

WEDNESDAY, APRIL 10, 2019

10:30 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

In the absence of clergy, we will 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 Tuesday, April 9th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, April 9th and 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 share with my colleagues and staff and guests in the Chambers a quote from Frances Perkins. You may know, Mr. Speaker, that Frances Perkins was the woman who served the longest term as a U.S. Department of Labor Commissioner. This information was shared with me on -- a couple of days ago by our own colleague, Mr. Englebright. And her quote is very really good, Mr. Speaker. It says that, "A government should aim to give all the people under its jurisdiction the best possible life." Again, that's from Frances Perkins, who served the longest term ever in the Office of -- United States Department of Labor.

With that, Mr. Speaker, the members do have on their desks a main Calendar. After any introductions and/or housekeeping, we will take up resolutions on page 3, and then we will work off bills on debate from the main Calendar.

That's a general outline, Mr. Speaker. If there are any introductions and/or housekeeping, now would be the appropriate time.

ACTING SPEAKER AUBRY: Certainly. We do have an introduction by Mr. Ashby.

MR. ASHBY: Thank you, Mr. Speaker. I rise today for the purposes of an introduction to introduce students from Hoosic Valley High School in my district. It's a cross-section of students, grades 9 through 12 here today learning about State government, and learning all about our Capitol.

So, if you could please afford them all the cordialities of the House, I'd appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Ashby, the Speaker and all the members, we welcome you these fine students from Hoosic Valley to the New York State Assembly. We extend to you the privileges of the floor, hope that your trip will be both entertaining and educational - it can be both - and that you have a good day and return home safely. Thank you so very much, and thank you for visiting us.

(Applause)

Resolutions on page 3. The Clerk will read.

THE CLERK: Assembly Resolution No. 275, Ms. Jaffee.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim April 2019, as Child Abuse Prevention Month in the State of New York.

ACTING SPEAKER AUBRY: Ms. Jaffee on the resolution.

MS. JAFFEE: Thank you, Mr. Speaker. There is no test of society more important than that of how it treats children, its

most precious resource. The children of today are the citizens and leaders of tomorrow. Their health, well-being and development are of paramount importance to the people of the State of New York, and as such, it is the sense of the Legislative Body that every child merits encouragement, protection, support of all. Child Abuse Prevention Month is a time to acknowledge the importance of families and communities working together to prevent child abuse and neglect, to promote social, emotional well-being of children and families. During the month of April and throughout the year, communities are encouraged to share child abuse and neglect prevention awareness strategies and activities and promote prevention across the country. We are -- by calling attention to this serious and significant problem of child abuse, the observation of Child Abuse Prevention Month exemplifies a worthy commitment to the children of New York State, encourages improvement in the quality and availability of pertinent programs, laws and services and provides an opportunity to increase awareness about all aspects of this very serious issue. It is imperative that there be greater awareness of this important matter, and more -- and more must be done to increase activity of the local and State, national levels, supporting our families, assuring our children are in safe and positive environments. And that's why we must assure that Child Abuse Prevention Month is acknowledged and, certainly, the work that we move forward with is essential.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

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

THE CLERK: Assembly Resolution No. 276, Ms. Malliotakis.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim April 2019, as Primary Immune Deficiency Diseases 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. 277, Ms. Walsh.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim April 11, 2019, as Submarine Day in the State of New York in conjunction with the observance of National Submarine Day.

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. 278, Mr. Ortiz.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim May 5-11, 2019, as Compost Awareness Week 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.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can turn our attention to the main Calendar on page 12, Calendar No. 152, Mr. Quart's. And then following that, Mr. Speaker, we'll go to page 13 on Calendar No. 161, which is also a Mr. Quart bill. And we'll go in that order, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Page 12, Calendar No. 152, the Clerk will read.

THE CLERK: Assembly No. A02904, Calendar No. 152, Quart, Weprin. An act to amend the Insurance Law, in relation to prohibiting certain insurance policies from requiring prior authorization for certain medications used in the treatment of substance use disorders; and to repeal certain provisions of such law relating thereto.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Quart.

Ladies and gentlemen, we are on debate. Please, quiet in the Chamber. Clear the aisles.

MR. QUART: Good morning. This bill adds a new section of law, paragraph 31(a) of Section 3126 of the Insurance Law to eliminate the need of prior authorization for initial or renewal prescription of medication used for the treatment of substance abuse disorder, typically opioid-type medication.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

ACTING SPEAKER AUBRY: Mr. Quart, will you yield?

MR. QUART: Of course.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. Quart.

MR. QUART: Thank you.

MR. GOODELL: Before we talk about this bill just so we all understand, under current law, am I correct that you can get a supply of medication to assist you in detox -- in getting off from drugs? You can get a five-day supply, emergency supply without prior authorization?

MR. QUART: That's correct.

MR. GOODELL: And so what this bill would do is say that you can get a permanent supply, if you will, without prior authorization.

MR. QUART: Well, I wouldn't agree to the word "permanent," but a supply longer than the duration you suggested. And there's good reason -- policy reasons for eliminating the prior authorization, which I'm happy to talk about if you wanted to ask that question.

MR. GOODELL: Sure. And obviously, one reason the insurance companies want to have prior authorization is because

they want to make sure that the treatment that's provided is the most effective, both from a cost perspective and from a health perspective. Why would we want to eliminate that review?

MR. QUART: Well, that is one of the reasons. But there are other reasons as well. I can't -- I think it's important to focus on how the prior authorization requirement by different insurance carrier works as an obstacle towards treatment. If you look -- I'll give you one example: The State of Pennsylvania, UnitedHealthcare, their prior authorization form, three to four pages, 15 to 20 questions. It acts as a hindrance to people who need the medication within the first 72 hours. And by estimates of different doctors, Dr. Sarah Wakeman, addiction specialist in Massachusetts General Hospital, 72 to 96 hours before a patient can get ingestible buprenorphinic [sic] type medication because of the prior authorization requirement. So, I think from a policy perspective it works as a hindrance to many people addicted to opioids getting treatment in the first 72 to 96 hours, which, of course, is the critical time period.

MR. GOODELL: But our law already allows utilization of drugs within the first 72 to 96 hours because we provide for five days without prior authorization. So, we're already well above that. We provide 120 hours, right?

MR. QUART: That's correct. But removal of the prior authorization eliminates the interruption or the disruption where that five-day period would end. So then the period could go longer. I do understand your concern, but there's a different policy concern as

well, is that the lack of doctors throughout the State and the country that actually can prescribe buprenorphinic [sic], or medications that could be injected. I think there was a *New York Times* article from 2018 that suggested only 5 percent of doctors across this country, about 43,000 doctors in total, could actually prescribe this medication. So, interrupting that flow exacerbates a problem of a lack of -- a lack of doctors who could actually prescribe this medication.

MR. GOODELL: Do you have any information on what percent of requests for this treatment is not currently processed within the five-day period?

MR. QUART: I do not.

MR. GOODELL: Now, the New York Health Plan Association raised a concern that some drug treatments have a requirement that the person be completely detoxified before they begin it. Particularly, for example, VIVITROL. They -- the patient has to go through a complete detoxification and have no opioids in their system before they can go on VIVITROL. Part of the prior approval process is to make sure that whoever is prescribing it is aware of those restrictions and doesn't create a very dangerous situation for the patient. Don't we want that second-level review to protect the patient from a potentially fatal mistake?

MR. QUART: Well, Andy, you and I have spoken about this particular issue with respect to VIVITROL or any injectable. We'll -- we'll take it in -- in the aggregate sense, not just VIVITROL. I would say two things to that point: One, VIVITROL

and/or injectables is not the only source of treatment for opioid addiction. Buprophonics [sic] or buprophones [sic] are at least four to six market-based ingestibles, so, the five-day requirement, it doesn't leave a patient suffering from opioid addiction without an avenue of treatment. There are many ingestibles. And I think the medical reviews that have looked at this have -- Dr. Edward Nunez and Dr. Joshua Lee in a November 2017 article said, *Once initiated* - talking about opioid treatment - *both medications* - referring to ingestibles and injectables - *were equally safe and effective*. So, the concerns about VIVITROL are legitimate, but they're still an avenue for ingestibles, so the consumer can have the choice, and more -- more specifically, the different insurance carriers that are developing their policies, they have the choice on whether -- on to have a sort of bifurcated approach, or to at least allow the ingestible. So it's not leaving the patients without any remedy for treatment.

MR. GOODELL: Well, the insurance companies -- health insurance companies have also expressed a great concern that the other drugs, other than VIVITROL, which we've talked about, have their own serious side effects or ramifications. For example, obviously, brupo -- Buprenorphine or -- or some of the other drugs are themselves opioid-based and have addictive properties in their own. And so, a lot of the insurance companies have expressed concern that the prior authorization process provides them an opportunity to ensure that the long-term treatment that uses opioid-based drugs to treat opioid addiction itself doesn't create negative side effects. How would

you address -- I mean, why would we want to reduce that level of oversight and evaluation to ensure that the use of opioid-based or morphine-based drugs are not used inappropriately while we're even trying to address the addiction?

MR. QUART: Well, I'm -- I'm not -- the prior authorization that currently exists, it's not a preclusion on the patient actually getting the medication. So, if there are side effects, both with ingestibles or injections, those are going to be borne out by the patient, even with a prior authorization scheme. The reason to remove the prior authorization scheme are there are people who are unable to get any sort of treatment be -- at least for 72 or 96 for the prior -- because of the prior authorization requirement. Exacerbated by the lack of actual doctors, I would think this would affect -- even be worse in rural areas of the State rather than urban areas, but I -- I think that is the essence of the problem with prior authorization and why some states across this country have moved towards removing that, I would refer to as an obstacle.

MR. GOODELL: Thank you, Mr. Quart, for your comments.

On the bill, sir.

MR. QUART: Thank you.

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

MR. GOODELL: Last year -- I think it was last year, we amended the law to provide for a prescription for up to five days of

various drugs that can help people who are dealing with addiction. The problem is, when you're using a drug-assisted treatment for drug abuse, there are other serious ramifications. Many of those other drugs have serious side effects. Many of them have an opioid base. So, if you're going through a methadone program, yeah, it allows you to function; you're still addicted. And so, the insurance companies want to make sure for the health of their -- for their patient, and to make sure that the treatment is both appropriate and cost-effective, that they're on the right treatment path. Now, some of them like VIVITROL, the patient has to be completely detoxed before they can go on it. And that is exactly why an -- an insurance authorization, preauthorization review, is appropriate. All of us, of course, are concerned about the cost of insurance. All of us are concerned that the insurance coverage is appropriate. There's no evidence that was mentioned here today that five days is too short of a time to go through the prior authorization. There's -- so, we say, well, we authorized five days, we don't have evidence of any prior authorizations that are taking longer than that. The information suggests the prior authorizations take three or four days, not five. If we need to adjust the window from five to six, seven, to still allow an opportunity for prior authorization, that might be an alternative to address the situation. But the -- the dangers we have by eliminating prior authorizations altogether, which is what this bill does, and thereby eliminates that level of oversight and clinical review, creates more dangers than it solves.

And so, my -- I will be voting against this. But I do recommend that we revisit this and monitor to see whether or not the five days are sufficient. If the five days that we've already authorized is not, a more appropriate approach might be to expand that five-day window rather than to completely eliminate all prior authorization and all the clinical review and oversight that goes with it. Thank you so much, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

First vote of the day, members. If you are in your seats, please vote now. If you are in the sound of our voices, please come to the Chamber and vote.

Mr. DenDekker to explain his vote.

MR. DENDEKKER: Thank you, Mr. Speaker. I want to commend the sponsor of this bill. This is a very important piece of legislation. I -- I find it very difficult to believe that the insurance companies that are paying for treatment are going to do critical reviews because they care so much about the patient's well-being and making sure that they have the proper treatment that they need. I think it's just a way for the insurance companies to try to

control the cost of -- of their expenses, and I don't believe that the patient is -- is going to benefit from that review. Holding up any type of treatment, especially when it comes to opioid addiction, is the absolute wrong thing to do. We keep on constantly cutting back treatment and programs for people that are addicted to opioids and other substances. And I believe that it is a -- a great bill.

I thank the sponsor, and I hope everybody will vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. DenDekker in the affirmative.

Mr. Cahill to explain his vote.

MR. CAHILL: Thank you, Mr. Speaker.

Acknowledging the prohibition against naming members while we're explaining our vote, I just want to extend my thanks to the sponsor of this bill, to the current Chair of the Substance Abuse Committee and the previous Chair of the Substance Abuse Committee for the good work that they've been doing in the area of removing barriers to care and treatment for opioid and substance abuse. We have in the State of New York some of the highest levels of fatalities in the United States of America from opioid abuse and addiction. Everything we do to remove a barrier to care is helping reduce that number, and maybe ending a crisis that we are actually experiencing in our borders in an unprecedented way.

I applaud the sponsor's good work to build on what we did in the budget, and I thank him for his patience in working with

our Committee and making sure that we had the language of the law exactly right. And I withdraw my request and vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Cahill in the affirmative.

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. I -- I'm struggling with this bill because I -- I did support it in previous years, and I do absolutely see the value of removing any impediments for people to obtain treatment that they badly need. But I think that -- I'm going -- I'm going to support the bill again this year, but I'm concerned that by removing the five-day period, we may have an unintended consequence of people not really getting the treatment that they need, along the lines of what Mr. Goodell said. I think that I would be in favor of more of eliminating maybe the five-day period but having something shorter than forever to -- so that people are sure that they're going to get the treatment. I think the bigger problem, which on debate this -- it came out on debate is that the real problem here is we don't have enough doctors, enough providers, enough programs and good enough treatment. And so, we're going to be providing people with the -- the SUBOXONE or the methadone or whatever it is that they're going to be taking, and -- and I -- I think that that will temporarily, perhaps, address the problem, but I think what we really need to do is to address the bigger problem of providing enough treatment. And I also have to say that this -- this -- this medication does have street value, and I am concerned about putting more of that

out there because, you know, people that get this drug don't always take it in the way that it's intended and sometimes prefer to cash it in to -- to make some money off of it.

So, I will support the bill, but I -- I -- I do have concerns about it. I do thank the sponsor, though. Thank you.

ACTING SPEAKER AUBRY: Ms. Walsh in the affirmative.

Mr. Gottfried.

MR. GOTTFRIED: Thank you, Mr. Speaker. You know, a few years ago we passed legislation strengthening the requirement that insurance companies pay for drug treatment, and at the bill signing, Governor Cuomo said, *The insurance company is not your friend, they're not your uncle, they're not your doctor. They're a business, and if they don't have to pay for something, they won't.* He was 100 percent right. And this bill is one more small step, important step, in trying to force insurance companies to treat New Yorkers as if they cared about our health and our lives.

I'm happy to vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Gottfried in the affirmative.

Mr. McDonald.

MR. MCDONALD: Thank you, Mr. Speaker. I do support this bill because I do recognize that individuals suffering with addiction need to have a course that they can follow. And at the same token, listening to the debate and points brought up by Mr. Goodell,

this reminds me of the fact that prior authorization does serve a useful purpose. Five to seven days for somebody who's trying to deal with addiction is not enough. And it reminds me of the fact that two or three years ago we passed in this House a bill to enhance the prior approval process so that these issues, the patient's concerns, provider's concerns, the insurance plans' concerns can all be addressed in a timely manner. And sadly, the Department of Financial Services and the Department of Health has not budged or moved on this issue, and if anything, this bill reminds me that we're going to go back and revisit it this Session.

Thank you.

ACTING SPEAKER AUBRY: Mr. McDonald in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 13, Calendar No. 161, the Clerk will read.

THE CLERK: Assembly No. A05944, Calendar No. 161, Quart, Epstein, Gottfried. An act to amend the Penal Law, in relation to gravity knives.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Quart.

MR. QUART: This -- this legislation amends Penal Law 265.01, Subsection 1, to remove the words "gravity" and "knife" from that section of law.

ACTING SPEAKER AUBRY: Mr. Ra.

But we will ask -- we have a lot of conversation around the hall. I don't know why, folks. We've got people standing over against the wall over there talking. Is there a purpose? Would you move them, take them out of the -- the room? They don't need to be there.

Proceed, Mr. Ra.

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

MR. QUART: Of course.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: Thank you. So, I want to go through a couple of things because obviously, number one, this -- this is a different bill than the one that was vetoed a couple of years ago, and it takes kind of a different approach, I think, to solving the same problem, but also there's obviously been the recent court decision --

MR. QUART: For sure.

MR. RA: -- that is impacted by this as well. But if we could start with just -- you know, the previous bill that we did a couple of years ago that the Governor ultimately vetoed was to tighten the definition. This, instead, just takes the term out of the --

MR. QUART: Right.

MR. RA: -- Penal Law entirely. Correct?

MR. QUART: That's correct. That -- that bill which you referred to passed this House 120 to 1. I won't mention the one

person who didn't vote for that bill, but --

MR. RA: I think I know who that was.

MR. QUART: Yes. I'm hoping for unanimity this year. But the bill removes the term "gravity knife" for a simple reason: That gravity knives have not been manufactured -- actual gravity knives have not been manufactured in the United States for at least the last quarter century, so they are not in -- they are not in public consumption. Actual gravity knives, not what has been purposely misinterpreted as a gravity knife, mostly in New York City.

MR. RA: Okay. And I -- I know that, you know, the actual gravity knife -- just for -- for our colleagues who -- who may not have been here when we've debated this previously, the original provision, I think which dates back to the 1950s was with regard to a -- I guess a specific German paratrooper type of knife that -- that we were aiming to prohibit the possession of.

MR. QUART: That -- that is accurate. The original legislation I think came back -- came forth in either 1952 or 1953, post-World War II, in response to at that time -- during World War II, German paratroopers use -- using an actual gravity knife similar to a switchblade-type device to cut themselves out of trees or something like that. So the Legislature, in the early 1950s, criminalized gravity knives. What has happened, mostly in the last 15 to 20 years, mostly in New York City, under the NY -- under Commissioner Ray Kelly, former Commissioner, is that regular folding knives, work tools, any knife that can be bought at any hardware store, mostly in New York

County, in the county I reside in, has been purposely misinterpreted as a gravity knife to penalize working people, any person who simply has a work tool or -- of such nature on -- on their body. So, it has been misinterpreted, mostly recently, to criminalize conduct which is not criminal in nature.

MR. RA: Okay. Thank you for that. So, moving along. There was recently a -- a court decision with regard to this statute and, you know, it really kind of turned upon an issue that we've discussed in the past with regard to this statute, and that's something you just mentioned. You know, people purchasing a -- a knife and -- and not thinking that they're doing anything illegal or possessing something that's illegal, and then at the time maybe they're stopped with it, depending on, you know, the actions of a -- of an officer, they might -- they might be interpreted to be violating the law because of whether or not... I think they call it the "wrist flick test," as to whether or not the -- the knife would -- would open, as opposed to just -- I -- I think the original idea was gravity, meaning just -- it would just open, as opposed to this wrist flick test, which was evaluated in this court decision. So, as a result of that -- that decision that said our current statute was -- was unconstitutionally vague, I'm -- I'm just curious. This approach as opposed to maybe tightening the definition, which -- I mean, we know the previous attempt to tighten the definition did not -- you know, was -- was vetoed. But are -- are there knives that are maybe intended to be illegal that -- that would be kind of caught up in getting rid of this entirely from the law?

MR. QUART: Not at all. Under the New York City Administrative Code, knives are permissible under four inches. What is happening under the existing gravity knife statute is that knives of one inch, two inch or 3.9 inches that a police officer can open by a flick of the wrist test, how many times the officer can try and flick that knife open was not -- is not codified in law. But an officer who could take a two- or three-inch work tool, flick it open because a bolt on the knife is loose, that could then become, under a mis -- misinterpretation of the statute, an illegal -- an illegal knife, a gravity knife. So, that is what Judge Crotty, in his decision two weeks ago looked at. He looked at the ambiguity of the statute, that no reasonable person looking at this law and how it's applied could actually know whether he or she was carrying a knife that was legal or illegal. And that's the dragnet we find ourselves in. Of course, it is important to point out who is getting penalized here. Over -- dis -- mostly in New York County, but out throughout the New York City area. This is not applied most -- as best I could tell, in Upstate New York or Nassau, Suffolk, Westchester, Rockland County. Only in New York City, mostly in New York County. So, to add to the discriminatory nature and who's getting arrested - and it's mostly people of color - it's also discriminatory by geography. So, I think all those factors are what Judge Crotty looked at two weeks ago, ruling -- ruling the statute unconstitutional as applied to that one instance.

MR. RA: Thank you very much, Mr. Quart.

Mr. Speaker, on the bill.

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

MR. RA: So -- so, this particular, you know, issue as -- as we -- we just mentioned on debate has come up a number of times in different instances, and -- and really, the -- the issue here, and my previous objections have been because of the fact that -- that there has been concerns expressed to -- to this Body, and myself personally, from law enforcement about certain types of knives that -- I mean, the whole purpose of originally outlining this -- outlawing this, I think, was these are -- were knives you could open very quickly, and it could subject somebody to -- to danger very quickly because of how quickly this can be deployed and used for -- for, you know, to -- to attack somebody, whether it was a police officer or somebody else. But also, over time, we've seen prosecutions that, in many instances, were -- were done, you know, with somebody who really wasn't intending to do anything illegal, was, you know possessing the knife for -- for purposes of, you know, their -- their job, whether it was construction -- I believe the individual actually in the -- in the case that declared this statute unconstitutionally vague was -- was a chef. So -- so I -- I think this is the thing that we have to balance when we look at this is, you know, the -- the overall public safety aim of the original statute and -- and the way it has been applied, unfortunately, to people who aren't, you know, have -- have no malicious intent in possessing this device, have purchased it, you know, at a local hardware store with the intent of using it for work, not -- not with the intent of -- of utilizing it in any type of crime or -- or to -- to attack anybody. And certainly, the

recent court decision does have a major impact on -- on how we approach this, because they did basically say our -- our statute was unconstitutionally vague and did not provide proper notice to the public as to whether their conduct was -- was legal or illegal. But -- but again, I -- I think it's the balancing of those two issues that -- that really is what we have to consider when we're talking about a bill like this. And certainly, I think going into the future we have to, you know, make sure if -- if we do have a problem with -- with people possessing certain types of knives for, you know, criminal purposes, that do, perhaps, subject -- subject our officers to danger, that -- that maybe we go back and -- and find a proper, very concise and clear term to -- to balance the public safety with -- with people's rights to -- to understand whether their conduct is legal or illegal.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Mr. Ra.
Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. REILLY: I just want to talk about the idea of the gravity knife and what I heard during the debate about how the simple flick of a wrist -- I will tell you that during my time in the -- in the police department as a police officer and as a supervisor, I want to commend the sponsor for this legislation because it clarifies what we actually have transitioning from this Chamber, from the Capitol to the

streets of New York, for officers that are enforcing the laws. There are many times when I was sitting on the desk as a supervisor, and a police officer would come in with an arrest and they would say *a gravity knife*. Just about the debate that we had here today, as I listened, I lived that firsthand and I looked at it and I said, *Wow, we had people that were arrested for smoking marihuana in public, and they were on their break during construction and they had a knife on them that wasn't necessarily a switchblade*, and I had to say and tell officers that, *No, that charge isn't going to happen*. And then we wouldn't -- and then we wouldn't move forward with that arrest for the gravity knife.

So, once again, I -- I just want to applaud the sponsor and say this is something that I've been talking about during the debates that we've had on this floor, the transition from here to the streets. So, thank you and I will be voting affirmative.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Lentol.

MR. LENTOL: Thank you, Mr. Speaker. Would the sponsor yield? The gentleman yield to a question?

ACTING SPEAKER AUBRY: Mr. Quart, will you yield?

MR. QUART: Happy to yield.

MR. LENTOL: Yes, Mr. Quart --

ACTING SPEAKER AUBRY: Mr. Quart is happy to yield.

MR. LENTOL: So, I just wanted to ask you whether or not somebody was in possession of a gravity knife which the police officer said was a violation of the law. And that I'm assuming what you're driving at is a per se violation of the law, that is that mere possession of that weapon would constitute a crime. Is that correct?

MR. QUART: That's correct. I'm glad you pointed it out, Assemblymember.

MR. LENTOL: So -- so let me get this straight. So, if somebody is in possession of a knife in his pocket and he takes it out at the officer's request and it turns out to be what he believes to be a gravity knife and he hasn't used that weapon unlawfully against another person, that would not be a crime under the law, right? Under this bill --

MR. QUART: That's correct.

MR. LENTOL: -- under this bill that you've suggested? However, having said that, if the person did take that knife out and used it unlawfully against another person, that would be a crime, would it not?

MR. QUART: It would.

MR. LENTOL: So, therefore, the people would be protected against an individual who had possession of a gravity knife so long as he never took it out of his pocket, and if he did and used it unlawfully against another person, he would still be guilty of either a misdemeanor or a felony. Is that correct?

MR. QUART: That's correct.

MR. LENTOL: Thank you, Mr. Quart.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Mr.

Lentol.

MR. LENTOL: I think that a lot of people misunderstand what is going on when we try to decriminalize something like a knife that we're talking about that doesn't possess those qualities that make it a per se weapon. Which means to say, that on its face that weapon should be declared illegal. Like a gun, for example. And we have a lot of weapons that are in that area, that grey area, that we have to make a decision whether or not just mere possession of them should be declared criminal and illegal. And this is one of those weapons that has fallen into that category, as Mr. Reilly suggested, should not be declared illegal on its face, but of course, if used illegally against another person, it would be illegal.

So, I applaud the sponsor for introducing this bill and clarifying the law, and I ask my colleagues to vote in the affirmative.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Quart to explain his vote.

MR. QUART: Mr. Speaker, to briefly explain my vote. Two weeks ago, Judge Crotty, in Federal court, set forth under a

certain set of facts that the gravity knife statute in New York was unconstitutionally vague, ambiguous and rejected the statute. And what we're here for is the third time over the last half decade to pass this legislation. The legislation removing the words "gravity" and "knife" from the Penal Law is entirely consistent with Judge Crotty's analysis that the law is vague and ambiguous. More to the point, when the Senate takes up this bill and likely passes it, we will be sending this bill directly to the Governor. And it is my sincere hope -- of course it's my expectation that consistent with Judge Crotty's ruling, with a Federal court ruling that the New York statute is ambiguous, and that all the negative consequences on people of color throughout New York City, especially in New York County, that the Governor will do the only reasonable thing and finally sign this legislation.

I remove my request to speak and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Quart in the affirmative.

Mr. Taylor.

MR. TAYLOR: Good morning, Mr. Speaker. I want to thank the sponsor of this legislation. As he's pointed out, in Manhattan, in particular in the northern end of Harlem/Washington Heights, there is an epidemic of young folks that have been caught with this, and on occasion when we try to intervene or have a conversation, someone in possession of this, no other type of history, good person, going to school, all of those wonderful things, there is

almost a year just to get on the other side of this because the prosecutor's office won't let it go.

So, I want to commend the sponsor of this legislation and I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Taylor in the affirmative.

Mr. Lavine to explain his vote.

MR. LAVINE: So, it suddenly occurs to me that a question now is before us. We apparently have had over the years many people arrested and charged and convicted of possession of what may or may not be, judging by what we do today, an -- an illegal, quote, unquote, "gravity knife." So, perhaps at some point in the future - and I want to commend the sponsor of this bill - we ought to consider taking some steps to restore the rights of those who have been convicted under this statute in the past. And I have a recollection of being a young public defender and representing someone who was charged with many -- quite a few misdemeanors, including possession of a weapon under the Penal Law, and that weapon was a tiny little replica of a pistol -- of a revolver that was on a key chain. Now, I don't remember whatever happened, but I do remember a very vigorous debate with a judge as to whether that actually constituted a weapon. So, this is the world and the reality that we face, and hopefully, some day before too long, we can begin to repair the lives of those who have been so damaged by convictions for this charge, which was never, ever intended to be a crime.

Thank you very much. I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Lavine in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker. It is my pleasure on behalf of Assemblymembers Kevin Byrne and Didi Barrett to introduce Edward and Connie Hussey. Edward Hussey is the Treasurer of Anderson Family Partners, which is affiliated with the Anderson Center for Autism. And both Mr. and Mrs. Hussey are up here sharing their knowledge, their experience and their background with all of us here in the Legislature and others up in Capitol building.

And if you would extend the cordialities of our Chamber on behalf of both Assemblymembers Byrne and Barrett, I would appreciate it. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Byrne and Mrs. Barrett, 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're doing to help families deal with this growing issue. Your knowledge, your experience is invaluable in helping other people, and that is the best that we can ever hope for in life. Thank you so very much. You

are always welcome here.

(Applause)

Page 10, Calendar No. 126, the Clerk will read.

THE CLERK: Assembly No. A00714, Calendar No. 126, Paulin, Dinowitz, Galef, Otis, Seawright, Colton, D'Urso, Ortiz, Barron, Rodriguez, De La Rosa. An act to amend the Public Service Law, in relation to filling gas safety reports.

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

MS. PAULIN: Thank you, Mr. Speaker. The bill would require gas corporations to produce an annual gas safety report for the purposes of increasing transparency, accountability and public safety.

ACTING SPEAKER AUBRY: Mr. Palmesano.

MR. PALMESANO: Yes, Mr. Speaker. Will the sponsor yield for some questions, please?

MS. PAULIN: I would be happy to.

MR. PALMESANO: Thank you --

ACTING SPEAKER AUBRY: Ms. Paulin yields, Mr. Palmesano.

MR. PALMESANO: Thank you, Amy. I have a -- a few questions on the legislation, if I could go through some of them with you. First, right now, doesn't the Public Service Commission currently have the ability right now to enact these requests, the reporting requirements under the current order and rulemaking

process? Right now, do they have that authority to do that right now under the current rulemaking process?

MS. PAULIN: They do. And they do require gas leak inspections to be reported to them. But they don't require the detail that we're outlining in the law. And, you know, I don't know if you were at the hearing following the horrible tragedy in -- in Manhattan when there was that gas explosion, but if you were there, you would've heard the -- the fact that the Department didn't know really what the -- the inspections were. They didn't know, you know, what happened after the gas inspections in terms of determining what the leaks were. They didn't know what the follow-through was on the part of the gas companies. And, you know, perhaps if they had known that and they had seen the -- the level of risk in that community, that tragedy might have been averted. So, this bill was created following that tragedy. And, you know, I believe that -- you know, that detail, regardless of whether the Department thinks it's valuable, we think it's valuable after the hearing that this Body conducted.

MR. PALMESANO: And I -- I understand why -- what the intention behind the legislation, I do, just relative -- regarding the gas utilities, right now, though, they are still required to submit information on various safety metrics which the Public Service Commission says -- considers it key performance indicators, correct? And if the utility fails to meet those performance levels as established in each (inaudible) proceedings, the utility must submit an action plan to address that right now. That's under current law that they have to

do it under these circumstances. Granted, understanding what you said in your comments.

MS. PAULIN: So, some of the detail, for example, that was exposed at that hearing had to do with employees versus contractors, and you know, some of that detail would be exposed if this -- if this was enacted into law. And we learned again at that hearing that, you know, there is -- perhaps the supervision might be lacking if it is a contractor, so -- so just to get a sense of what the, you know, what the repair world looks like, so to speak. This -- again, this -- we believe this detail would be important.

MR. PALMESANO: Sure. And so as you said, right now each gas corporation transmitting natural gas is required to conduct an annual leak inspection, at least annually, and more frequently if ordered so by the PSC right now under current law, right?

MS. PAULIN: They are required to have a leak inspection. They aren't required to tell us what they do afterwards. And that's what this bill does.

MR. PALMESANO: Because also with the leak inspection they're required to submit a report -- the PSC is required to submit a report after every such inspection. No matter how many reports the Public Service Commission asks them to do, they have to issue a report after each inspection, which the Public Service Commission right now has the authority to issue and determine, correct? Under current law.

MS. PAULIN: They -- they have -- again, they have the authority and they -- they actually require, you know, the gas leak inspections to be reported to them. But it would be very nice to say, *Okay, this is the gas leak inspection*, and then, *This is what we did about it*. And that -- and that information is lacking, and we're -- we're saying to the Department, *We think you need to have this*. So -- and -- and we do, following some of the tragedies that we've seen.

MR. PALMESANO: And under the current regulations of law, the Public Service Commission, we've already established, does have the authority right now to implement these requirements that you're asking for in this legislation. And in addition, they have supervision all over the gas corporations, all their duties, all their powers as far as to investigate their plans and methods used by the corporations in manufacturing and distribution. They have that authority right now under current law, correct?

MS. PAULIN: They -- they have that authority, and as much as I like the Public Service Commission, and I do, they're not perfect. Nobody is. Certainly not all the authorities are perfect, and so therefore, as the oversight Body, we are -- we have established them and we make determinations about when we think they need to do more or less, and here's a case where I think we believe they need to do more.

MR. PALMESANO: Okay. And also, gas pipeline safety is also regulated by the Federal government under the minimum pipeline safety standards under the U.S. Code of Federal Regulations,

correct?

MS. PAULIN: Yes.

MR. PALMESANO: And those regulations must be at least as stringent -- our regulations in the State also must be at least as stringent as the Federal regulations or else the State regulations will be held to be preempted, right?

MS. PAULIN: Yes, I believe you're right --

MR. PALMESANO: Okay.

MS. PAULIN: I'm not 100 percent sure, but it sounds good.

MR. PALMESANO: Okay.

(Laughter)

And also, the Office of Pipeline Safety regulations for interstate gas and hazardous liquid pipelines in New York also are based on inspections performed by the PSC, so this all kind of ties in together, correct?

MS. PAULIN: Mm-hmm.

MR. PALMESANO: So, thank you, Amy, for your time. I appreciate it.

MS. PAULIN: Thank -- thank you so much.

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

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

MR. PALMESANO: Yes, Mr. Speaker. I certainly understand and applaud the intentions behind the legislation, and I

understand with the tragedy that happened in Harlem with the gas explosion, certainly we want to make sure we have strong, strict safety regulations in place. But I think we've already established the Public Service Commission already has the ability right now under current law to enact the regulations that we have or we're talking about in this legislation. There's already -- already sufficient oversight through the rate-making process, through current reporting requirements, regular scheduled meetings and annual safety audits performed by gas safety staff and gas companies to participate in rigorous management audits and -- and staffing is performed to kind of independently review these requirements. You know, this seems somewhat duplicative and repetitive. I think there's certainly going to be costs associated with more reporting and requirements. I think that's something that's a concern. We also established that the gas pipeline safety is continually reviewed and extensively regulated, both at the Federal and State level. Mr. Speaker and my colleagues, I think this legislation is really unnecessary. It's duplicative, there's certainly going to be costs associated with this. When you put more regulations, more requirements, there's a cost that has to be borne by that. That's going to be ultimately borne by the ratepayers of this State. We already have some of the highest utility costs in the country. And when we do that, when we put more reporting requirements, again, something that already can be adjust -- addressed in the current law, something the Public Service Commission can already do under current law. I think when we look at putting more regulations and requirements that are

going to drive up utility costs at a time when we have some of the highest utility costs in the entire country, that can be bad for our manufacturers, it can be bad for small businesses, it's going to be bad for our farmers, our -- it can be bad for our seniors, and it's going to be bad for our ratepayers.

So, based on that, given the fact that I believe this is a duplicate -- duplicative and the authority is already in the law through the Public Service Commission to enact these requirements that are being put forth in this law, I think for those -- those reasons and the fact that this will certainly lead to higher utility costs for ratepayers, manufacturers and others, I'll be voting in the negative and I'll be urging my colleagues to do the same. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Glick to explain her vote.

MS. GLICK: I'll be very happy to be voting in the affirmative. Regulations are frequently ignored by corporations. We need a statute. I invite people to come to 2nd Avenue and 7th Street in my district where there used to be three buildings. Not only did a gas explosion take out one building, but the subsequent fire took out two others. And so, there were not just the two people killed in the gas explosion, but the scores of people who lost their homes forever and

were left without a place to live. And so, I think what we can do to ensure that gas corporations make a clear effort to ensure that they are inspecting their facilities appropriately, it makes -- it makes a lot of sense.

I withdraw my request and vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Glick in the affirmative.

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, do we have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: We have both housekeeping and resolutions.

On behalf of Mr. Englebright, Bill No. A02501, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend the Environmental Conservation Law.

ACTING SPEAKER AUBRY: 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.

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. 279-292 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move that we stand adjourned until Thursday, April 11th, tomorrow being a Legislative day, and that we reconvene at 2:00 p.m. on April 29th, that Monday being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 11:34 a.m., the Assembly stood adjourned until Thursday, April 11th, Thursday being a Legislative day, and to reconvene on Monday, April 29th at 2:00 p.m., that being a Session day.)