

THURSDAY, APRIL 4, 2024

11:02 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Wednesday, April 3rd.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Wednesday, April the 3rd and that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, colleagues and guests that are in the Chambers, I'd like to share this quote today. This one comes from former Supreme Court Justice Ruth Bader Ginsburg. Her words for us today, Fight for the things that you care about, but do it in a way that will allow others to join you. Again, these words from Ruth Bader Ginsburg.

Mr. Speaker, colleagues have on their desk a main Calendar and a debate list. After you have done any housekeeping or introductions, we're going to call for the following Committees to meet: Ways and Means Committee, as well as the Rules Committee. These Committees are going to produce an A-Calendar in which we're going to take up today. So we're going to start our work on the floor by taking up Resolutions on Page 3, and then we're going to go to the following bill on debate, it's Calendar No. 331 by Mr. Weprin. There may be a need for additional floor activity as we proceed, if so I will mention it at that moment; however, I will say this right away, the Majority members should be aware that there is going to be a need for a Conference as soon as we conclude our work on the floor today. And, as always, Mr. Speaker, we will check with Mr. Goodell and the other side of the aisle to see what their needs may be.

That's a general outline of where we are today, Mr. Speaker. If you have introductions or housekeeping, now would be a great time. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. We do have a piece of housekeeping.

On a motion by Mr. Dinowitz, Page 15, Calendar No. 129, Bill No. A04667-A, the amendments are received and adopted.

For the purposes of a introduction, Mr. Norris.

MR. NORRIS: Thank you, Mr. Speaker. It's with great pride today and pleasure that I introduce some of my family members to the Chamber. I have my brother, Adam here who is a 4th grade teacher at Barker School District in my district; and my brother, Andrew, who is an accounting manager for a Buffalo construction firm. I also have my niece, Hailey here who's in the 9th grade, and she attends Lockport High School, is on the soccer team and does dance. Also, my niece Claire is here, who is a 7th grader at Aaron Mossell School in Lockport, and she does swim and dance. And I have my nephew Mason, here who attends Emmet Belknap School in the 5th grade and does soccer and tennis for his hobbies. And so Mr. Speaker, they have been quite helpful to me along my journey here in the State Assembly and everything that goes along with it. I'm very proud of them and I would kindly ask you to extend the courtesies to them on the floor.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Norris, the Speaker and all the members, we welcome the

brothers, and the nieces and nephews here to the New York State Assembly, extend to you the privileges of the floor. As family, you are always welcome here. You will always have the privileges of the floor. And thank you for being here for Mr. Norris, I know he seems proud as a peacock and he has well good reason for that. Please know you are always welcome and we're really happy to see you. Thank you.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you would please call the Ways and Means Committee to the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Ways and Means, Speaker's Conference Room immediately.

Resolutions on Page 3, Assembly Print 1073, the Clerk will read.

THE CLERK: Assembly Resolution No. 1073, Mr. Cunningham.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim February 3, 2024, as Four Chaplains Day in the State of New York.

ACTING SPEAKER AUBRY: Mr. Cunningham on the resolution.

MR. CUNNINGHAM: Thank you, Mr. Speaker, for the opportunity to speak on the resolution. Early on February 3rd,

1943 an enemy torpedo shook the Army Transport of Dorchester as it carried 902 officers and enlisted men, civil workers in the North Atlantic. February 3rd, 2004 marked 41 -- 81 years of the sinking of the United States Transporter which carried a lot of selfless acts of four chaplains. Today, we honor them, we honor their bravery, their sacrifices, and commemorate the lives they saved, not only the lives that were lost. Thank you, Mr. Speaker, for the opportunity to speak on this resolution.

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

THE CLERK: Assembly Resolution No. 1074, Mr. K. Brown.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 4, 2024, as School Librarian Day in the State of New York.

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

THE CLERK: Assembly Resolution No. 1075, Mr. Bores.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 6, 2024, as Tartan Day in the State of New York.

ACTING SPEAKER ZACCARO: All those -- on the

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

THE CLERK: Assembly Resolution No. 1076, Ms. Lunsford.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 22-28, 2024, as Banned Books Week in the State of New York.

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

THE CLERK: Assembly Resolution No. 1077, Ms. Buttenschon.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 2024, as Disability Employment Awareness Month in the State of New York.

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

Page 24, Calendar No. 331, the Clerk will read.

THE CLERK: Assembly No. A07862-A, Calendar No. 331, Weprin, Hevesi, Davila, Paulin, Brook-Krasny. An act to amend the Insurance Law, in relation to addressing non-covered dental services.

ACTING SPEAKER ZACCARO: Read the last section.

THE CLERK: This act shall take effect January 1st, 2025.

ACTING SPEAKER ZACCARO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. This is a fast vote because the last time this bill came up in 2017 there was no opposition. And it was reported out of Committee with no opposition. Not to be contrary, but I will be voting no because what this bill does is it makes it illegal for insurance companies to negotiate lower prices for consumers who go to dentists for services that are not covered by the insurance company. So think about that for a minute. This bill makes it illegal for insurance companies to negotiate lower prices for consumers. Now, not surprisingly, dentists want to charge consumers more. My consumers like to pay less, and the dentists are upset with this, understandably because it impacts their profitability. And what happens is the insurance company says, we'll cover these services and you can be a member of our preferred provider organization if you charge a lower price for the non-covered services. So some of you may feel, in fact, many of us in the past have felt that that's unfair leverage, even if it benefits the consumer, but in my book I still want to put the consumer first. So I recognize that even I voted yes in 2017, but upon further reflection, perhaps as my teeth deteriorate, I'd like to pay less rather than more for dental services. Thank you, sir.

ACTING SPEAKER ZACCARO: Mrs. Peoples-Stokes for the purpose of an announcement.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please call the Rules Committee immediately to the Speaker's Conference Room?

ACTING SPEAKER ZACCARO: Rules Committee to the Speaker's Conference Room immediately.

ACTING SPEAKER AUBRY: 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, members have on their desk an A-Calendar. I'd like to move to advance that A-Calendar.

ACTING SPEAKER AUBRY: On Mrs. Peoples-Stokes' motion, the A-Calendar is advanced.

Mrs. Peoples-Stokes.

Page 3, Rules Report No. 26, the Clerk will read.

THE CLERK: Assembly No. A09762, Rules Report No. 26, Weinstein. An act making appropriations for the support of government and to amend Chapter 111 of the Laws of 2024 relating to making appropriations for the support of government, in relation thereto, and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER AUBRY: Governor's Message is at the desk, the Clerk will read.

THE CLERK: I hereby certify to an immediate vote, Kathy Hochul, Governor.

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

MS. WEINSTEIN: Thank you, Mr. Speaker. As we continue our work to come to an agreed to budget, this bill would extend funding for State operations and certain essential aid to localities programs through April 8th. It contains funding for payroll, unemployment insurance, general state charges, as well as some public health and veterans' programs.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will Chair Weinstein yield?

MS. WEINSTEIN: Yes.

ACTING SPEAKER AUBRY: Ms. Weinstein yields.

MR. RA: Thank you. So just to get into more of the details of this, so for my colleagues as we do these extenders and you may recall we did a number of them last year, they -- they kind of become like a comprehensive extender from the start of the fiscal year to -- to the date we're going to, so this is adding some additional funding to the extender we did last week, correct?

MS. WEINSTEIN: Yes, it is.

MR. RA: And will now take us through next Monday, April the 8th.

MS. WEINSTEIN: Correct.

MR. RA: And what is the additional appropriation amount in this bill?

MS. WEINSTEIN: \$86.672 million.

MR. RA: Okay. And with -- with that and what we passed last Thursday, what's the total amount we've appropriated in these two emergency extender bills?

MS. WEINSTEIN: 511.327 million.

MR. RA: Okay. Can you provide at this point any type of update on where we are in terms of our financial plan that we would see in an enacted budget?

MS. WEINSTEIN: I can't at this time since discussions are still ongoing.

MR. RA: Okay. And I mean -- do we -- are there any, you know, issues that are out there that have been agreed upon at this point, especially something like school aid that I know our districts are anxiously awaiting some information on?

MS. WEINSTEIN: All negotiations are still continuing.

MR. RA: Okay. Just a couple things with regard to the appropriations in this particular bill. So we have, I guess, a very small amount of payroll that's specific for the Division of Military and Naval Affairs, correct?

MS. WEINSTEIN: Yes.

MR. RA: And that amount is what?

MS. WEINSTEIN: Just over \$7 million, I believe.

MR. RA: Okay. And these are, to my understanding, individuals who have been utilized with regard to the migrant crisis?

MS. WEINSTEIN: Yes.

MR. RA: Okay. And we do not, within this bill, have funding for the administrative payroll that would come up the middle of next week; that's the Executive and Legislative branch employees.

MS. WEINSTEIN: That is correct, it is not included.

MR. RA: Do we know when we would have to do another extender to make sure that those employees are covered and don't miss a paycheck?

MS. WEINSTEIN: Monday at noon.

MR. RA: Okay. We will be -- well, I guess we will have a busy Monday. I know many would like to view the Eclipse, but I think we might have --

MS. WEINSTEIN: Well, there's always Sunday.

MR. RA: -- some work to do before that. Thank you. I -- I think that's all I have in terms of questions.

Mr. Speaker, on the bill.

MS. WEINSTEIN: Thank you.

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

MR. RA: So we're here again, extender number two.

We did, as we know, many extenders last year and finally got to a result. We're -- we're staring at I think quite clearly another extender coming on Monday to make sure that those employees on the administrative payroll are covered. So I think we're really getting into a situation where we're past the deadline, well past the deadline.

We're, you know, I think we used to -- our former governor used to talk about budgets being timely when they were somewhere in the ballpark of -- of April 1st. I think we're going to be well past that.

But -- but I just want to reiterate, you know, and we've talked about this, the public, maybe they don't always care about all the details of this, but they know when -- when we're late and, in particular, we know that in this budget our school districts, our local government, our non-profit organizations are -- are hanging in uncertainty and they're waiting to learn what the State is going to allocate toward -- towards them. Now, in particular we are really staring in the face of a very difficult situation for our school districts because we had the Governor's Executive Proposal that basically half of the districts in this State are -- would lose foundation aid under it. They have put together budgets, they have to put them out to the public and, you know, we're a few weeks away from -- school districts are required to distribute ballots to military residents by April 26th. So the districts are going to have to make that decision as to what budget they are putting out to the public. I know many of my colleagues, they have school district employees, teachers, staff that are on the chopping block, that are -- that are scared of losing their jobs

and the districts are saying if we don't get restorations, we are going to have to lay off employees. So there are real consequences to us being late on this budget. I think it is important that as we get into next week, and we have another holiday situation the middle of next week. We need to come together and get this done, adopt a responsible budget, address the needs of New Yorkers, but also do it in a way that we provide certainty to all of these school districts, local governments, all the non-profit entities, everybody that is counting on us to get this done in a timely fashion.

And -- and I do want to, again, reiterate what I talked about last week. This is an appropriation, very important that we keep our government up and running. Last week, we obviously had the Article VII piece. We need to definitely continue to talk about some of the policy issues that are out there, in particular the crime issue, whether it's retail theft, we continue to see issues with that. My colleague talked about the horrible situation that happened up in Big Flats in a retail theft incident with -- with an officer who -- who we hope will pull through and make a recovery, and obviously we had what happened down in New York City last week. Public safety should be at the forefront of our discussions as we go to adopt a budget. It can't be about moving to study it, it can't be about we don't have time to do it or we can't do policy. This is what New Yorkers are commanding that we do.

So I'm going to be voting for this. Like I said, it's very important that we keep our government up and running, but we

need to have a pencil's down moment and get a budget adopted and do it soon for the benefit of all New Yorkers. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now go to Calendar No. 381. It's on Page 28 by Ms. McMahon on debate.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A09505, Calendar No. 381, McMahon, Seawright, Sayegh, Simon. An act to amend the Family Court Act and the Domestic Relations Law, in relation to establishment and modification of child support orders.

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

MS. MCMAHON: Thank you, Mr. Speaker. This bill would update the New York State child support guidelines to conform to the Federal regulations allowing for discretion to consider specific circumstance in establishing child support awards.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Will the sponsor yield for just a few questions?

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

MS. MCMAHON: Certainly.

ACTING SPEAKER AUBRY: Ms. McMahon yields.

MS. WALSH: Okay. So -- and we've had some kind of offline conversations about this bill. Just -- I just want to clarify for the record kind of the -- what's the reason for why this bill is being introduced, why do we need this bill?

MS. MCMAHON: Well, this bill -- these changes are necessary to bring New York State into conformity with these Federal regulations. You may wonder why is the Federal Government involved in our child support guidelines? Well, to conform -- as we conform our guidelines to the Federal regulation, we then become, as a State, eligible for certain Federal monetary incentives, millions of dollars through the Social Security Administration.

MS. WALSH: Okay. And -- thanks, guys. So this specifically has to do with the rules that surround when the support court will impute income to -- to the payor parent, correct? So there's -- there's times that, you know, you have to do a certain amount of financial disclosure and based on that financial disclosure sometimes the support court or the magistrate will impute income to -- to that

parent, correct?

MS. MCMAHON: Correct.

MS. WALSH: Okay. And that's specifically the -- the -- the portion of the child support standards that are being like synched with the -- with the Federal standards, correct?

MS. MCMAHON: Correct. It just gives them the discretion to consider these specific factors. It's permissive, they don't have to consider any specific thing or any order --

ACTING SPEAKER AUBRY: Shhh.

MS. MCMAHON: -- but it just provides the discretion to consider these factors in conformity with the Federal reg.

MS. WALSH: Am I -- am I correct that this is reviewed every four years to ensure that they are in synch with each other, the Federal and State guidelines?

MS. MCMAHON: Yes, that is correct.

MS. WALSH: Okay. And so we're kind of running up against that deadline which is why we needed to pass this legislation, right?

MS. MCMAHON: Yes.

MS. WALSH: Okay. Now, the only thing I really want to make sure about is, is there anything that's in this legislation which broadens or changes what New York has been doing kind of all along in terms of imputing income?

MS. MCMAHON: The one specific change that I would note would be the elimination of -- there's a prohibition against

considering incarceration to be voluntary unemployment, and that is removed specifically because the Federal reg requires that.

MS. WALSH: Okay. Other than that, though -- so basically, you -- you can have income imputed if, for example, your -- the party's account of their finances is not credible, if -- they may be working off the books, or they may be not working even though the court believes that they really should be working. Those would be instances where you could impute income. And so aside from this change you just described as far as incarcerated individuals, the -- the general setup of how and why and what factors you consider to impute income, that's not changing with this legislation.

MS. MCMAHON: It really doesn't change anything, correct.

MS. WALSH: Okay, very good. Thank you so much for answering my questions.

MS. MCMAHON: You're welcome.

MS. WALSH: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now bring our attention to Calendar No. 360, it's on Page 26 and it's going to be debated by our colleague Ms. Rosenthal.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A00109-B, Calendar No. 360, L. Rosenthal, Forrest, Seawright, Aubry, Bichotte Hermelyn, Clark, Zinerman, Carroll, Hevesi, Simon, Jackson, Mitaynes, Reyes, González-Rojas, Jean-Pierre, Burgos, Cruz, Epstein, Otis, Gallagher, Cunningham, Solages, Raga, Shimsky, Levenberg, Burdick, Tapia, Dinowitz, Weprin, Davila. An act to amend the Public Health Law, in relation to prohibiting drug, cannabis or alcohol testing and screening of pregnant or post partum individuals and newborns.

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

MS. ROSENTHAL: This bill would prohibit involuntary drug, alcohol, or cannabis testing or screening of pregnant and postpartum persons.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

ACTING SPEAKER AUBRY: Ms. Rosenthal?

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

MS. WALSH: That's great. So this bill, as you said, would prohibit testing of pregnant women or newborn babies up to the age of one unless there's an emergency or unless there's express written and oral consent?

MS. ROSENTHAL: No, it would prohibit involuntarily.

MS. WALSH: Involuntary, yeah, so there needs to be oral and written consent --

MS. ROSENTHAL: Depending on the setting, oral and written or just verbal.

MS. WALSH: Just verbal consent. When would just verbal consent be appropriate?

MS. ROSENTHAL: When it's outside the hospital.

MS. WALSH: When it's outside the hospital? All right. Well, I guess the first question I have is why wouldn't we want to know if a pregnant woman or a newborn baby had illegal drugs in their system, or alcohol?

MS. ROSENTHAL: Well, first of all, it doesn't say "illegal" or "not illegal"; as you know, cannabis is legal. That is a decision that is up to the individual who is pregnant.

MS. WALSH: But -- so society has no interest in determining whether or not a mother who's pregnant with a baby has -- has got drugs in her system.

MS. ROSENTHAL: Society may have an interest, but it is up to the individual whether they want to be tested.

MS. WALSH: Well, why wouldn't we -- what's the implication for a -- a pregnant woman or a baby having drugs in their system, what -- what does that matter to the pregnant woman, what's the impact that could have -- have on her?

MS. ROSENTHAL: Of testing without her knowledge?

MS. WALSH: Of -- of having -- of having known that they have drugs or alcohol in their system. Like, what's -- what's the potential impact that you're -- that you're trying to prevent?

MS. ROSENTHAL: So what we've seen a lot of is that when there are positive test results, they cause an enormous number of devastating consequences. And often, the infant is taken away from the mother. And studies, research, lived experience has shown that the infant and the mother do best when they're together. And wrenching away an infant because of a positive test result does harm to both.

MS. WALSH: Okay, so let's break that down. So if -- if a -- a doctor or somebody that's in a hospital setting does a test and it turns out to be a positive test as to, say, the mother. Then because the doctor, the hospital personnel are mandated reporters in many instances that they will report those results to Child Protective Services, right?

MS. ROSENTHAL: They're -- they're not required to report to the state central register because pursuant to the Family Court Act, Section 1012 and 1046, substance use in and of itself does

not establish neglect. And despite that, many reports are made and -- and then dire consequences then lead to worse outcomes than would happen if the baby stayed with the parent.

MS. WALSH: So -- okay. So the mere fact that there is a positive test result does not, per se, indicate abuse or neglect, but --

MS. ROSENTHAL: No, it does not.

MS. WALSH: Correct, and I -- I agree with you there; however, that if you're a mandated reporter as people in the medical field generally are, that is often seen as something that needs to be hotlined through the state central registry, and in many cases it will be hotlined as a concern that if the pregnant mother or if the newborn is testing positive, then that is a concern that needs to be -- that warrants further investigation. And I don't understand why we would not want Child Protective Services to investigate in a situation like that, not necessarily to remove the -- the baby from the parent, but to make sure that there are adequate services in place to try to help that parent refrain from using drugs or alcohol during pregnancy, or certainly if the baby has been born while caring for or breastfeeding or interacting with the child, if it's at any kind of a unsafe level, why wouldn't we want -- that's the whole purpose for Child Protective Services is to protect children. Why would we want to create a barrier to CPS coming in and doing what their job and mission is?

MS. ROSENTHAL: Because it is up to the person carrying the fetus. Now, what we need in these situations is trust in

the system and trust between the individual and their health care provider. So if a test is done without their informed consent, that -- that totally breaks the trust. And we want to encourage some of the things that you mentioned, you know, if the pregnant person needs some kind of methadone, for example, or medication-assisted treatment which would not harm the fetus, that can be initiated but it has to be if the pregnant person is willing and has the trust. And in fact, during the request by the health care provider of the pregnant person, here's what could happen and they have to say this if you are tested. You know, that -- that helps to foster more trust between the two, because we don't want to criminalize a substance use disorder and we want to keep families together, and the best way to accomplish that is by informed testing and informed (inaudible).

MS. WALSH: Well, the U.S. Supreme Court has already held that you can't perform these kinds of tests with the purpose of trying to trip the person up criminally. We already have that as established case law, but -- but CPS is a different situation. Child Protective Services is not criminal charges, it's something -- it's something different under the Family Court Act. So let's -- let's move on. So from my research, as of 2018 the top five screening criteria for pregnant women included history of drug use, observe signs and symptoms during hospitalization, late or no prenatal care, placenta abruption, and self-report of current drug use. Let's just take that last one first. If the pregnant woman is at the hospital and has admitted to using heroin, has recent use of heroin, why would we then have to get

voluntary written and oral consent to be tested for that? What -- if she -- if she has admitted to recent use of drug -- of a drug like heroin, wouldn't -- wouldn't we have enough information at that point?

MS. ROSENTHAL: Well, I would say that if a person comes in and openly says that, then they would have no objection to testing. They just need to be asked. It needs to be voluntary.

MS. WALSH: Okay. They could absolutely still object to it because under your bill, there's like a five part consent that needs to be obtained. So I'm looking at Page 3 starting at line 2, it's gotta be dated and signed and include the following, and it goes into five different sections including -- including legal consequences explained including that a report to a local Child Protective Services agency and that the individual may want to consult with legal counsel prior to or after consenting to a drug cannabis or alcohol test or drug. So I mean, with a five part test as part of a consent, even if it a woman maybe has let it slip that she recently used heroin while pregnant, she may still not consent, and yet that still might not rise to the level of the emergency situation that your bill carves out which says that the woman or the baby have to be -- an emergency exists and the patient or newborn is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment that could increase the risk to the patient's or newborn's life or health, which is an extraordinarily high standard for -- for emergency.

MS. ROSENTHAL: Well, you know, this once

again, is a conversation between the doctor, the nurse, the doula, whomever is helping the pregnant person or seeing them. It's a conversation. It's meant to be a dialogue, and the -- the pregnant person can express their concerns, the provider can express what might happen, it's -- it's purely -- it's -- it's your body and you get to decide, but this doesn't prohibit a test. It's informed consent, not just involuntary consent.

MS. WALSH: Well, I -- I would just say that it is more of a comment than I guess a question, but at a certain point a pregnant woman is not making decisions simply for her own life but also for the life of the baby that she's carrying and that baby that's going through signs of withdrawal could have high-pitched crying or irritability, tremors, shaking, jittering and really serious withdrawal symptoms if -- if they're not recognized and treated. So at -- at what point do we have to say to the patient is not simply the mother, the pregnant woman, but it's also the baby that's being carried by her or that is a newborn baby?

MS. ROSENTHAL: Well, if you're talking about a newborn baby who exhibits everything you've just said --

MS. WALSH: Yeah.

MS. ROSENTHAL: -- I believe that the baby's doctor would initiate some kind of a treatment approach.

MS. WALSH: I don't think that that's really clear. I mean --

MS. ROSENTHAL: But I think that's where we put

our trust in the doctors and nurses and say you see a baby, you know, you see this, you recognize those symptoms. There are things they can do to address the baby's concerns.

MS. WALSH: But there's nothing in our current law that says that a doctor can't inform a pregnant woman, like, hey, I think that you should have this test, I'd like to preform this test. There's nothing that says that the doctor can already have that kind of conversation with a pregnant woman.

MS. ROSENTHAL: Exactly, that's true but we want to, you know, have guidelines and provide a process through which they can do it legally and uniformly. And what we have found is that the pregnant women targeted are proportionally higher number of Black and Brown women. And we've seen, especially in that population, a lot of maternal mortality, and we've seen a lot of stress and unequal access to health care. This approach with doing involuntary testing turns this into a criminal investigation, and I have many stories including of a woman in Buffalo recently who told the doctor that she had eaten a poppy seed bagel, and they didn't pay attention and they drug-tested her, of course poppy seed bagel looks like you might have ingested cocaine and she went home a few hours later, Child Protective Services was there and it was a debacle both for her and the child. So we want to avoid situations like that --

MS. WALSH: Was that -- was that ultimately unfounded? Or was a -- what else really happened in that case, I'm just curious.

MS. ROSENTHAL: What else what?

MS. WALSH: Was that ultimately unfounded? I mean you said CPS came in.

MS. ROSENTHAL: Yeah, it -- but there was no reason for her to be exposed to that kind of criminal investigation when there was nothing --

MS. WALSH: Well, it's not criminal. It's Child Protective Services, it's not criminal.

MS. ROSENTHAL: This is -- this is a result of not having asked her for her consent. So, but also the New York State Department of Health has -- and the Academy of Pediatrics has a policy. Because there are potentially legal and social consequences of a positive drug use screening result in individuals who are pregnant or planning to conceive, this committee urges caution when performing drug use screening. It is essential to engage patients in shared and informed decision-making before screening is performed. Fully informed consent includes clear discussion and confirmed patient understanding of the potential harms, consequences and benefits of screening. So it doesn't say bad things will happen if you okay the screening. It -- it provides a picture of all the possible consequences and it does share if you want to do it here are the benefits.

MS. WALSH: Okay.

MS. ROSENTHAL: So it's a -- it's a conversation and a dialogue as I said before.

MS. WALSH: But would you agree that there are

circumstances where people are in the throes of drug or alcohol addiction where they're not particularly forthcoming and honest and open with -- with what their problems are that they're facing. So I mean in open dialogue and conversation between a medical provider and a patient obviously is optimal, we would want to see that, but if the patient herself is not willing to be open and upfront about -- thank you, yes, thank you -- about the addiction that they've got, then doesn't the doctor at that point really have to look out for the unborn or newly-born child and also the patient's health?

MS. ROSENTHAL: Time expired?

MS. WALSH: I'm on my second now, Ms.

Rosenthal, so...

MS. ROSENTHAL: I'm sorry?

MS. WALSH: You can go ahead and answer, I'm on my second fifteen.

MS. ROSENTHAL: Okay. What we have found and this is not theoretical, this is actual experience, is that if someone has some drug use in their background or are currently using, far too often it has then turned into a criminal or other kind of investigation and that tells the pregnant mother-to-be, the health care system doesn't really have concerns in addressing you the way you need to be addressed and involved. It scares people away from seeking care because they're like you're a drug user, you're terrible, we're going to investigate you, we're going to report you, we're going to take your baby away, and -- and that's the exact opposite of what we want to

happen and that's why informed consent is a wonderful opportunity to have trust, to build trust, and to have faith that you'll be taken care of appropriately.

MS. WALSH: But under this bill, under this piece of legislation despite the fact that you said that you trust doctors to be able to have these types of conversations with the patient, under your bill, unless there is expressed oral or written consent, informed consent, or unless there's an absolute life-threatening emergency, a doctor will be prevented from being able to do drug or alcohol testing on a pregnant woman or on a newborn baby though, correct?

MS. ROSENTHAL: Now, a clinical trial by the National Institute of Health last year lead researchers to the conclusion that an eat, sleep, console approach is the most effective treatment for newborns exposed to opioids.

MS. WALSH: Thank you very much.

(Inaudible/cross-talk)

MS. ROSENTHAL: A 2023 study published in the New -- eat, sleep, console to be the most effective and allowed newborns to be discharged sooner than if they were treated with medications. These are well-respected, well-established groups, organizations and that is --

MS. WALSH: Thank you.

MS. ROSENTHAL: -- the way they --

MS. WALSH: Thank you very much. Okay. I'm going to use the rest of my time and go on the bill.

MS. ROSENTHAL: Okay, but I wanted to finish my sentence.

MS. WALSH: You're just going on and you're not answering my questions. So I'm just going to go on the bill.

ACTING SPEAKER AUBRY: Ms. Walsh on the bill.

MS. WALSH: Thank you so much. So the reason why this bill is not good, is that this bill basically says that a doctor who we put great trust in cannot, will not be able to test for -- for drugs or alcohol in a pregnant woman in a hospital setting, in a doctor's office setting without written informed consent of that patient, of that woman or unless there's such an emergency that the life of the mother or the baby is in jeopardy. That is -- that is a -- a terrible precedent to set in our law.

First of all, as I mentioned, under the Supreme Court case law, there is no criminal prosecution that is allowed by doing these -- these pop-up random tests in the way to trip a -- a woman up and have the -- and have the police involved. That's not -- that's not even a thing. So every time that the sponsor talked about criminal repercussions, there are none. There -- CPS would get called in, Child Protective Services could get in -- called in. Sometimes we have situations where we have a pregnant woman who has already had all of her other children removed from her because she has uncontrolled drug or alcohol addiction that is not being treated. She goes in to have the other child, the new baby and under this law we couldn't even test

to see if this baby is being harmed, or this baby could be harmed. I mean Fetal Alcohol Syndrome is -- is still a real problem in our society. These babies suffer. The babies who are born of mothers who are addicted to drugs or alcohol suffer. And that suffering doesn't just end over the scan -- the span of a couple of days. This can go on for months and months and in the case of Fetal Alcohol Syndrome, it can follow them throughout their lives. So it's important that maternal health is definitely a -- you know, we take a look at maternal health, we also have to consider the baby. Why would we create a law that would -- that would say that we're going to turn basically a blind eye to the potential addiction of the mother or the baby.

You know, very recently we handled a -- a bill in this Chamber talking about ingredients that were in diapers. And oh, my God, how -- if those ingredients were to touch the little bottoms of these babies, how terribly, terribly serious this would be. And yet we're going to have a bill today that's going to say *but*, we want to -- you know, we want to be able to be sure that we don't put the mother in an uncomfortable position where she might actually get tested because she's using illegal drugs or alcohol to the point where she's going to harm the baby, Really harm the baby. Permanently possibly harm the baby. So I don't understand this bill, I don't know why this Chamber would even entertain it. It's -- it's important that, certainly that doctors create a trust relationship with their patients, of course. Is it a best practice that a doctor or hospital personnel would have an open dialogue with the pregnant woman to try to get her to understand

that she could be doing active harm to herself or to the baby by the choices that she's making, yes absolutely. But unfortunately sometimes people who are addicted to drugs or alcohol are not really ready to take the necessary steps alone to be able to address those problems. And in those situations, sometimes, we as a society, the medical profession that has an oath -- takes an oath to first do no harm, they need to be able to step in and do the testing as necessary to try to protect the baby's health and also the mother's health as well. So I -- I think that this is -- this is just another example unfortunately of a desire to eliminate any sense of accountability for one's actions. And I -- I believe that if having worked with Child Protective Services for a number of years as a court attorney, I could tell you that it's not Child Protective Services first leisure reaction to run in and grab children and put them into foster care. It is their mission to try to step in and help parents be better parents, be safe parents and -- and maintain healthy environments for their kids, and to be able to push in with supports to help those parents out. This unfortunately, this legislation is another example of a bill where we're vilifying an agency that's been created in our State to help, and I would recommend that my colleagues consider a no vote. I will be not supporting this piece of legislation. Thank you very much, Mr. Speaker.

ACTING SPEAKER JONES: Thank you.

Ms. Gunther.

MS. GUNTHER: So I was an OB nurse for many years, and you know, when a patient comes in and you see somebody

that has their pupils are either dilated or either very, very small, then, you know, usually you undress them because they're coming in and having a baby and you see track marks, you know you see signs and symptoms that I do believe that, you know, we have a responsibility to that infant. And by testing somebody, what would happen is we bring all the -- the equipment that we need. The baby might have, you know, an oxygen issue. You know, the baby may be not breathing and all of those things. So I don't think this would be a punishment. I think it would be something to save lives, and no one's going to call the police in the middle of a delivery. What we're going to do is make sure we take care of the mom and the baby. So I don't think this is -- I think that prohibiting it when you have all the signs and symptoms and you want to save a baby's life as well as the mother's life, and we don't call the police. What we do is we offer them a -- a detox or something like that. We want them to be well and to raise their child so I can't vote for this bill.

ACTING SPEAKER JONES: Mr. Pirozzolo.

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

ACTING SPEAKER JONES: Will the sponsor yield?

MS. ROSENTHAL: Yes.

ACTING SPEAKER JONES: Sponsor yields.

MR. PIROZZOLO: Good afternoon. I may have missed it but I'm just curious. Under what settings does this bill

apply?

MS. ROSENTHAL: Under hospital settings and non-hospital settings.

MR. PIROZZOLO: So can you describe what a non-hospital setting would be?

MS. ROSENTHAL: Well, I'm sure you've gone to primary care doctor, non-hospital, an office building, a clinic --

MR. PIROZZOLO: Let me give you another example. What if a mother and child or pregnant mother were taken into police custody or something happened there, and then we see that there's reaction to the child, shouldn't at that point that child be able to be tested to see if there's something wrong? How would you expect a doctor to apply a life-saving treatment if you don't know what's wrong with the patient?

MS. ROSENTHAL: If -- if this is an emergency and there's risk to the child, to the fetus if you're talking --

MR. PIROZZOLO: I'm not talking about a --
(Inaudible/cross-talk).

MS. ROSENTHAL: You're talking about --

MR. PIROZZOLO: I'm talking about a mom in CVS who could be in an unfortunate circumstance, maybe --
(Inaudible/cross-talk)

MS. ROSENTHAL: If it's an emergency --

MR. PIROZZOLO: I'm not finished with my question yet.

MS. ROSENTHAL: If it's an emergency --

MR. PIROZZOLO: If --

MS. ROSENTHAL: I just want to --

ACTING SPEAKER JONES: One -- one has to speak. One has to -- one at a time.

MR. PIROZZOLO: I want to ask you a quick question.

MS. ROSENTHAL: I'll ask --

(Inaudible/cross-talk)

ACTING SPEAKER JONES: So ask a question and then he'll answer, all right. Okay.

MR. PIROZZOLO: Okay, great.

ACTING SPEAKER JONES: I don't know, they just threw me up here so...

(Laughter)

MR. PIROZZOLO: So if a police officer comes onto a scene and he's sees that this child is exhibiting some sort of effect by something we don't know and it's not in a doctor's office, it's not in a hospital setting, it's on the street, does this bill apply then?

MS. ROSENTHAL: No.

MR. PIROZZOLO: Does it say that is does not apply there?

MS. ROSENTHAL: It doesn't go into every circumstance. It's broad categories, hospital and --

MR. PIROZZOLO: No, that's not a very -- in my

opinion that would not be a very good bill. But okay. Would doctors, police officers, teachers, would this run afoul of mandated reporting? So if police officer or like myself, if I'm in my office and I see a child that I think is being neglected or abused because of a drug problem, or you know, you said that cannabis is legal, right? But it's not legal in the body of somebody under 18 years old --

MS. ROSENTHAL: Either you're talking about the mother --

MR. PIROZZOLO: Let me finish with my question. It's not legal in the body of someone who's under 18 years old, so if a mandated reporter sees this, will that now prevent the mandated reporter from saying hey, something needs to be done, this child needs to be put into protective services.

MS. ROSENTHAL: First of all, cannabis -- we're talking about --

MR. PIROZZOLO: My question was would that prevent a child --

MS. ROSENTHAL: You know what? Let me answer.

MR. PIROZZOLO: But you're not answering my questions.

(Inaudible/cross-talk)

MS. ROSENTHAL: Okay. I can talk and you can (inaudible) --

MR. PIROZZOLO: Would that prevent a child from

being tested? Yes or not is a good answer.

MS. ROSENTHAL: Thank you. You can't look at -- at the child who -- and say oh, my God, they're on drugs. You can't do that. You can't assume. All of this -- and this is something that's being neglected. By the way, the Governor put this in the budget. Hope everybody --

MR. PIROZZOLO: Well, we're not talking about the budget. We're all --

(Inaudible/cross-talk)

MS. ROSENTHAL: You know what? You know what? You ask the question, I answer the question.

MR. PIROZZOLO: No, you're not. You're talking about the budget.

MS. ROSENTHAL: I'm not on the stand.

ACTING SPEAKER JONES: Okay, okay. Let's one person -- I know but she's answering the question you asked her.

MR. PIROZZOLO: I only have so many witnesses, you know --

ACTING SPEAKER JONES: Okay, all right. Okay, okay.

MR. PIROZZOLO: I'd like you to answer the question. I'm not talking about the budget.

MS. ROSENTHAL: You know what? I will answer the question the best way I see fit and it may not please you, but that's my answer.

MR. PIROZZOLO: So at what age does a child become testable where the mother cannot say no or the father cannot say no?

MS. ROSENTHAL: This applies up to -- postpartum up to a year.

MR. PIROZZOLO: So is that specified in the bill?

MS. ROSENTHAL: Yeah. If you've read the bill you'd see that.

MR. PIROZZOLO: So is that a yes? It's in the bill?

MS. ROSENTHAL: Okay, if you need me to spell it out, yes, it's in the bill.

MR. PIROZZOLO: On the bill, please.

ACTING SPEAKER JONES: On the bill.

MR. PIROZZOLO: So I think I pointed out many faulty things with this particular bill, but the other thing I'd like to say that it was mentioned that, you know, there was one instance where a mom ate a poppy seed donut. How many lives of children can we be saving other than this one particular instance? It is a doctor's responsibility, a professional's responsibility that if they see something going on that is questionable, that they have the ability to report this and that maybe this child should be looked at. Certainly as some of my colleagues have mentioned, if we're going into a delivery room or into a hospital and a -- a mother or caregiver is seen that have visible signs of drug abuse and/or alcohol abuse, that this testing can be done. I think that this bill is going to harm many, many, many more children

than that one particular instance over poppy seeds and I vote no and I would express that my colleagues should vote no, also. Thank you, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, will you please lay this bill aside?

ACTING SPEAKER AUBRY: The bill is laid aside.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you for the applause.

(Laughter)

Mr. Speaker, do you have any further housekeeping or resolutions?

(Applause)

ACTING SPEAKER AUBRY: No housekeeping, but we do have a privileged resolution, Bill -- I mean Resolution No. 1071, the Clerk will read.

THE CLERK: Assembly Resolution No. 1071, Mr. Meeks.

Legislative resolution commemorating the 50th Anniversary of the WDKXFM 103.9 Rochester, New York.

ACTING SPEAKER AUBRY: Mr. Meeks on the resolution.

MR. MEEKS: Thank you, Mr. Speaker, for the

opportunity to speak on this resolution commemorating the 50th Anniversary of 103.9 WDKXFM in Rochester, New York. WDKX commits broadcasting on April 6th, 1974 at 5:30 a.m. And has been broadcasting 24 hours a day, 7 days a week ever since. The W stands for radio stations located East of the Mississippi River. The D stands for Frederick Douglass. The K stands for Reverend Dr. Martin Luther King, Jr. and the X stands for Malcom X. In the 1960's, Mr. Andre Langston moved from Brooklyn to Rochester, New York with his wife and son, Gloria Langston and Andre Marcel Langston. When he was promised a new job at WROCTB, which was denied after the family relocated to their new home, the history of WDKX is truly a story of perseverance and triumph. As an institution, WDKX has served as a musical bridge connecting one generation to the next. From the classic sounds of Motown to the latest gospel, hip-hop, R&B and country. WDKX has and continues to serve as the musical blueprint of the lives of Rochesterians as well as people around the world via WDKX.com.

In closing, I would like to thank the Legislative Body for joining me in paying tribute to such an illustrious broadcasting station that has diligently and consistently recorded a history of the Rochester community and brought local news and news of the larger world to our listeners.

So thank you, Mr. Speaker, for the opportunity to speak on this resolution.

ACTING SPEAKER AUBRY: Thank you.

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

Mrs. Peoples-Stokes, we have numerous other fine resolutions, we will take them up with one vote.

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

(Whereupon, Assembly Resolution Nos. 1071 and 1073-1079 were unanimously approved.)

Mr. Goodell.

MR. GOODELL: Thank you, sir. Would you recognize Mr. Norris for an important announcement?

ACTING SPEAKER AUBRY: Mr. Norris for the purposes of a introduction.

MR. NORRIS: Thank you very much, Mr. Speaker. There will be an immediate Members-only Republican Conference in the Parlor.

ACTING SPEAKER AUBRY: Republican Conference immediately in the Parlor.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you recognize Mr. Jacobson?

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

MR. JACOBSON: Thank you, Mr. Speaker. Immediate Conference of the Majority in Hearing Room C.

ACTING SPEAKER AUBRY: Majority Conference
in Hearing Room C immediately.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the
Assembly stand adjourned and that we will reconvene at the call of
the Speaker.

ACTING SPEAKER AUBRY: The Assembly stands
adjourned.

(Whereupon, at 12:46 p.m., the Assembly stood
adjourned until the call of the Speaker.)