

TUESDAY, MARCH 6, 2018

12:14 P.M.

ACTING SPEAKER ZEBROWSKI: The House will come to order.

In the absence of clergy, as we pause for a moment of silence, let us keep in our thoughts the victims of the attack at the Marjorie Stoneman Douglas High School in Parkland, Florida, their families and those who responded to their physical and other injuries.

(Whereupon, a moment of silence was observed.)

Visitors are invited to join members in the Pledge of Allegiance.

(Whereupon, Acting Speaker Zebrowski led visitors and members in the Pledge of Allegiance.)

A quorum being present, the Clerk will read the Journal of Monday, March 5th.

Mr. Morelle.

MR. MORELLE: Mr. Speaker, I move to dispense with the further reading of the Journal of Monday, March 5th, and ask that the same stand approved.

ACTING SPEAKER ZEBROWSKI: Without objection, so ordered.

MR. MORELLE: Thank you, Mr. Speaker.

Colleagues, let me -- in just a moment, I'll give some schedule on what I expect will be a very busy day here. But before I do that, let me just note that on this day in 1964, Nation of Islam leader Elijah Muhammad announced that the new 22-year-old Heavyweight Boxing Champion of the World would no longer be known as Cassius Clay. Quote, "This Clay name has no meaning," he said. "Muhammad Ali is what I will give him." Ali would go on to become a decorated boxer, known often by his simple description, "The Greatest," and he would as well become a huge champion of civil rights across the world until his death in 2016.

And under the heading of "Did You Know," did you know that the creator of the Gibson Guitar Company was born in Chateaugay, New York, located in the 115th Assembly District? Its former mayor is now a colleague and represents the district, Mr. Jones. Orville Gibson, with no formal training, created an entirely new style of mandolin and guitar. Musicians soon demanded more than he was able to build on his own, thus giving rise to the Gibson Mandolin-Guitar Manufacturing Company. Gibson, which is

unfortunately now headquartered in Nashville, Tennessee, remains one of the most popular guitar brands in the world. And it started all in Chateaugay, New York.

So, with that as a historical backdrop - I'm not sure anybody will play music while I do this - nonetheless, we do have a busy day ahead of us, and I would ask for the members' cooperation. We have on our desks a main Calendar, and after any introductions and housekeeping, we will continue to work off that main Calendar with the newly-reported bills, and we'll begin that in just a few minutes with Calendar No. 700, which is located on page 119. We will also consent bills remaining on the main Calendar that have been on the calendar previous to this week, and we will begin with Calendar No. 198 on page 29. That's where you'll find those. In just a few minutes, I will be calling the Committee on Rules to meet off the floor, so members of that Committee should pay special attentions to announcements from the desk. That Committee will produce an A-Calendar, which we will take up today. In addition, we will take up Calendar Nos. 356 and 698 from the main Calendar as well.

For Majority members, you should note and be planning on the need for a Democratic conference at the conclusion of our Session work today. As always, I will consult with my friends and colleagues on the Minority side throughout the day to see if they have any conference needs throughout the day.

So, Mr. Speaker, with that as a backdrop on our day, if there are introductions, and I note that there are, or any

housekeeping, this would be the appropriate time to take them up.

ACTING SPEAKER ZEBROWSKI: Thank you, Mr. Morelle. There is.

Assemblymember Goodell, for your introduction.

MR. GOODELL: Thank you very much, Mr. Speaker, for allowing me to interrupt our proceedings. It is my great pleasure to introduce a number of constituents from my county, which is, as you know, the furthest from here and still being in the same state. We are lucky to have with us here, Dick Kimball, who is the head of the Chautauqua County Farm Bureau; Emily Reynolds, who is with Cornell Cooperative Extension and does a phenomenal job with our 4-H Program; we also have Justin Dye, who is a student at Cornell, whose family not only runs a dairy farm, but also produces that wondrous nectar from nature we call maple syrup; Hannah Merrill, who is another Cornell student, and has been very active for a long time; Chris Neckers; and Mike Jordan, all here highlighting the incredible importance of agriculture to our community. And certainly, it is one of the most important industries in my county.

So, if you would please extend the cordialities and privileges of the Legislature to this great group, I would certainly appreciate it.

ACTING SPEAKER ZEBROWSKI: Thank you, Mr. Goodell. Welcome to Albany. We appreciate you making the long drive from Mr. Goodell's district. We appreciate you visiting with us and talking with us about these important issues. And so, on behalf of

Mr. Goodell, the Speaker and all the members, we welcome these distinguished individuals to the Chamber. We extend the privileges of the floor. We hope you enjoy the proceedings, and thank you for joining us.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker, for allowing me to interrupt the proceedings to introduce a dear friend of mine, and someone who is well-known in the Rochester community. In the Chambers today is Erin Budd Barry, who's the Director of Strategic Community Initiatives at the Finger Lakes Performing Provider System. Ms. Budd Barry was the first staff member at that organization, which is working on a Delivery System Reform Incentive Program - also known as DSRIP - in our region. And she's a dear friend. She's in between meetings and I invited her to come over. She has not been to the Capitol and been in our Chambers before. I thought that she would enjoy the opportunity to see legislative deliberations. And I said she's not only a dear friend, but her family is as well. And I'm very excited to have them in the Chambers. If you'd please extend all the cordialities of the House to Ms. Barry Budd (sic).

ACTING SPEAKER ZEBROWSKI: Well, thank you very much for joining us and for being such a good friend of Mr. Morelle. We appreciate you coming to Albany and visiting and talking about these important issues. So, on behalf of Mr. Morelle, the Speaker and all the members, we welcome this distinguished guest to

the Chambers, we extend the privileges of the floor and hope you enjoy our proceedings. Thanks again for joining us.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I'd like to go to page 3 of the main Calendar and begin our work with resolutions, and I'd like to start with Assembly Resolution No. 875 by Ms. Lupardo.

ACTING SPEAKER ZEBROWSKI: The Clerk will read.

THE CLERK: Assembly Resolution No. 00875, Lupardo.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2018 as American Red Cross Month in the State of New York.

ACTING SPEAKER ZEBROWSKI: On the resolution, all those in favor signify by saying aye; opposed, no. The resolution is adopted.

THE CLERK: Assembly Resolution No. 00876, Murray.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2018 as Deep Vein Thrombosis Awareness Month in the State of New York.

ACTING SPEAKER ZEBROWSKI: On the resolution, all those in favor signify by saying aye; opposed, no. The

resolution is adopted.

THE CLERK: Assembly Resolution No. 00877,
Joyner.

Legislative Resolution memorializing Governor
Andrew M. Cuomo to proclaim March 2018 as Bleeding Disorders
Awareness Month in the State of New York.

ACTING SPEAKER ZEBROWSKI: On the
resolution, all those in favor signify by saying aye; opposed, no. The
resolution is adopted.

THE CLERK: Assembly Resolution No. 00878,
Magnarelli.

Legislative Resolution memorializing Governor
Andrew M. Cuomo to proclaim September 25-30, 2018 as Diaper
Need Awareness Week in the State of New York.

ACTING SPEAKER ZEBROWSKI: On the
resolution, all those in favor signify by saying aye; opposed, no. The
resolution is adopted.

(Pause)

MR. MORELLE: Mr. Speaker.

ACTING SPEAKER ZEBROWSKI: Mr. Morelle.

MR. MORELLE: Yes, thank you, sir. If we could go
to page 119 of the main Calendar, I'd like to begin consenting with
Calendar No. 700 by Ms. Titus.

ACTING SPEAKER ZEBROWSKI: The Clerk will
read.

THE CLERK: Assembly No. A08994, Calendar No. 700, Titus, Taylor. An act to amend to Public Housing Law, in relation to granting tenants with a physically-disabling condition that affects their mobility, a preference in occupying a vacant dwelling unit on a lower floor in the same or in a different project operated by the New York City Housing Authority, based on the tenant's choice

ACTING SPEAKER ZEBROWSKI: On a motion by Ms. Titus, the Senate bill is before the House. The Senate bill is advanced.

The bill is laid aside.

THE CLERK: Assembly No. A09028, Calendar No. 701, Dinowitz. An act to amend the General Obligations Law, in relation to settlements in tort actions; and to repeal Section 15-108 of such law relating to release or covenant not to sue.

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A09030, Calendar No. 702, Dinowitz, Weprin, Mosley. An act to amend the Civil Practice Law and Rules, in relation to enacting the "Patient Privacy Protection Act."

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A09585, Calendar No. 703, Hunter, DenDekker. An act to amend Chapter 266 of the Laws of 1981, amending the Civil Practice Law and Rules relating to time

limitations, in relation to extending time limitations for certain actions.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker.

Colleagues, this is our first vote of the afternoon, so I would like to ask people to cast their votes. And we'll round up enough folks to continue to move along here. So, first vote of the day.

ACTING SPEAKER AUBRY: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purposes of an introduction.

MR. GOODELL: Thank you very much, Mr. Speaker. On behalf of our colleagues, Assemblyman Mike Fitzpatrick and Assemblyman Andy Raia, it is my pleasure to welcome to the Chamber the Commack Public Schools. They're here with their jazz band and their vocal chorus, entertaining members of our Legislature and others while they're up here. They're accompanied by Steve Hartman, who is the President of the Board; Leslie Boritz, who's the Principal; and they have three instructors that came with them: Paul Infante, Stephanie (sic) Franzke and Frank Hanson.

If you would welcome these talented musicians and their advisors and the principal and, of course, the President of the Board, it would be greatly appreciated. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Fitzpatrick, Mr. Raia, the Speaker and all the members, we welcome you here to the New York State Assembly, we extend to you the privileges of the floor. We appreciate that you have come to provide us with culture and music today. And as someone who represents the Louis Armstrong Home, I'm always happy to have jazz players in the House. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A09745, Calendar No. 704, Paulin. An act to amend the Business Corporation Law, in relation to attendance of a meeting of shareholders by remote communication.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker. I would like to ask members of the Rules Committee to join the Speaker in the Speaker's Conference Room. Members of the Rules Committee in the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Rules Committee, Speaker's Conference Room.

Mr. Goodell, I believe for the purposes of an introduction.

MR. GOODELL: Thank you very much, Mr. Speaker. Thank you for allowing me to interrupt our proceedings. I'm very proud to introduce --

ACTING SPEAKER AUBRY: One minute, Mr. Goodell. We would appreciate if we could have some quiet.

Proceed, sir.

MR. GOODELL: I'm very proud to introduce four distinguished guests; one from my county, Betsy Wright, who heads up one of our top hospitals. And as you can appreciate, running a hospital in today's age is a very complex and challenging issue, and she does a phenomenal job. Also joining us -- and that's Betsy Wright. Also joining us is Liz Urbanski-Farrell, who is the Director of the Western New York Health Care Association. And we have David Godfrey and Lynn Johnson. David is - in addition to being very active with his local hospital - is a Niagara County legislator. And Lynne Johnson is very active, in addition to the Hospital Association, but also with the Orleans County Legislature.

So, on behalf of myself, Assemblyman Hawley, Assemblyman Morinello, and all of us, if you could extend our greetings, I would certainly appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of -- on behalf of Mr. Goodell, Mr. Hawley, Mr. Morinello, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor, and we certainly appreciate both the work that you do in health care, and as -- also as legislators. Tough jobs, no doubt. We know you're up to the task. We're always pleased to have you come and visit, and hope that you will come back soon. Thank you very much for being here.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. Ms. Solages and Ms. Hooper have some guests in the Chamber this afternoon. I wanted to take a moment to acknowledge and introduce them. They're with the Nurse Family Partnership, and we're delighted to have them. Joining us are Natalie LaMontagne, Kristin Silva, Dan Lowenstein, Snober Lakhani, and a beautiful little child back there, Lalayna Melette. And if you would please welcome them to the Chambers. We are delighted to have them. I know Ms. Solages and Ms. Hooper are anxious to have you introduce them and to give them all the cordialities -- extend all the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Solages, Ms. Hooper, the Speaker and all the members, we

welcome you here to the New York State Assembly. We extend to you to you the privileges of the floor. We hope that your trip will be beneficial. We salute you as -- as health professionals, nurses. Our stays in hospitals would be mighty poor if we didn't have the great nursing care that we do in this State. And to the littlest of one, oh my goodness. That -- always a pleasure to have children visit us, and we see those special beings that are part of our lives. Thank you so very much. Welcome.

(Applause)

The Clerk will read.

THE CLERK: Assembly Bill No. A09758-A, Calendar No. 705, Simon, Buchwald, M.G. Miller, Thiele, Ortiz, Niou, Fahy, Dinowitz, Gottfried, Mayer, Santabarbara, Glick, Sepulveda, Seawright, Magnarelli, D'Urso, Montesano, Arroyo, Mosley, Cahill, Zebrowski, Abinanti, Barnwell. An act to amend the Election Law, in relation to political contributions.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly Bill No. A09815, Calendar No. 706, Pichardo, Cymbrowitz, L. Rosenthal, Carroll, Sepulveda, De La Rosa, Dinowitz, Bichotte, Taylor, Barnwell. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of 1974, the Emergency Housing Rent Control Law and the Local Emergency Rent Control Act, in relation to rent increases after vacancy of a housing accommodation; and to repeal certain provisions of the Administrative Code of the City of New York

and the Emergency Tenant Protection Act of 1974 relating thereto.

Ms. Pichardo (sic), sorry.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly Bill No. A09873, Calendar No. 707, Cusick. An act to amend Chapter 306 of the Laws of 2011, authorizing owners of residential real property in high-risk brush fire areas in the Borough of Staten Island to cut and remove reeds from their property, in relation to extending the expiration and repeal date thereof for an additional year.

ACTING SPEAKER PICHARDO: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER PICHARDO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A09919, Calendar No. 708, Joyner, Dinowitz. An act to amend the Family Court Act and the Domestic Relations Law, in relation to the date of adjustment of the spousal maintenance cap.

ACTING SPEAKER PICHARDO: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER PICHARDO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker, for allowing a brief interruption of -- of our activities so I might make, on behalf of Mr. Titone, Mr. Cusick, Ms. Malliotakis and Mr. Castorina, a -- an introduction of some distinguished guests who have joined us. This group is a group of consumers from the Camelot Counseling Services on Staten Island, but they serve the entire City of New York and we have a number of consumers who are with us. Let me introduce Rantz Dugue, David Johnson, Leighton Foy, Matthew Smolon, and Jeton Rexha, who are consumers of Camelot Counseling. They are accompanied by Susan Bernstein, who is the Program Director. This is an amazing organization that saves lives and helps people deal with addictions. And I also want to note that Mr. Titone's dog, Bari, is a therapy dog and spends time at Camelot Counseling, providing services to their consumers. So, there's a tie here that is, indeed, very strong.

So if you would please thank them for joining us and observing our proceedings and extend all of the privileges of the floor to this fine group.

ACTING SPEAKER PICHARDO: Certainly. On behalf of Mr. Titone, Mr. Cusick, Mr. Castorina, Ms. Malliotakis and Bari Titone, we welcome this distinguished group of individuals from Staten Island here to the State Assembly. We hope that you enjoy the -- the proceedings this afternoon. We extend to you the privileges of the floor. And again, we hope that you enjoy the proceedings this afternoon. Thank you so very much for joining us.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you. I'm also delighted to make another introduction. As I often say, Mr. Speaker, we're so excited when members of our extended family join us, and we're delighted to have Ms. Jean-Pierre's brother, Patrick, in the Chamber with us today. Patrick is the Deputy Assistant Director of Office of Diversity and Inclusion at the University of Albany, the State University of New York.

And Doctor, we're always delighted to have family members here and distinguished guests, and we want to thank you for joining us. And thank you for checking in on your sister, who's doing a great job.

We're very excited to have him in the Chamber. If you'd please extend all the cordialities of the House to Dr. Jean-Pierre.

ACTING SPEAKER PICHARDO: Certainly. On behalf of the Speaker, your sister and all the members, we extend to you the -- the privileges of the floor. We welcome you here to the

State Assembly, and I -- we hope that you enjoy the proceedings. And again, thank you so much for supporting your sister and the important work that she needs to do on behalf of her constituents and here in the State of New York. Thank you so very much, Doctor.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I would like to now move to debate. Before I do that, members have on their desks an A-Calendar. I now move to advance the A-Calendar.

ACTING SPEAKER PICHARDO: The A-Calendar is advanced.

MR. MORELLE: Thank you, sir. Let me give some direction on the next two bills I would like to take up, in this order, if I might, Mr. Speaker. First, off the A-Calendar on page 3, Rules Report No. 10 by Ms. Paulin. And then we will move back to the main Calendar. On page 58 of that main Calendar, you'll find Calendar No. 356 by Mr. O'Donnell.

ACTING SPEAKER PICHARDO: The Clerk will read.

THE CLERK: Assembly No. A02406, Rules Report No. 10, Paulin, Dinowitz, Galef, Gottfried, Mosley, Simon, Jaffee, Blake, Hooper, Buchwald, Abinanti, Otis, Steck, Fahy, Taylor. An act to amend the Penal Law and the General Business Law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person.

ACTING SPEAKER PICHARDO: An explanation has been requested, Ms. Paulin

MS. PAULIN: Absolutely. What this bill would do would to extend the waiting period before a licensed gun dealer may deliver a firearm, shotgun or rifle to a purchaser from the three required business days at the Federal level to ten business days.

ACTING SPEAKER PICHARDO: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will the sponsor yield for a few questions?

ACTING SPEAKER PICHARDO: Will you yield, Ms. --

MS. PAULIN: Yes.

ACTING SPEAKER PICHARDO: The sponsor yields.

MR. RA: Thank you. So, as you mentioned, the -- the change in this bill extends that period from three days to -- from three business to ten business days. Currently in the law, what is the, you know, mechanism -- suppose a -- a dealer were to issue the firearm, and then it turns out that something comes back that was negative. Is there any recourse for the -- for the seller?

MS. PAULIN: Well, usually negatives happen immediately. It's delays. So we're talking about 9 to 11 percent that are in that delay. So what would happen is, a dealer would, you know, look -- would go to NICS and say, you know, *Is this background check clean*, or what have you. And it comes back in a -- a delay. So,

after three business days, that dealer -- or on the fourth business day, that person could get the gun vis-a-vis Federal law, even though the delay may not be lifted.

MR. RA: Okay. And so, you mentioned this smaller number of transactions, that it takes longer than three days. Is my understanding correct that -- that one of the things this would be meant to address -- is the Terror Watch List and -- and finding out that type of information?

MS. PAULIN: So, what happens is, the FBI has access to the -- you know, to the Terror Watch List. And the -- you know, they look and they see if someone's on there. Now, the Federal law prohibits that list from being available, but they have it. So they look and they see that, and then -- you know, because we spoke to -- I personally spoke to the FBI agents that do the work, the lead person of that -- of that arm of the FBI, and what they said is then they look for a prohibitor. You know, there are nine prohibitors that would prevent someone from getting a gun. They don't want that person to get a gun. So they sometimes need time to do appropriate research to protect us from that terrorist from getting a gun. From two -- you know, the data that we have from 2004 to, I think it was 2010, 2,000 people on that list were, you know, were given guns. And that was somewhat because the FBI didn't have enough time to do that appropriate research.

MR. RA: Okay. So they -- they'd be looking for -- because that -- that list is not currently one of the things that is

checked, they'd be looking for one of these other prohibitors --

MS. PAULIN: Yes.

MR. RA: -- and this would allow them additional time.

MS. PAULIN: And they said, most often, if given enough -- enough time, they could find something on that list that would prevent that purchaser from getting the gun.

MR. RA: Okay. So -- so, to that end, you know, you mentioned it was 9 to 11 percent of these transactions. The ten days as opposed to the three days, do you know, is there any data or statistics that show that that is the appropriate amount of time that would allow them to check for these other prohibitors?

MS. PAULIN: Well, when we spoke the FBI, you know, New York has a very good -- because, you know, just to go back, I mean, sometimes we -- we immediately put arraignments, you know, in the NICS database. But, it's only upon a conviction that they -- you know, either a misdemeanor or a domestic violence conviction or a felony conviction, that you can prevent - according to those prohibitors from - that purchaser from getting the gun. So, sometimes there's a lag. And because New York has a pretty good -- is pretty good about putting the data in within a certain period of time, when we asked specifically that question to the FBI, they said, you know, Ten days is certainly a lot better than three. *You know, we think that we'd get most people, but, you know, could there -- you know, if we made it 25, it would probably be better, but ten certainly is very, very*

good in terms of moving the needle forward.

MR. RA: Okay. Thank you very much.

ACTING SPEAKER PICHARDO: Read the last section.

THE CLERK: This act shall take effect on the 60th day.

ACTING SPEAKER PICHARDO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Ryan to explain his vote.

MR. RYAN: Thank you, Mr. Speaker. Thank you for giving me the opportunity to -- to explain my vote. My compliments to the bill sponsor. This is a very important piece of legislation. You know, and it's not theoretical. You know, here -- it's an instant background check and it works super fast. Most people getting the background check don't even know it's occurring. It's all wired up to the computer, it's fast. But there's a certain portion of the population that -- that it doesn't catch. And what comes back on the background check is either a *proceed* or a *deny* or a *no*, and -- sorry, or a *delay*. And under the *delay*, if three days expired and they're still looking for information, the sale is allowed to proceed. And it's led in this country to tragic results. You know, once again, it's -- it's not theoretical. So, after the three days has gone on, if the FBI's examiners haven't come to a conclusion, the sale proceeds. You know, we're all familiar with -- with Dylann Roof. He bought a gun

under this exact same scenario. He had been convicted of crimes and arrested in different counties. It all didn't come into the database on time, so at the expiration of that three-day period, he went back to the gun shop and picked up his gun. Somebody who never should have been allowed to own a gun under current laws. And that gun was used to tragic circumstances. He used that gun to murder nine people at a bible study group. Could have been prevented if, in fact, a rational system of background checks was in place. The FBI has asked continuously for the Federal government to extend this period. The Federal government, as it has been their habit in the last two decades, has -- has not responded and it has fallen on deaf ears. So, it's up to the states to come up with laws that protect their citizens. So, right now, 3,000 people a year go through this system where they're allowed to buy a weapon, even though the background check isn't complete.

So, for that reason, I vote in the affirmative on this legislation and I encourage my colleagues to do the same.

ACTING SPEAKER PICHARDO: Mr. Ryan in the affirmative.

Mr. (Sic) Paulin to explain her vote.

MS. PAULIN: Thank you, Mr. Speaker. You know, we know that background checks reduce gun violence by preventing guns from falling into the wrong hands. Most background checks, as has been stated, come back quickly and cleanly from NICS. They don't delay a law-abiding citizen from the purchase of a gun. And rejections, you know, also come back quickly. But that third category,

the *delay* category, is about nine to eleven percent, as I said earlier. And I think it's important to understand, you know, who this group of delays could be. You know, aside from the FBI's Terror Watch List. It's also domestic violence misdemeanors. And, you know, we know what that could lead to if -- if they're escalated. So, domestic violence misdemeanors go in at the arraignment, and although we have a law in place that would allow us to put those domestic violence misdemeanors in, it requires a finding. I know; I wrote that law. You know, it requires a finding of who -- of the relationship. And not every court is doing that in New York State. So, but the FBI still goes aggressively to look for the relationship and the crime, and we prevent a lot of domestic violence incidents from escalating by allowing -- by allowing that extra time to take place. And, you know, as my colleague mentioned, nine -- this is a real situation -- nine people were shot and killed in Charleston, South Carolina, Dylann Roof, because of the need for additional time. So, this Charleston loophole has been implemented in about eight states, and New York would be the ninth. And I think we should be giving law enforcement the tools they need to prevent the violence that we've seen, and more recently has been escalating.

So, with that, I withdraw my request and I vote in the affirmative.

ACTING SPEAKER PICHARDO: Ms. Paulin in the affirmative.

ACTING SPEAKER AUBRY: Are there any other

votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purposes of an introduction.

MR. GOODELL: Thank you very much, Mr.

Speaker, for allowing me to interrupt our proceedings. On behalf of Assemblyman Steve Hawley, we are very fortunate to have with us members of the Orleans County Farm Bureau and the Orleans Future Farmers of America. And for those of you who aren't on top of that organization, this is the oldest chapter of the Future Farmers in America in New York State. So, joining us on the floor today are Adam Krenning, Jen Blanchard, Bailey Nesbitt, Haley Black, Alex Rustay, Karli Hennen and Justin Robinson.

If you'd please extend the cordialities to this fine group of young men and women, I would certainly appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of Assemblymember Hawley, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We're always so pleased to have you join us. And we know very well this organization that you represent. We are visited by members almost every year that we're here. Thank you. Continue your work, and we look forward to your contributions to this State. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A05025, Calendar No. 356, O'Donnell, Weprin, Aubry, Otis, Walker, Skoufis, Bronson, Jaffee, Harris, Bichotte, Taylor. An act to amend the Penal Law, in relation to enacting the "Domestic Violence Escalation Prevention Act."

ACTING SPEAKER AUBRY: An explanation is requested, please.

MR. O'DONNELL: Thank you. This is the Domestic Violence Escalation Prevention Act. What this bill would do, it would codify domestic violence as a serious offense under the Penal Law. And in so doing, it would prohibit domestic abusers from obtaining a license to carry, possess, repair or dispose of a firearm. It would also order the immediate surrender of any firearms if that person was in possession of them.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Mr. O'Donnell?

MR. O'DONNELL: With pleasure, Mr. Goodell.

ACTING SPEAKER AUBRY: Mr. O'Donnell yields.

MR. GOODELL: Thank you, Mr. O'Donnell. I appreciate the objective of this bill, which is certainly designed to reduce incidents of domestic -- people with domestic violence being

involved in subsequent crimes involving a firearm. I had a question, however. This bill references individuals who are, as it says, *situated to the victim of the crime in a manner specified by 18 U.S.C. 921, (a)(33)(A)(ii)*, which I believe is a Federal statutory reference.

MR. O'DONNELL: Yes, it is.

MR. GOODELL: What does that statute say?

MR. O'DONNELL: I believe it defines what "relationships" are that would allow them to be viewed as domestic situations.

MR. GOODELL: As you can appreciate, we now have on our desks a tablet where we can do research, and we can look up all the State laws, the State Constitution. I am not able, on our tablets, certainly, to look up Federal law. Do you have the actual language of that section of the Federal law?

MR. O'DONNELL: Not in my file. No, I do not.

MR. GOODELL: Is there a concern that if we base our State law on this Federal law that the Federal government, the Congress, might at some point change this definition and change this law?

MR. O'DONNELL: I have very little concern that Congress will do anything, sir.

(Laughter)

MR. GOODELL: As much of a concern it is that they do anything, the even greater concern is they do something.

MR. O'DONNELL: With the current Congress, yes,

that frightens me.

MR. GOODELL: And so are you frightened that the current Congress might change this section of the law and thereby change the impact of this State law?

MR. O'DONNELL: Were they do that, I can assure you, I would very quickly change this law.

MR. GOODELL: As you know, our -- our New York State Constitution in Article III, Section 16 states that, *No act shall be passed which shall provide that any existing law or any part thereof shall be made or deemed a part of such act, or which shall enact that any existing law or part thereof shall be applicable, except by inserting it in the act.* And our good friend, Mr. McKevitt, kindly left me this book on the New York State Constitution because he thought I needed it.

(Laughter)

MR. O'DONNELL: I'm -- I'm surprised you didn't write that book, Mr. Goodell. But, if you're going to tell me that you're going to read from it, that'll be fine.

(Laughter)

MR. GOODELL: Well, this author actually knows much more than I do, I think. Peter Galey said that the purpose of that constitutional provision is to prevent legislation by reference to make sure that the legislators who are voting on the legislation actually know what the actual language is. And so my concern is, if none of us in this Chamber have that Federal language, how can we, consistent

with the State Constitution, pass a State law that's based on that undisclosed Federal language?

MR. O'DONNELL: Well, I have the language in front of me, if you'd like me to read it so you'd know what it says. And believe me, it has as an element *the use or attempted use of physical force or the threatened use of a deadly weapon committed by a current or former spouse, parent or guardian of the victim by a person with whom the victim shares a child in common, by a person who is cohabiting or has cohabited with the victim as a spouse, parent, guardian or by a person similarly situated to a spouse, parent or guardian of the victim.* That's what it says.

MR. GOODELL: Thank you very much for reading that for us. Is there any reason why that language is not included specifically in this bill so that our legislation cannot be changed by people who are never elected to represent them in the State of New York, namely, the Congress?

MR. O'DONNELL: Because then you wouldn't get to call it unconstitutional on the floor of the Assembly, Mr. Goodell. So, that's the only reason why it's done.

MR. GOODELL: And -- and I appreciate that -- that consideration. Thank you, Mr. O'Donnell.

MR. O'DONNELL: You are very welcome, Mr. Goodell.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Ortiz to explain his vote.

MR. ORTIZ: Thank you. Thank you, Mr. Speaker. I would like to thank the Speaker and also the sponsor of this particular piece of legislation. Just for the record, Mr. Speaker, 54 percent of female homicides are committed with a firearm, and two-thirds of all women killed with firearms are killed by their male partners. So this particular legislation -- this particular legislation really address an epidemic that is happening around the State. Domestic violence is an issue that needs to be addressed constantly. Domestic violence has no rule -- no say in any household in any place in the State of New York. And I hope that not only this bill will pass here today, but that the Senate will take a serious look about how domestic -- domestic violence really is impacting the households and our children.

So, I hope that the Senate would take on this, and I will be voting on the affirmative, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Ortiz in the affirmative.

Mr. O'Donnell to explain his vote.

MR. O'DONNELL: Thank you very much. I'd like to thank the Speaker and Mr. Lentol for all their assistance in getting this forward. You know, we have many fights in this Body and in this State about what the Second Amendment does and does not mean.

But there's never really been anyone who can articulate that the Second Amendment means that people who've been convicted of crimes should have access to guns. And this is a very clear step in the right direction. The factoids are very, very dangerous and very, very frightening. If there is a weapon in the home, a victim of domestic violence is six times more likely to die be -- at the hands of the person that she was victimized by.

So, this is a very commonsense step. I appreciate the debate, and I look forward to a lot of green lights. Thank you very much.

ACTING SPEAKER AUBRY: Mr. O'Donnell in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker, for allowing an interruption in order to introduce a very, very distinguished guest to the House today. On behalf of Mr. Zebrowski and Mr. Walter and Mr. Ryan, Ms. Wallace and Mr. Lentol, we are delighted to have the Polish Consul General, Maciej Golubiewski, who has joined us in the Chambers this afternoon. The Consul General is from Lodz, Poland, and represents Poland in the Northeast - New York State, New Jersey, Massachusetts, Ohio, Pennsylvania, Connecticut, Delaware, Rhode Island, New Hampshire, Vermont and

Maryland -- or in Maine, rather. He was appointed the Consul General of the Republic of Poland in New York in January of 2017. And the Consul General and I had a chance to chat. He reminds me that 1.1 million New Yorkers trace their ancestry to -- to Poland. And we're delighted for all the many, many contributions of the Polish-American community here in New York, and we're just delighted that the Consul General took time out of what sounds like a whirlwind tour for him throughout the Northeast, and are very, very excited that he took some time to spend part of his afternoon with us.

If you'd please, on behalf of all those members, the Speaker and the entire Body, please extend all the cordialities of the House to this distinguished guest.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Zebrowski, Mr. Walter, Mr. Wallace -- Ms. Wallace, Mr. Lentol, Mr. Morelle, the Speaker and all the members, we welcome you, Consul General, here to the New York State Assembly, to the People's House. We extend to you the courtesies of the floor. We also know that you have a -- a rather august-looking Body with you, the delegation that presides with you. We're pleased to accept and welcome them here to the House. You are always welcome here, and we hope the relationships between our countries will remain strong and positive. Thank you so very much.

(Applause)

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker. I

now would like to take up the next two bills in this order: First of all, on page 119 of the main Calendar, I'd like to take up Calendar No. 698 by Ms. Simon. And follow that with Rules Report No. 12, which can be found on page 3 of the A-Calendar. That is by Ms. Fahy.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A08976-B, Calendar No. 698, Simon, Mayer, Ortiz, Dickens, Pichardo, Gottfried, Mosley, Galef, Glick, Joyner, L. Rosenthal, O'Donnell, Sepulveda, Fahy, Seawright, D'Urso, Englebright, Quart, Carroll, Paulin, Titone, Magnarelli, Hunter, De La Rosa, Taylor, Montesano, Abinanti, Lavine, Rivera, Barron, Vanel, Zebrowski, Niou. An act to amend the Civil Practice Law and Rules, the Criminal Procedure Law and the Penal Law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Simon.

MS. SIMON: Thank you. Family and household members are very often the first to know when someone's experiencing a crisis or exhibiting dangerous behavior. Many even report their fears to law enforcement. In New York, as in many states, law enforcement officers may not have the authority to intervene based on the evidence they're provided with. Interventions that could help tragedies from occurring, including interpersonal gun violence or

gun suicides. In 2014, California became the first state in the nation to enact a law empowering family members and law enforcement to petition a court to have individuals' access to guns temporarily suspended when they are at a risk of harming themselves or others. In 2016, Washington state enacted similar measures through a ballot initiative. Laws providing a procedure for the removal of firearms from at-risk individuals have existed for years in Indiana. And studies have shown that similar provision in Connecticut has resulted in a measurable reduction of suicide rates.

Last Session, this Body took a very important step protecting New Yorkers when it passed a similar measure by our former colleague, Senator Kavanagh. Since that passage, the nation has suffered from several mass shootings, which have shocked our conscience, most recently in Parkland, Florida, when the extreme risk protection order could have prevented a mass murder. We grieve for those who have suffered, and I will not speculate about those tragedies. I am, however, certain that this legislative Body, by passing this commonsense bill, will advance towards its eventual enactment, and thus prevent needless gun tragedies here in New York.

Thank you.

ACTING SPEAKER AUBRY: Thank you, Ms. Simon.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Ms. Simon?

MS. SIMON: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you very much, Ms. Simon. I was hoping you could help me understand a little bit better the process and the standards that would be used for one of these extreme risk protection orders. Other than in the name of the order, which refers to extreme risk, is the phrase "extreme risk" used anywhere else in the bill?

MS. SIMON: I believe it is. But, actually, the terminology is not the critical thing. What is critical is that it is done on probable cause that there -- the -- there is reason to believe that the person is, in fact, and has demonstrated that they are engaging in activities and behaviors that are -- make clear that they are a threat of risk -- of risk to themselves or others. And that once that is demonstrated, that -- that -- that probable cause needs to be shown at -- at a level of clear and convincing evidence, which, as you know as an attorney, is a very significant burden of proof on the petitioner.

MR. GOODELL: Looking at page 2, starting on line 26, I believe the language says that there has be probable cause to believe that the respondent is likely --

MS. SIMON: Yes.

MR. GOODELL: -- to engage in conduct that's described in the Mental Health Law, right?

MS. SIMON: Yes, that the --

MR. GOODELL: So that's the standard, *likely to engage in conduct that may be harmful -- may result in serious harm to himself or others*, correct?

MS. SIMON: Correct.

MR. GOODELL: And it doesn't say a "severe risk" that they might engage in that conduct, the operative term is "likely."

MS. SIMON: Well, "likely" is the -- the wording that is used in the Mental Health Law, and -- but, however, it is -- you don't get a finding of likelihood that someone will engage in dangerous behavior unless, in fact, it -- it poses an extreme risk.

MR. GOODELL: And so --

MS. SIMON: Remember, this is about protecting --

MR. GOODELL: Right.

MS. SIMON: -- people in their environment, but around protecting not just the individual who may himself -- do himself harm, but also protecting others.

MR. GOODELL: And so I'm -- of course the problem that we wrestle with from a constitutional perspective and a drafting perspective, is this bill provides for the government to -- to grab somebody's personal property, confiscate personal property, even though, in theory, they have not committed any crime at all. Correct?

MS. SIMON: This is not a criminal procedure. And, in fact, that -- that is the case, although I would not use the terminology "grab." This is, in fact, a court procedure brought before

the Supreme Court based on evidence, significant evidence that someone has, in fact, demonstrated that they are a danger of a -- or a threat to risk to themselves or others. So, it is a very normal procedure. It is a -- the kind of thing that is done in civil court, and it's to a very high standard as in terms of burden of proof, which is clear and convincing evidence.

MR. GOODELL: Well, keep in mind, we have two aspects of it. You can have the burden of proof - that defines how much information - but you also have to have the standard that has to be met. And so you can have a very high stan -- burden of proof and a very low standard that meets, and you have -- end up with a very low standard that can be easily met by *clear and convincing*. That, by the way, is in contrast to a high standard that has to be meet (sic), and in this case, the -- it's clear that you don't have to show a severe risk. All you have to show that -- is that it's "likely," correct?

MS. SIMON: That's --

MR. GOODELL: That's the operative term, "likely", not "severe risk"?

MS. SIMON: You need to show that it is likely that the person will, in fact, do harm. So this -- that is, in fact, a very significant risk.

MR. GOODELL: You may recall a few years ago we pay -- passed the SAFE Act.

MS. SIMON: Yes.

MR. GOODELL: And the SAFE Act had a number

of provisions relating specifically to mental health concerns, right?

MS. SIMON: Mental health professionals, I believe, yes.

MR. GOODELL: And in that SAFE Act, we stated that if a mental health professional, which was broadly defined, had concerns over a person's mental capacity or state as it might relate to a weapon, they were mandatory reporters, correct?

MS. SIMON: Yes.

MR. GOODELL: And they then report it to the County Director of Community Service, and if the County Director of Community Services agreed, it was then reported to the Division of Criminal Justice Services, which would result in a revocation of their right to have a firearm, correct?

MS. SIMON: Yes, I believe.

MR. GOODELL: And so under current law, we already have a process which involves a mental health professional making an evaluation that a person might be dangerous, and we have a process in place where that person can lose their license to have a firearm, correct?

MS. SIMON: Well, there are a couple of things that you've just stated that are accurate, but not relevant to this bill.

MR. GOODELL: Well, am I correct that just in the last year-and-a half, since October 2016, there have been 83,500 reports under the SAFE Act dealing with mental health issues?

MS. SIMON: That may be.

MR. GOODELL: And under this bill, there's no requirement, is there, that anyone who is a mental health expert testify in favor of the removal of the weapons. Is that correct? There's no requirement in this bill that there be any mental health expert?

MS. SIMON: This is -- does not require a mental health expert's opinion, it requires hard, objective evidence by people who, in fact, have observed these activ -- these behaviors by the individual that poses such an -- such an extreme risk.

MR. GOODELL: So, just so we're --

MS. SIMON: And that is, in fact, much quicker. One of the dangers in the process in the SAFE Act is that it will take a long time. This is designed to get somebody in there right away, and with appeal rights. And they have to have a hearing within three to six days to determine whether or not that temporary protective order would be a final protective order. Now, of course, that doesn't mean permanent --

MR. GOODELL: Right.

MS. SIMON: -- because I know it's only a short period of time as it is.

MR. GOODELL: But just to be clear, the difference between this provision and the SAFE Act is the SAFE Act provisions required a mental health expert to be involved in the process, and this provision does not.

MS. SIMON: And this provision protects people from people who are not in the --

MR. GOODELL: No, I understand. But my question is --

MS. SIMON: I -- I --

MR. GOODELL: -- am I correct that there's no mental health expert that needs to be testifying at all?

MS. SIMON: That is correct.

MR. GOODELL: Okay.

MS. SIMON: That is correct.

MR. GOODELL: And instead, it's --

MS. SIMON: In fact, we're doing it one better.

MR. GOODELL: Well, you said it requires hard evidence. But am I correct that the complaint can be filed by a district attorney or a police officer?

MS. SIMON: It could be filed by an individual, it could be filed by a family member, a household member, or law enforcement.

MR. GOODELL: And if it -- so, if it's filed by a police officer, as an example, unless the police officer has direct knowledge, then that application would be based on hearsay?

MS. SIMON: That is for the court to determine whether that is, in fact, sufficient evidence.

MR. GOODELL: Right. And then let's --

MS. SIMON: That is an objection that the other side could raise. But here is the thing, when law enforcement gets a report, and they investigate that report, you may have a family member who is

very fearful and has observed firsthand, but doesn't want to be the applicant themselves, the petitioner. But, in fact, that person may be called to testify at a hearing, because there will be a hearing. Because in our bill, due process is protected from the very beginning on through the end of the -- the -- the process.

MR. GOODELL: Okay. So, in addition to a -- a police officer or a district attorney, who most likely, unless it's a direct family member of theirs, would be acting on hearsay. This also allows the complaint to be filed by a former roommate? Or a former boyfriend or girlfriend --

MS. SIMON: Someone who meets the --

MR. GOODELL: -- or an ex-spouse? Am I correct?

MS. SIMON: No, actually, it's family members or members of the household. It doesn't specify ex members of the household, and it conforms to the standard in the Social Services Law. So what I would say is, that someone might have that knowledge. That person is free to go to law enforcement. Just as a neighbor might have knowledge and may have observed dangerousness and act -- you know, activities on behalf of -- of -- or activity -- behaviors demonstrated by the individual in question. Maybe showing them their arsenal. Maybe posting on Facebook. There are lots of ways that people can demonstrate that they are a danger to themselves or others.

MR. GOODELL: Of course the standard that you reference, which is *likely to be a serious risk of injury to himself or others*, that standard cross-references, if I'm not correct, the Mental

Hygiene Law?

MS. SIMON: Yes, it does.

MR. GOODELL: And the section that's cross-referenced in the Mental Hygiene Law is Section 9.39?

MS. SIMON: Yes.

MR. GOODELL: And that's the section that allows for emergency admissions or involuntary commitment, correct?

MS. SIMON: Yes, that's right. Clear and convincing evidence is needed.

MR. GOODELL: And so, under existing law -- under existing law, if a person had a likelihood of -- of serious injury to themselves or others, we already have a procedure in place, don't we, for emergency treatment and emergency involuntary commitment, if necessary?

MS. SIMON: We have some procedures in place if that person is, in fact -- needs involuntary commitment. This procedure would not require that. It would allow someone to remain at home, remain with their family, but may allow them to do so in a way that is safe for themselves and others.

MR. GOODELL: Am I correct, though, that if you did not meet the mental health standards for an involuntary commitment or emergency treatment, you would likewise then not meet the standards of this bill, correct?

MS. SIMON: That is not my understanding.

MR. GOODELL: Well, doesn't this --

MS. SIMON: What --

MR. GOODELL: -- bill specifically say *likelihood of injury of death* --

MS. SIMON: It does.

MR. GOODELL: -- *as defined by the mental health bill?*

MS. SIMON: Yes.

MR. GOODELL: And so, the definition is exactly the same on both, correct?

MS. SIMON: It's the same standard. It's only the same standard. It doesn't mean that the behavior --

MR. GOODELL: So, it's the exact same standard, so --

MS. SIMON: It doesn't mean --

MR. GOODELL: -- unless you meet the standard under mental health bill, you don't meet this standard, because they're one in the same standard, Correct?

MS. SIMON: So, it's just the same standard, it's not the same types of behaviors. It wouldn't necessarily, in fact, warrant a commitment, which is very extreme, and as you know, not particularly helpful to -- to many people, and certainly is not focused on removing firearms from the environment. Because once that person is -- would be released, they would be coming back to that same environment. This alters the environment so they don't have access to a weapon that they can use to harm themselves or others.

MR. GOODELL: Under this bill, if -- if there's an application, and the application is reviewed by the Supreme Court on an *ex parte* basis, meaning it's just one-sided, I mean, there's no defense, it's *ex parte* --

MS. SIMON: How do you know?

MR. GOODELL: Because your bill says it's *ex parte*

--

MS. SIMON: You can do it, the first one, *ex parte*, yes, you can. It doesn't have to be, but can be.

MR. GOODELL: *Ex parte* means --

MS. SIMON: I understand.

MR. GOODELL: -- excluding the other party --

ACTING SPEAKER AUBRY: Can we --

MR. GOODELL: -- correct?

ACTING SPEAKER AUBRY: Can we just pause between question and answers? I know you -- you're engaged, and it's a serious conversation, but --

MR. GOODELL: I think that --

ACTING SPEAKER AUBRY: -- cross talking over each other doesn't help us. Please.

MR. GOODELL: So, I'm correct, though, that the initial application can be submitted *ex parte* without the defendant there?

MS. SIMON: It can be, yes.

MR. GOODELL: Or the respondent there?

MS. SIMON: Mm hmm.

MR. GOODELL: And if, based on the one-sided presentation by the complainant, the court finds there's not even probable cause to believe that there's a danger, the court, nevertheless, is obligated to schedule a full hearing on this matter in very short order, correct?

MS. SIMON: That's correct.

MR. GOODELL: Are you aware of any other situation in a civil or a criminal law where a respondent or a defendant is obligated, at their expense, to take time off from work and participate in a full hearing after the court has already determined that there's absolutely no probable cause?

MS. SIMON: Well, as you suggest, in an *ex parte* matter, they not have sufficient evidence, and the court would then rule. But, in fact, there may be additional evidence that would be brought forth in full hearing. And this is because we care so much about due process. We want to make sure that people have their rights protected, and the individual -- the respondent is free to be there in the courtroom and to defend themselves if they -- if they wish to do so.

MR. GOODELL: Now, in the background here, of course there's a great deal of commotion and shouting. I'm not sure if they're in favor of my position or in favor of your position --

MS. SIMON: I believe they're in favor of mine.

MR. GOODELL: -- or just angry at something else.

(Laughter)

MS. SIMON: I think it's mine they're in favor of.

MR. GOODELL: They sound very angry.

(Laughter)

MS. SIMON: With you.

(Laughter)

MR. GOODELL: I'm not clear on that. But thank you very much.

On the bill.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: I think it's very important to recognize that when New York State enacted the SAFE Act, we included substantial provisions dealing with mental health issues. And we have a well-defined procedure where any mental health professional comes to the conclusion that an individual might be in danger to himself or others, they're obligated to report it. And that system is working very well. We've had over 83,500 reports. And based on those reports, if it's founded, the weapons are taken away. That system is based on having a mental health professional do the evaluation. This replaces a professional mental health evaluation with a complaint that can come from an ex-spouse or an ex-roommate or an ex-boyfriend or girlfriend, with absolutely no requirement for a mental health evaluation, where the Supreme Court, if they rule there's no probable cause at all, still requires the defendant to show up and defend himself, or risk losing his personal property. You know, I just

want to mention, you know, one of my favorite quotes about liberty. It said, "Liberty is rarely lost through revolution, the sudden and violent upheaval of arms. Liberty is almost always lost through evolution. The slow, imperceptual (sic) erosion of our rights." So here we're authorizing, under this bill, the right of government to take away your private property without compensation -- we don't need to worry about the Fourth Amendment or the Fifth Amendment on the compensation side -- without establishing any mental health evaluation --

ACTING SPEAKER AUBRY: Mr. Goodell, you've -- your time has expired. You certainly can come back on a second.

MR. GOODELL: That is so unfortunate, because I was just about to go through the whole list of amendments to the U.S. Constitution that I'm concerned with.

ACTING SPEAKER AUBRY: So I feared.

(Laughter)

MR. GOODELL: And with good reason. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Morinello.

MR. MORINELLO: Thank you. Will the speaker yield?

ACTING SPEAKER AUBRY: Ms. Simon, will you yield?

MS. SIMON: Yes.

ACTING SPEAKER AUBRY: Ms. Simon yields, Mr. Morinello.

MR. MORINELLO: I -- I just have a couple of clarification questions. It states that the petitioner may file a sworn application.

MS. SIMON: Mm hmm.

MR. MORINELLO: Should that not be "shall file" a sworn application? "May" gives the impression that it is not part of the process, so they can go forward without a sworn application.

MS. SIMON: Well, I believe that this is drafted that way because the idea here is to make this something that is, in fact, usable by those people who are in the environment who are frightened and who have observed these dangerous behaviors. However, it is most likely, I think, that a court would require that. And then that would be something that when they go to make this application, they'll be told by the court. I believe that that would be the case in --

MR. MORINELLO: No, I understand the intention, but the way it is draft --and I'm only talking about the drafting of the language --

MS. SIMON: Mm hmm.

MR. MORINELLO: -- not the overall intent of what the bill is. So that is something that may need clarification at some point.

I have also -- it does state in another portion that one of the criteria is an alleged violation of an order of protection.

MS. SIMON: Mm hmm.

MR. MORINELLO: Is there any criteria or standard

that the drafter intended to clarify what an alleged violation of an order of protection? Could it be by anybody alleging it, or that which was the beneficiary of the order of protection?

MS. SIMON: The way I read this is anybody could allege that. When you make your application, it's all allegation, right? So, if someone, in fact, has -- an order of protection was issued, and the petitioner believes that that was violated, they will so state. Now, whether the court would find that if -- that the actual activity would constitute a violation of that order of protection, it -- is going to be up to the court at that time. Obviously, someone who has an order of protection that has been issued, there's a reason that that has occurred. And so that would be one example of something that could be demonstrated. We know in domestic violence cases that that is very much a concern.

MR. MORINELLO: Absolutely. It talks about "reckless use of a firearm" only. Was there any consideration for any instrumentality that could cause mass destruction or death? For example, what if someone knows that another individual is acquiring bomb-making materials, but it -- in effect, each of them, separately, is not a violation of any law, but, put together, could be more destructive than just a firearm. Or, for example, in China there was, I believe, 30 deaths from an individual wielding a sword. So is there any intent, or was there any consideration, because of the overall intent of protection, to include any instrumentality of mass destruction?

MS. SIMON: I can't say that we thought of weapons

of mass destruction in that way when drafting this. However, that is already a violation of the law. And the purpose of this is to keep this out of the criminal system, to keep this as a civil action. Because then it would not have all of the other consequences of -- of a criminal complaint. And so, bomb making is -- is against the law. Brandishing a machete is against the law.

MR. MORINELLO: But my -- my point is more to, if we're trying to protect the most vulnerable in our community or the helpless, that the whole intent should be -- that the drafting to cover any item that could cause that.

And then there's one other point, if you'll bear with me, please.

MS. SIMON: Mm hmm.

MR. MORINELLO: And that is, they refer to -- if they are not shown a search for the items -- and in this case, strictly the weapons, not any instrumentality -- pursuant to Article 690, which of course is the -- the search warrant, does this require -- because it is not clear -- that there will be a second hearing for probable cause for a search warrant, or what -- is that part of, and is that was the intent of the drafter, to not necessitate a second search warrant probable cause hearing?

MS. SIMON: That would have been dealt with by the court in the first instance.

MR. MORINELLO: So they would -- the intent was to give that court the ability to issue both the extreme order of

protection and the search warrant simultaneously? Okay.

MS. SIMON: Depending on the evidence that's demonstrated, yes.

MR. MORINELLO: Thank you.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: The intent of this bill is well-meaning, based upon what we are facing where society has gone today. My concern is some of the drafting errors that are not specific enough to truly cover instances. I would suggest that if, in fact, this does not pass both Houses this year, that maybe some consideration be given in next year's Session to tighten it up somewhat so we can accomplish the purpose and goal -- and -- and I commend the sponsor for the intent of bringing it forward.

Thank you very much.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Montesano.

MR. MONTESANO: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Ms. Simon?

MS. SIMON: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MONTESANO: Thank you. I --I just have maybe two or three questions. When we're looking at the bill on page

3, if I could call your attention to line 44. There's a -- one of the criteria there that the court would use if determining whether or not there'll be grounds for a temporary extreme risk protection order is -- one of them is, "Evidence of a recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition thereof." And -- and then they give the -- the definition of "recent" to be within the last six months. Why would that be a trigger for such an application to be made, if someone acquired a firearm, or maybe, you know, stocked up on a couple of boxes of ammunition in the last six months?

MS. SIMON: Well, this is a list of nonexclusive grounds that could be alleged. Now, it might be, for example -- and we know from past history that sometimes one of the actions that the person has taken is stockpiling of weapons. In San Bernardino, he had other people getting ammunition for him, but he was also, himself, buying ammunition and stockpiling it. So, this is potentially relevant information that could be brought to the court's attention.

MR. MONTESANO: Thank you. And the next area I wanted to cover was, if one of these temporary orders are issued and it's served upon the respondent, is he also, or she also provided at that time with a list of what their rights are under this law as far as their appeals process, the representation they may or may not have? And if they're successful, how do they retrieve their weapons back? Is -- is the procedure laid out for them? Are they given some advisory information?

MS. SIMON: They get notice of their right to a hearing and their rights to due process. And it is also referenced in the statute that they would be given referrals, for example, for mental health services.

MR. MONTESANO: And are the -- is the referral for mental health services mandatory, or is that optional?

MS. SIMON: No, it's optional.

MR. MONTESANO: Okay.

MS. SIMON: You -- it's not -- this is not forcing anyone into therapy.

MR. MONTESANO: Okay. Now, I know the criteria for the judge to consider or for the allegations to be made, have to be made in compliance with Section 939 of the Mental Hygiene Law. Now, the Mental Hygiene Law provides that people could be hospitalized for a period of time on an involuntary basis. So, if this application is made to a Supreme Court judge, and the -- the criteria of 939 in the Mental Hygiene Law is met, can the -- can the judge also at that point order this person into a hospital against their will?

MS. SIMON: Not as part of this procedure. However, I think it's very important that we understand that we're talking about extreme risk here. We're not talking about whether someone really needs to be committed, and that is the best option for them. That might be the case, and it seems to me that that argument could be made and the court could either hear that themselves or refer

it to another -- another court -- another part --

MR. MONTESANO: Okay. So I just --

MS. SIMON: -- for example, for argument. But this is really about keeping firearms away from those -- from people who would be the people who shouldn't have guns, right? The people we all talk about all the time, that the national stage is talking about, people who really shouldn't be having guns. And that's what this is about.

MR. MONTESANO: Okay. And my -- and my last question would be is, is there -- hopefully, the last question -- is there any age criteria of how old the respondent can be under this law? In other words, can a 16-year-old be subject to this law, or a 17-year-old be subject to this law?

MS. SIMON: I don't see any reason why not.

MR. MONTESANO: Okay.

MS. SIMON: They shouldn't be having guns if they shouldn't be having guns.

MR. MONTESANO: Understood. But they may not have at that point, because of age, may not have one themselves in their name, but may have access to guns by virtue of who they live with, whether it be a parent or grandparent. So, if this be the case and this application is made, can it affect -- so, a judge finds that this person poses a threat to themselves or someone else, and because the people they live with have guns in their house, is this going to be a causation for those people to lose possession of their weapons?

MS. SIMON: Well, certainly, I believe the court could order that. But, in fact, the -- the bill references the fact that in those kinds of situations, the court can ensure that those weapons would be locked away, that they would not be accessible.

MR. MONTESANO: Okay.

MS. SIMON: Because that's really the issue, is keeping them out of the hands of the person whose hands they should not be in. And if the -- the parent or the relative or the household member that has a legally-possessed firearm, can, in fact, store it safely --

MR. MONTESANO: Mm hmm.

MS. SIMON: -- in such a way that -- that the person who is a danger would not have access to that firearm, the court can make that ruling.

MR. MONTESANO: Okay. And if could just revisit one more time the Mental Hygiene Law, Section 939. And -- and -- and I know you answered me, but I just want to follow-up on something. So, while the -- while the allegations that are made in this petition have to comply with 939 of the Mental Hygiene Law, the Supreme Court judge, as you had mentioned, is not required to hospitalize this person, you know, on a mandatory basis. But, can he, if he so chooses, or does he need a separate petition brought before him under the Mental Hygiene Law Section 939?

MS. SIMON: He would need a separate petition.

MR. MONTESANO: Okay. Thank you very much.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Skoufis.

MR. SKOUFIS: Thank you, Mr. Speaker. If I can go on the bill?

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SKOUFIS: Thank you, Mr. Speaker. I asked to speak on the bill not only because I wish to, but because I also feel compelled to. While this legislation passed with 84 votes last year, it will pass with at least one additional yes vote this time. Anyone with a conscience was and continues to be heartbroken by what transpired in Parkland three weeks ago. What drives a human being to do what that killer did, I will never understand. I don't understand any of it, quite frankly.

Since my election in November 2012, there has been Las Vegas, Orlando, Virginia Tech, Newtown, Sutherland Springs, San Bernardino and so many other mass shootings. And I'll never understand any of them. After every single one of those murders, my feelings alternated between sadness, depression and enormous unease. Those feelings repeated themselves three weeks ago, but this time there was another: Anger. I could hardly contain it. Maybe it was the actions of the survivors, the children, that made the difference this time. Maybe it was the "in your face" phone videos from those students. One image, in particular, will be burned in my memory for as long as I live, and that is a SWAT team rushing into a classroom,

ordering the children inside to put their hands in the air. And in the corner of the video frame, a young girl's hands are visibly trembling with such fear that she could hardly raise them. This time I was irate that our government could allow these murders to happen time after time after time again. I was irate that young boys and girls could be left trembling in fear in a classroom. Whether our Federal representatives, in particular, say they believe mental health is the issue, or gun control is the issue, or school safety is the issue, or some combination thereof, they can always be counted on to do nothing. This time, my blood boiled every time I saw a "*thoughts and prayers*" statement on social media from a politician who has chosen to never be part of the solution. Something that I, myself, am ashamed to say that I'm guilty of in the past.

Mr. Speaker, I represent a district that voted for Donald Trump by 12 percent, and Rob Astorino by 17 percent, and probably has more hunters and sportsmen in my district than all of my New York City colleagues combined. But I am done bat -- battening down the hatches whenever these massacres occur, until we inevitably move on to other issues. For the past three weeks, I've been sick to my stomach that children are begging lawmakers like us to keep them safe, and take action to keep firearms out of the hands of dangerous individuals. I'll continue to support the Second Amendment, just as we should support every amendment, and all of the Constitution. But people are dying. Children are dying. And it's happening over and over and over again. There are sensible ways to keep our communities

safe without impacting the rights of law-abiding gun owners. This bill is one of those ways. And mark my words, I will be proactive in supporting other means to this end, moving forward.

For far too long, I have let the perfect get in the way of the good when it comes to commonsense gun control. This legislation is not perfect - make no mistake - but for anyone who has been yelling about mental health and making sure dangerous individuals can't get their hands on firearms, this is exactly what this bill does. If Florida had red flag legislation on their books, many people think 14 innocent children and three adults would still be alive. I thank God that since my election, there hasn't been a school district -- school shooting in the Assembly District that I represent, or anywhere in New York State. None of us should wait for that unthinkable moment to occur before we become part of the solution.

ACTING SPEAKER AUBRY: Mr. Quart.

MR. QUART: On -- on the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill.

MR. QUART: My respected colleague spoke about the loss of liberty happens evolutionary, not revolutionary. And he is most assuredly right about that. Our rights are rarely lost immediately; they're lost over time. But that's only true in the absence of law, not a change in law. And the bill proffered by Ms. Simon that we're debating now is a change of law, not the absence of law. And we know that if by -- we look by the text of the bill as to a few specific instances. First, the standard of review, and second, the evidence, that

any court must or would look at an evaluation under this bill. First, "clear and convincing." It is a high standard. Certainly not as high as "beyond a reasonable doubt." But, think about it. In criminal courtrooms across this State, and certainly in New York City today, people are suffering through pretrial detention who have been proven not guilty beyond a reasonable doubt of anything. Bail is set on poor people throughout New York City and New York State. Their liberty is deprived, who have not been proven guilty beyond a reasonable doubt, and certainly not beyond clear and convincing evidence. So, we look at the due process standard put in place in this bill comparative to other parts of State law, contract law preponderance of the evidence, a tort preponderance of the evidence, pretrial detention. Not beyond -- not guilty beyond a reasonable doubt. That standard here, as I see it from a policy perspective, is "fair and reasonable."

Secondly, as to the evidence. My -- my colleague, who I have great respect for as -- as a debater and a lawyer, also talked about hearsay evidence and hearsay evidence alone. With due respect, I -- I think that's a little off the mark in that critique. One, there'll be circumstantial evidence, not simply hearsay evidence or fact-based evidence. Circumstantial evidence based upon various factors that the court, the judge, that she may weigh in her determination whether we reach a clear and convincing evidence. So, I think it's important for my colleagues to understand it is not solely hearsay evidence. There's circumstantial evidence, and direct evidence as well. And why is that? Because so much of illegal guns and the insanity that's gripped our

country is part and parcel, or at least on some occasion, part of the domestic violence problems. Domestic violence, terrible situations arise, they escalate, and people with guns do terrible things that they ought not to do or may not have done in different circumstances. But we have already taken circumstances and instances in this House and to the Office of Court Administration to allow victims of domestic violence not to appear in preliminary conferences, to appear by videophone or videoconference. We do that for recognition that asking them to give direct evidence is too much; that they are not in a position to do so. So, the absence of hearsay evidence or things of that nature, there is a direct corollary -- corollary to things we've already done in law to protect people.

Lastly, or secondly on hearsay evidence, of course CPLR 45.18 (a), police reports, allow them to be admissible. It doesn't allow all aspects of the police report to be admissible, but as a business record. So, we will have officers coming to court. We will have the police report, and certain aspects of that police report being admissible evidence. It already exists in State law under hearsay exceptions as well as the business record. So whether it's the officer providing direct evidence, or whether it's through hearsay exceptions to the existing rules. There are a multitude of ways already in State law that allow for evidence to come forth to prove a case based upon clear and convincing evidence. I think it would be a disservice to this House if -- if we allow the impression that only hearsay evidence of a minimal nature would go to allow meeting this high standard.

In sum, I think this is a good bill, it's a necessary bill. The standards of legal evidence are reasonable and they're just. There is due process protections put in. It is one way, and only one way, to address the gun -- the gun issue in our State, and really in our country, that is a moment of insanity in -- in this time period. I think this bill will go some way, hopefully a long way, in addressing this terrible problem.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect in 210 days.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Gottfried to explain his vote.

MR. GOTTFRIED: Thank you, Mr. Speaker. I don't know how many debates I've listened to in this Chamber, but I have rarely heard one that was so filled with knowledge and rational thought and passion, and just such a delight to listen to as what we've heard today.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Here, here.

Mr. Gottfried in the affirmative.

Ms. Simon to explain her vote.

MS. SIMON: Thank you, Mr. Speaker. As the recent school shooting in Parkland, Florida has shaken the country to its core, I am so proud of the young people in Parkland who are

standing up and speaking up for their lives. They, the first of the post-Columbine generation, are changing the world. And I couldn't be happier to do my small part to amplify their voices and bring change.

After the shooting, which claimed 17 lives and left many others injured, we learned that the shooter had a history of escalating violence, and that family and others close to him were concerned about his behavior, reported it to law enforcement, but there was no mechanism for law enforcement to act. A temporary extreme risk protection order could have prevented this tragedy. When people exhibit warning signs that they pose a risk of serious harm to themselves or others, family and household members often observe these signs firsthand, but they feel powerless and unable to intervene, and even with law enforcement support, before a tragedy occurs. Like Florida and New York, even if these concerns are reported, law enforcement has no authority to act, and to help prevent tragedies from occurring, including interpersonal gun violence or suicide involving a gun. A temporary extreme risk protection order would restrict the person's access to firearms if they pose a serious risk. Recently, President Trump said, *Hey, look. I'm the biggest fan of the Second Amendment, but law enforcement should take the guns first and go through due process second.* Obviously, I agree with his call for more gun safety, but I disagree that we should take due process away from people. This bill does both. It removes firearms from those who should not have them, and does it with respect for the Second Amendment and for people's due process rights, which I might add, is

in the First Amendment.

Simply put, this bill will save lives. Five states already have ERPO bills and have seen a measurable decrease in these rates. It is quite simply a public health crisis that we are dealing with, and we have to do all we can to prevent future tragedies. We must do something. Now is the time for us to act with great deliberation and with great passion and with great humility, and protect the lives of our citizens.

Thank you.

ACTING SPEAKER AUBRY: Ms. Simon in the affirmative.

Mr. Ortiz.

MR. ORTIZ: Thank you, Mr. Speaker, for allowing me to explain my vote. I also would like to join to thank the sponsor of this particular piece of legislation that is long overdue. As well, I would like to thank the Speaker for allowing this bill to come to the floor. I think it's very important to reintegrate the issue of order of protection. We have seen throughout the years that order of protection sometimes hasn't work, as a result that -- that we have seen so many reporting of -- of people continued to commit the domestic violence and the issue that they -- they're not respecting the order of protection. This bill will help and prevent those kind of catastrophes from continue to happening. And I hope, again, that the Senate will take this issue very seriously and respect what order of protection is.

Therefore, I am voting in the affirmative, Mr.

Speaker.

ACTING SPEAKER AUBRY: Mr. Ortiz in the affirmative.

Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker, for allowing me to explain my vote. I rise also in support of this extreme risk protection order, and I think it is one of the most significant bills that we will pass this year. I commend the sponsor, I commend the Speaker for bringing this to the floor. We are all following one horrific tragedy after another, and this is one that is probably the most troubling, because so often, family or household members know there's a problem. Often, they've alerted law enforcement, and law enforcement has been unable to intervene to -- to intervene, to -- to get guns out of the hands of those who may be at such serious risk. Yet, at the same time, we are allowing, through this legislation, law enforcement to intervene, but we are also not ignoring the rights of due process for the individual.

So, I think it's a well-crafted bill. I think this one is overdue. While we know we have done a lot in New York, we know we cannot look to Washington for leadership on these issues. So, once again, the states must act. New York must lead. And this is, I believe, one of the most critical pieces of gun legislation that we can move to try to do everything we can to close every loophole and prevent this needless, needless gun violence.

Again, I commend the sponsor of this legislation and

take great pride in doing my part to vote in the affirmative on this bill.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Lentol.

Ms. Fahy in the affirmative.

Mr. Lentol.

MR. LENTOL: Thank you, Mr. Speaker. I was here when one of the members who spoke thanked me for standing up on the floor to debate the SAFE Act in 19 -- I'm sorry, in 2013, and taking the bullets for him, by standing and defending the Governor's SAFE Act at the time. We have come a long way, and yet, we have gone nowhere. It was my hope that we would have been able to lead us out of the wilderness in New York State and present to the country and to other states the best of what we could do in keeping kids, especially, from being killed in schools. After Sandy Hook, and now after Marjorie -- Parkville -- Parkland school shooting.

But I am heartened. I am heartened by this bill, because this is not a gun bill, ladies and gentlemen. Take a look at it again. This is the equivalent of what we do in terrorism, where we see something and we say something. Because what this bill is asking us to do is, if we know that somebody has a mental illness, God forbid, or some disposal to use a weapon on other people, that we don't want that to happen. And how do we go about it? How do we go about telling someone? Do we call a cop? Do we call the FBI? A lot of good that did in Parkland, didn't it? If some neighbor came forward and went to the courthouse and say, *Judge, please, you've got to help us. We know*

this guy is dangerous. We don't want him coming to our schools, maybe 17 kids wouldn't have perished.

So, I want to thank the sponsor, and especially the Speaker, because this may be the most important bill that we pass this year. And maybe, just maybe, we may get the Congress to see the light of day, and not to allow people who shouldn't have guns shooting people, especially our kids.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Lentol in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

The Clerk will read.

THE CLERK: Assembly No. A09958, Rules Report No. 12, Fahy, Heastie, Lentol, Simotas, Steck, Mosley, McDonald, Gottfried, Abbate, Sepulveda, Mayer, Ortiz, Niou, Zebrowski, Solages, Buchwald, Lupardo, Thiele, Simon, Englebright, D'Urso, Quart, Galef, Glick, Dinowitz, McDonough, Colton, Titone, L. Rosenthal, Jaffee, Weprin, Abinanti, Braunstein, Seawright, Harris, Lavine, Hooper, Perry, Paulin, Morelle, Ramos, Arroyo, Pichardo, Vanel, De La Rosa, Hyndman, O'Donnell, Pellegrino, Taylor. An act to amend the Penal Law, in relation to prohibiting the possession, manufacture, transport and disposition of trigger modification devices.

ACTING SPEAKER AUBRY: An explanation is

requested, Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker. This bill is essentially a "bump stock" bill. It's a rather straightforward bill. Right now in this State, it is perfectly legal to use -- sorry -- it is perfectly legal to possess, transport, manufacture or sell a bump stock apparatus or device. It is only illegal to use that device. So, those are four different loopholes that we are attempting to close here. And just as a way of background or as a reminder, a bump stock - which many of us had never heard the term before, prior to the horrific tragedy in Las Vegas last fall, and just as a reminder, that Las Vegas shooter, by using a bump stock apparatus on his semiautomatic weapons, he was able to turn those into, effectively, machine guns. In less than 10 minutes, because of these devices, he was able to fire off 1,100 rounds of ammunition, 1,100 rounds, and as we know, killed 58 people, injured over 800. And we know bans work. And this bill, of course, is intended to try to prevent any copycat measures. We know bans work, because in the 1930s we began to heavily regulate machine guns, and then in the '80s we fully banned machine guns. So we rarely ever hear of episodes of mass violence with machine guns. However, technology often changes matters, and because of these bump stock apparatuses or devices, we can, in effect, turn a semiautomatic into a machine gun.

So, I am very proud that this bill is an attempt to again have New York lead, since we are not seeing that leadership at the Federal level. Congress has not acted. There's a lot of discussions

about acting, but until then, we do need to see action. And just as New York has benefitted by taking serious gun control action, because we have some of the tighter gun control laws in the country, we also have some of the lowest rates of gun violence, the numbers keep bearing that out. The tougher we are on gun control, the lower rates we are seeing in gun violence. And so, this is very, very much in line with that. This bill is intended to be another preventative measure in trying to bat down four different loopholes that now exist with the bump stock devices.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Ms. Fahy?

MS. FAHY: Certainly.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. GOODELL: Thank you very much, Ms. Fahy. I -- I note that the language in this bill has changed some over prior drafts, and -- and some of that I thought was very positive. For example, you made it clear that not just components of this, but a combination component is what's being regulated, which I thought was a very positive change since the components are everyday things, sometimes like nuts and bolts, and I appreciate that change. I was

curious, though, that unlike earlier versions of similar legislation that only applied to semiautomatic rifles, this version was expanded to apply to firearms, rifles and shotguns. And as you know, under the New York State Penal Law, a firearm is not the normal definition that might be out on the street, but rather, a weapon that can be easily hidden on a body. So, as a practical matter, "firearm" means pistol. So my question is, why does this bill reference pistols - which normally would not have a stock at all - or shotguns, which normally can't fire rapidly even under any circumstances? Could you address that question?

MS. FAHY: Yes, thank you, Mr. Goodell. And thank you for the feedback on this bill. As you know, we have been trying to work to try to address some of the concerns and the questions. With regard to the definitional changes, in particular with pistols, there are weapons like the Glock handgun, where there are devices marketed to accelerate their rate of fire. And assault weapons -- the definition of an assault weapon generally includes semiautomatic pistols or firearms, as well as semiautomatic shotguns. And the way we have defined it in this bill is that we are only banning these where it is the intent to operate in such a manner as a machine gun. So in other words, it's not the shotgun itself, it's only where it's been modified with these devices to accelerate the rate of firearm to operate as a machine gun. So -- so again, trying to tighten up and make sure we are addressing every possible loophole so that it cannot be exploited, especially as technology is often advancing in front of

our ability to keep up with gun control and gun safety measures.

MR. GOODELL: Along those lines -- and I -- I think you can -- you're already starting to clarify it for us -- but some of my colleagues are concerned as it relates to shotguns. As you know, often shotguns are produced with a double-barrel shotgun or over/under shotgun or a competition trigger. So am I correct this bill is not intended to prohibit a double-barrel shotgun, an over/under shotgun or a gun with a competition trigger; is that correct?

MS. FAHY: Yes, Mr. Goodell. Our -- my understanding is it would not do that, because in the instances you mentioned, it would still be -- even with those modifications, it would be incapable of operating as a machine gun. And, again, the key clause in this instance is that -- that the -- and I had it here a second ago -- that the device -- any -- any device added would be to make the gun operate in the same manner as a machine gun. And in those examples it would not, even with those modifications, would not operate as a machine gun, so then would not be -- would not be subject to the provisions of this bill.

MR. GOODELL: Thank you very much, Ms. Fahy, for clarifying that.

Thank you, Mr. Speaker.

MS. FAHY: Thank you.

ACTING SPEAKER AUBRY: Thank you both.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Fahy to explain her vote. Shh, please.

MS. FAHY: Thank you, Mr. Speaker. And I want to thank the Speaker. I want to thank the Chair, Mr. Lentol, as well as the -- my staff and the -- the staff of the -- the Codes Committee staff, who have been extraordinarily helpful in trying to work on what I believe is very strong, strong commonsense legislation, as well as closing really critical loopholes that we know have been exploited with disastrous results in -- in other states. Again, this is a straightforward bill about closing loopholes on using bump stock-type devices, which now, in this State, are legal to possess, transport, manufacture and sell. It's only illegal when you use it. So it's closing down four different loopholes because we've seen how horrific these types of weapons can -- or these types of apparatuses and devices can be used, again, to the tune of 58 people being killed in Las Vegas. We want to prevent that. We want to prevent copycats. We know that bans work, and we know, particularly with machine guns because we banned them decades ago and we have not seen that type of violence with the use of machine guns until most recently in Las Vegas, where a semiautomatic weapon was turned in to -- by all intents and purposes, turned into a machine gun. I'm also hoping that we have solid bipartisan support on this bill, because I'd like to think that this is a breakthrough bill, that we begin to have more commonsense

legislation and bipartisan support, along with a -- a package to begin to stop this violence. Again, if Congress does not act, New York must again show leadership. And the numbers are increasingly bearing this out. Statistics are not lying. The stronger our gun safety laws are in any State, the less we see of gun violence.

So, again, I really hope this is not a stand-alone bill. I hope it's tied to a package, and I stand in support of my own bill.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Fahy in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. You will find on page 3 of the A-Calendar Rules Report No. 13 by Ms. Hunter. I would ask you to put it before the House.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A09978, Rules Report No. 13, Hunter, Taylor, Steck. An act to amend the Penal Law, in relation to access to foreign state records.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 60th day.

ACTING SPEAKER AUBRY: The Clerk will

record the vote.

(The Clerk recorded the vote.)

Ms. Hunter to explain her vote.

MS. HUNTER: Thank you, Mr. Speaker. Whether it's a mass shooting like we saw in Parkland, Florida or day-to-day gun violence, these tragedies should not be routine. As a mother, my heart stops every time I hear of another school shooting. We shouldn't fear for our kids' lives when they leave for school or walk down our neighborhood streets, but sadly, that is not our reality. Especially for many parents and families in Syracuse, where gun violence has caused far too much pain. And recently, there have been at least two cases of students in Onondaga County making threats against their schools. I'm here to take a stand and say enough is enough. There is no excuse for inaction. We need to keep guns out of the wrong hands.

The legislation I've introduced today would require residents who live in another state to waive the confidentiality of their home state mental illness records when applying for a firearm in New York. This bill addresses a serious flaw in our gun laws that allow certain residents to obtain licenses without a proper background check. As we've seen time and time again, when individuals with clear red flags in their past are able to get guns, tragedies are inevitable. No one who is a serious threat to themselves or others should be in possession of a gun.

Thank you.

ACTING SPEAKER AUBRY: Ms. Hunter in the

affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker.

Could you please call on Mr. Otis for an announcement?

ACTING SPEAKER AUBRY: Mr. Otis for the purposes of an announcement.

MR. OTIS: Following the conclusion of today's Session, there will be an immediate meeting of the Democratic Conference. Welcome aboard.

ACTING SPEAKER AUBRY: Democratic conference immediately following Session.

Mr. Morelle.

MR. MORELLE: Yes, in just a minute I will give an update on schedule, but, Mr. Speaker, could you take up any resolutions that we might have at this point first?

ACTING SPEAKER AUBRY: Certainly. We have numerous fine resolutions, which we will take up with one vote.

On the resolutions, all those in favor signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 879-882 were unanimously adopted.)

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker.

Ladies and gentlemen, just an update on schedule. After consultation with the Speaker and the Minority Leader, and out of an abundance of caution, we are planning to postpone Session for tomorrow. So, Democrats do have a Democratic conference, as Mr. Otis has indicated, and we would like members to join us in the Speaker's Conference Room at the conclusion but, obviously, urge everyone to get home safely.

And, with that, Mr. Speaker, I now move that the Assembly stand adjourned until Wednesday, March 7th, tomorrow being a Legislative day, and that we reconvene on -- at 2:00 p.m. on Monday, March 12th. Monday is a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 3:28 p.m., the House stood adjourned until Wednesday, March 7th, that being a legislative day, and to reconvene on Monday, March 12th at 2:00 p.m., that being a Session day.)