case in which a member of law enforcement in fact uses deadly physical force, and it will be no different as a regular district attorney making a determination whether that use of force was justified or it was not.

I think the root cause of -- the root cause and the reasons why we are all here -- my fear, of course, Madam President, is that we're not going to legislate our way out of systemic racism and systemic problems in this nation. But again, I think that this is a particular piece of legislation that I know is incredibly important to the sponsor, it's important to the Garner family. And I feel -- I feel confident enough knowing that if in fact a member of law enforcement needed to use this technique to save his or her life, that they would in fact be justified in doing so.

So when it comes time, I'll be

voting in the affirmative.

ACTING PRESIDENT MAYER: Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Bailey to explain his vote.

SENATOR BAILEY: Thank you, Madam President.

I just wanted to briefly explain my vote about why I believe this is such a critical piece of legislation. I want to thank Leader Stewart-Cousins for allowing this entire package and this bill to come to the floor.

I want to thank Senator Benjamin for living by the adage of God gave us two ears and one mouth, to listen more than you talk. Senator Benjamin, thank you for listening to the mothers in the movement and understanding how critical

this bill was and is to Sister Gwen Carr.

When I think about what happened in Staten Island, I -- I get emotional because I'm a parent and I couldn't imagine having to relive the tragic death of my child over and over again on television. But Gwen Carr, she turned that tragedy to triumph, and she's taken that energy and she's channeled it into activism.

I really want to let you know, Ms. Carr, we appreciate what you've done and what you do, and I appreciate this legislative body for understanding the significance and importance of a time in society when -- which is, quite frankly, never -- we've never experienced something like that in my 37 years.

So I just wanted to express my deep appreciation once again for the sponsor of this legislation and for this great body and for the families. I vote aye.

ACTING PRESIDENT MAYER:

Senator Bailey to be recorded in the affirmative.

Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Madam President.

I rise also, I want to thank Senator

Benjamin for bringing forth this bill and for his thoughtful approach to it. I want to thank Senator Akshar for the debate on it and clarifying what this bill actually does.

And I want to echo the comments of Senator Bailey about Gwen Carr. So Eric Garner was not just a Staten Islander, he was a constituent of my district. His mother is one of my constituents, his family was. And I've been playing telephone tag with her today because she knew this day is monumental.

It's something that she's been working on, bringing to light reforms that will make a profound difference in police-community relations, and a real legacy for her son. And we keep missing each other, because she's all over the country. She's dedicated her life to trying to find ways to improve those types of relationships and better outcomes for everyone. So we didn't actually get a chance to talk.

But Senator Bailey, you hit the nail on the head. This is as much about the mothers of the movement as it is anyone else -- women who have decided to take a tragedy in their life and turn it into creating better public policy that

works for everyone. Not just being angry and bitter about their loss, but making good public policy changes that will improve conditions for everyone -- for the community, for policing, for their children, mostly for their children.

So I want to thank Senator Benjamin and I want to thank Senator Stewart-Cousins for bringing this bill to the floor today. The bill is aptly named for Eric Garner, but this is really for his mother, Gwen Carr, who is a tireless advocate for police accountability and reform. And this bill is one of those efforts that she's responsible for.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Senator Savino to be recorded in the affirmative.

Senator Sepúlveda to explain his vote.

SENATOR SEPÚLVEDA: Thank you, Madam President, for allowing me to express -- explain my vote.

First of all, I want to express much hope to Gwen Carr and the Garner family. I want to thank the sponsor, Senator Benjamin. And I also want to thank Senator Akshar for the debate,

because Senator Akshar comes from a different perspective than I do, he's a former law enforcement -- formerly in law enforcement, and sometimes in our deliberations and discussions he helps me understand things from a different perspective, and so I'm always grateful, always grateful for that.

Today's vote on this bill, on the Garner bill, is really a vote that explains the missed opportunities that this state and this country has had when it comes to police-civilian relationships. We see now, with all the outrage about the George Floyd death -- and I remember incidents like these are where civilians, innocent civilians, unarmed civilians have been killed by members of the police department and essentially nothing came of it. Perhaps rallies and protests, but nothing substantive, legislative, occurred.

And I believe this week we have taken a new perspective. We've admitted that there's a major divide, major issues between communities of color, poor communities, and law enforcement. And by no stretch of the imagination do I believe that police officers are

inherently evil. In fact, I think the majority of them do great work and sacrifice their lives every single day.

But unfortunately, there is a significant number of incidents that have led to not only the death of black and brown men and women, but the utter humiliation, utter humiliation of many of us.

I can speak with you from personal experience. When I was 18 years old, I was arrested because a police officer didn't like the way I looked at him. I spent the night in prison. Could have ruined my entire career. I have a brother who was beaten up by a police officer because he responded in a way that the police officer didn't like.

My brother and I, when we became grown men, we remember this. That is part of our history. That is part of what teaches us and drives us -- certainly me, the perspective I have when I vote on bills like this, when I vote on bills that will impact the relationship between the community and the police department.

Now, we've been hearing a lot in the last few days from some segments of society that

these bills are anti-police bills. And I can't think of anything that's further from the truth.

These are pro-police bills that will certainly enhance and will focus on what we think we should be focusing on when we talk about the policemen and law enforcement, and that is to focus on what is good about what they do, to focus on the acts of kindness that you see, to focus on the fact that they are here to protect and serve and not to subjugate and humiliate. And many of us in black and brown communities have lived with that experience.

And so I am extremely proud that I am here today, that I can vote on these package of bills, on this particular bill, that I'm able to vote on behalf of my community that has suffered for many, many years of treatment from police officers that should never happen in our society.

And so with that, I proudly vote in the affirmative and look forward to voting for the rest of the packages that are coming this week.

Thank you.

ACTING PRESIDENT MAYER: Senator

Sepúlveda to be recorded in the affirmative.

Senator Liu to explain his vote.

SENATOR LIU: Thank you, Madam President.

I just wanted to take a brief moment to say how proud I am that this bill has finally reached the Legislature.

Like Senator Savino, I do want to thank Gwen Carr, the mother of the late Eric Garner, for her unwavering dedication and advocacy for this and other bills. I've often said that if the officers that were responsible for Eric Garner's death had faced some kind of accountability, then maybe Derek Chauvin and his colleagues might have had second thoughts about what they did to George Floyd.

We need to make sure that there's accountability for people who do the wrong thing, and that includes police officers. And choking another human being to death is just not the right thing to do in any circumstance.

I proudly vote yes on this bill and thank Senator Bailey for his leadership in this.

Thank you.

ACTING PRESIDENT MAYER: Senator

Liu to be recorded in the affirmative.

Senator Bailey to explain his --

Benjamin to explain his vote.

SENATOR BENJAMIN: I'll happily hear from Senator Bailey again if that was the desire of the president.

(Laughter.)

ACTING PRESIDENT MAYER: My apologies.

SENATOR BENJAMIN: No problem. No problem. Happy to get my chance to say a few words.

First, I want to say I actually spoke earlier with Gwen Carr, so when Diane was calling her, she probably was on the phone with me. So I apologize for that, Diane.

But I spoke to Gwen Carr because I wanted her to know, on this important day in the New York State Legislature, that she was finally getting a piece, a piece -- not what she deserves, but a piece of justice for Eric Garner.

This bill is proudly known as the Eric Garner Anti-Chokehold Bill. And she actually shared with me a few words that I want to share on her behalf. She is presently in

Houston for the funeral of George Floyd, who also was killed through application of pressure to his neck. And so she made the following comments.

She said: "I am very appreciative of the Eric Garner Anti-Chokehold Bill passing in the chamber today. It is a good start.

"However, I'm concerned about a police officer complaining that he feared for his life in order to use the chokehold. I would like for us to follow up on this with more stipulations on the use of the fear-for-your-life defense. A lot of cops see fear when they approach a black man, and I don't want that defense to be used so freely."

Those are the words of Gwen Carr.

Let me start by saying Senator Akshar made a comment that we cannot legislate our way out of systemic racism. I agree with him on that. We cannot legislate our way out of systemic racism. What we have to do are a few things -- make sure there's accountability across the board for everyone with discretionary power.

And what is clear is that we give our police officers enormous power. They have

the power to take life in order to protect the general public. This power cannot be taken lightly, because if systemic racism is embedded throughout our society, then it is without question also embedded within the police department. And it is hard to expect police to police themselves; that is why we have laws.

And so one of the things that this bill actually does is says the NYPD, for example -- that's the -- that's my local police department -- you've banned the chokehold. However, because it's not criminalized, there's some sense that discretion is possible, that people can use it for a range of reasons. Because while you've banned it, you know that you're not ever going to really get charged because, you know, the head of -- the police chief will never send you to the district attorney. There will be some sort of way in which it will get sort of swept under the rug somehow.

That is the sentiment of the general public. And when they see case after case where these things happen, most notably Eric Garner, it creates more tension. And so what we want to do

is make sure that there is accountability, that it's very clear, it's not confusing.

If you use the chokehold in a way that does not protect your life, right -- we have all the defenses satisfied -- you have committed a serious physical injury to someone or you've killed them, that is a Class C violent felony subject up to 15 years in jail, period. No ambiguity. No, well, let's see what various people have to say about it. It is in the law. That is what we're doing here today.

And I cannot be prouder of my colleagues for standing up and saying: Let's do this. This entire package of bills is all about police accountability. When we talk about other issues, we'll talk about other issues.

I'm glad that we talked about systemic racism, because that needs to be addressed in our housing policy, that needs to be addressed in our education policy, it needs to be addressed in our health policy, it needs to be addressed across the board. And I look forward to working with everyone in doing that.

Let's -- let's -- let's accept that systemic racism must be rooted out and we have

to, as a body, look at all the different places where systemic racism rears its ugly head and make the tough decisions to come out of our own skin and make the tough real decisions that makes New York State a place that we can all be proud of.

We don't want to have protests and looting and rioting in our cities across this country. But if we are not doing the right thing as legislators and leaders, then we're part of the blame. And so I'm glad that we here today are saying, You know what, we're going to do some things that make our society safer. And part of that is by giving the community hopefully just some more trust in the system that is set up to keep us safe.

And that's what this bill does, and I am honored to carry this bill. And I will continue to do everything I can to represent the district that I serve and the people that I serve. I'm a proud black man. I'm glad that my mom had the -- had the idea of having me. And I am so honored to serve in my skin. I know many of us are so happy to serve in our skin. And we should do that. We should all be proud of who we

are. Whatever race we are, we should be proud of it.

But we have to make sure that we are providing safety for everyone. And we unfortunately have not been providing safety for African-Americans in this country, period. And what this bill does, along with other bills that we're doing, thanks to Senator Jamaal Bailey -- what this bill does, it says you know what, we're going to try to move closer to a system where everyone feels safe in this country.

Thank you.

ACTING PRESIDENT MAYER: Senator Benjamin to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris, that completes the reading of the controversial calendar.

SENATOR GIANARIS: Is there any further business at the desk, Madam President?

ACTING PRESIDENT MAYER: There is no further business at the desk.

SENATOR GIANARIS: I move to

adjourn until tomorrow, June 9th, at 11:00 a.m.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until tomorrow at 11:00 a.m.

(Whereupon, at 5:53 p.m., the Senate adjourned.)