

THURSDAY, MARCH 23, 2023

10:46 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

Imam Tahir will offer a prayer.

IMAM TAHIR KUKAJ: In the name of God, most gracious, most merciful, merciful loving God, we thank You for this beautiful day. We thank You for our gathering and we thank You for being with us today, and we pray that Your presence will be with us, with our Assemblymembers as they look forward to serve our great State of New York. God Almighty, in the spirit of fasting the month of Ramadan and Passover, we ask You that the blessings of this month and Passover to continue to be with our members, to remember the great prophets and righteous people throughout the history, how they've been serving, how they've been leaders of their nations.

During our holidays of fasting we remember the leadership of Prophet Musa as he led his nation to freedom from slavery. During these holidays we remember the fasting of Mary, mother of Jesus, as she set an example of discussing not with those wrongly accuse her. As we take an example of Prophet Muhammad from his nobility and leadership, God Almighty we ask that You bless ears of our Assemblymembers to hear your voice. Bless their eyes so they can see their bounties, your blessings. Bless their hearts so they can receive your love. Bless their minds so they can receive your wisdom.

God Almighty, bless this Assembly, bless New York State, and always, God bless the United States of America. In Your name we make this prayer. Amen.

MEMBERS: Amen.

ACTING SPEAKER AUBRY: Visitors are invited to join the members in the Pledge of -- 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 Wednesday, March 22nd.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Wednesday, March the 22nd and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir.

Colleagues and guests that are in the Chambers, I would love to share this quote with you today. This one is from Audre Lorde. She was an American writer, a feminist, a professor and a Civil Rights activist. Her words for us today, *I am not free while any women is unfree, even when her shackles are very different from my own.* Again, these words are from Audre Lorde.

Colleagues should be aware that you have on your desk a main Calendar. After any introductions and/or housekeeping we will begin our work on the floor by taking up resolutions on page 3. After that we're going to take up the following bills on debate: Calendar No. 10 on page 6 by Ms. Paulin, Calendar No. 62 on page 10 by Ms. Paulin, and Calendar No. 68 on page 11 by Mr. Epstein. As we proceed, Mr. Speaker, there may be a need for further announcements regarding legislative activity; however, that is the general outline of where we're going today. If there are introductions and housekeeping, now would be a great time, sir.

Thank you.

ACTING SPEAKER AUBRY: Thank you, Mrs. Peoples-Stokes. And we do have housekeeping.

On a motion by Ms. Paulin, page 6, Calendar No. 2, Bill No. A.117, amendments are received and adopted.

And for the purposes of an introduction, Mr. Fall.

MR. FALL: Thank you, Mr. Speaker. I just want to

really thank Imam Tahir for being here with us this morning on the first day of Ramadan. It's not easy traveling a couple hours from Staten Island to Albany during Ramadan, so thank, Imam, for being here with us.

Imam Tahir is the vice president of the Albanian Cultural Center out on Staten Island, and he's also the Head Imam of the Albanian Cultural Center, serves as a chaplain in the NYPD and also serves as an advisor to Mayor Eric Adams on his Clergy Task Force. And, you know, one of the things I really appreciate about Imam is throughout the years he often has gatherings that bring folks together on various projects that the community could do together. But most importantly, when there is any level of hate toward one group he's the first clergy member in my district that brings people together to ensure that we send a message that hate toward one is hate toward all. And so, Imam taught his really good example of what Ramadan means, right? You know, got to do a lot of self-reflection and giving charity, giving back to the community, of course, and of course that includes fasting from sunrise to sunset.

So, Mr. Speaker, if you could kindly welcome Imam Tahir to the People's House and extend the cordialities of the floor. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Fall, the Speaker and all the members, Imam, we welcome you here again to the New York State Assembly. We extend to you the privileges of the floor. Our thanks for you providing prayer for us, but

also for the great works that you're doing in your community and for the City of New York.

IMAM TAHIR KUKAJ: Thank you so much.

ACTING SPEAKER AUBRY: God bless.

IMAM TAHIR KUKAJ: God bless you all. Thank you.

(Applause)

ACTING SPEAKER AUBRY: Ms. Woerner for the purposes of a introduction.

MS. WOERNER: Thank you, Mr. Speaker. Mr. Speaker and my colleagues, I rise to introduce a group from the Beagle School in Saratoga Springs. They are here in the Capitol today to commemorate the 50th anniversary of the start of the Beagle School. This was a resolution that we took up on the floor a few weeks ago and they are here to receive their resolution and be welcomed by all of you in the Chamber. So joining us today is Jessica Todtenhagen, the Director; Jennifer Taylor, the Board President; Anna Querrard and Audrey Moore, who are both parents of students at the Beagle School. We have some young students. We have Aslyn (phonetic) Moore, we have Freddie and George English. We have an alumni, Patrick Ladd, who is now with Plug Power. We have Marie English, who is also a Board -- a parent and a Board Member, and Deirdre Ladd, who is an alumni parent. They are all here from the Beagle School, which was started in 1972 as a preschool and has remained committed to educating young children through the art of

creative play for now over 50 decades -- five decades. The Beagle School, interestingly enough, is not named after the breed of dog, as you may think, but rather after the renowned scientist Charles Darwin's famous ship, the HMS Beagle, in which he famously set out from Holland to explore the natural world. Under the direction of its -- of its current -- under the leadership of its current Director, Jessica Todtenhagen, the Beagle School has for over 50 years focused on fostering a sense of wonder and curiosity in children, inspiring a lifetime love of learning. Fifty years of preschool education teaching the importance of life skills and self-help skills, outdoor play and the Dramatic Arts, math and language, community and kindness have all helped to prepare the youth of today for to be leaders of tomorrow, and it's truly a wonderful and celebratory accomplishment.

So, Mr. Speaker, I hope you will join me in congratulating the Beagle School on 50 years and on welcoming these fine people to our Chamber.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Woerner, the Speaker and all the members, we welcome this extraordinary group of individuals from an extraordinary school to the New York State Assembly. We congratulate you and the institution on 50 years of great service to your community. We would hope for another 50 years in order for you to continue that great mission that you have and that you have allowed children to grow in a way that is especially special today in this time. Thank you so much for being here. Please enjoy your trip here to Albany. Thank you.

(Applause)

Resolutions on page 3, the Clerk will read.

THE CLERK: Assembly -- Assembly Resolution
No. 227, Ms. Byrnes.

Legislative Resolution memorializing Governor
Kathy Hochul to proclaim March 24, 2023 as Women in Agriculture
Day in the State of New York.

ACTING SPEAKER AUBRY: Ms. Byrnes on the
resolution.

MS. BYRNES: Thank you, sir. Mr. Speaker, may I
be heard on the resolution?

ACTING SPEAKER AUBRY: Please.

MS. BYRNES: As we celebrate Women's History
Month, I feel that it's important to recognize the women in agriculture.
Farming is not just a job, it's a way of life with deep roots in the soil.
Many families have farmed the same land for multiple generations.
Some even trace their roots in the land back to the early 1700s.
According to the USDA, women have played a crucial role in farming
across this country and around the globe for centuries. Right now the
president of my local Farm Bureau is Claire Mulligan, fourth
generation farmer. They do crop and dairy. And before her the
president was Leslie Hamilton from Triple H Farms. They're crop
farmers. And I know that Livingston County is yet not unique with
the number of women farmers or their roles both with the Farm
Bureau and with agriculture in general. Our women in agriculture

value the past and work towards preserving farmland, yet they also incorporate innovative farming techniques as they plan for all of our futures. They are great stewards of the land. I am so proud to recognize the women who farm our land, milk our cows, fix the equipment, manage and run difficult businesses, and also raise the next generation who will also love this land.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Ms. Byrnes.

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

(Applause)

THE CLERK: Assembly Resolution No. 228, Ms. Rosenthal.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim 8:30 p.m. through 9:30 p.m. on Saturday, March 25, 2023 as Earth Hour 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 6, Calendar No. 10, the Clerk will read.

THE CLERK: Assembly No. A01287, Calendar No. 10, Paulin, McDonough. An act to amend the General Business Law, in relation to prohibiting the sale of infant loungers and restricting the use of such infant loungers in certain settings.

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

MS. PAULIN: Yes, thank you. The bill bans the sale of infant loungers and restricts their use in childcare facilities unless a medical professional has determined it medically necessary for a particular child.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you. Would the sponsor yield?

MS. PAULIN: Yes.

ACTING SPEAKER AUBRY: Ms. Paulin yields.

MR. GOODELL: Thank you, Ms. Paulin. Am I correct that the -- that there's only one manufacturer in the United States that made these infant loungers, they -- they no longer manufacture them and that they have a nationwide recall?

MS. PAULIN: Well, since we've had that conversation we've actually uncovered that there is a couple of other loungers still on the market. Very few, but there are some. But there is one, as you point out, one major manufacturer, yes. Was one.

MR. GOODELL: Was one. And when did they have their recall?

MS. PAULIN: They had their recall with -- right after the ban. Right -- right -- right after it was acknowledged that there were children dying from being in these.

MR. GOODELL: I see. And the other

manufacturers, are they --

MS. PAULIN: We -- we -- there's -- we haven't seen that. We've looked. We haven't seen that they have. We don't know that there's that many out there, but we do know there's some.

MR. GOODELL: I see. Are there -- when was this recall conducted?

MS. PAULIN: So, the exact date I'm not sure I have here. I don't -- I don't have that in my file. I can get back to you on that.

MR. GOODELL: Okay. But it was -- it wasn't recently.

MS. PAULIN: No, no. It was -- it was at least one year ago.

MR. GOODELL: Now, this legislation does not ban the possession of these infant loungers, correct?

MS. PAULIN: That's correct.

MR. GOODELL: So the only thing that is banned is the sale, correct?

MS. PAULIN: That's correct.

MR. GOODELL: Thank you very much.

On the bill, sir.

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

MR. GOODELL: I -- I appreciate my colleague's concern about the safety of infant loungers, and -- and that's why the

largest manufacturer actually stopped manufacturing it and had a full recall. And so the real question then is, why should the New York State Legislature pass legislation that bans products that have already been recalled? Now, we don't ban their possession nor their use, just the sale. And so I understand that in theory we're working on a \$230 billion budget. We might best spend our time focusing on issues other than banning products that have already been recalled.

And for that reason I would not recommend that we add more volume to our already voluminous statutory provisions.

Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. While we certainly appreciate the sponsor's intent, we don't think the legislation is necessary in general and accordingly, the Republican Conference will be generally opposed. But certainly, any member who wishes to vote in favor can do so here on the floor of the Assembly.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, sir.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. The Majority Conference is generally going to be in favor of pieces of legislation that would support and protect babies, and so we're going to be voting in the affirmative on this one, sir.

Thank you.

ACTING SPEAKER AUBRY: Thank you, Mrs.

Peoples-Stokes.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 10, Calendar No. 62, the Clerk will read.

THE CLERK: Assembly No. A04157, Calendar No. 62, Paulin, Vanel. An act to amend the Executive Law, in relation to the use of automatic license plate reader systems.

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

MS. PAULIN: Yes. The bill would create standards for the use of automatic license plate reader technology by law enforcement agencies.

ACTING SPEAKER AUBRY: Mr. Morinello.

MR. MORINELLO: Thank you. Would the sponsor yield for a couple of questions?

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

MS. PAULIN: Yes, I'd be happy to.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MORINELLO: Thank you very much. I see that this bill was originally introduced in 2019 and passed this Body; is that correct?

MS. PAULIN: That's correct.

MR. MORINELLO: And then it was again repeated in 2020 and passed this Body, and then it was also introduced in 2021 and it was held; is that correct?

MS. PAULIN: I know that I've it passed it a couple of times. I maybe didn't opt to debate it last year, I don't remember.

MR. MORINELLO: Well, the reason -- the reason I went through that history is through -- through that, the Municipal Police Training Council of the Department of Criminal Justice in March of 2021 produced a five-page license plate reader's model policy. Is that what this bill is asking for?

MS. PAULIN: The bill is actually asking for that policy -- yes, for the policy to be developed but also to be -- for police officers to be trained on that policy and for that policy to be posted on local websites.

MR. MORINELLO: Okay. I was able to find that policy on my website by just googling it. So it is available on -- on readers, on Google and other areas. But more importantly, I have checked with all of the police agencies through my sheriff's department and every police agency in their training has this policy

that they put in place. Is the sponsor aware of that?

MS. PAULIN: So, we're aware that they're beginning to train police officers on this policy. We don't -- have not heard that it's Statewide, that -- and that once police officers are trained, the question becomes, you know, is this policy then part of an ongoing training? We haven't heard that either. So this would require that, and it's important because we -- this bill resulted from a local incident that we had where police officers were using this technology to -- to -- to stalk a particular woman, a girlfriend or a wife, I'm not sure which, but... So we know that it was being abused, and this makes it front and center that that's inappropriate, that it's a violation of the policy. That, you know, we -- it's transparent, it's on the local precincts' either website or posted. And, you know, we think then police officers wouldn't be inclined to abuse it if it was more visible.

MR. MORINELLO: Well, I also have checked with various police academies, and in their training they do utilize the information contained in the model policy. Are you aware of that?

MS. PAULIN: But remember, the academies are for the new police officers. You know, this incident was by police officers that had already been trained prior to the enactment of -- of these policies. So again, you know, it's to make not just the newer police officers, but everyone, aware that technology changes and that this is not an acceptable behavior for police to -- to use it in an inappropriate way.

MR. MORINELLO: So the incident you refer to, was

that prior to the 2021 March production of the model policy?

MS. PAULIN: I don't know -- remember -- or remember exactly when this was happening. I can certainly let you know, but I don't have 100 percent recall, you know, when -- when that was occurring.

MR. MORINELLO: Thank you very much.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: It seems that lately this Body is producing bills that are unnecessary, that have already been covered. If there was a violation prior to 2021, that has been resolved because this bill originally started in 2019 and then through the progression a set of policies by the Department of Criminal Justice has resulted. It seems that there may be internal violations that need to be prosecuted. But to clog up the rules, laws of -- of this State to add bills -- to add laws that are not necessary that are already covered I think is an injustice to the taxpayers and it's a costly process that is not needed.

Thank you very much.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker.

On the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. ANGELINO: So here we go again. We have one incident that took place in this State some time ago, and the

privacy of an individual was likely violated and it should have been taken care of internally by a law enforcement disciplinary panel. But we're creating a law because I think it's become very vogue to create laws that are somehow controlling of the law enforcement officers of our State.

I want to give you a little inside baseball on license plate readers, having been an operator of a plate reader and supervised scores of officers who did operate them. The -- the plate reader in the car is just one other tool that law enforcement has. And if you're concerned about privacy, it does not run every license plate that you see. It checks a database for flagged license plates. Flagged license plates; a stolen car, somebody wanted in a kidnapping, a suspicious incident. Those are the ones that are -- that are flagged and that are put into a license plate reader. So as you're operating a patrol car with a plate reader on it and you're driving through a parking lot as fast as you can drive, it is -- it is looking at every license plate. You know what else it looks at? It looks at the numbers on pizza boxes, it looks at the telephone numbers on the sides of trucks. And a real favorite of license plate readers is the realtor signs along the curblane. It picks up all of those, also. The officers are trained, trained and trained again every year on how to -- how to understand the information that the plate reader is -- is looking at. And it's only those flagged numbers that pop up and alert an officer in the car. Frankly, the officers in cars are pretty busy about all of the things going on around them. The plate reader is not really high on their list unless they're a traffic

officer or a parking enforcement officer. So the privacy of individuals is not being violated with these unless you don't have insurance on your car or your car has been stolen. That's what gets entered into the plate reader.

The -- the plate reader is a fantastic tool, it's been around for at least 20 years. I know the agency I supervised, we got ours I think in 2004 or 2005, and since that time there's been all kinds of policies and privacy concerns being addressed. So for every law enforcement agency to have to follow through with posting this on a website, with having this in their academies, which it already is, but this whole thing is much ado about nothing. And not to take away from whatever officers it was that did the wrongdoing and whatever the incident was, I'm sure that's been dealt with. But to paint a broad brush of all law enforcement agencies is just not the right thing to do.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Giglio.

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

ACTING SPEAKER AUBRY: Ms. Paulin?

MS. PAULIN: Yes.

ACTING SPEAKER AUBRY: Ms. Paulin yields.

MS. GIGLIO: Thank you. So, you referred to one specific case which is why we are having this law before us today, correct?

MS. PAULIN: So, in this particular case the deputy mayor of the -- of the city came to me and said this would -- we should do this Statewide because they were concerned that this kind of incident was easily repeatable. And -- and so it was through that conversation that this law was drafted, or this bill was drafted.

MS. GIGLIO: Okay. And then so was the officer that was using the plate reader, was he a veteran, was he a new law enforcement officer, was he getting his annual training?

MS. PAULIN: I honestly don't know what his status was. So, you know, I -- I just don't know. I didn't -- I didn't ask the deputy mayor.

MS. GIGLIO: Okay. Because the uses of plate readers as I know them, and being a former Police Commissioner in the town that I was on the City Council for, we had used it for registration and insurance to keep other drivers on the road safe. Because the plate readers would read if your registration was expired, if your insurance was expired, and that was a revenue source for the State of New York also, as well as, you know, keeping people safe on the roads to make sure that people have insurance and their cars are registered. And as my other colleague stated, not a stolen car or, you know, not a car that's on the run with a child based on a call for, you know, a child that's missing. It's a tool that law enforcement uses when there are these Amber Alerts and other alerts, and I just -- I fear that by creating a law such as this you're going to discourage law enforcement from using the plate readers and they're just going to let

the cars go because they don't want to be scrutinized as to how they used the plate reader. And I've read other bills that have come across this week that are really about racial -- racial profiling. You know, we've done away with that, we've done away with many things, many tools that law enforcement uses. And I just think this is another tool out of the toolbox and another tool to be used against law enforcement if they should write a ticket on the plate reader.

So, I'm sorry to keep you standing. And that was on the bill. And thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Ramos.

MR. RAMOS: Will the sponsor yield for a few questions?

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

MS. PAULIN: Yes.

MR. RAMOS: Ms. Paulin, I'm trying to understand the bill. What this bill does is it calls for a study to create uniform standards under the use of license plate readers throughout the State. Is that what this bill does?

MS. PAULIN: It goes further than that. It actually requires the police officers get trained and that this policy then is posted locally.

MR. RAMOS: So making uniform standards and assuring that all police officers understand those standards.

MS. PAULIN: Yes.

MR. RAMOS: And that the public understands the -- the amount of intrusion that this -- this particular technology would have on -- on their personal lives, right?

MS. PAULIN: Yes.

MR. RAMOS: Thank you.

On the bill, Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. RAMOS: In my district I funded license plate readers, about 70 license plate readers that -- that kind of put a cyber (inaudible) over my community. And this was in response to a situation where we had over 12 gang murders in one year in my district. And what -- what this did is it allowed police officers to have what's called a "cold hit." As many of you know, I was a police officer for -- for 20 years, and I realized that this technology would give us a tool for -- to solve crime. So in other words, in the absence of any information, a burglary happens or a murder happens, you have no information, nobody saw anything, but the police would know every car that left that particular neighborhood at the time of the -- of the murder, of the crime. It's a very useful tool. But at the same time it's a tool that can be abused. And -- and most police officers would not abuse it, most police officers use it for investigative purposes. But we all know how people in their personal lives, you know, have indiscretions and do things. You know, a police officer could possibly follow around his girlfriend, figure out where she is because this is in -- in -- this is mapped out so that you can't go anywhere in my

community without passing one of these cameras. If a burglary occurs, not only do we know every car that left the neighborhood, but that could be tracked to wherever it went. If that happened the destination of that car was in the community, that would be -- that would tell the police officers where that went. So if -- if somebody went to abuse that, they could very well abuse it. And every police department in New York State has different rules and procedures. We don't have the same standards across the board. So I think it's important that we protect -- we allow this to be used, we make sure that officers fully understand it, and we protect the public. I mean, that -- that's what -- what's so beautiful about our country is that we have a balance of everything. This bill just puts that protection there so that it's not abuse.

Now, in -- in my particular county, when I funded this I insisted that the protocol be that the only way you could access this -- a police officer could access this information is if they draw a -- a case number of a crime. A police officer says, *This crime occurred*, and the police officer would have to fill out a form and explain the nexus between the information that he is request -- he or she is requesting and the crime that was committed so that it's not just anybody who is curious or it's not just perhaps a politician who happens to know a cop and wants to know where his opponent is going around. This could be abused in so many ways. And I don't see why there would be any objection to have a uniform standard that allows police officers to use this magnificent tool and at the same time

protects -- protects the privacy of our citizenry.

Mr. Speaker, I urge everybody to vote yes on this bill.

Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect on the 365th day.

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation. Those who support it can certainly vote in favor here on the floor.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally going to be in favor of this piece of legislation that both honors our law enforcement as well as protects our citizens.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, ma'am.

The Clerk will record the vote.

(The Clerk will record the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. As in the past, a good idea that has already been implemented. And when this bill was first introduced in 2019 it wasn't a uniform standard. That uniform standard has been developed. As my colleagues on both sides of the aisle who have been involved in law enforcement point out, these license plate read -- readers are very valuable, and even before the uniform policy, the local police departments had clear standards already in place. So I get frustrated when we start from the premise that the police are incompetent and don't have any policies when that's just not true. And we have a bill that calls for a uniform standard when we already have one. For that reason I can't support it. I recognize that whenever you have thousands and thousands of people who are engaged in any occupation, there will be from time to time, an abuse. And that when that happens we don't need to pass a law calling for the implementation of standards that already exist. When that happens, the local police departments can, should and do take appropriate steps.

For that reason I won't be supporting this. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Angelino to explain his vote.

MR. ANGELINO: Thank you, Mr. Speaker. To explain why I am voting no, luckily, New York State for a long time has had the Division of Criminal Justice Services, and a branch of that is the Municipal Police Training Council. They're all trained

professionals, they all look out for the welfare of the people of the State of New York. They are a neutral agency, and they are very much concerned with how properly law enforcement conducts their day-to-day operations. They probably heard about incidents of misuse, and maybe even the one in the 88th Assembly District that the sponsor mentioned. They reacted to that. They put out a model policy for all agencies in the State. All agencies in the State with a license plate reader system, or more than one, now confers with DCJS on how to do this. This is an example of just because you can do something doesn't mean you should.

This is an unnecessary chapter in our long history of laws in New York State that over -- looks over the shoulder of law enforcement officers and it's just not needed and I'll be voting no.

ACTING SPEAKER AUBRY: Mr. Angelino in the negative.

Mr. Giglio.

MR. GIGLIO: Thank you, Mr. Speaker. As everybody should know, almost every police department in the State of New York has something called the Office of Professional Standards. And when and if somebody within your department violates any law or mischaracterizes anything or does anything wrong, that's usually referred to the Office of Professional Standards. We deal with that in-house, and anybody that does something like was described by the sponsor is punished for it. This law is not necessary. I think we can depend on them to do the right thing all the time.

So thank you very much. I'll be voting no.

ACTING SPEAKER AUBRY: Mr. Giglio in the negative.

Mr. Taylor to explain his vote.

MR. TAYLOR: Good morning, Mr. Speaker, and thank you for allowing me to explain my vote. I think this is a great piece of legislation. It's accountability, it's check-and-balance and allows people to not go off on a whim. And we know nationally when we look at scenarios across our nation when we're talking about courtesy and professionalism and what folks ought not do, we would not have had the Rodney Kings, we would not have had the situation in Memphis, we would not have the blue walls of silence. Professional courtesy is great when it's at work, and this is just another tool to help those do the job much better.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Taylor in the affirmative.

Mr. McGowan.

MR. MCGOWAN: Thank you, Mr. Speaker. You know, I stand here today in opposition. I'll be voting in the negative on this bill. You know, in my career as a -- as a prosecutor, both in Bronx County as well as Rockland County, I worked with law enforcement members in all different agencies and capacities. I was a former instructor at the Rockland County Policy Academy, my time in the Rockland County DAs office, and in my private practice I've

represented police officers for years. And police officers are trained on virtually every piece of equipment that they utilize, including license plate readers, which are a valuable tool to protect our communities when children are missing, when there's an abduction, when there's a crime committed. This is a -- an essential resource that we have the technology for to better our communities and make us safer. And to stand here today and say that police officers are not trained on this or they're incompetent is frankly insulting. I think this is -- this legislation really extends a thinly-veiled attempt to disparage police officers when we need our officers to know that we support them. And to ignore the fact that they are already trained and to try to pass this legislation is simply I think the wrong message that this Body is sending to our officers and to our State.

So I stand here today in the negative. The fact that one incident occurred that has resulted in this legislation, I -- I think there are better uses of our time. We need to trust our officers, we need to trust the training institutions, the agencies that -- that support them and do provide training, and we need to find others ways to spend our time. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. McGowan in the negative.

Mr. Reilly to explain his vote.

MR. REILLY: Thank you, Mr. Speaker. License Plate Reader's Model -- Model Policy, March 2021, Municipal Police Training Council. It already exists. They -- they've garnered all this

information and put it into a, hmm, nine-page document with all our police agencies throughout the State adding the permissible use. If you read that document, it delineates exactly what we're talking about. But the reason why I rise and explain my vote is because we're taking urgency over one incident. There are other laws that we need to fix that we continuously hear multiple incidents throughout the day, and those perviate around crime. And we should be taking that up, not taking up something that already exists.

So for that reason, Mr. Speaker, I will be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Reilly in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 11, Calendar No. 68, the Clerk will read.

THE CLERK: Assembly No. A05074, Calendar No. 68, Epstein, Steck, Seawright. An act to amend the Criminal Procedure Law and the Penal Law, in relation to requiring written notice to a defendant of his or her right to complete court-ordered alcohol or substance use treatment in a nonreligious treatment program.

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

MR. EPSTEIN: The bill allows New Yorkers who

are forced to go into mandated treatment programs to be given an option to have non-religious treatment programs when they need no religious options. Across the State in every county we have non-religious options, but most people just don't know those options exist. This bill would just require the court to give people notice that those options are available, and to ensure that they get to the treatment program they need. Just to be clear, people who need non-religious treatment programs are extremely successful when they get those options. We've seen data after data after data (inaudible) of people who don't get those options that they need, fail to go to those treatment programs. And the goal for all of us with this court-mandated treatment is a lot of people get the treatment that they need so they can get the help that they deserve.

ACTING SPEAKER AUBRY: Mr. Morinello.

MR. MORINELLO: Thank you. Would the sponsor yield for a few questions?

ACTING SPEAKER AUBRY: Mr. Epstein, will you yield, sir?

MR. EPSTEIN: Happy to yield.

ACTING SPEAKER AUBRY: Mr. Epstein yields.

MR. MORINELLO: What -- what is your understanding of the purpose of the Judicial Diversion Program?

MR. EPSTEIN: So, diversion programs are programs that of -- avoid people from going to be incarcerated, and you get other services that they need that the court has identified are

appropriate for those individuals.

MR. MORINELLO: What is your understanding of the procedure that must be followed prior to acceptance in a Judicial Diversion Program?

MR. EPSTEIN: When you say the "procedure," I'm not 100 percent clear what you mean by procedure.

MR. MORINELLO: Well, what I'm referring to is, what is the sponsor's understanding of the process necessary to be qualified and accepted in the program?

MR. EPSTEIN: Well, I'm sure the process is different jurisdiction by jurisdiction, but generally I'll say that there's a -- a prosecutor and a defense team who both acknowledge that this would be a good course of action for the defendant, and that the court, in consultation with some third-party mostly, will make the determination that this option is available to this individual and then collectively decide that the treatment program is the appropriate diversion program and then they, through a process, choose what program that would be and the length of that program for the individual.

MR. MORINELLO: Is -- is the sponsor aware that, number one, an individual has to be convicted -- accused of certain crimes? That not every single crime makes them eligible for judicial diversion?

MR. EPSTEIN: I am aware that not every criminal defendant is eligible for a diversion program, yes.

MR. MORINELLO: And is the sponsor aware that one of the underlying reasons that you become eligible is your crime is associated with either alcohol abuse or drug abuse?

MR. EPSTEIN: My understanding for a diversion program related to a treatment program is there's some either underlying drug or alcohol issue or the crime is directly related to drug or -- drug or alcohol.

MR. MORINELLO: And is the sponsor aware that procedurally, the process would be as follows: Number one, a defendant must be represented by counsel, whether it's private or assigned?

MR. EPSTEIN: My understanding is in the State of New York and currently under the Constitution, people who are facing jail time are required to get represented by counsel.

MR. MORINELLO: Is the sponsor aware that the defendant, after consultation with their attorney, must request the process -- or the program through -- through their attorney to the court?

MR. EPSTEIN: I think I said earlier that the -- it is the defendant who -- who requests it and the prosecutor who's on board with it and then they collectively would go to the judge about the diversion program.

MR. MORINELLO: Okay. Is the sponsor aware that office -- Office of Court Administration has a set procedure that must be followed in order to become eligible for the program?

MR. EPSTEIN: When you say "set procedure" they have qualifications and -- and characteristics of individuals who would be eligible for it?

MR. MORINELLO: No, what I'm referring to is, number one, once it's requested there has to be an independent evaluation of whether or not, A, the defendant who is requesting has one of the triggering factors, either alcohol or drug, and then number two, whether that was the underlying cause of the allegation against them.

MR. EPSTEIN: So as I said earlier, they're the third-party who makes that determination, so you're reiterating I think what I just said earlier.

MR. MORINELLO: Well, I'm just wondering whether the sponsor is aware of it, it's an independent evaluator that is approved by Office of Court Administration.

MR. EPSTEIN: Well, since I said it a few minutes ago before you asked, again, I -- I made that statement. So I think you can ascertain that I was aware of it because I just said it.

MR. MORINELLO: Well, I don't know because your answer wasn't that clear. It's a third-party, but not an evaluator approved by Office of Court Administration and that's one of the key factors and that report has to be given. That's what I was alluding to and not just some general third-party.

MR. EPSTEIN: I'm not sure if there's a question there.

MR. MORINELLO: Next, once they're evaluated and they're approved and accepted, at that point is the sponsor aware that the defendant then becomes under the jurisdiction and direction of the court itself, the judge who handles that case?

MR. EPSTEIN: So, I -- just so I'm clear on your question, you're saying once the parties agree to go to this diversion program the court has oversight over that diversion program and how well the defendant is doing in that program?

MR. MORINELLO: The court has oversight over the defendant. The question -- the question, bottom line, is this: I get the feeling that the sponsor does not understand the procedures. I did them for 14 years, I handled over 600 cases, and some of the answers do not -- do not correspond to the actual procedures. Is the -- is the sponsor aware that there's a contract that has to be signed by the defendant and accepted to the court with all the qualifications, restrictions and obligations?

MR. EPSTEIN: It is my understanding that the defendant agrees orally and in writing to the terms of this diversion program.

MR. MORINELLO: But is the -- is the sponsor aware that there's an actual binding contract listing all the obligations and all the penalties?

MR. EPSTEIN: Like any plea agreement or diversion agreement in court it is binding upon the defendant because they're agreeing to it in an open court.

MR. MORINELLO: Well, it's a little different than what you've said. It's specific to these particular crimes. And included in that, is the sponsor aware that the admonishment for a sentence should there be failure is included in that agreement?

MR. EPSTEIN: Yeah, I understand that if the person doesn't live up to the standards of the agreement there are consequences in that procedure like there are consequences for other criminal defendants in other plea agreements they enter into because they're making a determination that this is in their best interest, and the court's saying, *These are the terms you need to comply with and if you don't there are consequences*. Of course, that is exactly what happens.

MR. MORINELLO: Well, it's a little more stringent than that because there's an actual written binding contract. So prior to getting to anything, that procedure may take three or four court appearances. Is the sponsor aware of that?

MR. EPSTEIN: I'm not aware of how many court appearances this particular, whatever fictional defendant we're talking about takes, but usually people take multiple times to go back to court to be able to get to a plea agreement. Some plea agreements and some diversion programs are much quicker, but obviously when there's court process it requires some time for people to keep coming back to court.

MR. MORINELLO: Now, once a defendant is accepted into the program, is the sponsor aware that they are -- they

are contractually knowledgeable of either the benefits or the negatives entering into that program?

MR. EPSTEIN: So, I don't know what anyone knows or doesn't know when they enter into a plea agreement, but I believe they've been represented by counsel and the counsel is making them aware of what their obligations are under that -- under those agreements and that order. It is my hope and my expectation that the criminal defense attorney is making sure the individual consciously knows what they're being obligated to do in that -- in that agreement and what their responsibilities are to the court.

MR. MORINELLO: Are you aware of the benefits that are contractually placed in that contract should they comply with all the rules and complete the program that they -- fits whatever their ailment or addiction is?

MR. EPSTEIN: I'm sure each case is case-by-case, but hopefully people get an ACD or other opportunity that the underlying alleged criminal behavior is no longer going to be part of their permanent record, and hopefully that diversion program will lead someone to be able to get over whatever addiction issues they have in their lives.

MR. MORINELLO: Thank you.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: I was a judge for 14 years. I handled over 600 judicial diversion cases. There are very stringent

rules to lead up to a contractual agreement. The first assessment will determine if, in fact, the crime was a result of an addiction by either drug or alcohol. I recall the first bill that I supported - I believe it was the first - in this Chamber was in addition to a crime that one of our leadership on the Majority had proposed adding car stripping to the list of crimes for judicial diversion eligibility. A defendant will be facing a felony and a State jail time should they be convicted, but this program will avoid that for them should they be successful. But one of the keys, and it's similar to a domestic violence, that the power and control is taken from the individual defendant and given to a superior figure, in this case being the judge. So to now allow the beneficiary of that agreement, the beneficiary of their being able to avoid a criminal conviction, the beneficiary of being available to avoid incarceration, this puts some power into it. There are no, that I know of, that Office of Court Administration has ever, ever allowed that is a religious program. The majority of these programs are through grants provided by monies from this Legislature. So to now -- to take the power away from the court to the beneficiary who in most instances could be facing significant jail time in a State facility should they be convicted, now takes away from the impact and importance of control over that individual. Many of them go in not because they feel it's time for them to be able to attack their addiction, it's because they want to avoid the serious consequences of the conviction or incarceration.

For those reasons, I ask my colleagues to consider voting in the negative on this particular bill. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Blumencranz.

MR. BLUMENCRANZ: Thank you, Mr. Speaker.

Will the sponsor yield?

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

MR. EPSTEIN: Happy to yield.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. BLUMENCRANZ: So, I'm just curious about a little bit of the language in the bill. So you say non-religious. What about a spiritually-based program, right? A lot -- a lot of AA and SA, they're more of a spiritual basis than a religious one. Would you say that that would be defined as religious if there were spiritual aspects to the program?

MR. EPSTEIN: Well, it's not my term -- I don't have to define it. It's like the defendant in that case be told that they have non-religious options. Some people feel like spiritualness is faith-based and it doesn't work for them, so they would then be given an non like, AA option for a treatment program. It would really be up to that defendant.

MR. BLUMENCRANZ: So what would happen in the instance where we live in a rural community, a lot of the basis of some of these programs is with spiritual-based programming, which is the vast majority of a lot of these, you know, substance abuse

programs. What would be the alternative to that?

MR. EPSTEIN: So like I said earlier, there are programs in every county in the State that are non-religious-based right now. They are available for defendants today, they just don't know about it. And so allowing them to be aware of it allows them to make a choice. These are people who are trying to go through recovery, and we want to help them because we all want them to recover. And so we want to make sure that the recovery program is best for them, especially for non-religious people who need non-religious treatment. So I'm not saying anyone should choose something that they are forced to choose, I'm just saying let's let people have their options and know about it and not be told that they have to do a faith-based one if they're not faith-based. But if someone's faith-based and they want to do a faith-based one, great. We want them to get the treatment that they deserve.

MR. BLUMENCRANZ: All right. Thank you very much.

ACTING SPEAKER AUBRY: Mr. Lavine.

MR. LAVINE: Thank you. Would the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Epstein, will you yield, sir?

MR. EPSTEIN: I'm happy to yield.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. LAVINE: Mr. Epstein, so, I -- I've read the --

read the bill. It's -- it's a pretty straightforward proposition. Does this bill in any way mandate that someone who may be in need of treatment cannot receive that treatment?

MR. EPSTEIN: It does not, Mr. Lavine.

MR. LAVINE: All right. And is this bill entirely consistent with the Establishment Clause of the United States Constitution, which I think was number one in our Bill of Rights if -- if I'm not mistaken.

MR. EPSTEIN: It -- it is extremely consistent with the law, and numerous people have had to sue over getting non-religious options because they weren't offered that. And court after court after court has upheld the right to have non-religious treatment programs.

MR. LAVINE: Now, what do you imagine may happen if someone who -- who is of a different religion or someone who has no religion ends up being put in a treatment program that has a heavy emphasis on one particular religious order?

MR. EPSTEIN: Yeah. So my hope is that person will still move to recovery, but the data unfortunately shows that people who are non-religious and put into heavy religious treatment programs are less likely to get through recovery.

MR. LAVINE: And so do you think there -- there is a danger to the spirit of America posed by any one -- the followers of any one religion who want to impose the strict mandates of that religion on everybody else?

MR. EPSTEIN: You know, I firmly believe in religious freedom in this country, and I believe that people should be able to make whatever choices they want to make in their lives and I do think pushing people down a certain pipeline really impacts that ability to keep their religious freedom intact.

MR. LAVINE: Very, very good. Thank you, Mr. Epstein.

MR. EPSTEIN: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference will be generally opposed for the reasons mentioned by my colleague, but those who support it are certainly welcome to vote in favor on the floor.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally going to be in favor of this piece of legislation. There may be some exceptions. If you're in the Chambers you'll need to take that option.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank -- thank you, Mr. Speaker. I rise to explain my vote. So, we live in a country that believes in independence and religious freedom. And here all we're saying is for someone who's going to a court-mandated treatment program, they should be given the option to do a treatment program that works best based on their faith or lack of faith. And where some people believe in 12 steps, some people don't. Some people believe in higher powers, some people don't. And we want people to get through recovery, and this is about helping people find the best way for them to go through recovery, and unfortunately, you know, the data doesn't support people -- unfortunately, people who are non-religious and going to religious-based programs don't do that well. The data also says for people who are religious and don't -- and go to non-religious programs don't do as well. We want people to be able to go to the best program they have, and it just allows OCA to notify people that they have this available. It's a right that exists under our Constitution that's been held up court case after court case after court case and we want to encourage people to be able to have that right.

So I encourage my colleagues to vote in favor of this bill. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Epstein in the affirmative.

Mr. Eachus to explain his vote.

MR. EACHUS: Thank you, Mr. Speaker. As Chair of the local Salvation Army for two years, we were part of a diversion program and we had many folks come through the Salvation Army doing various different tasks. I had some of those folks, I was in charge and obviously took sole responsibility as Chair of the Salvation Army. We had some of those folks who came through who did come from other programs which did force religious concepts on them. And they actually just -- they couldn't handle it. And as Mr. Epstein -- I'm sorry, the sponsor mentioned, this is simply a choice given to them so that they will be successful. And that's, of course, ultimately what we're looking for; for all of these that go through diversion programs to be successful. And I had personal experience on the other end, not as a judge or a defendant or anything else, but as one who helped sponsor a diversion program.

So certainly, I think this is a great, great bill and I am voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Eachus 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, I would like to remind our Majority Conference that there may be a need for a conference, but it will be called at the Speaker and people should feel free to go home.

So sir, are there any resolutions and/or housekeeping?

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes, we have neither resolutions nor housekeeping. But may I take a moment to just apologize. I know you wanted to speak on an earlier resolution and I think I cut you off. So you might want to share with us your thoughts about that as we conclude.

MRS. PEOPLES-STOKES: I move to -- that the Assembly stand adjourned until March the 24th, tomorrow being a legislative day.

(Applause/Laughter)

ACTING SPEAKER AUBRY: Always to the point.

MRS. PEOPLES-STOKES: And to meet at 2:00 p.m. on Monday March the 27th, Monday being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 11:56 a.m., the House stood adjourned until Monday, March 27th at 2:00 p.m., that being a Session day.)