

**MONDAY, MARCH 4, 2019**

**2:55 P.M.**

ACTING SPEAKER AUBRY: The House will come to order.

In the absence of clergy, let us pause for a moment of silence.

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Saturday, March 2nd.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to

dispense with the further reading of the Journal of Saturday, March 2nd and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to re -- again open our Session with a quote. This month, being the beginning of Women's History Month, we want to celebrate with the words of Susan B. Anthony. And Susan said: "We ask justice, we ask equality, we ask that all civil and political rights that belong to citizens of the United States be guaranteed to us and to our daughters forever." Again, Mr. Speaker, Susan B. Anthony.

The members have on their desks a -- a main Calendar with 25 new bills, beginning with Calendar No. 67 on page 4, that's where we'll start today. After any introductions or housekeeping, Mr. Speaker, for -- we will begin to -- our consent of these bills and take up Rules Report No. 23 by Member Paulin later today. And we also have legislation sponsored by yourself, Mr. Speaker, that we will take up. For our Majority members, there will need to be a Democratic Conference at the conclusion of today's Session. And as always, should the Minority have a similar need, we will address that at the time.

So that's the general outline, Mr. Speaker. If there are any introductions or housekeeping, now would be a great time; in

fact, Mr. Speaker, if it's your will, I do have an introduction I would like to make.

ACTING SPEAKER AUBRY: For the purposes of a [sic] introduction, Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to briefly interrupt our proceedings and introduce some very important people to the workforce development community in the City of Buffalo. We have with us Stephen Tucker. Stephen has an MBA. He's also the President and CEO of the Northland Workforce Training Center. We have Peter Coleman. Peter is the Executive Director of Buffalo Niagara Manufacturing Alliance, which is an organization of multiple manufacturing -- advanced in local manufacturing companies. And lastly, but certainly not least, we have Catherine Muth. She is the Senior Manager of Northland Industry Relations. Mr. Speaker, if you would welcome them to our floor and offer them the cordialities of the floor, I would be greatly appreciative.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, 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 thank you for the work that you do in keeping employment in the Buffalo area and the State of New York sound and growing. Thank you so very much for your work. You are always welcome here.

(Applause)

Mr. Benedetto for the purposes of an introduction.

MR. BENEDETTO: Thank you, Mr. Speaker, for letting me take the time to interrupt the proceedings to make an announcement of some wonderful people who are here today. It's a great honor as Education Chair to be standing here. It's a larger honor to be standing here when we have teachers up here in Albany. A group of teachers have come up with their students and they are wonderful students, musicians. We are here today visiting people from NYSSMA, the New York State Music Association, okay, the teachers who have come up with their prized students from around the State. And they were giving a concert today on the Concourse during lunch hour. They will be doing another concert this evening at around 5:30-6:30, somewhere in that period. I urge everybody to come down and listen to the product of the schools of the State of New York. It will make us all proud. I, for one, am so busy in meetings here, might not get there, but I was lucky enough to have these students staying at my hotel last night and while they were practicing, that was me scoping about, listening to your practice session.

(Laughter)

And they were absolutely amazing. The pride of New York State is here. Take advantage of it. Please, Mr. Speaker, introduce and welcome these people.

ACTING SPEAKER AUBRY: That's quite a visual, Mr. Benedetto.

(Laughter)

On behalf of Mr. Benedetto, the Speaker and all the members, we welcome both teachers and students here to the New York State Assembly. We extend to you the privileges of the floor. Our congratulations on the work that you do together and, most of all, our appreciation for what is produced. Certainly, music is the key to a better and healthier life. Thank you so very much.

(Applause)

Resolutions on page 3, the Clerk will read.

THE CLERK: Assembly Resolution No. 131, Mr. Cusick. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2019 as Irish American Heritage Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 132, Ms. Joyner. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2019 as Bleeding Disorders Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 133, Ms. Lupardo. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2019 as Agriculture Month in the State of

New York.

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

Page 4 on consent.

THE CLERK: Assembly No. A00219, Calendar No. 67, Paulin, Blake, Dinowitz, Galef, Jaffee, M. G. Miller, L. Rosenthal, Zebrowski, Crouch, Raia, Otis, Schmitt, Jacobson. An act to amend the Election Law, in relation to mailing special ballots for victims of domestic violence.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01527, Calendar No. 68, Richardson. An act to amend the Correction Law and the Penal Law, in relation to temporary release eligibility for judicially ordered comprehensive alcohol and substance abuse treatment.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01800, Calendar No. 69, Magnarelli, D'Urso, Peoples-Stokes, Steck, Cook, Galef, Zebrowski. An act to amend the Real Property Actions and Proceedings Law, in relation to inspecting, securing and maintaining vacant and abandoned residential property.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01913, Calendar No. 70, Joyner. An act to amend a chapter of the Laws of 2010, relating to authorizing and directing the Commissioner of Education to conduct a

study on the effects of trauma on child development and learning as proposed in legislative bills numbers S.8000-B and A.10063-B, in relation to authorizing and directing the Commissioner of Children and Family Services to conduct a study on the effects of trauma on child development and learning; and to repeal certain provisions of the Education Law relating thereto.

ACTING SPEAKER AUBRY: On a motion by Ms. Joyner, the Senate bill is before the House. The Senate bill is advanced. 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.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Last vote -- the first vote of the day, members. If you could, please, if you're somewhere in and around the Chambers, if you could make your way here and cast your vote. Thank you very much in advance for doing so. First vote of the day.

ACTING SPEAKER AUBRY: First vote of the day, members. First vote of the day.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A02166, Calendar No.

No. 71, Bichotte, Ortiz, Richardson, Williams, Solages, Walker, Blake, Gottfried, Hyndman, Seawright, Stirpe. An act to amend the Economic Development Law, in relation to the publication of information regarding awards of State contracts.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 30th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could go to page number 6, Calendar No. 79 on debate, Mr. Aubry.

ACTING SPEAKER PICHARDO: The Clerk will read.

THE CLERK: Assembly No. A03974, Calendar No. 79, Aubry, Ortiz, Gottfried, Hevesi, Weprin, Steck, Bronson, Barrett, Pretlow, Lifton, Blake, Zebrowski, Simotas, Perry, Rozic, De La Rosa, Cook, Peoples-Stokes, Cahill, Bichotte, Quart, Jaffee, Stirpe, Mosley, Fahy, Crespo. An act to amend the Penal Law and the Criminal Procedure Law, in relation to sentencing and resentencing in



domestic violence cases.

ACTING SPEAKER PICHARDO: An explanation is requested, Mr. Aubry.

Can we get quiet in the Chambers, please? We're on debate members. One second, Mr. Aubry.

Proceed, sir.

MR. AUBRY: Thank you so much, Mr. Speaker. This bill would provide a judge with discretion in sentencing and resentencing domestic violence survivors who are convicted of certain crimes where domestic violence was a significant contributing factor in their criminal behavior. In order to be eligible for this consideration, a judge must determine that the survivor was subject to domestic violence at the time of the offense; the abuse was a significant contributing factor to the crime; and any other sentence would be unduly harsh and excessive. The bill also permits individuals currently serving a sentence of eight years or more to apply for resentencing. Certain convictions are not eligible for alternative sentence, such as aggravated murder, first degree murder, acts of terrorism and any offense that requires registration as a sex offender. This bill has passed the Assembly in 2016, 2017 and 2018, the fourth being a charm.

ACTING SPEAKER PICHARDO: Mr. Ra.

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

ACTING SPEAKER PICHARDO: Do you yield,

sir?

MR. AUBRY: To Mr. Ra, certainly.

ACTING SPEAKER PICHARDO: The sponsor yields.

MR. RA: Good to see you down here on the floor, getting a little break.

MR. AUBRY: We're always the same size, Mr. Ra.

(Laughter)

MR. RA: Thank you. So just going through this bill, and I know we've debated this in the past. Under current law, I believe there are some opportunities for victims of domestic violence to have a reduced sentence that were -- that were put into law a few years back, but this expends that. Those, I believe, only apply in current law. It's only if the victim of domestic violence commits a crime against their abuser, correct?

MR. AUBRY: That's right.

MR. RA: And under the provisions of this, it -- it would no longer really be material who the -- who the victim of domestic violence commits an offense against?

MR. AUBRY: Yes, that's right.

MR. RA: Okay. So it can be any third-party, somebody not involved in the abuse, correct?

MR. AUBRY: That's right.

MR. RA: Okay.

So, it could be any -- any third-party, somebody not

involved in the abuse.

MR. AUBRY: That's correct.

MR. RA: Okay. So in terms of proving the abuse. What -- what is the procedure for the -- for the victim of domestic violence? Does there have to be formal documentation, formal charges having been filed regarding the domestic violence? How do they go about proving that they are a victim of domestic violence?

MR. AUBRY: There are three tests that has to be required. The application for this -- and, again, this is -- gives the judge the discretion to provide this relief. That -- this is not an automatic situation. This gives the judge an opportunity to look at the evidence that will be provided to determine whether relief should be granted or not. One form of the evidence to be provided is a court record, a Social Service record, hospital record, sworn statement from a witness of the domestic violence, law enforcement record or an order of protection or domestic incident report.

MR. RA: Okay. And then once -- once they've -- once the court has determined that the person is a victim of domestic violence and qualifies for this reduced sentence, what -- what is the sentencing range for that individual then?

MR. AUBRY: It would depend on the type of crime. Again, we're leaving that to the judge to make that determination. Looking at this -- individual cases as these kind of cases are going to be individually looked at.

MR. RA: Now, is it correct, though, that once the

person is deemed to have qualified by -- by the judge that they then can be -- essentially the minimum sentence becomes the maximum they can be sentenced to?

MR. AUBRY: Right. It does reduce the sentences greatly, but the judge has the discretion to establish that. We're not -- we are empowering the judge in this case, not commanding the judge.

MR. RA: Okay. Now is there any requirement, because I know this deals both with sentencing and, I guess, resentencing. Is there any requirement that the individual have raised a defense of duress or -- or have raised the domestic violence at the time of their trial?

MR. AUBRY: No. And we do understand that this is an evolving circumstance in our society. People for many years did not report domestic violence, did not record it, afraid that they would be treated differently. And so, we're recognizing this evolving circumstance for the domestic violence, much as we have in other sets of circumstances where we think that individuals have been impeded from shining a public light on their private lives.

MR. RA: Okay. Now you mentioned earlier that there are certain exceptions in terms of crimes that this would not apply to, but there are some violent offenses that this still would apply to like manslaughter, first degree assault, battery, robbery; it would apply to those crimes?

MR. AUBRY: Yes and, again, because we're giving the judge discretion, he or she can look at those issues and determine

whether or not eligibility has been met and whether it's in the interest of justice.

MR. RA: Okay. And one of the objections that's been raised, you know, I have a memo regarding this from the District Attorney's Association talking about the provision, which I believe is on page 3, that references Section 70.6 in -- in the Penal Law which applies when there's prior felony convictions for a felony offense. So, this would -- this would apply in those circumstances, as well?

MR. AUBRY: So, again, certainly the judge looks at that to determine whether or not this is appropriate for that individual case.

MR. RA: Now currently my understanding is under those circumstances the sentencing would be between eight and 25 years. Under this bill, it would be three -- between three and eight?

MR. AUBRY: That is correct, but, again, the bill is subject to the discretion of the judge.

MR. RA: Okay. And then there's one other piece of terminology with regard to these hearings that -- that I did want to get into. So -- the bill on page 5, lines 36 and 37, and this was something we discussed in the Codes Committee, refers to "reliable hearsay." I wasn't familiar with that term. The Codes Committee staff was able to provide a little bit of information regarding there being other references to this -- this term within the law and a couple of them I found were with regard to sentencing, I think one was for -- one was for Murder 1's, I believe -- is there a definition for what that is?

MR. AUBRY: No. We're not -- we're not looking at a definition, but case law has established that it has been used. Particularly I'm aware of people going to Willard as a part of a drug rehabilitation program, where it has been used in order to establish a prior addiction that would require that kind of treatment.

MR. RA: Okay, so -- but, is the term "reliable hearsay" as used here, this is something different than the exceptions to the rule against hearsay that would be applicable in an ordinary, you know, criminal trial, correct?

MR. AUBRY: That is correct.

MR. RA: Okay. Thank you. I mean, do you have any example of what would constitute "reliable hearsay"?

MR. AUBRY: Counsel tells me an out-of-court witness statement that was taken under oath.

MR. RA: Okay. Thank you very much, Mr. -- Mr. Aubry.

MR. AUBRY: Thank you, Mr. Ra.

MR. RA: Mr. Speaker, on the bill.

ACTING SPEAKER PICHARDO: On the bill, sir.

MR. RA: Thank you. I think, you know, we all recognize and, you know, we often each year do packages of bills relating to domestic violence and -- and certainly over the years we've learned more about the impact, you know, that that abuse has -- has on a victim. And acting accordingly, about 20 years ago this -- this Legislature did put some provisions in to allow reduced sentences

where somebody who has been abused commits a crime against their abuser. This is greatly expanding that to a crime that could be committed against a completely innocent third-party that has nothing to do with the abuse.

You know, our judicial system is set up to give some discretion to judges and they certainly would have the ability to consider these situations under current law and -- and give, you know, a sentence on the lower end of -- of the guidelines as opposed to on the higher end for somebody who had been -- who had been a -- the victim of domestic violence. The -- the problem we have here is that we end up in a situation where an individual who has been the victim of a crime might not really be able to get justice for the crime that was committed against them based on who the perpetrator was.

So I think that this is well-intentioned. Again, I think that it's important that we -- we take action whenever we can to help protect victims of domestic violence, but -- but I think that there is a third party who might be a victim of a crime that -- that suddenly is not able to get justice for the crime committed against them. And I think there's adequate recourse and flexibility within the current system where a judge could just choose to impose, you know, something at the lower end of the range having considered these factors. I think this may be going a step too far given that there's a third party who is a victim here. And that's why myself and I know many others will be casting our vote in the negative. Thank you.

ACTING SPEAKER PICHARDO: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER PICHARDO: On the bill, sir.

MR. GOODELL: Thank you, sir. Thank you for the colloquy between our colleagues which was very helpful in explaining the actual details of this bill. I'm -- my view is a little bit, if you will, a broader picture. It seems to me that the purpose of our criminal laws and our sentencing guidelines is at least three-fold. First, we want the potential sentence to be a deterrent to criminals so hopefully they refrain from victimizing innocent people. We want people to think twice before they break into our house or pull out a gun or assault someone or shoot someone, or even beat up somebody else. So, a deterrent is certainly a major factor.

Second, there's a punishment aspect. If someone comes in and steals your property or destroys your property or attacks your spouse or shoots you or beats you up or holds you up at knifepoint or gunpoint, we want that person to be punished so that they won't do it again, so that other innocent people aren't victimized. And the third reason it occurs to me is there's a prevention aspect. There are some people out there, face it, that are dangerous people, that we don't want them out in the streets victimizing our senior citizens or our kids or anyone else. We want them off the street.

So, how does this bill stack up against those objectives? It says if you're a victim of domestic abuse and you attack an innocent third party, you hold up a liquor store, you shoot someone



else, you beat someone else up, you rob someone, you break into the house; if you're a victim, this bill says, *Well, we don't need to worry so much about deterrents, we'll give you -- your maximum sentence could be the minimum for everyone else.* And how does that deal with deterrents? How does that deal with punishment? How does that deal with prevention?

I'm very sympathetic, as everyone in this room is, we're all sympathetic to the plight of abused people, men and women who suffered trauma when they were young or they're growing up or they're in an abusive relationship. It's touched my family, too, but that doesn't give the right for me or any member of my family to commit a violent crime against some third party and get a reduced sentence. For that reason, while I'm sympathetic to that plight of those who suffer from domestic abuse and would certainly support everything reasonable that we can do to help them, we shouldn't open the door to a lower sentence, less deterrents, less punishment and less prevention when it comes to innocent third parties that have nothing whatsoever to do with that abusive situation, just had the misfortune of having a criminal interaction with someone who was abused by someone else.

Thank you, Mr. Speaker.

ACTING SPEAKER PICHARDO: Thank you.

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.)

Mr. Aubry to explain his vote.

MR. AUBRY: Certainly, to explain my vote, Mr. Speaker.

First, I want to commend those who have worked so diligently on this bill. They're here in our Chamber today. This has been a long, long journey on their part to find justice. And I can't say just sympathy, but the ability for our justice system to recognize this scourge on our society. Domestic violence is just that, a scourge on our society. And people do get punished and will be punished even when that has been a factor, but we want our system to be able to look at the facts of a case, particularly for those -- there are some people who have been in jail a very long time, in prison a long time when this was not such a prevalent issue, when they couldn't introduce this as a factor in their case. And this bill allows that to happen for those who may face this, but also, individuals who have faced it in the past.

The -- we've had memos of support and memos of disapproval, but from the City Bar -- the City Bar supports the Domestic Violence Survivors Act which would amend New York's Penal and Criminal Procedure Law to give greater discretion to justice -- to judges when sentencing defendants who are survivors of domestic violence and would permit certain survivor defendants to petition the court post-conviction for alleviating resentencing; the defendant at the time of the offense was a victim of domestic violence subject to substantial, physical, sexual or psychological abuse inflicted

by a member of the same family or household as defined in the Criminal Procedure Law; the abuse was a significant contributing factor to the defendant's criminal behavior and the sentence within the generally applicable statutory range would be unduly harsh.

And that's why we do this, ladies and gentlemen, and have carried this bill for many years. I think I had no gray hair at the time we started, but I withdraw my request and vote in the affirmative.

ACTING SPEAKER PICHARDO: Mr. Aubry in the affirmative.

Mr. Weprin to explain his vote.

MR. WEPRIN: Thank you, Mr. Speaker. I want to praise the sponsor for persevering on this bill for many years. I think this may be the first time that it's actually going to pass the Senate and be signed by the Governor. The Governor did propose something similar in his budget, but I -- I prefer this particular approach. It only gives discretion to the judges to -- to resentence; it doesn't mandate it. But it certainly is a very worthwhile and comprehensive piece of legislation that the sponsor has worked on for many years and I strongly support it and I withdraw my request and vote in the affirmative.

ACTING SPEAKER PICHARDO: Mr. Weprin in the affirmative.

Mr. Barron to explain his vote.

MR. BARRON: I just wanted to thank the sponsor for this bill. I've known several women that were in this predicament

and sometimes people say to women, *Oh, just go get an order of protection*. And then the police will tell the woman, *Yeah, we have to wait for him to do something before we can do anything with the order of protection*. So sometimes these victims are not protected and when people have sometimes commit desperate acts for whatever reasons, that they should be reconsidered. They should be put on the highest of reconsideration and sensitivity because we don't know what it means emotionally and physically to be a victim of domestic violence. So, I am glad that I could support this bill and I'm glad that the sponsor came forward with it. There have to be many, many victims of domestic violence that have to be applauding you today. So, I thank you for this and I vote in the affirmative.

ACTING SPEAKER PICHARDO: Mr. Barron in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

(Applause)

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for allowing me to interrupt the proceedings once again to introduce some guests our colleague, Rebecca Seawright, has in the Chambers today. There's Howard Axel. Howard is the Chief Executive Officer of Four Freedoms Park Conservancy. Along with Mr. Axel is Robert Kafin. He's the Chair of the Garden Teach

Recycle and Greenmarket, GrowNYC. Would you please welcome them both to the Chambers, Mr. Speaker.

ACTING SPEAKER AUBRY: On behalf of Ms. Seawright, the Speaker and all the members, we welcome you here to the New York State Assembly, to the People's House. We extend to you the privileges of the floor, hope that your trip to Albany will be beneficial and that you enjoy the proceedings of the House. Thank you so very much. You know you're always welcome. Thank you.

(Applause)

MRS. PEOPLES-STOKES: Mr. Speaker.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: If we could continue our work today on page 9, Rules Report No. 23, Amy Paulin on debate, Mr. Speaker.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A02686-A, Rules Report No. 23, Paulin, Heastie, Lentol, Peoples-Stokes, Abinanti, Englebright, Jaffee, L. Rosenthal, Galef, Cook, Ortiz, Cymbrowitz, Dinowitz, Weprin, Fahy, Braunstein, Mosley, Buchwald, Steck, Colton, Rozic, Seawright, Lavine, Cruz, Frontus, Griffin, Jacobson, Pichardo, Reyes, Sayegh, Stern, D. Rosenthal, Blake, Ramos, Fernandez. An act to amend the Penal Law and the General Business Law, in relation to storage of firearms; and to repeal Section 2 of Chapter 19 of the Laws of 2019 amending the Civil Practice Law and Rules and the Penal Law relating 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, relating thereto.

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

MS. PAULIN: With pleasure. The bill requires gun owners to safely store their guns and requires sellers to post a notice about that requirement.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Thank you, Ms. Paulin. Would you yield for questions?

MS. PAULIN: Absolutely.

ACTING SPEAKER AUBRY: Ms. Paulin yields.

MR. GOODELL: Thank you very much. Ms. Paulin, first I want to just walk through the bill a little bit so we all know what we're talking about. This bill applies to any rifle, shotgun or firearm; is that correct?

MS. PAULIN: Yes.

MR. GOODELL: And would that then include also antique firearms?

MS. PAULIN: No, it does not.

MR. GOODELL: So an antique rifle is not a rifle?

MS. PAULIN: An antique rifle is defined separately in the law, so we didn't include it in the definitions of those that would need to be safely stored.

MR. GOODELL: What about an inoperative rifle or shotgun or pistol?

MS. PAULIN: Inoperative meaning --

MR. GOODELL: It's missing a firing pin or a trigger or some other critical component.

MS. PAULIN: I don't know. Hold on. Okay. I am being told that if it's not operable, it doesn't classify as an -- as a firearm.

MR. GOODELL: But this bill doesn't clarify that, right? You'd have to look somewhere else for that answer?

MS. PAULIN: Yes, you'd have to look in the definition of "firearms."

MR. GOODELL: Now this applies to any person who owns or is a custodian of a rifle, shotgun or pistol, correct?

MS. PAULIN: Yes.

MR. GOODELL: So if there's a rifle, shotgun or pistol in your house and you're not the owner of it and you're not the custodian, then you have no legal liability?

MS. PAULIN: Wait. Say that one more time.

MR. GOODELL: Certainly. So if you're -- if there's a firearm in your home, but it's not yours, you don't own it and you don't have legal custody of it, then this bill would not apply to you, correct?

MS. PAULIN: You mean if you stole it or...

MR. GOODELL: Well, I mean, your bills says, "No

person who owns or is custodian."

MS. PAULIN: I think that we -- custody in this case is not legal custody of the gun. It's -- it's actual custody, having it in your possession.

MR. GOODELL: Physical custody.

MS. PAULIN: Yes.

MR. GOODELL: I see you have a provision that exempts those who are under the age of 16 from having a rifle or shotgun in their possession if they also have a hunting license, correct?

MS. PAULIN: If they have a hunting license, then they are exempted from the -- from the requirement of the -- the first requirement which says, essentially, that under 16 they'd be subject to a misdemeanor if they didn't safely store. They would be exempted from that provision.

MR. GOODELL: Now under current law, is there any provision that prohibits a 17- -- I'm sorry, a 12-, 13-, 14-, 15-year-old from owning a gun, a rifle, in particular. I understand you can't get a pistol permit unless you're at least 18 if you're in the military, 21 if you're not, but what about a rifle or a shotgun? Can a 12-year-old who's allowed to hunt, can he also own his own gun?

MS. PAULIN: Right. You have to be 18 to buy one, so I'm not exactly sure how somebody who was under 18 would own one.

MR. GOODELL: A rifle? You mean like their



parents didn't give it to them or they didn't inherit it or anything like that?

MS. PAULIN: Well, you know, I mean, I think the bill's very clear. If they were a 12-year-old and they owned it, it would -- it would have to be because someone gave it to them, like a grandfather or something like that. It would have to be safely stored. I mean, there wouldn't be an ability for them to -- unless they had a hunting license to be exempted from this law.

MR. GOODELL: Now this bill is a triggered by a temporary as well as a final Extreme Risk Order of Protection, correct?

MS. PAULIN: Yes.

MR. GOODELL: Now, the temporary Extreme Risk Order of Protection is issued in an ex parte proceeding; am I correct?

MS. PAULIN: I wish I knew that better. I believe -- yes, it could be.

MR. GOODELL: And "ex parte" means the owner of the gun isn't even there, may not even be notified, right, that's the nature of an ex parte proceeding. So my question is, how can we impose restrictions on possession or the safe storage based on a temporary order where not even the defendant is notified of the existence of the temporary proceeding?

MS. PAULIN: So the reason we added it in is because it already became law in the other bill that we passed in this House. So, it's just to clarify this law that we've already adopted into

law in another place.

MR. GOODELL: Can we talk a little bit about what's meant by "safe storage depository"?

MS. PAULIN: Sure.

MR. GOODELL: Certainly, a locked safe qualifies.

MS. PAULIN: Yes.

MR. GOODELL: What about a locked closet? In my house, believe it or not, the prior owner had guns and he had a separate padlock on a closet where he stored his guns; would that qualify?

MS. PAULIN: I would argue if it was locked and the ammunition was locked somewhere else as required by this bill and the owner had the key and nobody else had it and able to get into it, yes, then I would -- I would say that it would be classified. We don't say what that depository has to look like.

MR. GOODELL: And, likewise, as many, many houses have a separate lock on their bedrooms. So, if it's in a locked bedroom, that also qualifies as safe storage?

MS. PAULIN: If it's -- so, actually, "A storage depository shall mean a safe or other secure container." So, I would -- you know, so you -- "which when locked is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein." So -- so, where you might be able to argue a closet of some sort, you know, small one, I

don't know that you could argue that a bedroom would be -- that would fall under that category.

MR. GOODELL: Okay.

MS. PAULIN: That was -- we defined it in the SAFE Act.

MR. GOODELL: If I may continue. This clause is triggered if someone under the age of 16 --

MS. PAULIN: One second, sorry. Sorry. Go ahead, Andy; sorry.

MR. GOODELL: This is triggered if someone under the age of 16 has or is likely to gain access to a rifle, shotgun or firearm, correct?

MS. PAULIN: So, what are you reading from, the top provision?

MR. GOODELL: No, I'm looking on page 2, line 51-53.

MS. PAULIN: So, safely stored in the second degree, 51.

MR. GOODELL: Yeah.

MS. PAULIN: "No person who owns or is in custody of a rifle, shotgun or firearm and knows or has reason to know that a person" - so that's a key phrase - "that knows or has reason to know that a person less than 16 of age is likely to gain access to such a rifle."

MR. GOODELL: Now, so safe storage in the first

degree is if you live with someone who's under the age of 16.

MS. PAULIN: Yes.

MR. GOODELL: Safe storage in the second degree is you have a 16-year-old who presumably is in your home, hopefully by permission, who doesn't live there; is just a visitor or a guest, correct?

MS. PAULIN: Yes.

MR. GOODELL: And so, you would avoid liability if -- again, what's meant by "is likely to gain access"? In other words, if it's in a locked bedroom, presumably that means they're not likely to gain access unless they're breaking into your bedroom, correct?

MS. PAULIN: Except that we do require them to safely store it which has a different definition in the law. So, they would have to abide by that definition because it's already in existing law and then if they thought or knew that a child of that age was coming into -- could possibly come into contact, they would be required to safely store. This is language that we took from -- I think there's 16 other states that use it in some form and we adapted it or actually copied it verbatim from some of those states.

MR. GOODELL: I see. You have an exception for hunters, right?

MS. PAULIN: Yes.

MR. GOODELL: But only, if I'm correct, this reads only while they're engaged in hunting?

MS. PAULIN: Only while they're engaged in

hunting, so...

MR. GOODELL: I think the phrase is "when used in accordance with such law", meaning the Hunting Law?

MS. PAULIN: Yes.

MR. GOODELL: So what about when they're, before they get their -- as you know, before you get a hunting license, you have to go through a hunting safety course, right, and a lot of times there's -- they want you to learn how to hold a gun, fire the gun safely, right? But that wouldn't be triggered -- this exception wouldn't be triggered, right, until they got their license; am I correct?

MS. PAULIN: Right. They would be going to a course where presumably they would be -- where that's a licensed course where what you can do there is already obligated to or -- or authorized by law and there's set procedures. So, under strict supervision in a different facility they, according to those -- that authorization, they would be able to, I presume, hold it, but I'm not familiar with that section. Here, until they get their actual hunting license the gun would have to be safely stored in their homes or in a place where they would visit.

MR. GOODELL: Thank you very much for your comments.

On the bill, sir.

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

MR. GOODELL: I certainly appreciate the sponsor's

objective to safely store firearms, but I think we need to recognize that we need a balance here. Many people have firearms in their gun -- in their house because they are concerned for their own safety. And they're concerned that somebody might break in and they might need a gun to protect themselves or their family. And this bill says that if someone breaks into your house, you have to, in the middle of the night, find where you put the key, unlock your gun before you can use it to defend yourself, which means we're putting the homeowner who wants to defend himself at a severe disadvantage.

And what triggers this locking requirement? Well, it may be that you have someone under the age of 16 in your house that resides in your house. That 16-year-old may have gone through a full hunting -- a hunter safety training course. That 16-year-old may be allowed to hunt in New York. So, you have someone that's got a hunting license issued by the State of New York and because they reside in your house, you have to lock up your guns? They can go out and spend all day, all weekend with a hunting rifle, that's okay, but their parents have to lock up the gun as soon as they walk through the front door. That's not okay.

We also have the section, the provision that applies and is triggered when someone visits your house. Think about this: There's nobody that lives in your house that's under the age of 16, you're not living with a convicted felon or anyone who's not legally allowed. You and your spouse are enjoying your retirement - that's what I'm looking forward to at some point in my life - and you invite

friends over. If they bring someone who is under the age of 16, like your grandkids, this is triggered. And then it's not enough that your gun is in a locked closet, in a locked bedroom, you have to have a trigger lock on it or have it locked in a safe or your grandkids are not allowed to come and visit, or you're committing a crime. By the way, it doesn't matter if your grandkids are the number one marksman in their high school trap club or shooting club. You know, they're training for the Olympics; that doesn't matter either, does it? You're committing a crime because they came and visited you.

But what's interesting about this is while it requires a trigger lock, it's silent about where you keep the key. So, you have a trigger lock with a key in it, is that okay? Or do you have to hide the key, as well? Does the key have to be locked? How far do we take it?

Now, I think some of my colleagues, believe it or not, I'm going to defer to them on the Constitutionality of this bill. I just thought it would be helpful for you to perhaps hear from somebody else on my favorite subject, just to let you know that I'm not the only one that worries about these issues.

Thank you so much, sir, and, again, thank you to my colleague, Ms. Paulin.

ACTING SPEAKER AUBRY: Thank you, Mr. Goodell.

Mr. Smullen.

MR. SMULLEN: Thank you, Mr. Speaker. Will the sponsor yield for some questions, please?

ACTING SPEAKER AUBRY: Will you yield?

MS. PAULIN: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. SMULLEN: In picking up on Mr. Goodell's theme, there's some questions that I have about the Constitutionality of this measure. Specifically, because on June 26th, 2008, the Supreme Court affirmed by a vote of 5-4 the Court of Appeals for the D.C. Circuit in Heller v. District of Columbia. The Supreme Court struck down provisions of the Firearms Control Regulations Act of 1975 as unconstitutional; determined that handguns are, quote, "Arms", unquote, for the purposes of the Second Amendment; Found the Regulations Act was an unconstitutional ban and struck down the portion of the Regulations Act that requires all firearms, including rifles and shotguns, be kept, quote, "Unloaded and disassembled or bound by a trigger lock", unquote. Prior to this decision, the Firearms Control Regulation Act of 1975 also restricted residents from owning handguns, except for those registered prior to 1975.

Now, I know we have a SAFE Act here in New York State, but on June 28th, 2010 the Supreme Court actually reversed the Court of Appeals for the 7th Circuit's decision in McDonald v. City of Chicago and remanded it back to the 7th Circuit to resolve conflicts between certain Chicago gun restrictions and the Second Amendment. Chicago's handgun was likened to the D.C. handgun ban by Justice Breyer.

Why I think that's important and where my question



is headed here is because in the Illinois Supreme Court, another State, in the People v. Aguilar in 2013, summed up Heller's findings and reasoning - and this is why I find this bill to be unreasonable - that in the District of Columbia v. Heller, the Supreme Court undertook its first-ever "in-depth examination", quote/unquote, of the Second Amendment's meaning. After a lengthy historical discussion, the Court ultimately concluded that the Second Amendment guaranteed the individual right to possess and carry weapons in case of confrontation; that central to this right is the, quote, "Inherent right of self-defense", unquote; that, quote, "The home is where the need for defense of self, family and property is most acute", and that above all other interest, the Second Amendment elevates, quote, "The right of law-abiding responsible citizens to use arms in defense of hearth and home", unquote.

I have very difficulty in seeing how this bill is not unconstitutional as it's written and I would like to ask the -- the sponsor to -- to address that.

MS. PAULIN: Absolutely. I think that it's very critical. I'm very aware of the Heller decision in 2008. And there was a subsequent decision on June 8th, 2015, Jackson, and that -- in that case the Supreme Court essentially looked at the Jackson case, which was a San Francisco ordinance, that was almost identical, in fact, to the safe storage; in fact, a little more restrictive because our bill here today limits the safe storage to places where there are children. In San Francisco, they actually took the further step and had safe storage for

everyone. And that case was decided in the District Court and later affirmed by the Court of Appeals that the distinguishing factor and the reason why Heller didn't apply was because of the exact provision which we have in our bill, which is that a person could have it under their immediate control. And because they could have it under their immediate control -- and then they further argued in that case that was it unreasonable because you couldn't have it in your immediate control when you're sleeping, as was raised by Assemblyman Goodell. And the Court reasoned that it's not so onerous to unlock these -- these safety storage containers.

So, they ruled in the District Court and they upheld the San Francisco ordinance. It went, as I said, to the Court of Appeals which actually then affirmed the District Court's opinion and it went to the Supreme Court on June 8th, 2015 where the Supreme Court let that position hold. And, in fact, I have the dissenting opinion from Judge Scalia and Judge Thomas where they explained about the reasoning of the -- of the 9th Circuit Court.

And it said that "The Court of Appeals readily acknowledged" - and they're talking about the San Francisco case - "that the law burdens the core of the Second Amendment right because having to retrieve handguns from a locked container or removing trigger locks makes it more difficult for citizens to use them for the core lawful purpose of self-defense in the home." But it reasoned that this was "not a severe burden justifying the application of strict scrutiny because a" modern safe -- a "modern gun safe may be

opened quickly." "Applying" intermediate -- "intermediate scrutiny, the Court evaluated San Francisco's preferred evidence that guns kept in the home are most often used in suicides and against family and friends rather than in self-defense, that children are particularly at risk of injury and death. The court concluded that the law served a significant government interest by reducing the number of gun-related injuries and deaths from having an unlocked handgun in the home and was substantially related to that interest".

I'm happy to share I -- I went further because I wanted to read the San Francisco ordinance to see about the similarity on the distinguishing factors to be sure that ours complied, and it does, and I'd be happy to share that with you after -- after this.

MR. SMULLEN: Well, very specifically, we're here in New York and specifically in Upstate New York, I believe this bill is talking about rifles and shotguns, which the case that you're discussing is -- is having to do with handguns. The Heller case came out of the handgun issue in the District of Columbia, but it was ruled that it applied to the Constitutionality of people's inherent right of self-defense under the Second Amendment, includes all firearms, and that is a much broader definition which this bill would then overly restrict. So, I'll --

MS. PAULIN: I'm sorry to disagree, but the San Francisco ordinance applied to all firearms.

MR. SMULLEN: So, how does that go to New York and say that now because it applies in San Francisco, we're going to

apply that to all of New York?

MS. PAULIN: Because the case went to the Supreme Court and they said -- they're the one, the Supreme Court affirmed that -- that it's Constitutional and that Heller -- remember, the District -- the District -- the D.C. case that Heller looked at was -- did not allow for that immediate control. They actually banned guns and that's what was found unconstitutional, that you couldn't deny someone's ability to -- to self-protect, right? So -- but then they further ruled in the Jackson case that you could require when there was an interest on the part of government, which actually Heller spoke to, as well, but they said you can't deny because of self-protection. But they did say in Jackson that they could safely store provided that the person had the ability to have it under their immediate control, which is exactly what we have in our provision. So it is Constitutional under Heller, under Jackson, because of subsequent Supreme Court rulings.

MR. SMULLEN: Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SMULLEN: So, in looking at this and the reasonableness of this -- this gun bill that's being debated today, a couple of observations: One thing is, is that safety does not equal security necessarily under our Constitutional rights and, specifically, with self-defense in our -- in our homes and where we live and what we consider to be a reasonable response time for law enforcement agencies to be able to protect us and ourselves. But, in fact, freedom

equals responsibility and that for the specific situations of the area that I represent, that this idea of having secure storage where it has to be either locked away in a closet that's largely inaccessible if there's some sort of home security situation, or where it's locked where you can't easily accessible to it, does not seem to comport with the Constitutionality of the Heller case and the customary responsibility of citizens in the rural areas that I represent. Thank you very much, Mr. Speaker, and thank you, Madam Sponsor.

ACTING SPEAKER AUBRY: Thank you.

Ms. Byrnes.

MS. BYRNES: Thank you, Mr. Speaker. Will the sponsor yield?

MS. PAULIN: Yes, I will.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. BYRNES: Thank you, kindly. I want to go back just for a second to talking about the children in our communities who, especially who are on our trap teams in high school and who are under 16 and who are 12-year-olds that are hunting. And I just want to make sure that I understand you correctly, ma'am. It is absolutely 100 percent legal for a 12-year-old to carry a loaded rifle through the woods and shoot it and kill small game, correct, as long as they've got an appropriate hunting license and adult supervision, correct?

MS. PAULIN: Wait, wait; say -- say the last part again.

MS. BYRNES: As long as they have a hunting

license and appropriate adult supervision.

MS. PAULIN: Yes. And, in fact, we very much align the Safe Storage Act with that kind of sentiment. So, when you wouldn't allow that child who is 12 and hunting to have that rifle fully loaded absent the supervision, and what we're saying in the Safe Storage is absent the supervision, they should safely store. So --

MS. BYRNES: Right.

MS. PAULIN: -- you wouldn't want a child who is 12 to have access to that loaded gun without, you know, so that's why you would safely store it in your home.

MS. BYRNES: Right. So the initial premise is it is legal under the appropriate circumstances for a 12-year-old to carry a loaded rifle through the woods with those conditions, but if that same rifle is in the home with the ammunition five feet away and that young person who is learning to properly care and to be a responsible gun owner is cleaning their weapon with their adult nearby, just watching TV and giving him instructions, now the parent has committed a crime, correct?

MS. PAULIN: So, what you're saying -- wait, so who is cleaning the rifle?

MS. BYRNES: Yeah.

MS. PAULIN: Wait, who, the child?

MS. BYRNES: The child.

MS. PAULIN: Ah. So, the child is -- you're saying is licensed --

MS. BYRNES: Yes, but they're --

MS. PAULIN: -- and they're being supervised by the parent, right, so there's no crime being committed.

MS. BYRNES: But there's a person less than 16 years old in the home and that weapon is not secured, as defined in the statute, correct? So that parent has committed a crime.

MS. PAULIN: What we've done is exempted those young people who have their hunting licenses. So yes, it is true that if that young 12-year-old did not have a hunting license and, therefore, was not deemed by the State to be capable of holding a loaded rifle and that -- that, yes, then that gun would have to be safely stored because we have that -- if -- but if the person was licensed, then they would not have to be safely stored under the scenario that you're giving where the parent was supervising.

MS. BYRNES: But notwithstanding, we have a 12-year-old who is fully capable of carrying a loaded weapon in one situation and in another within the home.

MS. PAULIN: No, I don't think that -- maybe I wasn't clear. So, what I'm saying is there is no distinction in that circumstance. The -- the -- if that child has a hunting license and the parent is present, then that child, that gun does not have to be safely stored. It's only if that child does not have a hunting license and they're 12 that the gun would have to be safely stored under that circumstance.

MS. BYRNES: All right. So, notwithstanding the

wording of the statute, you're affirmatively telling this Body that that is an exception to the requirement of safe storage that even within the home that they have a -- within the home as long as they have a hunting license, there is no need for safe storage, because I believe you told something different to Mr. Goodell.

MS. PAULIN: If there is a -- as long as there is adult supervision.

MS. BYRNES: But the adult is in the home, does he -- how close does the adult have to be?

MS. PAULIN: Well, you know, the adult has to be supervising. I would argue that they have to be there in presence supervising. Supervision is not the next door or upstairs. Supervision is -- is actually watching and supervising.

MS. BYRNES: Thank you.

On the bill.

ACTING SPEAKER AUBRY: On the bill, ma'am.

MS. BYRNES: Thank you. I would respectfully disagree with the exact wording of the statute as opposed to what the sponsor has relayed, but notwithstanding that, in the county that I live in, we have over -- which has approximately 63- or 64,000 residents, we have in excess of 10,000 who have pistol permits in my county alone, and that doesn't include people who have rifles or shotguns that don't have pistol permits, but opt instead to have long guns. I would venture to guess at least a third to a half of the homes in the county I live in have firearms. The majority of people have them for



self-defense. We live in rural areas, police are not readily available. Depending on how far away a State Trooper or Sheriff Deputy is, it can be 15, 20 minutes or a half an hour and if there's an emergency and somebody's coming through your door, you need your firearm ready.

And Madam Sponsor, I don't know when the last time was that you did open a storage container or a gun safe, but I have and I can tell you that it takes a while and it can't be done in the dark if you're trying to manipulate the mechanisms to hit the correct numbers or in the alternative, if you're trying to punch the right code in order to activate the release. It takes time, they're not in the same rooms usually as the bedrooms, they might be in the basement, in a spare bedroom. It takes time and that time could be somebody's death. And that is why probably a third to a half of the people in my county have guns and they have them for self-defense, as well as for sporting. And we are responsible gun owners and this is really, in my opinion, a slap in the face to responsible gun owners, as well as to children who are properly taught the proper use of firearms of any type and our children that are actively hunting and are actively at our sporting clubs.

Thank you, Mr. Speaker, I appreciate the time, sir.

ACTING SPEAKER AUBRY: Mr. Raia.

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

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

MS. PAULIN: Yes, of course.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RAIA: Thank you, Amy. I own a house -- and this is actually factual, so I'm asking a question for my own benefit. I own a house that has a legal - legal, not illegal - legal accessory apartment in it. It's a cape. I rent out the top floor, I live on the bottom floor. We come in, we use the front door as a common entrance. My tenant walks up the stairs, whether he locks his door or not, I really don't know because I wouldn't want to invade his privacy, and I have a locked door downstairs. How does this apply? A, am I -- when I rent that apartment, technically he's under the same roof as me. Am I supposed to ask him if he's a felon? How does it affect if he has his little nephew over and I'm not home downstairs, even though my front door inside the house is technically locked, we're still under the same roof.

MS. PAULIN: I would -- I think, just like an apartment house or a condo or a co-op building, your -- it's a separate dwelling. So, I -- I -- I would -- you'd just apply the -- the law individually to each of the dwellings. It's not cumulative.

MR. RAIA: And what about in instances which you have multiple people sharing a house?

MS. PAULIN: Multiple people, you mean like you're -- like several roommates?

MR. RAIA: Three -- three unrelated individuals living in a house.

MS. PAULIN: Well, I think that you would have to look at it per-dwelling; it wouldn't be per-room, you know. So, if one of those roommates had a gun and another one of those roommates happened to be under 16, they would have to safely store, or if they expected anyone under 16 to visit, they would have to safely store, and that would go for any of the roommates.

MR. RAIA: Or if one of those individuals was a convicted felon, right?

MS. PAULIN: Yes. The SAFE Act, there were four prohibitors that the SAFE Act required. They were: A felony conviction - let me look - they were judged mentally incompetent, an order of protection or a misdemeanor domestic violence conviction.

MR. RAIA: How is a roommate supposed to know all of this?

MS. PAULIN: I think it's just better to safely store and not worry about it.

MR. RAIA: Well, the problem is whether or not -- how do I know they're safely storing the weapon, but, you know, it's not that easy, Amy. If it was, we wouldn't be having this conversation.

MS. PAULIN: So, I'm sorry I was flippant -- so, ask your question again and let me see if I can give you a serious answer.

MR. RAIA: No, it -- it's fine. I'm just pointing out the fact that you may deem that to be a single dwelling, but the Town of Huntington that issues my accessory apartment permit does not

deem it that way. They still see it as one dwelling that has an accessory apartment in it, but it's still considered one single housing complex. So, my own town would disagree with you and how you're viewing it as -- as an apartment building.

So, it is problematic and I'm not -- how am I supposed to know when -- when his little nephew is coming to visit, what if I'm out of the house?

MS. PAULIN: I -- I think if you have a reason to believe that a young person is visiting and in your town, your dwelling is considered a single dwelling, then you -- you would have reason to believe that you should be safely storing your gun and -- unless it's on your immediate possession. So, I think you've answered your own question. Your -- your town considers it a single dwelling, you would expect on occasion to have a child that's under 16 visit and, therefore, you should be safely storing that weapon in the event that that child comes and you're unaware.

MR. RAIA: All righty. Thank you, Amy.

ACTING SPEAKER AUBRY: Mr. Manktelow.

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

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

MS. PAULIN: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MANKTELOW: Okay. Thank you. Just to

help me understand this a little better. So, back at home I have a young child, 15 -- 15-years-old, him or her, it doesn't matter. My wife and I are gone for supper one night. Somebody's breaking into the house. What is that child supposed to do in regard to this? We have guns in our house. Now that I'm leaving the house under this new bill, those guns will have to be completely locked up, correct?

MS. PAULIN: Yes.

MR. MANKTELOW: Okay. So, in this situation, what are my two young kids supposed to do?

MS. PAULIN: Would you have wanted them before to actually have access to fight off the intruder?

MR. MANKTELOW: Pardon me?

MS. PAULIN: You would have wanted your 15-year-old to fight off the intruder?

MR. MANKTELOW: If I wasn't there, yes.

MS. PAULIN: Um, under this law you would not -- they would not be able to do that.

MR. MANKTELOW: So, the only other option would be to call 9-1-1?

MS. PAULIN: Yes.

MR. MANKTELOW: Okay. And as Assemblywoman Byrnes already commented, in our rural areas, sometimes we may not see a police officer for 15, 20, 25, 30 minutes. In that situation, what are those young people supposed to do?

MS. PAULIN: The -- science has shown that guns in

the home for, in your situation, young people like that, that they're much more susceptible to suicide risk and -- and accidental harm. The likelihood of that scenario is so small that -- that it's -- compared to those other risk factors, that it's hard to -- it's hard for me to equate.

MR. MANKTELOW: So what you're saying is these risk factors that have been studied have more control over my two children in my home than what I do as a parent and what's best for them?

MS. PAULIN: Yes, because the risk factors are -- are -- have allowed us in the United States, because of the Supreme Court rulings, to look at governmental interest, including things like suicide, including things like -- like theft of a weapon. And so yes, it's in our governmental interest to protect the larger group of children. Do you know that, you know, the CDC's been following this and their -- the data, you know, just to -- the -- the data that nearly 17 children under 18-years-old died from accidental gun deaths from 2001-2017, and 33,000 more were injured. Another 7,700 minors incidentally killed themselves with guns during the same time period, and more than 2,500 intentionally injured themselves with firearms. And that's -- and because of that, because of that, it's very compelling and gives us a strong governmental reason to -- to do a safe storage bill to protect children.

MR. MANKTELOW: Okay. And I agree with some of your comments just now, but I'm not talking about suicide. I'm not talking about somebody getting shot. I'm talking about the two

children in my house protecting themselves until law enforcement or someone else can arrive. What are they supposed to do?

MS. PAULIN: Well, you know, there's -- there's -- that's what we have law enforcement for.

MR. MANKTELOW: Pardon me?

MS. PAULIN: That's why we have law enforcement.

MR. MANKTELOW: Well, the issue we have right now with law enforcement is two things: Back at home, right now I know speaking with my local Sheriff, we cannot keep enough applicants there to do it, first of all. Second of all, with the people moving out of the State, we don't have enough applicants moving out, but thirdly --

MS. PAULIN: So, let me ask you. You're using a 15-year-old as an example --

MR. MANKTELOW: Well, that's real life; that's real life.

MS. PAULIN: No. Well, at what age would you want your young person in your house who is untrained to use a gun to be able to have access to shoot a perpetrator? I mean, I know from domestic violence that -- that when there is someone who wants to attack, you know, the perpetrator wants to get at the -- that usually female, that having a gun in the home is actually to her detriment because they're stronger and usually the perpetrators are going to be, you know, bigger and stronger than a 15-year-old. And it's much more likely that -- that the weaker party is going to get hurt by that

gun being part of that conversation. So, I think that there's a risk. I'm not going to, you know, I don't pretend to know, you know, the size or the -- of the perpetrator compared to your child, but there is a risk with a weaker party and that might -- and so it may do more harm than good to have the child actually have access in that situation, as well.

MR. MANKTELOW: Well, I think what you just said, you know, the risk to a younger child, but I know in my home, my children are trained on how to use them. So, probably the weaker person is the person breaking in to my house, just to let you know. They're very responsible from a very young age. We teach them proper respect for a gun, how to use it, when not to use it and what's proper and what's not proper. So in this situation, I don't tend to agree with that. I just -- I really think you're, with this bill, we're going to hurt some of our young people without being able to defend themselves and I would much rather have my child have the option to defend themselves with a gun than to do nothing at all.

MS. PAULIN: So, you know, one of the things, I know I've heard this before, you know, that Eddie Eagle course that gives children information, you know, when they see a gun what to do and this and that, and what not to do and those -- those courses have been studied by many public health experts and have shown that they actually -- that you cannot tell a child that they shouldn't get the gun. They do not -- they do not actually work and, in fact, when they have access, kids play with those guns and they harm themselves and they harm each other. So, you know, we -- using that data, we know that



the best thing to do is to safely store and without adult supervision under the case of -- of a young child that has a hunting license, that we are doing the best thing for the children in this State.

MR. MANKTELOW: Okay. So I'll go back to what you just said again. You're talking about the course. Well, myself as a parent teaching my young ones what to do and what not to do, to me that's better than any course because they're going to understand me as a parent and what to do. But where does it stop? So, if we can't get a gun, what's the next thing they're going to defend themselves with, a knife? An ax? Or anything that they can get a hold of? Because, believe it or not, I don't -- all the studies will say this or say that, but in reality, in true life, until you're in that situation in your home, you don't know how things are going to happen. And I understand having guns in the safe, I got all that, but the situation where somebody's breaking into my house, it's the middle of the night and my children are there, you cannot fumble through -- I have three gun safes and they all have security codes on them. First of all, it's dark. Somebody's coming down the hallway in my house to harm my children or me, I want to have complete access to those guns as soon as possible, and this bill really doesn't allow us to do that. I understand the intent of it, and in some cases, I think it's okay, but right now in our rural area, it just does not work Upstate.

MS. PAULIN: Well, I'll just -- you know, I'll just read again from the Jackson Court of Appeals where -- the Jackson case which the Court of Appeals was the last Court that actually wrote

about it. And it said, "Unlike the challenged regulation in Heller, Section 45.12", which is the San Francisco ordinance, "does not substantially prevent law-abiding citizens from using firearms to defend themselves in the home, rather Section 45.12 regulates how San Franciscans must store their handguns when not carrying them on their person." So, it certainly doesn't prevent you, as the licensed gun owner, from defending yourself. It says that when you do not have that gun under your immediate control and possession, that you must safely store it for, frankly, the protection of the rest of us.

MR. MANKTELOW: Okay. I believe in one of your comments you said that there was 17 deaths over break-ins over the last --

MS. PAULIN: The what?

MR. MANKTELOW: There was 17 deaths from break-ins over the 19 -- the last 19 years; is that correct? Gun-related.

MS. PAULIN: No.

MR. MANKTELOW: No?

MS. PAULIN: No, I think -- let me get that data again. No. It was 1,700, 1,700 children under 18 died from accidental gun deaths --

MR. MANKTELOW: Okay.

MS. PAULIN: -- and another 7,700 minors intentionally killed themselves with guns during the same period, and another 2,500 intentionally injured themselves, and the 33,000 were -- were injured and -- and -- from accidental gun deaths.

MR. MANKTELOW: Okay. So -- so my last question, ma'am, is of the thousands and thousands of burglaries that happen every year, I believe that the children in my house, the children in our rural areas, our families, as parents, we have the right to say yes or no what's best for our kids and moving forward, this just does not allow us to do that. In speaking to -- getting some data from my own self, speak to our 2-1-1 centers from -- I asked the question, what's the most common use of a suicide, it's pills; guns were way down on the bottom. I understand your point, but there are far worse things than guns out there right now.

MS. PAULIN: So, when -- how many -- just a question. Are there many robberies, because a burglary is without a weapon. Are there many robberies in -- in your -- in your area?

MR. MANKTELOW: No, because --

MS. PAULIN: How many? I mean, I'm just wondering how many.

MR. MANKTELOW: No, because -- there really isn't because we're a rural area and most people that are going to break in know that we are armed and we do have guns in our houses so they'd probably choose not to break into our houses.

MS. PAULIN: So there aren't that many robberies --

MR. MANKTELOW: Well, I didn't say there aren't that many, there's a lot of --

MS. PAULIN: So, I mean, last year, was there one robbery in your town?

MR. MANKTELOW: I don't know for sure.

MS. PAULIN: So -- so you're saying that -- you're giving me a scenario of something that never happens, or, you know, that in your memory never happens. So, I -- I really don't understand that compared to, you know, if -- you and your 15-year-old was in a home and you weren't there and he had the privilege of knowing where the, you know, of having that gun and, you know, that he then had other 15-year-olds visiting him in your absence, because you're not there, those other 15-year-olds who may not have been trained might get access and might hurt your child or the other child or the third child who was there, and you're saying that risk is not great because your child is trained, but what about the other children who might get exposure? That's what this is talking about, compared to the robberies that don't exist. So, I really don't understand the argument.

MR. MANKTELOW: Okay. Well, as you just said, they may not exist, but the one time that it does, I want to be sure that my children have the right to defend themselves.

MS. PAULIN: And I would say the one time that your child had access to the gun and they had another child that came over, and the parents of that other child would want their child protected.

MR. MANKTELOW: Okay. Well, most of the -- most of the parents and families in our rural areas, most everybody has a gun so I think most families are understandable. Thank you, sponsor.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MANKTELOW: First of all, thank you very much, sponsor, for taking my questions. And as we've discussed, some of the things we've talked about, back home what works in certain areas doesn't work in another area. And my true concern about this is the protection of our young people, the option to defend ourselves in our homes. Taking that option away for one case where somebody comes in and a young person that's trained cannot defend themselves, I cannot support that. And it really does take away that -- that option as a family, as young people.

I do thank you for the time, Speaker, and I will vote no on this bill. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Ryan.

MR. RYAN: Will the sponsor yield for a question or two?

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

MS. PAULIN: Yes.

MR. RYAN: So, I have a question about this bill compared to the previous bill. Did the previous bill you carried on this stretch this protection for other people outside of the homes?

MS. PAULIN: Say that one more time, I'm sorry.

MR. RYAN: The current bill, is it only limited to the

homes, houses, or does that count for cars and other --

MS. PAULIN: No, it's only homes.

MR. RYAN: And did your previous bill --

MS. PAULIN: No, it was only homes, as well.

MR. RYAN: I wanted to ask you this question about, we keep hearing about this safety and we're getting, I think, sort of a strange view of what responsible gun ownership is. You know, I've been a gun owner and I have a safe and that's where I keep my guns. The very thought that someone would lock -- would load a weapon and say, *Kids, I'm going out to the store, here's a loaded weapon.* You know, you look at the NRA's own book on how to safely store a weapon, they say do not leave a loaded weapon anywhere around children. So, this idea that you're going to infringe on someone's right by keeping a child safe, like who would give a loaded weapon to a child and say, *Here you go, you know, protect yourself.* I mean, that's what you're trying to protect people from; is that correct?

MS. PAULIN: Yes.

MR. RYAN: So we recently had a situation, you know, every year it almost always happens on a snow day. A child is accidentally shot with -- with a weapon. And here's how it usually happens. Parents both go to work, kids, adolescents all day long, idle hands, the Devil's Workshop - you've heard that - and guess what they find when they're looking around their parent's house? They find an old gun and everyone always thinks that gun is loaded, you know, and we've all seen kids play -- play with each other. They're always

pointing toy guns at each other, but we always seem to have the tragedy that the unloaded gun is a loaded gun, the gun they thought was a toy gun was a real gun and then we have a needless, needless death. I mean, is that what you're trying to prevent in this type of bill?

MS. PAULIN: Yes; in fact, just preparing for the debate, I read many stories and exactly what you're suggesting is what happens. And, in fact, one tragic story, and I believe it might have even been in your area, where the child was playing with the gun and it fired and nothing came out and thought that -- that it was unloaded and then pointed it at his sister and -- and shot her and killed her.

MR. RYAN: It's a tragedy, and this is the type of thing we're trying to avert with this bill. But let me go back to the safe storage outside of houses, or actually in houses. Each year between 300,000 and 600,000 guns are stolen. At the high number, that's 1,600 guns a day are stolen from people's houses, from people's cars, from their lockers at work. Does this bill, do you think will reduce the number of stolen guns from people's houses?

MS. PAULIN: Yes. In 2018, John Hopkins University did a study of how many guns are actually stored. And it's -- from legally-owned guns, you know, if you don't legally own it, you're not going to admit it, so -- and the studies show that only 50 percent of guns were safely stored. So, if -- this will hopefully raise that bar and, yes, preventing guns from being stolen --

MR. RYAN: Right.

MS. PAULIN: -- is -- is a key factor of -- and a key

reason why we're doing this.

MR. RYAN: Because that's where a lot of illegal guns make it to the street, it's because responsible gun owners, you know, "air quotes", are leaving their guns unlocked and unattended in their houses, you know, when they go out. So, I've heard today a lot about how I need the gun around to protect me from, I guess, marauders that happen to be going all around areas of New York State, but when you leave your house, why would you ever leave a loaded gun in your house? I -- I have no idea.

Let me tell you about a situation that did just happen in Buffalo. First responder, of all things, goes to work, brings his gun loaded with him, leaves it in the car. Car's unlocked, someone steals the gun; luckily there was no injury, but if, in fact, that gun was used, say, to shoot a child, would there be any protections offered under this bill for a gun that was irresponsibly stored in a car that was then used in a crime?

MS. PAULIN: Not -- not really. I mean, I'm assuming the person had a license to carry.

MR. RYAN: They did.

MS. PAULIN: Now, I don't know what the law is specifically if you leave the gun unsupervised, you know, under the scenario of carrying, if there's any requirement to actually carry it on your person or not, but I would think that that's the area to look at. I don't know, but this does not cover that scenario.

MR. RYAN: I think you'd be shocked to find out that



under New York State, you can leave a loaded handgun on your dashboard with the windows rolled down and that's not against the law, and that will not lead to the revocation of your pistol permit. Is that the type of thing you'd be interested in looking at in the future, and maybe working on?

MS. PAULIN: I'm writing it down.

MR. RYAN: That's good; that's good.

(Laughter)

So...

MS. PAULIN: And, in fact, you should know, in San Francisco, a subsequent ordinance that they did was exactly what you're talking about, and I actually was thinking about it when I was reading about their -- their case yesterday, so it's very on-point.

MR. RYAN: Yes. You know, I actively shoot, I shoot skeet, I hunt and I go to the skeet club sometimes and I hear guys talking about their car guns, how they have a separate gun just for their car. And I asked them, I said, is that gun, is it in the parking lot right now in their car? *Oh, yeah, in case when I get in that car I need it.* I said, *Well, what if someone breaks into your car?* They said, *That's my Second Amendment right.* But I know the streets of the City of Buffalo are littered with guns that have been stolen from people's houses, people who don't have the responsibility to store that gun in -- in a proper -- proper manner.

MS. PAULIN: So, I've been corrected here. They would have to have a gun lock if it was in the car.

MR. RYAN: Right, right. So...

On the bill, Mr. Speaker.

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

MR. RYAN: So, I have been around guns my entire life. My father trained me how to use guns. My father would turn over in his grave if I said to him, *Dad, is it a good idea to load up my guns and then go out for the day and leave it with my children?* My dad would ask me if I've gone insane. The thought of leaving children in the house with -- unattended with loaded guns is beyond the pale of reasonableness. But let me tell you, Mr. Speaker, safe storage is a responsibility of every gun owner. They owe it not to just themselves, but to their neighbors, to the kids who come into their houses. It's not an infringement on anyone's right. Being responsible to your neighbor is really the first right in responsibility we should think of as good citizen. Owning a gun is a tremendous responsibility and it should also be a tremendous liability.

I have a safe in my attic, that's where I keep my long guns. I have a separate box with a separate lock where I keep my ammunition, and that's in case my house does get burgled and somebody's able to access one container, they're not able to access another container. I think that is the basic responsibility that you owe to your family, to your neighbors, to other citizens in your community. We need to stop the flow of guns that are being burgled from people's houses, from their cars, from their bookbags and ending up out on the

street. And I think that's a responsibility that every gun owner owes me and owes everybody in our community.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. DiPietro.

MR. DIPIETRO: Thank you, Mr. Sponsor -- or Mr. Speaker. Would the sponsor yield for a couple quick questions?

MS. PAULIN: Yes.

MR. DIPIETRO: Thank you, Amy. You brought up a couple facts and I just wanted to -- real quickly. You made a comment earlier about storing the ammo and the firearms separately. That's not in the bill, was that just a statement to another Assemblyperson? I was listening and you mentioned something about storing separately and it just caught me off guard. Maybe that was just in response to a question.

MS. PAULIN: So, what the -- what the bill says is that it, *Shall store otherwise leave such rifle, shotgun or firearm out of, you know, out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository, or rendered it incapable of being fired by using a gun locking device appropriate to that weapon. Shall mean a safe or secure container which, when locked, is incapable of being opened.* No, you're right, we changed it. Right? We changed it, you're right. That was the -- that was one of the changes.

MR. DIPIETRO: That was one of the changes, okay.

MS. PAULIN: Yeah.

MR. DIPIETRO: Yeah, I just wanted to double check that.

MS. PAULIN: Yeah.

MR. DIPIETRO: Another thing. When we debated this a few years ago, one thing that was brought up was the safe storage from the vehicle to the home and one of the points brought up was if you stopped at 7-Eleven on the way home from shooting at a show or at your club, that under that bill you would have to physically carry in on your person all these firearms. Would that -- did that change? Is the trunk now a safe place or do you still have to go directly home? How is that worded?

MS. PAULIN: So, because of the change in when it's a violation, it complicates it. Before, we required every gun to be safely stored no matter, you know, in the old bill that we debated a few years ago. Now we're saying that there has to be an expectation that there's a child present. So -- so that -- so that's the added factor that would have to be considered, you know, when you were determining whether or not any facility was a secure, locked place.

MR. DIPIETRO: Trunk? Is a locked trunk considered --

MS. PAULIN: I guess if the child knew how to press the button to unlock the truck -- the trunk, you know, and was in the, car then you'd have a problem. No child in the car, no ability to unlock the trunk, then not a problem.

MR. DIPIETRO: That's what I -- okay. And then, I don't know if you -- you made a statement just shortly ago, 30,000 -- 33,000 accidental deaths, but it was --

MS. PAULIN: Um, no, I think it was not -- that was injuries; 33,000 injuries.

MR. DIPIETRO: Injuries, right. As of 2018 or 2016, there were only 495 accidental by firearms.

MS. PAULIN: This was for time period.

MR. DIPIETRO: Oh, okay.

MS. PAULIN: Yeah.

MR. DIPIETRO: Okay. Let's see, what else did I have. The major causes of death by firearms, what are they?

MS. PAULIN: The major causes?

MR. DIPIETRO: Yeah, why? Is it -- what I'm trying to get at is I'm trying to think of suicide.

MS. PAULIN: Yeah.

MR. DIPIETRO: Criminal activity.

MS. PAULIN: Right.

MR. DIPIETRO: Mental illness.

MS. PAULIN: Well, suicide is probably the --

MR. DIPIETRO: Mental illness.

MS. PAULIN: Yes, the highest one.

MR. DIPIETRO: Okay.

MS. PAULIN: And that could be due to mental illness or, you know, or due to, you know, depression that's not --

doesn't rise to that threshold.

MR. DIPIETRO: Okay. All right. I think that's all I had for you. Thank you.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. DIPIETRO: We deal with this and we all agree that -- that safe storage -- I have a gun safe, and my wife literally every week makes a comment because the safe is outside of our bedroom and so if someone comes in, I will never have time to access my safe and I hate to say that publicly, but -- I'm done if someone comes in by the time I get to my safe, so -- but I don't store them anywhere else, they're safe stored. And we all agree that that's the best way, but I think a lot of -- you're dealing with a lot of older people who live by themselves who are very scared. They've been responsible gun owners for a long time, years and years. They're not criminals. And because they're scared, they keep it safely next to their bed, a small, maybe a small caliber pistol. And there are many, many stories where that small caliber pistol has been the determining factor in saving their life versus the intruder.

And I just think this bill goes too far in that respect. It takes away -- again, it's another one of these bills that is a detriment to the law-abiding citizen. I'm not going to get into statistics, I know 495 accidental deaths is 495 too many, but considering that they're in some estimates up to 2 to 3 billion guns in the United States, most of them -- most gun owners, you can't regulate stupidity. And with this

bill, I think what's going to happen is I think the people who aren't going to abide by this bill are still going to not abide by it and it's not going to be until somebody gets -- gets hurt and then they're going to get charged and then the full weight of the -- of the law will come into effect, but I don't think it's going to change people's attitudes. Like I said, you can't legislate stupidity and if people are going to do that, they're going to do it.

So, I look at -- a lot of times I look in here and we put in this gun legislation and people say certain people in this Chamber are against guns, and I say that's just not true. They're all for guns, actually. Most people in this Chamber and the Majority are for guns because they're not regulating them away from the police or some elite citizens in our society. They want them to have guns, they just don't want the average citizen to have a gun because somehow the average citizen, with 2 to 3 billion guns floating around this country, and -- and billions of rounds of ammunition, we're not responsible. And I disagree.

So, what I would like to say is this another one of those bills that goes too far, that infringes upon our Second Amendment rights. It's a lot of slick language, but when we come down to it, it's still just one more nick in the piece of wood towards gun confiscation. We see it with stupid laws that came into effect, like seven rounds being the maximum you can have, where that number was just made up out of thin air when there wasn't a manufacturer in the world who makes a magazine or a clip for seven

rounds, and that was done on purpose. Again, to dissuade, to keep nicking at the Second Amendment so that as years go by, more people will not want to be a legal gun owner because they'll just say, you know what? We just -- it's too much hoops to go through and it will go against our Second Amendment rights as we continually get them trampled on.

You know, there are other bills coming up like we can't have raffles, non-for-profit have raffles that include firearms when most of the State, the emergency equipment are firemen, ambulance providers, first responders, churches, all these organizations, that's how they make their money. I've received hundred of letters saying not to let that bill come through. Again, just another infringement on our Second Amendment rights. And so, I'll be voting in the negative. I would hope that our -- our -- that we just say no to this bill and move on and try to come up with a little bit better language. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker. I just want to touch on a few things that I heard, so on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. REILLY: Just during the debate, I heard some conversations that I felt like I wanted to make sure that I highlighted and I spoke about. We heard earlier talking about burglaries and saying that, you know, burglaries don't have firearms involved. I just want to let everybody know that I could tell you that I've responded to



and I've made several arrests over my career with the NYPD of people committing burglaries with firearms or other dangerous weapons. As a matter of fact, unfortunately in 2005, we had NYPD Police Officer Daniel Enchautegui from the 40th Precinct was killed in an attempted burglary, and that was by a movie star who participated in that heinous crime. So, these are things that really do happen and I think we all, as a Body, should remember that. And I also heard about leaving a firearm on a dashboard with a window rolled down. I will tell you that as a police officer, that person would probably be arrested and charged with reckless endangerment, which is already covered in the Penal Law, and as they should be charged.

So, these are things that I just want to highlight and let us know that there are laws in place that we can already prosecute people who do those things. And if someone doesn't safeguard their firearm and there's a tragedy, they will be charged with a crime, as they should be. And I just wanted to make sure that we all remember that and most of all, I wanted us to remember the NYPD Officer who lost his life. Thank you.

ACTING SPEAKER AUBRY: Mr. Ortiz.

MR. ORTIZ: Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. ORTIZ: Let me just -- just for a point of information and a little footnote, I would like to say that we do -- we do care about our law enforcement and our police officer. Having a cousin who is a U.S. Marshal and a brother who is a law enforcement

officer, I would say that we -- that we do sympathize with them and their family, as well.

But this bill, in reality, is about saving life. It's about saving the life of our children, protecting our children and those around our children. Four hundred Americans will die in unintentional home shooting this year, and research has proved that -- research have also showed that those requiring -- requiring use of gun locks are effective at preventing suicidal at home. Eleven states, Mr. Speaker, have law concerning firearms, locking devices. Massachusetts has been the only State that require old guns be secured in a locked safe waiting at home.

So, therefore, Mr. Speaker, this particular bill, like I said at the beginning, is really to save life, protect the life of our precious children and those around them. So, therefore, Mr. Speaker, I would like to commend the Speaker for always being there fighting to ensure that we have gun laws on the book, that we'll be able to make New York State to be one of the finest States to protect our family and our children, and I would like to commend the Speaker for bringing this bill -- this bill to the vote. Mr. Speaker, I will be voting in the affirmative and I hope that my colleagues will do the same, and this is about saving our children's life and protecting them. Thank you.

**ACTING SPEAKER AUBRY:** Mr. Abinanti.

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

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

MS. PAULIN: Yes.

MR. ABINANTI: All right. Question one: Does this bill in any way infringe on or preempt local governments that presently have safe storage bills?

MS. PAULIN: Westchester and Buffalo who enacted their law in 1993, Rochester, Albany and New York City who enacted it later than that, those laws are not preempted from our adopting this one.

MR. ABINANTI: Okay. Secondly, presently under the law, there is a whole series of people who are not permitted to possess a gun. Are you adding to the statute here which requires safe storage when certain people are present, are you adding anyone who is not now prohibited from possessing a gun?

MS. PAULIN: We are adding to that same list. The -- not -- wait. So, we're adding to the list of when you safely store, in addition when there's someone in those four prohibitor classes in your home, you have to safely store, you're adding now when you have a child who is under 16 residing in that home, to that exact same section of law.

MR. ABINANTI: Okay. As I'm understanding it, correct me if I'm wrong, that presently under our laws, there are various classes of people who are not allowed to carry guns. The present statute, as we passed it in the past, says that a group of those

people, when they're in the home, the guns have to be safely stored.

MS. PAULIN: Yes.

MR. ABINANTI: We're now saying that we're going to add to that list some more people who are prohibited from having guns; is that correct?

MS. PAULIN: Yes.

MR. ABINANTI: Okay. So all we're doing is conforming the Safe Storage Bill with other sections of the Penal Law, correct?

MS. PAULIN: Yes.

(Laughter)

MR. ABINANTI: This is a very simple, straightforward bill, which -- let me try it this way. Mr. Speaker, on the -- on the bill.

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

MR. ABINANTI: Mr. Speaker, this is a very simple, narrowly-tailored bill. Present law says that a gun must be safely stored when certain people are in the household and could have access to it. This law takes the present law and adds more people to that. It adds some more people who, by our other laws, are prohibited from possessing guns. So, it says not only is Class A who are prohibited from possessing guns, not only do they require that guns be safely stored when they're present, now we're just adding Class B and Class C and Class D. It's a very simple, straightforward bill that says that a

person who has a gun has to safely store it when the people who are otherwise prohibited from having a gun are present in the household and the gun is outside of their possession and control.

This is not a total mandate. What it is doing is saying if you somehow can give up possession and control, then you have to safely store it. If you have -- if you're a gun owner and you have the gun on your person and one of these people comes into your household, you do not have to store the gun. If you are in a room with that gun and that person who comes into your household who is prohibited from possessing the gun is in the house, you don't have to safely store the gun. If they come into the room and they get closer to the gun than you are so that they can access that gun, that's when this is triggered.

This is not an infringement on the First Amendment rights. It is a very simple safety measure that says you've got to take all steps necessary to keep guns out of the hands of those people who are prohibited from possessing those guns. This is very narrow. We have many communities in -- in the State of New York that have broader bills that prohibit the -- that require the safe storage of firearms under all circumstances, not just when somebody's in the household. And some of those work very well. We have one in Westchester County, and the newspapers did a -- did a simultaneous analysis of two different households on a particular day. They did an analysis of a burglary in Westchester County and an analysis in another community where there was not a safe storage bill. The

burglars got into the house in Westchester, the guns were locked away and those guns did not make their way out onto the street. In the other community where there was no safe storage requirement, the burglars walked away with two guns that are now on the street and being used illegally. So, safe storage bills actually do change conduct. They do influence people. They bring to their attention that they should be keeping their guns safe and they do actually work.

Now, we've had a lot of conversation here about kids. I just wanted to share one story. Many years ago when I first got involved in the movement for safe control, safe storage of -- of weapons, I had the opportunity to meet with a father who had joined the effort. And it was really a sad story and a moving story. I asked him why were you here. Why were you lobbying on behalf of safe storage bills. And he told me the story of his son, and they lived in an Upstate community where guns were very common. He told me the story of his young son who went next door to visit a neighbor and never came back, because the kid next door was so proud of the fact that his father had a gun that he opened the closet door, which had been locked, found the loaded gun and then demonstrated to the young fellow how the gun works. But since he was young and was not one of those people exempted from this bill who was trained, he didn't know how to handle that gun. And as I said, that little kid never came home, and that's why that father was here. And that's why I think we all should be in favor of this legislation, which just requires gun owners exercise some common sense and don't leave your guns

out when people who are not supposed to have guns can take them away from you. So, I urge that we support this legislation.

ACTING SPEAKER PICHARDO: On a motion by Ms. Paulin, the Senate bill is before the House. The Senate bill is advanced. 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. Smullen to explain his vote.

MR. SMULLEN: Thank you, Mr. Speaker. I appreciate the opportunity to explain my vote. I've been a responsible gun user my entire life, I spent 24 years in the United States Marine Corps. I've been a Weapons Platoon Commander, a Weapons Company Commander, a Weapons Training Battalion Commander; I have prepared and deployed three times into combat. I know a little bit about safety and a little bit about security and what I believe is that safety does not equal security. They're ought not to be a law in this case. It's already covered under existing laws. It's already covered by existing statutes set by municipalities who have different security concerns for their citizens than the Upstate area that I represent.

I believe that transferring the security concerns of the dense urban areas of places like San Francisco to Upstate New York is unreasonable. My entire philosophy behind legislation that restricts

firearms is whether it's reasonable or unreasonable, and I find that this bill will make criminals of law-abiding citizens after the fact people in my -- in my neighborhood, in my district and -- that the inherent right of self-defense is paramount to our Constitution's viability and I feel that this is wrong. And, therefore, I'll be voting no and continuing to fight to stop unreasonable gun control measures in the future. Thank you very much.

ACTING SPEAKER PICHARDO: Mr. Smullen in the negative.

Mr. Lalor to explain his vote.

MR. LALOR: Thank you, Mr. Speaker, for the opportunity to explain my vote. I heard a lot about public safety today, but I don't think that's what that -- this bill is about. I've been here six years. I can't remember too many bills that have passed this House that got tougher on actual convicted criminals. I've seen a lot of bills drafted by my colleagues and I that would have done that and they die in Committee almost anonymously.

I've seen a Governor put in place a Parole Board that released convicted criminals who assassinated police officers with guns and let them go free, let them vote, in fact, give them the right to vote. So, I don't think this is about public safety or we would've been voting on those kinds of things, things that would actually make our communities and our streets safer.

The previous bill to this one actually made things more lenient for convicted criminals potentially, and this year we



haven't done anything to make our communities safer, but we've passed five or six gun control bills, because I think what this bill and the previous gun control bills are about is chipping away, chip by chip at our Second Amendment rights. I think there's a political opportunism and I think there's an ideological bias against the civilian ownership of firearms, which is kind of ironic considering our Constitution added the Second Amendment to protect that very right, the right of civilians to own firearms.

I will be voting in the negative and I hope all of my Constitution-respecting and freedom-loving colleagues will join me in voting against this legislation, which will chip away at our Second Amendment rights, but not keep our communities safer. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Lalor in the negative.

Mr. Raia.

MR. RAIA: Thank you, Mr. Speaker, to explain my vote. Listening to this debate, you'd think that crime doesn't happen. We heard a number of instances with my Upstate colleagues talking about police response. Well, I live on Long Island and in case anybody hasn't noticed, the increases of home invasion are through the roof. Just a few articles: *Police seek suspect in violent home invasion on robbery; another home invasion reported in Suffolk County, the sixth in two weeks.*

Home invasions happen and they usually happen with

an armed individual. An unloaded gun in this instance that's locked away is not going to help in a home invasion. We need to be talking a little bit more about raising crime penalties on those that would commit crime, but the bottom line is my neighbor had a home invasion not too long ago. It happens. So, to sit there and try to pretend that home invasions don't happen isn't going to change the facts. Thank you, Mr. Speaker. I'll be voting in the negative.

ACTING SPEAKER AUBRY: Mr. Raia in the negative.

Mr. DiPietro.

MR. DIPIETRO: Thank you, Mr. Speaker. It's another sad day in Albany, another day that I stand up to protect our Constitutional rights. There already is legislation on the books covering safe storage of firearms already. Why we're wasting our time attacking responsible gun owners is beyond me. We're not talking about removing handguns from criminals, we're not talking about repealing the SAFE Act; instead, we're attacking the rights, again, and a way of life, again, for law-abiding citizens. This is a further infringement on our rights, end of story. This is nothing more than trampling on our Second Amendment rights.

We have dozens of bills that will protect us and do exactly what we want, but they never see the light of day in this Chamber because they either put too much emphasis on the criminals, or they put too much emphasis on the sentencing of the criminals, which is wrong. We do more in this Chamber to protect criminals

than we do to protect our citizens. And on a side note, when we're talking about 475, 465, which is a -- which is a tragedy, compare that to about a half a million abortions, there's a tragedy for you. I'll be voting no, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. DiPietro in the negative.

Mr. Daniel Stec.

MR. STEC: Thank you, Mr. Speaker, for allowing me to rise to explain my vote. You know, I listened to the debate here today and we've seen a lot of legislation opposing the Second Amendment over the last few years. And as some of my colleagues just pointed out, we've had a lot of people -- a lot of legislation and a lot of suggestions out there that are pro-criminal and anti-law enforcement, anti-law abiding person, specifically when it comes to the area of Second Amendment.

And the sponsor today argued with one of our colleagues that -- questioned whether or not there was a lot of gun crime or a lot of criminal activity in his rural district. And -- rationalizing [sic] that the -- his objections were unwarranted. Perhaps there's less crime in these rural areas because people in rural areas are carrying guns and it's less -- you know, there's more risk for somebody that would invade a home walking into a neighborhood in a rural area than maybe some other parts in the State, maybe. Or maybe there are just better people in the rural part of the State. I wouldn't say that, but maybe some would.

My point being here is that some of the arguments for this affront to law-abiding gun owners are ridiculous and I, too, will be joining my colleagues in voting against this unlawful, unconstitutional taking of our Second Amendment rights. I vote in the negative.

ACTING SPEAKER AUBRY: Mr. Daniel Stec in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, could you call on Mr. Otis for an announcement?

ACTING SPEAKER AUBRY: Mr. Otis for the purposes of a [sic] announcement.

MR. OTIS: Following the close of Session, there will be an immediate Democratic Conference.

ACTING SPEAKER AUBRY: Immediate Democratic Conference following Session.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do you have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: We have a bit of housekeeping.

On a motion by Mr. Jones, page 6, Calendar No. 91,

Bill No. 5979, amendments are received and adopted.

On a motion by Mr. Lavine, page 14, Calendar No. 63, Bill No. A2850, amendments are received and adopted.

On behalf of Mr. Lavine, Assembly Bill recalled from the Senate, the Clerk will read the title of the bill.

THE CLERK: An act to amend the Election Law.

ACTING SPEAKER AUBRY: There is a motion to reconsider the vote by which the bill passed the House.

The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are received and adopted.

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. 134-140 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I now move that the Assembly stand adjourned until 12 noon on Tuesday, March the 5th, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 5:20 p.m., the Assembly stood adjourned until Tuesday, March 5th at 12:00 p.m., Tuesday being a Session day.)