

**TUESDAY, JANUARY 29, 2019**

**11:41 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 Monday, January 28th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Monday, January 28th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, there are some items before us today, but I do want to start with a quote. Today's quote is one by Nelson Mandela. Most people know that name, they know of his work and they know of his legacy. What Mr. Mandela said that I think was so important to be re-mentioned today is that, "Education is the most powerful weapon which can be used to change the world." I mention that, Mr. Speaker, as we go through these budget deliberations, "Education is the most powerful weapon which can be used to change the world."

With that, Mr. Speaker, I want to bring to the members' attention the Calendar that's on our desk, there are several bills that we will take up today. If there is -- if there's any housekeeping, we should do that, of course, first, but after that, we want to take up our gun violence package, which I think is a fair opportunity to get members' comments and thoughts on something that's critically important in our society today. We'd also like to take up a couple of local tax extender bills as well, Mr. Speaker.

In addition, there is going to be a need for an Environmental Conservation Committee meeting off the floor. For Majority members, there will also be a Democratic Conference at the

conclusion of today's Session. And as always, Mr. Speaker, should the Minority need likewise, we're happy to have them announce that on their own.

So, Mr. Speaker, if we could, are there introductions? After the general outline, do we have any introductions?

ACTING SPEAKER AUBRY: No introductions, Madam Majority Leader.

MRS. PEOPLES-STOKES: So there -- we could go to resolutions that are on page 2?

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly Resolution No. 61, Ms. Lupardo. Legislation Resolution memorializing Governor Andrew M. Cuomo to proclaim January 2019 as Radon Awareness Month in the State of New York.

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

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could go now to page 5, Rules Report No. 17 by Member Hunter.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A01213, Rules Report No. 17, Hunter, Taylor, Steck, D'Urso, Ortiz, Gottfried, Blake, Perry, Weprin, Seawright, Bichotte, Simon, Burke, Cruz, Frontus, Griffin, Jacobson, McMahon, Pichardo, Reyes, Sayegh, Stern, Buttenschon.

An act to amend the Penal Law, in relation to access to foreign state records.

ACTING SPEAKER AUBRY: An explanation is requested, Mrs. [sic] Hunter. We are on debate. Members, please have your seats.

MS. HUNTER: Thank you. This bill is simply to afford people who vacation and own property or own rental property in New York State, for them to have to go through the same background check as anybody who resides in the State of New York.

ACTING SPEAKER AUBRY: Mr. Schmitt.

MR. SCHMITT: Mr. Speaker, would the sponsor yield for a question?

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

MS. HUNTER: Yes.

ACTING SPEAKER AUBRY: Ms. Hunter yields.

MR. SCHMITT: Do you know approximately how many licenses or application for licenses this would affect?

MS. HUNTER: At this time, we won't know that. We, obviously, don't know how many people who actually come to New York who own property, who rent property, who maybe they come to vacation who actually own a gun. The Department of Taxation may be able to have that record, but at this time the Legislature doesn't know that number.

MR. SCHMITT: And if I read the bill correctly, this

would only apply in that -- in this certain instance, this does not broaden any other language revolving [sic] any residents, current residents of New York.

MS. HUNTER: Correct. This is just for those folks who are out-of-state who now will have to go through the same background check as everyone if they own property in New York State.

MR. SCHMITT: So, we are, in essence -- we are, in essence, making it fair for New York residents to be able to say that someone else isn't getting special treatment who isn't a resident of New York?

MS. HUNTER: Correct.

MR. SCHMITT: All right. Thank you.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, this is the first vote of today. There are several more, so that if members would come into the Chambers and remain here until we're completed, we can get our work done with some expedience today. I'm sure folks

have listened to the weather, there is ensuing weather on the way. If possible, we would like to see if we can get members out of here and able to go home prior to that weather getting any worse. So members, please, this is the first vote of the day. Please cast your vote, remain in the Chambers, we'll get through with our work rather quickly that way. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: First speaker -- first vote of the day, members. If you hear our voices, please come to the Chamber and vote. If you are in your seats, vote now. Thank you.

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, can we go to Calendar -- Rules Calendar No. 21, Bill No. 2684 by Fahy, Mrs. [sic] Fahy.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A02684, Rules Report No. 21, Fahy, Heastie, Lentol, Peoples-Stokes, Simotas, Steck, Mosley, McDonald, Gottfried, Abbate, Ortiz, Niou, Zebrowski, Solages, Buchwald, Lupardo, Thiele, Simon, Englebright, D'Urso, Quart, Galef, Glick, Dinowitz, Colton, L. Rosenthal, Jaffee, Weprin, Abinanti, Braunstein, Seawright, Lavine, Perry, Paulin, Ramos, Arroyo, Pichardo, Vanel, De La Rosa, Hyndman, O'Donnell, Taylor, Blake, Bichotte, Otis, Burke, Cruz, Frontus, Griffin, Jacobson,

McMahon, Reyes, Sayegh, Stern, Buttenschon. An act to amend the Penal Law, in relation to prohibiting the possession, manufacture, transport and disposition of rapid-fire modification devices.

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

We have some folks moving around. Please.

MS. FAHY: Thank you, Mr. Speaker. This bill is -- is somewhat similar to the bill that we passed last year in this Body and that is -- and it was a bill that really resulted from -- from an incident that shocked the conscience in this country and that is the use of a bump stock device, or an apparatus that was added to a semiautomatic gun that, in effect, turned it into a machine gun. And I -- what I'm referring to is the incident a year-and-a-half ago in Las Vegas where the bump stock device was added and led to a -- a massacre with a Las Vegas shooter, who, in less than ten minutes was able to take semi-automatic weapons, but with the use of a bump stock, able to fire off 1,100 rounds of ammunition and killed 58 people, injured over 800. And -- as we now know it -- it remains the -- the single largest mass killing by an individual in this country with gun violence. And this bill would ban the -- the sale, the manufacturing and the possession of such a device in this State.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

ACTING SPEAKER AUBRY: Will you yield, Ms.

Fahy?

MS. FAHY: Of course. Thank you.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you very much, Ms. Fahy.

And first, of course, I -- I appreciate your help and cooperation last year as we wrestled with some of the language, much of which was -- reflects those discussions. And again, I -- I want to commend you on that. And as you know, last year this bill passed with only one no-vote in the Assembly. But I had a question on this bill because the language has been changed a little bit more and I just want to make sure that we're all clear on what this language means.

MS. FAHY: Can I ask, though, it's -- it's a little hard to hear. Can you just...

ACTING SPEAKER AUBRY: Certainly. First of all, we need to close those doors in the back and keep them closed, please. And the meetings that we're having, please, if you're on the floor or the near the floor, that -- those two folks in the back over there, would you please go away from that area? Thank you.

How's that, Ms. Fahy?

MS. FAHY: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Good.

MR. GOODELL: Now, I do hope you heard all those nice things I said about you earlier.

(Laughter)

MS. FAHY: That's why I wanted the quiet, to hear it



again.

(Laughter)

MR. GOODELL: Did you want me to repeat those?

MS. FAHY: Sure.

(Laughter)

It's all right.

MR. GOODELL: This language has another phrase and I just was hoping you could help clarify what it means. It covers, of course, bump stocks, trigger cranks, binary trigger system, burst trigger systems. All those were really contemplated in the bill last year that we approved. But it goes on to say, "And any other device that's designed to accelerate the rate of fire of a semi-automatic weapon." And so, I was hoping you could provide a little bit of clarification on that. Would it include, as an example, competition triggers? These are triggers that do not activate multiple rounds. They're not binary triggers, but they enable the individual in competition - as you know, shooting is a -- is an Olympic sport - so competition trigger has less pull and enables the individual to fire more accurately, but it also allows them to fire a little bit quicker. Is that intended to be within the scope of this legislation?

MS. FAHY: My understanding is that is not the intent. The intent here is still very similar to what we had last year, it's just really a finessing of the language, if you will, and of course we've learned a lot. I -- most -- most people in this country had never even heard the term "bump stock" until a year-and-a-half ago with --

as a result of the -- the massacre in Las Vegas. So, this is really -- the intent is to -- to make sure that we are banning the use, manufacture, transport and -- and possession of those apparatuses such as the binary and the -- the burst -- the burst triggers that would allow for such an acceleration that it almost is, in effect, turning the weapon into a machine gun, not -- not the competitive type attachment that you're mentioning.

MR. GOODELL: And that would likewise apply, for example, to a routine magazine?

MS. FAHY: I'm sorry?

MR. GOODELL: And that would likewise apply to a routine magazine, that would not be under the scope of this. So, if you have a semi-automatic weapon with a routine magazine that has seven shots or seven shells, that's not intended to be covered.

MS. FAHY: Correct. That is not the intent.

MR. GOODELL: Thank you very much --

MS. FAHY: That is not the intent. Yeah, the intent is --

MR. GOODELL: Thank you very much.

MS. FAHY: -- is still the same.

MR. GOODELL: Thank you, Ms. Fahy.

Thank you, Speaker. On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: I appreciate the sponsor's comments. Of course, we have outlawed fully automatic weapons or

machine guns for many, many decades. And as we saw a few years ago, there are attachments to guns that can convert a semi-automatic into the equivalent of a machine gun. As the sponsor explained, this language should be interpreted in that manner, to ban machine guns or attachments that convert a semi-automatic into a machine gun. And with that understanding, I'll be supporting the bill. Thank you very much to the sponsor. 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.)

Ms. Fahy to explain her vote.

MS. FAHY: Thank you, Mr. Speaker. Just as a further explanation of -- of this bill, we know that at the Federal level finally there -- there have been regulations that have been put out to try to prevent the use and possession of bump stock apparatuses that, in effect, do turn semi-automatic guns into machine gun-type devices. But this -- this bill will go further in codifying what we know has been a problem.

And, quite frankly, since this horrific incident and massacre in Las Vegas, we've learned a lot more. The Department of Justice just a few months ago put out a -- a study that showed that just since 2010, over 520,000 bump stock-type apparatuses have been

purchased in this country. That's a national figure. And, as we know, it only took one device to give us the most horrific massacre in this -- in this country's history in terms of one individual creating such -- such violence, and the ability for him to fire off 1,100 rounds and kill 58 people.

So, this legislation will make sure we are codifying the -- and outlawing the manufacture, the transportation or the possession or sale of these types of devices. I commend my colleagues for the strong vote we had last year and look forward to it again this year. And thank you again, Mr. Speaker, and Mr. Goodell for their support on this measure. And with that, I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Fahy in the affirmative.

Mr. Smullen to explain his vote.

MR. SMULLEN: Mr. Speaker, thank you. I rise to explain my vote on this very issue that's very important to the constituents of my district, specifically speaking to measures that infringe on the Second Amendment. As many of you may or may not know, I spent 24 years in the United States Marine Corps. I have a lot of experience, and I find this to be a reasonable proposition to be able to limit bump stocks and the things that would cause weapons to fire very rapidly in our -- in our civil society, sort of thing. So, I rise to say that I find it reasonable and that I vote yes in the affirmative for this measure. Thank you.

ACTING SPEAKER AUBRY: Mr. Smullen in the affirmative. Thank you, sir.

Mr. Ashby to explain his vote.

MR. ASHBY: Thank you, Mr. Speaker. I rise to explain my vote on this -- on this piece of legislation. And I was curious not to see any carve-outs for the disabled population, who may be needing modifications to -- to weapons that could fall under the categorization of increasing rate of fire. For example, a bite trigger may -- may be part of this, and it's a trigger system that would allow someone to fire the weapon through a biting system that's in place into their -- into their mouth. I know this, I know that many people may not be aware of these types of systems, but as an occupational therapist, as a member of a rod and gun club and as a veteran, I -- I am aware of these things. And I would ask that the author of this legislation please look into this because I feel that it could be excluding this population and I will be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Ashby in the negative.

Mr. Schmitt to explain his vote.

MR. SCHMITT: Mr. Speaker, I, as well, will be voting in the negative, echoing my colleague's comments concern of disabled veterans and members of my community that the devices they utilize to exercise their sportsman and Second Amendment rights are or could be interpreted to be included in the language, whether it

be bite triggers, triggers used by feet to -- to shoot or several other devices for hands that are immobilized that are indicated pick-type function, but allow those who are disabled in our community to still partake in their rights. That's why I'll be voting in the negative.

ACTING SPEAKER AUBRY: Mr. Schmitt in the negative.

(Pause)

The Clerk will withdraw roll call.

For those of you who may not be aware, we have what we call a "cross," and we will now substitute the Senate bill.

On a motion by Ms. Fahy, the Senate bill is before the House. The Senate bill is advanced. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

And we should all vote again. Anyone outside the Chamber, please come back in and vote.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. So, we're going to move on to Rules Report No. 22, which is Bill No. 2685. Mr. Speaker, members should note that there is an

amendment, a hostile amendment that will be attempted to attach to this one. So, Rules Report No. 22, Mr. Speaker.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A02685, Rules Report No. 22, L. Rosenthal, Heastie, Lentol, Peoples-Stokes, Gottfried, Abinanti, Jaffee, Weprin, Cruz, Frontus, Griffin, Jacobson, Pichardo, Reyes, Sayegh, Steck, Stern, Dinowitz. An act to amend the Executive Law, in relation to establishing the Municipal Gun Buyback Program; and to amend the State Finance Law, in relation to the Municipal Gun Buyback Program.

ACTING SPEAKER AUBRY: There is an amendment at the desk by Mr. Lawrence to briefly explain the amendment while the Chair examines it.

MR. LAWRENCE: Mr. Speaker.

ACTING SPEAKER AUBRY: Shh. One minute, Mr. Lawrence, I think we need -- right? Please clear the halls, get away from the speaker, from the gentleman.

Go ahead, sir.

MR. LAWRENCE: I offer the following amendment, waive its reading, move its immediate adoption and request the opportunity to briefly explain it.

ACTING SPEAKER AUBRY: Explain your amendment, sir.

MR. LAWRENCE: The bill-in-chief establishes the Municipal Gun Buyback Program that will authorize an agency to

provide monetary awards to individuals surrendering firearms, rifles and/or shotguns. The State Police shall oversee the program and the Superintendent shall establish necessary rules and regulations for the implementation and operation of such program including, but not limited to, the manner in which an agency may apply for funding to support the program, guidelines for safe storage and disposal of firearms and ammunitions surrendered to an agency under the program, and eligibility requirements for individuals wishing to surrender firearms and/or ammunition under the program.

This amendment would enact provisions of Assembly No. 10896, in addition to the Municipal Gun Buyback Program provided for the bill-in-chief; establish a police safety equipment grant program that would make available to applicants funding for police safety equipment, including, but not limited to, bullet-resistant vests, ballistic vehicle door panels, riot shields, conducted energy devices and affordable electronic tablets.

The amendment and bill-in-chief are both aimed at addressing the issue of safety in our communities. The Buyback Program will allow people to surrender their unwanted firearms and ammunition allowing law enforcement to dispose permanently of weapons that would otherwise remain in private hands, while the Police Safety Equipment Grant Program allows enforcement agencies to apply for funding necessary to increase protection and safety of the officers charged with protecting the general public across the State.

ACTING SPEAKER AUBRY: Mr. Lawrence, we --



the Chair has examined your amendment and found it not germane to the bill before the House.

MR. LAWRENCE: I would like to appeal the ruling of the Chair.

ACTING SPEAKER AUBRY: You may certainly do that, and you may speak on the issue of germaneness.

MR. LAWRENCE: On the issue of what?

ACTING SPEAKER AUBRY: You may -- you may

--

MR. LAWRENCE: Yes, sir --

ACTING SPEAKER AUBRY: -- challenge the issue of germaneness.

MR. LAWRENCE: Yes, sir. Thank you. This amendment couples well with the bill-in-chief to provide safety to not only the public by removing unwanted guns from the populous, but will serve to protect our men and women in uniform like New York Police Department officers Wenjian Liu and Rafael Ramos, both killed in the line of duty in 2014, who worked day and night to safeguard us from harm by ensuring that they had the necessary funding to procure adequate safety devices.

Thank you, Mr. Chairman.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Lawrence appeals the decision of the Chair. The question before the House is shall the decision of the Chair stand as the judgment of the House? Voting yes votes to sustain the ruling of

the Chair; voting no votes to override the decision of the Chair.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Announce the results.

(Pause)

(The Clerk announced the results.)

The ruling of the Chair is sustained.

On the bill.

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

MS. ROSENTHAL: Okay. This bill establishes the Municipal Gun Buyback Program by the Division of State Police for the voluntary return of guns.

ACTING SPEAKER AUBRY: Ladies and gentlemen, we are on debate. I don't know how important those conversations are, but I would appreciate it if you would take your seats, all those folks in the back, or take them out of the Chamber. Give your members respect. We're still not listening to the Chair, please. That whole group of members at the back, would you please proceed to go to the rear or out of the Chamber. There's no exceptions here.

(Pause)

Mr. Ra.

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

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

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

MR. RA: Thank you. Just a couple of questions about, you know, how this will be done. First off, does this bill include an appropriation, or is it subject to an appropriation in the budget?

MS. ROSENTHAL: It's subject to an appropriation in the budget.

MR. RA: Okay. And any idea of what -- how large that appropriation would, you know, would be required to implement this?

MS. ROSENTHAL: Yeah, not at the moment, but since we're in the midst of budget negotiations, hopefully it will be a good sum.

MR. RA: Okay. There -- is there anything in the Executive Budget Proposal regarding this?

MS. ROSENTHAL: No, there is not.

MR. RA: Okay. In terms of how the municipalities would deal with this, are they required to participate, or is it an option that they would come to the State and request funding to do a local program?

MS. ROSENTHAL: Yeah, it's not -- it's not mandatory. It's just a set -- a set of standards so that it can be more

uniform throughout the State. Different municipalities do it in different ways, so it's just to have a uniform standard throughout the State. And sometimes groups that maybe shouldn't be doing it are doing it, so this will help make everything above board.

MR. RA: Okay. With -- with regard to, you know, you said -- so it's kind of standardized, and I know there have been localities in the State who have done this. In doing a little research regarding the topic, you know, other states, other cities have -- have done these type of programs and it seems like some of them have just said, okay, we're going to give you \$200 or whatever for anything turned in. Other ones have had, you know, somewhat of a schedule of ranging, you know, in amounts of money for the type of firearm being turned in. Do -- do you anticipate that, you know, the State would -- would standardize that? Or would that be up to the locality?

MS. ROSENTHAL: Well, the Division of State Police would come up with all the guidelines, so it's possible they might do it that way. But it's not dictated how --

MR. RA: Okay.

MS. ROSENTHAL: -- it would be written in this bill. It's just a set -- to make sure that it's minimum standards and to assure these programs will accomplish their goals.

MR. RA: Okay. And -- and lastly, is there data, you know, to indicate that this type of program is -- is effective at reducing crime and gun violence?

MS. ROSENTHAL: Oh, well it -- I believe it's -- it's

very effective. A lot of guns that would sit home or would be open to misuse will -- are -- are returned. And I think that's -- that's always a good thing. You always hear about people saying, *Oh, I'm glad I could get rid of this gun, I didn't know what to do with it.* So, I think it will be a useful tool and now with standards, you know, it'll be well set up across the State.

MR. RA: Okay. Thank you very much.

MS. ROSENTHAL: Thank you.

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

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

MR. RA: So, just in really doing quick research on this, there is, you know, a lot of research out there that has -- that has looked at this and they've -- I've read one article that said they basically stopped researching the topic because they tend to get exactly that. People who, you know, maybe have a firearm that was a spouse's or -- or a relative's, and they go and they turn it in, and that's really not a weapon that we really have any fear is going to be used in -- in a crime.

So, I think there are smarter ways to spend this money to reduce, you know, gun violence and to protect our communities, including the amendment that was offered earlier to -- to try to help our local law enforcement and protect them, they're -- they're the ones on the street dealing with this issue. But there was -- there was one particular thing that was somewhat humorous. The -- the City of Baltimore recently did one of these programs, and they

actually had an individual that -- that came -- was turning in a firearm and actually told a reporter she was doing it so that she could take the money and go buy a bigger gun.

So, you know, I -- I think there are many bills within this package today that are going to be effective at reducing gun violence. This one I -- I really have concerns that -- that it's not going to be too effective. Yes, it may provide, you know, an opportunity for people to turn in, you know, weapons, that, like I said, belonged to somebody in their family or -- or maybe just some old weapon, but I -- I don't think, you know, the people that are going to use weapons in a -- in a criminal activity are going to be the ones turning in -- turning in these weapons. And I think throughout the country when these programs have been implemented, I don't think that that's -- that's the type of impact that they have found either. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Schmitt.

MR. SCHMITT: Thank you, Mr. Speaker. Would the sponsor yield for questions?

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

MS. ROSENTHAL: Yes, I will.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields, sir.

MR. SCHMITT: What would be -- what kind of device would qualify for receipt of payment if it was turned in?

MS. ROSENTHAL: Well, that -- that is for the Division of State Police to -- to decide.

MR. SCHMITT: There have been gun buybacks in other states where people turned in a broom handle with a tape around it, it said "shotgun," and they received \$100 every time they did that. Would something like that qualify?

MS. ROSENTHAL: Well, I would think New York State would be smarter than that.

MR. SCHMITT: Is it written in the legislation that they should be smarter than that?

MS. ROSENTHAL: I -- I think it's absurd to grant that the status of "gun". So I think we're smarter than that.

MR. SCHMITT: So, it -- there's no specifics saying it has to be functional, or it doesn't matter if it's not functional, if it is even actually a rifle or not or a firearm.

MS. ROSENTHAL: It has to be -- it has to be a weapon. It can't just be called a weapon, it actually has to be one. And I have trust that the State Police will act accordingly when establishing the standards.

MR. SCHMITT: Okay. In -- in other states there have been setups where there's a gun buyback on one side, and there is a -- a gun dealer, an illegal gun dealer who sets up on the other side or actually his store or her store is located in the same plaza. Are there any restrictions for someone to return their old not very valuable firearm, receive whatever the financial amount would be, and then go

purchase a new one? Is there any restrictions like that written into this legislation?

MS. ROSENTHAL: I see you've done a lot of thinking on this. And there is no such thing in here, but it's a good idea for a new bill.

MR. SCHMITT: The -- you cited that there was some effectiveness to this. Do you have any research that shows the effectiveness of it?

MS. ROSENTHAL: You know, it's -- it's well known that these are effective programs. People have guns lying around their homes that they may not intend to use. And we've heard so many tragic stories about toddlers and others picking them up and shooting their relative innocently, not meaning to. The more we can get guns out of the home that are just hanging around, the better it is for us. So that's the goal of this.

MR. SCHMITT: Would you say that the University of Cincinnati and the University of Wisconsin Law School are, you know, institutes of higher education that are reputable?

MS. ROSENTHAL: No -- can you repeat that?  
Sorry.

MR. SCHMITT: The University of Cincinnati and -- and the University of Wisconsin Law School, would you say those are two institutions that have -- are of reputable nature?

MS. ROSENTHAL: That's neither here nor there.  
What -- what is the question?



MR. SCHMITT: Well, both of those institutions have deemed through extensive research that gun buyback programs are completely ineffective and have -- make no consequential impact on this debate in either regard.

MS. ROSENTHAL: You know, that's their opinion. I have a different opinion. And, you know, there's no telling how much damage a gun that is turned in might have -- might have done, how many people it might have injured or killed with the person shooting it so, it's -- it's really a, you know, it's precautionary, it's a safety measure. And I don't think anyone can argue that someone turns in a gun, it means they have one less gun on them, and -- and that's -- that's a good thing.

MR. SCHMITT: So, the University of Cincinnati and the University of Wisconsin Law School have argued that, but you don't have at this current time any research that counteracts that other than what you've stated already?

MS. ROSENTHAL: I have what I said. There are plenty of experts in law enforcement who believe in such programs and that's why there are quite a few such programs already occurring in the State. So, this -- the goal of this bill is to have uniform standards around the State and that will help the ones that are currently taking place and it will help set minimum standards, and a good way to set them up across the State.

MR. SCHMITT: Thank you.

Thank you, Mr. Speaker.

MS. ROSENTHAL: Thank you.

ACTING SPEAKER AUBRY: Mr. DiPietro.

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

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

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. DIPIETRO: Thank you, Ms. Rosenthal. Let's try this -- there's a question. Are there any specifics on the firearms; stocks, triggers, barrel lengths, caliber that can be turned in? Or is it -- or does it not say it? Or is it blanket?

MS. ROSENTHAL: There -- there are definitions in the Penal Law. This particular bill which would be in that -- in that section, would be governed by the definitions already in law.

MR. DIPIETRO: Okay. Is the dollar amount set?

MS. ROSENTHAL: No, it is not.

MR. DIPIETRO: So, a municipality can do \$500 for each firearm?

MS. ROSENTHAL: Well, right now, a municipality can do whatever it wants. The goal of this is to unify the standards throughout the State.

MR. DIPIETRO: Okay. Are any firearms exempted?

MS. ROSENTHAL: No.

MR. DIPIETRO: No. How many can you turn in?

MS. ROSENTHAL: You know, as I said earlier, this has not been written yet. Once this becomes law, then we will know all the parameters. But this is to empower the State Police to write these regulations, which will take into account the different circumstances around the State.

MR. DIPIETRO: Is everything the same amount?

MS. ROSENTHAL: As I --

MR. DIPIETRO: Will there be sliding scales of any sort?

MS. ROSENTHAL: You know, it's not written in this bill. As I said, this is up to those who are writing the standards.

MR. DIPIETRO: Okay. Thank you, Ms. Rosenthal.

On the bill, sir.

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

MR. DIPIETRO: We already have this. Any municipality can perform a gun buyback program. We can do this already. I ask, why do we need the State now to come in and, again, be the mother hen of this legislation? This is what we do. Why does the State have to take control? It is already there. If a municipality wants to do a gun buyback program, they can. Law enforcement says this is a joke. Gun buyback programs do not work. There is no empirical evidence out there in the country that says these work. Ask Chicago how their gun buyback program worked a few years ago when the week after the buyback program had the record amount of

homicides. It didn't work. It never does.

We've got the locals who are able to do this. We have no answers to what guns, how many, who can do it. We're just leaving a blanket white sheet and saying, *State Police come in here and put this together, because up in the Legislature we don't know what we're doing, but we want you to figure it out for us, even though the local municipalities can do it already.*

There was an individual in a gun buyback program who -- I think it was around \$250, don't quote me on that one, but bought a number of firearms, over a dozen brand new and brought them -- for like \$99, brought them in, he got \$250. He scammed the system, and many people do do that. Or you -- like a -- an Assemblyman said before me, they have a broomstick with a knife on it and they get \$200. This is a -- this is a joke. It doesn't work. It's just another infringement on our rights. I heard the sponsor say that, you know, we had these accidents in the home and we want to take -- what she said is exactly what the left wants to do: Take the firearms out of the homes, out of the hands of the people who need to protect their families. And I understand it. But what it is, is if you're not for gun control, it's that you're not against guns. And people in here need to understand that. They think, oh, we want to work -- we want to get rid of the firearms, we want to stop it because -- because we all know the criminals will give up their firearms when we have these gun buyback programs, they are shaking, and they're like, *I've got to get rid of my firearms.* Every time we enact a stricter law, the criminals

are shaking in their boots, just running out of this State because they're so worried.

But if you're for gun control, then you are not against guns because the guns will be needed to disarm people. So it's not that you're anti-gun, you'll needed the police's guns to take away other people's guns. So, you're very pro-gun, actually, you just believe that only the government which, of course, is so reliable and honest and moral and virtuous, the government should be allowed to have guns. There's no such thing as gun control, there is only centralizing gun ownership in the hands of a small political elite, and they're minions.

For that, Mr. Speaker, I will be voting in the negative and I'll ask my colleagues to say no to this bill. Thank you.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Hi, Mr. Speaker. Would the sponsor kindly yield?

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

MS. ROSENTHAL: Yes.

MR. FITZPATRICK: Great. Thank you, Mr. Speaker.

Hi, Linda, just a couple of questions. There's nothing in -- in law preventing any community, any municipality, county, town, village from establishing their own gun buyback program today?

MS. ROSENTHAL: As of right now, there is not.

MR. FITZPATRICK: No. Okay. So would this -- would your legislation supercede all of these gun -- gun buyback programs and establish State rules that everyone must follow from this --

MS. ROSENTHAL: You know --

MR. FITZPATRICK: -- point forward, assuming it's signed into law?

MS. ROSENTHAL: You know, I think the -- the -- the people who are experts in law enforcement will decide. The people who are experts in law enforcement will decide how best to set standards and implement this kind of program, and I think we should trust them.

MR. FITZPATRICK: No, I -- I don't disagree with you. I'm just asking, will -- will the rules that these people will promulgate supercede all --

MS. ROSENTHAL: You know --

MR. FITZPATRICK: -- local buyback programs? Will there now be -- what I'm asking is, will -- will there now be only one buyback program, so-to-speak, with one set of rules that all municipalities will have to abide by --

MS. ROSENTHAL: You know, the--

MR. FITZPATRICK: -- those that have their own buyback programs today?

MS. ROSENTHAL: -- the Office of the State Police will set standards and as long as the locality's program abides by those

standards, they can probably tailor it to their own communities.

MR. FITZPATRICK: I'm having trouble hearing you, I'm sorry.

Just -- I think the new -- I don't think it's --

ACTING SPEAKER AUBRY: Carrying?

MR. FITZPATRICK: -- the noise. I just think the microphones, Mr. Speaker, are just not sensitive enough to -- I'm having difficulty hearing --

ACTING SPEAKER AUBRY: So, first, it is going to be hard. If the folks are having problems, we need to be quiet so they can hear. Please project into the mic.

MS. ROSENTHAL: As long as the municipality's program abides by the standards set by the experts of law enforcement, I believe that should be fine. They're setting minimum standards. They are not saying, you know, word-for-word how the program has to run.

MR. FITZPATRICK: Well, that -- I mean, the experts right now are running those programs in each municipality, the City of New York --

MS. ROSENTHAL: Well, that's not true.

MR. FITZPATRICK: -- Suffolk and Nassau -- but let me finish. The -- the police departments are running these programs now. So, what I'm asking is, if -- if your legislation becomes law, will -- will -- who is going to -- will the laws -- I'm sorry, excuse me. Will the rules promulgated by the State Police supercede the rules that are

running the -- the programs in the cities and counties of the State today?

MS. ROSENTHAL: Now, they would have to be in accordance with the standards set by the Division of State Police.

MR. FITZPATRICK: So, you -- you're going to require that Suffolk County, Nassau, City of New York, Erie, et cetera, abide by these new rules? Are you setting the requirement that all of the municipalities will now abide by these new rules?

MS. ROSENTHAL: You know, I think there will be room to tailor programs to the municipalities' needs.

MR. FITZPATRICK: Well, it's a gun buyback program, it's a -- you know --

MS. ROSENTHAL: It is and it's also a program --

MR. FITZPATRICK: I -- I don't see the need being different --

MS. ROSENTHAL: -- where -- where there will be funding, hopefully, so that municipalities can actually get some money back for themselves, instead of them laying out the cash, as they've done in the past.

MR. FITZPATRICK: For the -- the money still comes from the same taxpayer, but the -- so, I'm a little -- I'm finding this a little confusing, that, you -- you're saying the experts are going to set the rules. Right now, the experts already set the rules in --

MS. ROSENTHAL: Well, how do you know that?

MR. FITZPATRICK: I'm sorry?



MS. ROSENTHAL: How do you know that?

MR. FITZPATRICK: Well, the Suffolk County Police or you're -- you're --

MS. ROSENTHAL: But there are also programs that pop up across the State that perhaps are not as carefully planned out as those by the offices you mentioned.

MR. FITZPATRICK: Yeah, well --

MS. ROSENTHAL: And this will have --

MR. FITZPATRICK: -- do you have an example of that?

MS. ROSENTHAL: -- guidelines for safe storage and disposal. We don't know that the programs that pop up are actually safely administered to the degree that the Division of State Police would prescribe.

MR. FITZPATRICK: Do you have an example of that?

MS. ROSENTHAL: I have heard... of incid -- accidents, incidents and programs that pop up that are well meaning, but perhaps need to follow regulations better.

MR. FITZPATRICK: And are -- and are those programs administered by police departments in the specific counties?

MS. ROSENTHAL: Not as far as I know.

MR. FITZPATRICK: Or -- or towns?

MS. ROSENTHAL: There are some that do not follow the best guidelines. And the goal here is to set the safest

guidelines for these kinds of programs. I'd like to also say that as we debate this bill, 45 minutes away from here, a school is on lockdown because of a -- a gun incident. So, it's very -- it's germane that we're trying to get rid of guns from people's hands when they are not law enforcement and when they don't need them.

MR. FITZPATRICK: Well, I think the -- the police will tell you that, you know, the bad guys aren't going to participate in this program, so that -- but that's -- that's not pertinent to the -- to the discussion here. What's pertinent is, will -- so, what you're telling me I think is, you don't have any specific examples of programs that are not running well. But, in counties or municipalities that are -- that do have gun buyback programs, it is the police department that is running that program, and they, therefore, are experts in how to take guns --

MS. ROSENTHAL: Well, then, I'm sure they will --

MR. FITZPATRICK: -- or accept a firearm --

MS. ROSENTHAL: -- consent with the State Police on this.

MR. FITZPATRICK: -- I'm sorry?

MS. ROSENTHAL: Then I'm sure they will put in their -- their advice to the State Police as they write these regulations. This is not an attempt to force anything on a municipality.

MR. FITZPATRICK: I understand that.

MS. ROSENTHAL: It's a way to encourage them to do it the best way possible, the safest way possible with guidelines and standards that are the same throughout the State. I don't see what the

big deal about that is.

MR. FITZPATRICK: Well, I think the State Police will probably call up counties that are already -- that already have gun buyback programs and say, *Well, how are you doing it --*

MS. ROSENTHAL: Okay, that --

MR. FITZPATRICK: -- *we'll use your best practices*, potentially.

MS. ROSENTHAL: And you know what, in places that have never held buybacks --

MR. FITZPATRICK: Right.

MS. ROSENTHAL: -- or don't have an established program, will be guided in the best practices because of this -- this bill.

MR. FITZPATRICK: I see. Okay. Well, Linda, thank you very much.

MS. ROSENTHAL: Thank you.

MR. FITZPATRICK: Thank you, Mr. Speaker. On the bill, I just --

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

MR. FITZPATRICK: I -- I'm wondering if this is really necessary because if a county wants to initiate a -- a gun buyback program, they can call up New York City, they can call up the State Police now, they can call up any other county that has a gun buyback program. I question the necessity of this because we've --

we've -- I have not heard of any examples of a gun buyback program that doesn't work. They're pretty simple: Somebody brings in an operable firearm, they get \$200 back. It's a pretty simple transaction.

So, I just -- I think if there were some concrete examples of problems that the sponsor is not able to share with us, you might have a point. There's -- I don't think there's a need for this, quite frankly, because a municipality can already establish its own gun buyback program. And the police departments already share information among themselves, already they share information with the State Police. So, I think -- really, I -- I don't think a strong case is being made today by the sponsor to create this -- to create this program with the State Police. The State Police is already at the disposal of every police department in the State of New York to assist with this. This is not rocket science. It's not a difficult program to implement.

So, on that -- on that basis, I'm going to oppose this legislation, because I don't think a strong case has been made to create this program that already is able to exist in every municipality in the State. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell.

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

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

MS. ROSENTHAL: I'd be happy to.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

MR. GOODELL: Thank you, Ms. Rosenthal. I note on your bill on page 2 starting on line 14 through 16, you state that the provisions of subparagraph (f) of paragraph 1 of Subdivision (a) of Section 265.20 the Penal Law shall apply. Would you explain what those provisions provide for?

MS. ROSENTHAL: This section concerns certain provisions of immunity if you are putting -- if you are surrendering a firearm.

MR. GOODELL: And so, what are -- what is the nature and extent of the immunity if you're voluntarily bringing in a firearm for a municipal buyback program, what is the nature and extent of that immunity?

MS. ROSENTHAL: Well, I'd have to read the exact words of the section, but it is you're not going to be arrested for possession of that firearm.

MR. GOODELL: And as part of this program, do the police check the serial numbers and make a record of who brings in which weapon?

MS. ROSENTHAL: Well, that's something that would be established in -- in the program. It doesn't say that here specifically.

MR. GOODELL: And would you envision, though, that they would keep track of who brings in which weapon and who's

paid what amount of money for the gun?

MS. ROSENTHAL: I mean, it's not -- it's not specified here. I think mostly these are done anonymously and -- and that's part of the -- the goal, is to get people and not trap them, but just get the guns back.

MR. GOODELL: So if you are in possession of a gun that you know was used in a violent crime, you would bring it in under this municipal buyback program, you'd be guaranteed anonymity. You could turn in the gun and thereby dispose of the weapon that was used in the commission of the crime without any sanction?

MS. ROSENTHAL: You know, I -- I highly -- highly doubt that a circumstance like that would arise. Umm, I'd have to check if -- if it has, but it seems like someone would put themselves in danger by having possession of that gun and turning it in. I would -- I would think people wouldn't do that.

MR. GOODELL: Well, let's take another more common situation. Perhaps a person has a gun that they're not legally authorized to own. Or maybe it was a gun that was in an estate, for example, and you didn't realize it. Now, you have this gun, you're not a licensed pistol holder; would this section allow you to bring that gun in and turn it in?

MS. ROSENTHAL: I would think so, yeah.

MR. GOODELL: And would they keep track of all the illegal guns that are coming in --

MS. ROSENTHAL: Well, I'm sure they --

MR. GOODELL: -- and who's bringing in?

MS. ROSENTHAL: You know, I'm sure they keep track of -- of the guns, but that doesn't mean it's tied to the person who brought it in. I mean, it's -- it's a -- you don't -- you don't give your Social Security Number and your information when you turn in the gun. It's an anonymous program.

MR. GOODELL: Thank you very much, Ms. Rosenthal.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill.

MR. GOODELL: So, as my colleagues have mentioned, this bill is -- there's no need for the bill because municipalities can already do it. As the sponsor acknowledged, there's no funds. As one of my colleagues pointed out, there are numerous studies that show it's not effective. We don't know what the standards are, so there's no standards that we're actually implementing, and there's a concern that the standards may be less stringent than the local governments', or more stringent and, either way, it's a one-size-fit-all approach.

And we've now been told that a person can bring in a gun anonymously without any tracking of who brings it in, which means if you're a criminal, you can get rid of a gun that was used in a crime. What better way than to turn it into the police department rather than throw it in the bottom of a creek or in a pond, right? How

-- how ironic is that?

So, we have a bill that has no need, no funds, no effectiveness, no standards and provides a way for criminals to get rid of guns. Maybe that's not the best way for us to go in this environment. Thank you very much, Mr. Speaker. And, again, thank you to my colleague for answering those questions.

ACTING SPEAKER AUBRY: Mr. Blake.

MR. BLAKE: On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. BLAKE: Jaheem Hunter was a five-year-old and is a five-year-old, and now six-year-old young man in our district, who, on his birthday while walking outside of his house, was struck by a stray bullet, had to fight for his life, fortunately overcame the odds and is still with us today. Lloyd Morgan, at the time, was a four-year-old young boy in one of the projects within our district, playing basketball, struck by a bullet.

The reason why -- and I first and foremost thank the sponsor for bringing this forward. The rationale being articulated on the other side is that we doesn't need this because you can do this in other places is faulty for so many reasons. Number one, you have to create Statewide standards to give us a chance to understand what's occurring across the State. Presuming that just because one municipality is doing in another will understand what's happening doesn't really make sense in any aspect. Number two, the exact reason why we need to have these kinds of standards is the exact



reason why we did the Empire State Poverty Reduction Initiative, or the My Brother's Keeper Program, or for Raise the Age, because we consistently saw across the board when it came to challenges happening, there was not a Statewide premise.

For example, when you think about the -- the young man within our district who went from our district up to Schenectady, and then they realized --

ACTING SPEAKER AUBRY: Mr. Goodell, why do you rise?

MR. GOODELL: Thank you, Mr. Speaker. Would the speaker be willing to yield?

MR. BLAKE: Respectfully, I will not, Mr. Goodell. Thank you.

ACTING SPEAKER AUBRY: Mr. Blake does not yield.

MR. BLAKE: When we think about the necessity of this, it's because you can go from one place to another and literally lose your life because of the lack of accountability and set standards across the State. And so for this exact purpose and reason, that's why you need this legislation.

Lastly, when we talk about that there's no effectiveness and there's no rationale around this, and there's no data, again, that is just factually inaccurate. You look at what's happening in Boston, for example, you look at what's going on in Baltimore, there's clearly a demonstration that at scale, it does work. So, at the

end of the day we should be here to save lives, and this will do this. This will help people. It will create the standards, it'll make it much more effective across our State. And when we think about why we're here, that is what we're here to do.

So, I'm grateful for the sponsor, I'm grateful for this legislation, and absolutely will be supporting this bill. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Ryan.

MR. RYAN: Thank you, Mr. Speaker. I wanted to -- on the bill. I wanted to address the -- just the issue of -- of the rationale of this legislation. So, we've heard a lot of questions about data. Here is one piece of data that's, you know, irrefutable. There's a correlation between gun ownership and gun injury or gun death. If you own a gun, you have a higher chance of being shot by a gun. Often the wounds are self-inflicted. We have big problems with suicide by gun ownership in New York, in America.

So, one of the rationales behind gun buyback programs is we want to get the guns out of the people's closets. You know, there are people who have guns because their grandfather had a gun, and that gun went from someone's closet to someone else. This gets the guns out of the closets, unused guns.

So we've had a series of gun buyback programs in the City of Buffalo, and a lot of the people who are bringing guns in are grandmothers. Grandmothers who have had guns sitting in their

closets for a generation. Now, of course, the grandmother's not going out hunting, I'm talking mostly long guns here, so it gives an opportunity for the safe disposal of guns. Throughout the '50s and the '60s and the '70s, American manufacturers manufactured hundreds of thousands of -- of low-grade hunting shotguns and rifles. If you take these guns to a shop and say, *You know, can I sell this to you?* They're going to say, *No, I really don't want that.* You know, think of a Ford Escort. Everyone thinks of these guns in closets as some valuable commodity. But most of the guns hanging around people's closets are the equivalent of a Ford Escort, they're -- they're worth nothing, there's no collecting value. So, when you try to take them back to a gun shop, they don't want them, and then the gun goes back into the closet. The person's not -- wasn't the original gun owner, they don't know about gun storage, they don't know about gun safety, then that is the gun that ends up, someone's grandson comes over and inadvertently shoots a neighbor kid.

So, gun buybacks help drag down accidental shootings, they help reduce suicides because it breaks the correlation that we know that is if you own a gun, you are more likely to be shot by a gun. So, getting those guns, those unused guns out of people's closets into safe disposal sites is a tremendous rationale behind gun buyback programs. And if you look at the national advocates on this issue, they have the -- the best practices for gun buybacks. So, I'm hoping that the State Police interacts with those groups to come up with the best programs. The programs in Buffalo have changed over

the years. They -- you know, they differentiated between different types of guns, but it took them a few times to get there. So, if there's a best practices established by the State, they can be implemented in communities throughout the State.

So, I applaud the sponsor for bringing this bill forward. There's a lot of rationale behind that. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

(Pause)

Read the last section.

We'll rescind that.

On a motion by Ms. Rosenthal, the Senate bill is before the House. The Senate bill is advanced. Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Sayegh to explain vote.

MR. SAYEGH: Mr. Speaker, thank you very much for the opportunity. Today is a historic day for the people of New York State. I'd like to thank the Speaker, and I'd like to thank former Assemblywoman, Senator Shelley Mayer, and I'd like to thank all the supporters that recognize the urgency of putting a stop to gun violence.

Being from the 90th Assembly District, which is in the City of Yonkers, we in the City of Yonkers had a very, very tragic loss nearly two years ago. A young man who was drafted by the Oakland A's, six foot eight - you would be proud of this young man, Michael Nolan - who was shot and killed with an illegal gun. And with the assistance of his family that are here today, Jimmy Nolan, his mother, Donna, his brothers, they wanted in the City of Yonkers to recognize the urgency of putting a stop to illegal guns. And with their efforts and the efforts of Senator Shelley Mayer and many others, we in the City of Yonkers established a gun back -- buyback program that in our consultations with the Police Commissioner and the City Administration shows and proves that the program has been not only worthy, but the program has decreased crime in the City of Yonkers.

We have two ways of looking at it. From my end, I look at the memory of a young man who dedicated his life to scholastic sports and who had a promising future and career, especially as a professional baseball pitcher, and he lost his life due to illegal guns. And today is historic because we look at best practices. When we talk about other fields -- as an educator, if I have a school principal or a school that does a great job in one school, there's no reason to keep that best practice away from other schools to assure that all children get that same benefit.

Today, yes, many of us say, *Well, if certain municipalities have it, let it be, and why should we have it across the State?* And I say, this is an opportunity to show the rest of the State

that there's an excellent model, and much of this program and this proposal is modeled according to the City of Yonkers program that we feel is extremely successful and beneficial. So, I urge my colleagues to recognize how we need to stick together to stop criminal activity, to save lives, and make sure that best practices, yes, in keeping guns out of our streets and out of our homes when necessary are applicable across the State. So, Mr. Speaker, I will vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Sayegh in the affirmative.

Mr. DiPietro.

MR. DIPIETRO: Thank you, sir. To explain my vote.

ACTING SPEAKER AUBRY: Explain your vote, sir.

MR. DIPIETRO: Yeah, we've heard a lot about people getting shot and we're -- as -- those are tragic incidences, but a gun buyback program does not stop anyone from getting shot. That's a misnomer. There's no -- no empirical evidence. As a matter of fact, gun buyback programs have been proven time and time again to be ineffective at stopping violence and criminal activity. And especially when we talk about, and someone just mentioned illegal guns, this bill -- this bill has nothing to do with illegal guns. If you want illegal guns, then you would have to check them at the gun buyback, and under this bill, there is going to be, supposedly, no lookback on the gun or the person putting the gun into the buyback program. So, that

just flies in the face of adversity, it flies in the face of common sense. Why would you do that? You would want every gun checked if it's brought into the buyback. And this doesn't do it.

We've seen that there's -- there -- there is no -- there's no map to where this is going to go. There's -- we've already -- we already do it all over the State and all of a sudden now we're saying that municipalities that have been doing it for years, that if your municipality doesn't do it, what do you do? You go to the municipality that does. I'd go to the City of Buffalo from my little hometown and they would ask how you do it, and you would find out how to do it, and how they best do it. But this is say -- this bill says that no one knows how to do it ever. We need the State to really make this thing work. And it just doesn't work.

And as we've heard from people on this floor, it's about taking guns out of the homes, I've heard it many times in this debate, and that's exactly what it is. This is about gun confiscation, about people who do not like the Second Amendment, who do not like firearms, and are going to do everything they can to push further restrictions on guns and on firearms to take them out of legal, law-abiding citizens. That is why I vote no. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Richardson.

MS. RICHARDSON: Mr. Speaker, I rise in support of this piece of legislation where we will establish a municipal gun buyback program, and as well as establishing a fund. Unfortunately, sometimes in this Chamber we are privy to fearmongering, and that is

not what this bill's intent is.

In the County of Kings, I want to commend our District Attorney, Eric Gonzalez, as well the late great Ken Thompson, for having a gun buy prog -- excuse me, a gun buyback program in our county, where often at times in one -- in one session, they're able to recover over 50, 60, 70 firearms and providing public safety to our residents in the county. And with doing this, the District Attorney's office has been using their own personal budget to do this program. So this piece of legislation will further aid in that. And I want to just, again, commend the sponsor for this piece of legislation. With that, I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Pichardo.

MR. PICHARDO: Thank you, Mr. Speaker, for allowing me to explain my vote.

Just very quickly, a few months ago, after a lot of pestering, I want to thank the District Attorney of Bronx County, Darcel Clark, in partnering with my office and participating and sponsoring a gun buyback program. And we were able to hold two events, one in my district and one just outside of my district, and in that instance, we were able to be able to take off the streets about 30 guns. Roughly, 30, 31 guns.

Now, here's the thing. The -- the statistics have been shown to prove that the majority of the gun crimes that are committed within the States are purchased with firearms that are purchased



outside of the State of New York. There was a study in 2011 that about 355 guns were purchased in the State of Virginia and made their way up here through the I-95, and our counties and our communities were saturated with firearms that people did not want and were used in the commission of a crime. What these gun buyback programs create is an avenue for individuals who find these firearms in their home, to get rid of them and to get something out of it.

But more importantly, what I can say, people can -- can point to the fact that maybe gun buybacks don't stop guns being used in the commission of a crime, but what it does do, is that gun that is taken off the streets will never be used in the commission of a crime. So, therefore, anything that we can do to prevent gun violence, particularly in my district, I will continue to support. And this -- this event was successful, and I hope that we can able to replicate this across the State. But more importantly, Mr. Speaker, I want to thank the sponsor of this legislation, and I'll be happy to vote in the affirmative.

ACTING SPEAKER AUBRY: Thank you.

Mr. Taylor.

MR. TAYLOR: Mr. Speaker, thank you. I rise to also share my reason for voting in the affirmative on this bill. In the community in which I serve, in one particular order there were 30 homicides -- I'm sorry, four homicides in a 30-day period. And that happened because folks had access to guns. And these are young people. And in our community, I think Cy Vance and a few others,

clergy, that have gotten together and actually had buybacks. So, it's not necessarily an affront to the First -- Second Amendment, but it's how do you take guns out of the hands of young people that are not responsible, that there is a history of guns coming across borders where they're able to access them easily, and then they turn out in the commission of crimes.

So, I stand to support my colleague on this piece of legislation. And, again, the idea is to take the guns out of the hands of people that are not informed and not going to use them for the right purpose. But also, I think it's a holistic approach. It's not just we want to take a gun out of someone's hand - I hear the noise around me, I'm sorry, so I shout a little bit louder - but at the end of the day it's not just we want to move guns, but we want to talk community, we want to talk relations and everybody is buying in, so that it's a holistic approach. So, you educate people on why it's not good, you educate people on why guns are not something that you want to have as a young person. And when you are ministering to families that have lost their loved ones in the streets, the last thing they want to hear about is, *We need to leave the guns there*. No, we need to do everything we can in our communities, such as Harlem, the Heights, the South Bronx and places like that, in Brooklyn, in the City, to take these guns out of the hands and make it difficult for people to get them.

So, it's real, it's not that we want to take something from someone, but collectively, if we're going to talk community and

there are 20 million of us in this State, we have to recognize that different things happen in different communities and the community I come from. I stand in the affirm with my colleague for introducing this legislation that we don't get -- we get them off the streets. Thank you.

ACTING SPEAKER AUBRY: Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker. I, too, rise to explain my vote. And I want to start by commending the sponsor of this legislation. This really is about prevention, along with the series of bills that are being offered today. So much of this is about prevention, and we know that prevention works. One of the -- what I think is most -- one of the most compelling statistics in tracking gun violence and gun safety in this country is the fact that we know that states that have the toughest gun laws, gun safety laws on the books, are also the same states that have the lowest rates of gun violence. So, there is a direct inverse correlation. New York happens to have the third lowest gun -- third lowest rate of gun violence in this country, and that is not an accident. However, what we are talking about today in terms of the -- the gun buyback, is about preventing accidents and other problems.

One of the other more alarming pieces that I think is -- is helped by this legislation is that the fact that we know that when we take guns out of the hands of domestic abusers, we are protecting domestic violence victims because domestic violence victims are statistically five times more likely to end up dead if the abuser has

access to a gun. So, the safer and the more guns we get off the streets, the safer we are in, I think, in our homes and on those streets, particularly with regard to crimes of passion, particularly with prevention. I think that this is-- this is another step in the right direction. Here in Albany there have been a number of buyback programs and they've taken hundreds of guns off the streets, and I know that that is making our streets safer. With that, I again commend the sponsors and vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Rosenthal.

MS. ROSENTHAL: To explain my vote. I want to read something from the Fulton County --

ACTING SPEAKER AUBRY: One minute, Ms. Rosenthal. We have an awful lot of activity around the speakers, I don't know why.

(Pause)

Proceed.

MS. ROSENTHAL: Thank you. I want to read from the Fulton County area news, that's about 45 minutes away from here, *A Johnstown police officer stands inside a Johnstown High School classroom with a rifle as seen late this afternoon. The school was put into lockdown following a threat. Plans for evacuation were talked about late this morning. Many students had been evacuated to the Warren Street School where they were divided into the gym by grade.*

More and more kids have had to undergo the trauma

of watching their friends and classmates be shot to death, their teachers, their school administrators shot to death by guns, by people with guns who should not have access to guns. This bill is about establishing a municipal gun buyback program that is voluntary. We hope people who have guns will be enticed by a cash reward. I don't see how anyone could oppose a bill setting up standards for a program that attempts to get guns off the streets where they do not belong. And I thank my colleagues for their support.

And I'd like to say this is dedicated to the Nolan's, Michael Nolan; James Nolan, whose son tragically died some years ago. Yonkers has a wonderful program, and I'm sure the State Police will consult with them on best practices. So, I vote in the affirmative.

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

(Applause)

MRS. PEOPLES-STOKES: So, if we could move to Rules Report No. 18, this is sponsored by Member Griffin.

And I would also like you to please call the En Con Committee to the Speaker's Conference Room, please.

ACTING SPEAKER AUBRY: Environmental Conservation, Speaker's Conference Room immediately. Thank you.

The Clerk will read.

THE CLERK: Assembly No. A01715-A, Rules Report No. 18, Griffin, D'Urso, Heastie, Lentol, Peoples-Stokes, Gottfried, Cruz, Frontus, Jacobson, Pichardo, Reyes, Steck. An act to amend the Penal Law, in relation to limiting educational institutions ability to authorize the possession of a weapon on school grounds.

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

An explanation is --

(Pause)

MRS. PEOPLES-STOKES: Mr. Speaker --

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: -- apology for the delay in asking you to recognize and provide the cordialities of our floor to the family of Michael Nolan, who was shot and killed in Yonkers in 2017 [sic]. His family is with us today to support gun reform legislation. His brother, James Nolan, Jr., his parents, James and Donna Nolan, and we really want to thank them for their expanded work, their advocacy and their efforts that they put into the opportunities to advance gun reform in the State of New York.

So, Mr. Speaker, if you could greet them and offer them the cordialities of the floor, I'd appreciate it. Thank you very much.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, the Speaker and all the members, we

welcome you here, the Nolan family, to the New York State Assembly, the People's House. We extend to you the privileges of the floor, our gratitude for the work that you're doing to ensure that others do not suffer from the tragedies that you have. God bless you all. Thank you so very much.

(Applause)

Ms. Griffin for an explanation.

MS. GRIFFIN: Okay? This bill prohibits teachers in K-12 schools from carrying firearms to protect their students. School resource officers, police officers, peace officers or security guards that are primarily employed by the school and have been issued a special armed guard registration card will be authorized to carry firearms. No written authorization will be given to a teacher, administrator or any other person employed by the school. Carrying an unauthorized weapon is a Class E felony. Teachers have been trained to teach, which is already a monumental task, and that's exactly what they should be doing. There is no evidence that arming teachers will make schools safer and, in fact, I -- I beg to differ and say they will exactly do the opposite, they will make our schools much more dangerous.

This bill is strongly supported by NYSUT, which is the largest teachers union in New York State. And also, UFT also strongly supports this bill.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. GRIFFIN: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you very much, Ms. Griffin. As you know, many of our schools are in rural school districts. I have 17 school districts in my district, of which only two are in a municipality. And for many of our rural school districts, they don't have an armed resource officer in each school, elementary, middle, high school. They're lucky if they have one at all; they work under the tax cap, which keeps their budgets very tight. And the closest State Police or sheriff's patrol might be a 15 or 20 minute drive, assuming the weather is good. What happens when someone shows up at the school and starts shooting, what happens during that 15 to 20 minutes before --

ACTING SPEAKER AUBRY: Mr. Goodell, would you pause for a minute?

MR. GOODELL: Certainly.

ACTING SPEAKER AUBRY: Ladies and gentlemen, we are on debate. I don't know what's going on under the eaves, but I need people to be quiet, or we're going to clear the House of everybody but members.

Proceed.

MR. GOODELL: So, my question is, someone comes into the school heavily armed, starts shooting teachers and



students, the closest police officer is 15 to 20 minutes away, what is the school supposed to do during that 15 or 20 minutes? Isn't it nothing more than an unrestricted open shooting gallery killing our innocent children and teachers?

MS. GRIFFIN: Well, in -- in rural districts, adjustments may have to be made. In -- I know -- I don't live in a rural district, but our police, our village police, our Nassau County Police and Suffolk County, they have made adjustments to properly make sure the schools are safe. So, in rural districts, State Police, whoever are the -- whatever police departments that are available, will have to make adjustments so they can help keep our schools safe.

MR. GOODELL: Well, I -- I appreciate that sentiment, and I certainly would urge all of our local municipalities and police departments to make whatever adjustments are necessary. Keeping in mind, my rural school district has 1,000 square miles. How many additional police officers does this bill fund?

MS. GRIFFIN: This bill isn't funding police officers. What this bill is doing is stating that we are keeping our schools safe because we don't believe in New York State that our schools will be safe if we let any teacher just bring a gun to school with them. We believe that teachers should be teaching and --

MR. GOODELL: Well, let -- just so we're clear. This bill doesn't talk about safety, it talks about keeping our schools unarmed, right? That's what the bill actually says, we're going to keep all of our rural schools unarmed.

MS. GRIFFIN: No, that isn't true.

MR. GOODELL: Oh, does this school -- does this allow, then, for highly-trained school personnel, other than an officer, a highly trained school personnel, to carry a gun in the school with the written permission of the school board?

MS. GRIFFIN: In -- in this bill, like I have said before, school resource officers, police officers, peace officers and security guards, so --

MR. GOODELL: But not a highly-trained teacher. For example, a teacher in our school districts, our rural school districts, we have -- actually, it's an organized sport similar to the Olympic shooting sport, rifle sport, so we have teachers that are highly trained. They would not be allowed even if they wanted to, they would not be allowed to carry a gun, correct, under this bill?

MS. GRIFFIN: That is correct. Although, they are also welcome to get the registration card, and if they want to -- if they're not teaching, they -- say if they want to be at the school at night at a football game and they're working as a -- in a security role, at that point they can. But while they're teaching, they cannot be -- they can't have a firearm.

MR. GOODELL: But your bill does not allow volunteers, even those who are highly trained and qualified, you can't even be a volunteer police officer, off-duty police officer, right? Because this requires that the individual be "primarily employed". So you can have the police chief, you can have the County Sheriff, you

can have the most skilled police officer in your district, they cannot volunteer to be there to provide security at a school basketball game or sporting event or any other type of event, right? Because this bill requires that they have to be "primarily employed."

MS. GRIFFIN: Right. What -- what I would say is, if -- if people are a gun owner and they're highly skilled and highly trained and they're a police officer, and they want to also work at a school to be a peace officer and a security guard, they can do that and the school district can hire them to do so.

MR. GOODELL: But this --

MS. GRIFFIN: What --

MR. GOODELL: But this bill would make it illegal for them to volunteer, correct?

MS. GRIFFIN: Yes.

MR. GOODELL: Okay.

MS. GRIFFIN: We're looking for local -- local police to really handle the safety at schools because --

MR. GOODELL: And you understand, I have multiple townships in my county that have no local police department at all; do you understand that?

MS. GRIFFIN: Yes, I do.

MR. GOODELL: And there's no police barracks at all, no State Police barracks, no Sheriff's Department substation. But we won't let anyone who is highly trained and highly qualified who wants to volunteer to protect the school, that's not allowed under this

bill.

MS. GRIFFIN: There is an exemption in this bill in law -- I'm sorry, I misspoke. There is exemption in the Penal Law that allows a volunteer. So, a police officer could volunteer if he lives in this rural district and is concerned about keeping the school safe.

MR. GOODELL: And, by the way, I absolutely agree with you, the current law not only allows those volunteers, but the current law allows the school board to authorize in writing those volunteers; that's the current law, correct?

MS. GRIFFIN: Yes. And in this case, just like there's a lot of cases that New York State wants to make the entire State safer, just like we do, we have schools, have to get vaccinations. We do certain things. We do background checks on employees now at schools. So, things that we didn't do, New York State has come up with many laws to make the entire State safer, which makes our schools safer.

MR. GOODELL: But as I pointed out, the current law allows the school board to authorize those individuals to be volunteers, and the Penal Law allows that. But this law amends the current law by making it a Class E felony, and eliminating the ability of a school board to even authorize them. That's my concern. We now take what is in the current law and we make it a Class E felony.

MS. GRIFFIN: Okay. This -- there is a separate provision, 265.20, which allows law enforcement to be on school grounds --

MR. GOODELL: Law enforcement --

MS. GRIFFIN: -- and there's an exemption.

MR. GOODELL: -- yes, of course. Continuing, if I may. Other than requiring that all of our school districts be unarmed, does this bill do anything to improve safety at the school? Does it, for example, provide funding or guidance on how to improve the security of the school building itself?

MS. GRIFFIN: This bill is focused on preventing -- prohibiting teachers and -- educators, principals and so forth from hiring -- from having firearms to protect children. There are certainly other measures that are taken in other bills and to address other issues. But this bill is focused on the fact that there are many cases across the country where skilled teachers -- there was a case in California where a skilled teacher, felt he was very skilled, so skilled that he could have a firearm in his hand, so skilled that it could be loaded, and so skilled that that gun went across the room and hit someone. So, that's a real reason why I believe, and many others believe, that it is a real appropriate response to make this a safety issue in our schools.

MR. GOODELL: So, just to make sure I understand you correctly. The only purpose of this bill is to ensure that these school personnel are unarmed. This bill does not deal with any other safety features or factors that might be appropriate for us to consider, such as increased mental health background, additional funding, additional school counseling, anti-bullying programs, strengthening the school, hardening the school itself, none of that's -- none of those

other safety provisions are in this, this bill just talks about ensuring that our school personnel are unarmed, correct?

MS. GRIFFIN: The focus of this bill is -- is alleviating teachers from the responsibility of ever being charged with having to protect their students with guns. Because while some might think that that can protect students, there are -- a case in point is Linda and Michael Schulman, who are up here because their son, Scott Beigel, who was a teacher in Parkland, he had seconds to decide to whether -- how he could protect his class of students, or could he -- if he had the ability to have the gun, should he run to his desk and get a gun, all the while there was a hunter ready to murder how many -- how ever many people he could with an AR-15.

MR. GOODELL: Right.

MS. GRIFFIN: So, what that man did, what he did is he saved the lives of -- of a bunch of students that were in the hallway and he got them into a room and he got them safe. And in the end, this man was murdered. So, it -- that is a perfect case in point. Had he had a gun, some might say, *Oh, he could have put a stop to it.* Well, had he had a gun, he might have accidentally shot other students. He might have accidentally shot other teachers. Because this happens -- it was bedlam when this happened. And in a matter of seconds, 17 people were murdered. And there was no time for a teacher to go to his desk drawer, which was locked, find the key, get a gun, and a handgun was not going to stop the Parkland shooter.

MR. GOODELL: Thank you for your guidance on

that and your comments.

On the bill, sir.

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

MR. GOODELL: My colleague brought up the Parkland situation. So, let's take a look. The most serious gun violence situations we've had in recent years in our country, right? Let's start with Columbine. How did Columbine end? When did it end? What stopped the massacre at Columbine? Well, the answer is, the individual that was shooting everyone, the assailant, did not stop killing people until the police showed up and there was an exchange of gunfire, and then he committed suicide. So, it was the police with guns that stopped the killing.

What about Sandy Hook? What happened there? There were over 20 kids massacred in the minutes it took for the police to show up. It wasn't until the police showed up with a gun that he took his life in a suicide. What happened in Parkland? Seventeen kids were killed. And what did the assailant do? By the way, that was 17 kids, it was in six minutes, he killed 17 kids. The shooting didn't stop until people showed up with other guns, at which point the assailant escaped.

What about Orlando? The Pulse situation. Three hours of a shooting gallery, over 50 people killed. That ended only after people with guns stopped the assailant. What about the Vegas shooting? Fifty-eight people killed. That went on for ten minutes.

Ten minutes, 58 people killed. How did it end? It end -- ended when the police found out which room the guy was at and he committed suicide. What about the church in Texas, that massacre? When did that massacre end? When a guy across the street grabbed his rifle out of his pickup truck and started shooting at the shooter. That's only when it ended.

So, what kind of time are we talking about? Six minutes in Parkland. Ten minutes on the Vegas shooting. Only a few minutes in Sandy Hook. So what happens? What's this bill say? This bill removes the authority of a school board, you know those members that were elected specifically to represent the voters in that district, it takes the authority away from the school board to authorize highly trained people to be -- to defend the school. It removes their authority. And as a matter of law says the school must be an unarmed shooting gallery.

ACTING SPEAKER PICHARDO: Mr. Blake, why do you rise?

MR. BLAKE: I just have a question of Mr. Goodell.

ACTING SPEAKER PICHARDO: Mr. Goodell, will you yield?

MR. GOODELL: As soon as I'm done.

ACTING SPEAKER PICHARDO: As soon as he's finishes. He doesn't yield yet.

MR. GOODELL: So it renders our school as an unarmed shooting gallery until someone shows up. And in my rural



district, that could be 15 or 20 minutes. And for 15 to 20 minutes this bill says no one on that school, unless they're a hired employee, can stop the shooter. I know you share my passion for protecting our kids. I know you share my passion for making sure we minimize the loss of innocent life, but making it illegal for a rural school district to defend itself is not the right way to go.

I will now yield to Mr. Blake's question.

ACTING SPEAKER PICHARDO: For 22 seconds.  
Go.

MR. BLAKE: Mr. Goodell, I just want to be clear. Did you say that there was no one that was armed at Parkland that then left the scene?

MR. GOODELL: No. I'm saying the shooter didn't stop until the police arrived.

MR. BLAKE: That wasn't my question. I just want to be clear.

MR. GOODELL: No, you asked me what I meant or what I said. The shooting didn't stop until the police arrived.

ACTING SPEAKER PICHARDO: Mr. Goodell, your time is up.

MR. GOODELL: Thank you, Mr. Blake. Thank you, Mr. Speaker.

ACTING SPEAKER PICHARDO: If you want to, you can for a second time. Thank you.

Mr. Reilly.

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

ACTING SPEAKER PICHARDO: Do you yield?

MR. REILLY: I yield.

ACTING SPEAKER PICHARDO: The sponsor yields.

MR. REILLY: So, I have a -- when you drafted this bill when we -- we started -- when you started to analyze it, did we have a number of how many written letters by school administrators? On record, how many granted permission in New York State to have a firearm other than the school resource officer? Do we -- do we have that data?

MS. GRIFFIN: Can you repeat the question? I --

MR. REILLY: The question is how many actual letters were written by school administrators giving permission to someone who legally possesses a firearm to carry it on school grounds?

MS. GRIFFIN: I don't have that information.

MR. REILLY: As a retired Lieutenant from the Police Department in New York City, I think that's something that should have been the first step before we look to legislate and put a mandate on a school district, restricting who they can allow. Because if there's no need for it, if we don't have the actual letter being written, then there's no reason to legislate it, in my opinion. Now I also, talking about how Mr. Goodell spoke about the rural school districts,

because in New York City, I can tell you right now the Mayor and the Chancellor are never ever going to give permission to someone to carry a firearm, all right, in a school building, other than the NYPD. And I fully support that. The issue becomes - what Mr. Goodell said - when we have a school resource officer in a rural school district, that school resource officer, if he gets hurt, he's out line of duty for a week, that small department probably can't replace them for that week.

So, you have a guy like me that may live in the school district. My kids may attend there. I'm a retired police officer. I can't carry my gun on school grounds because I am a retired member, I'm no longer active. But if I can volunteer my time for that week, not employed as a school resource officer, currently the school administrator can say, *You know what? Thank you so much for covering for this week. I'm going to write the letter and allow you to do it.* This will take that away and we will now, as Mr. Goodell pointed out, we will leave that school without a school resource officer. Now that's a big -- and I understand your intent about not having teachers. I agree. I agree. This, in my opinion, the legislation is too broad where it will prevent someone like me who's retired and wanted to volunteer my time because that school resource -- resource officer got hurt in the line of duty and is no longer able to protect our school. Do you -- do you think that this goes above and beyond teachers carrying?

MS. GRIFFIN: I don't, because I think there's a big difference between, you know, there's been talk about there's these

highly-skilled teachers, but there's a big difference between a teacher that's highly skilled at the -- at the -- at the shooting range to a police officer that is trained to be -- to be a targeted shooter, to put down a targeted shooter. And I believe even in rural districts there are retired police officers that could get the license and that could be made available to them and they could be on a list of people that when needed, they could be hired by the school district.

So, I do not think this is too broad. I think New York State, it's incumbent upon us to keep our State as safe as it can be. As was mentioned previously, it's the states that have the strongest gun laws seem to have the least shooting massacres. So, I'm all for anything that we can do in our schools to make them safer and I believe this bill does just that.

MR. REILLY: But the intent is really to stop teachers from being armed, correct?

MS. GRIFFIN: It's to -- it's to stop teachers from being armed and also have specific personnel available, as mentioned: School resource officers, police officers, peace officers, security guards. This bill only applies to employees of the school. So, this bill takes out -- is just applying to teachers and administrators in the school.

MR. REILLY: It doesn't. It actually is anybody -- in my opinion, in reading the bill, it's anybody that has a licensed firearm cannot -- cannot get written permission from the school administrator to act as a temporary fill-in. That's exactly what it states.

MS. GRIFFIN: No. This bill does not say this. This bill is just directed at the employees of the school.

MR. REILLY: No. It says -- just the title alone says, "The ability to authorize the possession of weapon on school grounds." So, that means me as a retired member of the Police Department, because under New York State law, I am no longer a police officer; I am a permit holder with New York City. So, I no longer can have written permission from the school administrator to fill in, because I'm not technically an employee. This is what this bill does.

ACTING SPEAKER PICHARDO: Is -- is that a question, sir?

MR. REILLY: Do you agree?

MS. GRIFFIN: No, I don't.

MR. REILLY: Okay.

MS. GRIFFIN: So, if you -- I'm reading the bill right now: "Shall issue such written authorization to any teacher, school administrator or other person employed at the school who is not primarily employed as a school resource officer, police officer, peace officer or security guard who has been issued a special armed guard registration card, as defined in 89(f) of the General Business Law."

MR. REILLY: What you just read actually is the exact thing that I'm stating. I'm the retiree, volunteering for a week. I'm not employed by the school district. I don't have an armed guard license. The school administrator cannot give me permission to fill in

for that week that the school resource officer is out line of duty. Do you agree that that's -- because it says "other person." You just read it.

MS. GRIFFIN: So, yeah. And prior to what I just read, it says "Without the written authorization of such educational institution," other person employed.

MR. REILLY: I know, but aren't we -- isn't this bill banning the school administrator from giving that permission?

MS. GRIFFIN: The school administrator is -- has the charge over the employees in the school.

MR. REILLY: Yes, I totally understand that, but this -- this legislation is telling the school administrator that they're no longer allowed to give me permission, writing a letter saying that I can possess a firearm to volunteer.

MS. GRIFFIN: Yeah. So, in this bill, they're not allowed to give authorization to employees of the school, meaning teachers, other administrators, coaches, whoever it may be.

MR. REILLY: PTA members? PTA members?

MS. GRIFFIN: If they're not employed by the school.

MR. REILLY: Okay.

MS. GRIFFIN: So, you know, so it's only talking about what they can do for employees in a school. They can, all districts will be able to hire people with the appropriate license to be at their school. Those people are trained and are experienced and they're not wearing two hats. It's very hard to have a teacher wear two

hats. So, this bill is confined to the school administrators are not hiring their teachers and people in their school, the educators, to be armed -- armed with guns to protect their students.

MR. REILLY: You just mentioned something that they can't wear two hats. A school resource officer by definition wears two hats. They are a teacher and they are law enforcement. That is by definition what a school resource officer is. So, do you -- do you think it's incapable of someone to actually be able to have a dual role in a school?

MS. GRIFFIN: What I am saying is anyone, a person who is authorized and has the appropriate license can come in with the authorization. They can volunteer or they can be paid by a district. So, a school resource officer who's employed to protect the children can do just that.

MR. REILLY: Okay. Fair enough. So, just going back to my first question. Since we don't know the number of actual letters that were written for our 600 school districts, how many schools -- how many administrators actually gave permission for someone other than an employee to carry a firearm on school grounds, we don't have that data, right?

MS. GRIFFIN: No, as I said, I do not personally have that information.

MR. REILLY: Would you -- would you think it would be a good idea to actually see how many -- how this in -- in real life, in real time, how this would impact school districts and how

many have already given that permission. Do you think that would be a good idea?

MS. GRIFFIN: No, I don't think it's necessary because I believe that in the climate that we live in where there are shootings weekly, I think what is most important is to keep our schools safe and if you have been to many gun -- gun rallies for safe gun legislation, not only are students so scared about what happened in Parkland or some of these are places, but they are frightened about it happening at their school. And they are frightened about their teacher having a gun in their drawer. So, with the climate that we live in and with talks of our Federal government possibly allowing states across the country to have firearms, with Betsy DeVos stating that money, Federal money that's earmarked for education could be then given to schools for firearm or to train their teachers, I think it's very important at this particular time to have this legislation because I think it's essential.

MR. REILLY: All right. But since we're not dealing with hypotheticals, right, because, you know, we can't control what the Federal government's going to do. We can control what we can do for our school districts in New York State, I believe. And, for me, we are limiting our school districts who may be challenged with having funding for a school resource officer. And this bill will stop them from being able to allow a retiree volunteer his time. That would protect the school. That's exactly what this will do.

MS. GRIFFIN: No. I mean, as I stated before,



someone like you who is retired, a retired police officer and has the appropriate license from the DEC, he can apply to be a volunteer security guard at the school.

MR. REILLY: Not if -- I will tell you now, if the school resource officer gets hurt this week and cannot come to work tomorrow and someone like me who is a retiree today, right now before this is passed, the principal can write a letter and say, *Hey, Mike, do me a favor. Fill in tomorrow? You got it. I'll help out.* This will prevent that from happening.

MS. GRIFFIN: This bill will allow for that. A school district could have a list of retirees that are willing to come in and be a security officer and also with -- as long as they have that license.

MR. REILLY: Negative. Negative. I'm sorry, that's not -- that's not accurate because for you --

MS. GRIFFIN: If you can just let me say one thing.

MR. REILLY: I'm sorry.

MS. GRIFFIN: It's okay. What I didn't make clear is the -- you, if you are the retired police officer who wants to volunteer, you can come into the school and volunteer. And only the employees of the school need to have that -- that license. If an employee of the school, they cannot come -- they cannot have that position unless they have the license.

MR. REILLY: Actually, I can't because after the SAFE Act was passed, if I step on school grounds with my firearm I'm

a felon, because I'm a retired police officer and I'm not active. So, I'm -- I'm being honest with you, because that's exactly what-- what it became.

MS. GRIFFIN: If you had written authorization to be there and you were retired and you were on the list of volunteers that -- that is willing to come in and act as a security guard at that school, you would still be able to. So, we're not limiting districts from being able to do that.

MR. REILLY: But isn't this taking away the written permission? I mean, you read it before, it says, "And others."

MS. GRIFFIN: This is taking away -- schools still have, they can still have a written permission. They just can't have that for employees. So, employees cannot be designated for -- for this position.

MR. REILLY: So as a CEC member when I was the School Board President in New York City, which is the old school boards, I was an elected volunteer. Under New York City rules, I was technically a part-time employee, all right. So, would that mean as -- what's the definition that you are using in this bill as "employee."

MS. GRIFFIN: I would just say it was if he is paid by the school district, then he would be considered an employee --

MR. REILLY: Exactly.

MS. GRIFFIN: -- whether part-time or not.

MR. REILLY: Exactly. But if I'm -- if I'm a volunteer, I'm not getting paid so the school administrator cannot give

me permission then; is that correct?

MS. GRIFFIN: Repeat that, please.

MR. REILLY: So if I'm a volunteer, I'm not getting paid. Under that definition that you just gave, I'm not an employee. So, therefore, the school administrator cannot give me written permission; is that correct?

MS. GRIFFIN: If you are not employed by the school -- so, you asked so many different ways, so it's a little confusing. If you're not employed by the school. So, if you're not a part-time employee or you're not any affiliation with the school and you were volunteering, you can have that written authorization.

ACTING SPEAKER AUBRY: Mr. Reilly, your time has expired on this 15, and --

MR. REILLY: Thank you so much for giving me the time.

ACTING SPEAKER AUBRY: Certainly.

Mr. Walczyk.

MR. WALCZYK: Thank you, Mr. Speaker. I wonder if the sponsor would continue to yield?

MS. GRIFFIN: Yes.

ACTING SPEAKER AUBRY: Ms. Griffin continues to yield.

MR. WALCZYK: Thank you. I'm looking for a definition, if you wouldn't mind, ma'am, for "not primarily employed." It's used and I think it's kind of a point of contention in this bill

currently. What does "not primarily employed" mean?

MS. GRIFFIN: In a school district -- the intent of this bill is in a school district, the educators, administrators, the staff that works in the school, they are all primarily employed by the school as a teacher or educator or in some other capacity, they're working at the school.

MR. WALCZYK: Thank you. And through you, Mr. Speaker, if the sponsor would continue to yield?

MS. GRIFFIN: Yes.

MR. WALCZYK: If -- if I understand this properly, school resource officers, peace officers, possibly village police officers, many of them are working in a part-time capacity. They have other full-time jobs where they are not primarily employed either by the school district or in that role in their peace officer, police officer, school resource officer status, would they, as you read it or as you've written this bill, would they be prohibited from acting as a school resource officer on behalf of the school district if the school district gave them authorization?

MS. GRIFFIN: So, if they are police officers under that 265.20, that allows law enforcement to be on school ground. They have an exemption. They can be on school grounds.

MR. WALCZYK: Let me just, and I know you read this earlier, but as I read the bill, if you'll bear with me, "Provided, however, no school as defined in subdivision 10 of Section 1125 of the Education Law shall issue such written authorization to any

teacher, school administrator", or here's the key piece, "or other person employed at the school who is not primarily employed as a school resource officer, police officer, peace officer or security guard who has been issued a special armed guard registration card."

So as I read that, what I'm seeing is that if they are not primarily, and you even give a portion to a third-party option which is nice, because those are in -- in the front yard of America, the rural area which I represent, many of these third parties would be municipalities or private security companies that school districts could save money and still have that option for a school resource officer. But as I read your bill -- and would you read your bill to prohibit those opportunities for a village police officer to step into that role as a school resource officer.

MS. GRIFFIN: Yeah. So, it seems that -- I've said this before and it seems that this applies to these questions that have been asked in different ways, that 265.20 allows law enforcement to be on school grounds. They get an exemption from what's stated in this bill. So, in any of these rural areas, there is that option.

MR. WALCZYK: So your understanding is that law enforcement, even if they're not primarily employed as law enforcement, could be authorized to be on school grounds in that capacity; is that your understanding?

MS. GRIFFIN: If they're law enforcement, they don't need the authorization. You know, they can be on -- they can be hired to be on school grounds. They could volunteer, they could be asked to

be on school grounds if they have volunteered for that role.

MR. WALCZYK: So in a -- in a volunteer capacity, even if they -- even if they aren't currently employed as a -- for a third-party or as a school resource officer, if they have those credentials as a retiree, the school district could still authorize -- it's your understanding the school district could still authorize them to be on school grounds in that capacity?

MS. GRIFFIN: Yes.

MR. WALCZYK: All right. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Salka.

MR. SALKA: On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SALKA: This is the first time I've had the honor to speak to my peers in the New York State Assembly Chambers and it's -- it's -- it's truly an honor and I'm very excited about being here. I want to relay my understanding for the passion that the sponsor has for this bill. There's nothing more important than protecting our children; it's our most valuable asset. And it's a tragedy when any life is lost due to gun violence. It's a tragedy when any parent loses a child. I know that experience not from gun violence, but it's just a -- a parent's worse nightmare and we need to do everything we can to make sure this doesn't happen.

Before I ran for the Assembly, I was a school board member and a school board President of a small little rural school in

Southern Madison County, Brookfield Central. And we have about 230 young people in that district and we, as school board members who live in that district, are passionate about making sure that our children are educated well, and first and foremost, are protected. Now Brookfield's in a southern part of Madison County. The old joke is, you know, where the heck is Brookfield? Because we're so far from everywhere. Route 20 is probably 20 or 25 minutes away. Route 8, which is a major thoroughfare, is very far away, Route 12. So, we are far logistically from any source of law enforcement and protection. We're 35 minutes from the local State Trooper barracks. We're at least a half-hour or more from the local sheriffs and their ability to protect us.

So, if something does, in fact, occur in our -- in our small town, essentially we -- we have no protection. And to be able to eliminate any possibility for those people in our school that know their children, love their children and many of those teachers, as a matter of fact, and staff, you know, I've hunted with and are very well aware of how to handle a gun safely. And essentially what we're doing is we're saying that you, who have shown responsibility time and time again to be able to have a firearm, you obviously truly love the children of our community and of our school, but we're telling them no, you can't protect those children.

Now, as a school board member, we always used to roll our eyes when another mandate came down from the State. It would either cost us money or took some kind of control away from us

on a local level. This essentially does that. These men and women who serve on these school boards know their areas, know their districts, know the people that live there. A lot of times live right next door to them or even have children, as I did, in that district. And to be able or to have to take that protection away from them to be able to look out over their community to make sure they're safe and their children are safe I think is -- is -- is just doing a disservice.

Now, there's 35 towns in my district and many, many of them are rural. Many of them fit the same bill as my school district, quite a ways away from any kind of law enforcement protection. And also, given the fact that most of these schools have a tight budget; as a matter of fact, my school district, Brookfield Central, was cut in this year's budget. That gives us even less money to work with and less money to do what our first and foremost task is, is to educate our children as well as we can. So, they might not necessarily have those funds to hire a school resource officer. Now in Madison County, which is my home county, the County Board of Supervisors did put money forward this year that would pay for 50 percent of the school resource cost for schools. And some schools have come forward and have taken advantage of that, but there are other schools who just simply don't have the money.

So, not being able to hire school resource officer, not being able to utilize what are very competent teachers and/or staff to be able to protect our children, again, I feel is leaving them sitting ducks. These are gun-free zones. These are areas that don't have an



opportunity when they need it to be able to protect their children and I'll be voting against this today. And, again, I appreciate the passion that every single person has in this room for their children, as I do, and I think that in order to be able to truly protect our children in rural districts, we need to be able to give our local school boards and our local administrators at least the choice. They've proven their responsibility in being able to do their jobs. I think that they would be able to look at this issue and be able to make a decision on a local level about whether or not they want to protect our children. But, again, I thank you for your -- for your sponsorship and I appreciate your passion.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Blake to explain his vote.

MR. BLAKE: Thank you to the sponsors on the bill.

This -- to explain the vote in particular, when thinking about the importance of this, it is important to remember, as it relates to Parkland, which we had the honor of having several of the students come up to our district recently, that the armed school resource officer there actually left the grounds. So, the notion that's being conveyed in the opposite of having to have more armed individuals around would

lead to shooting stopping, which was also conveyed by several persons, is not only inflammatory, but it's unacceptable.

And so, to the communities that have stood up repeatedly to say that enough is enough, whether it be Moms Demand Action, whether it be Save our Streets, whether it be Life Cam, you know, all the different groups. This is exactly why we need this kind of legislation because, again, it is about getting more containment so you have less guns near these schools rather than the otherwise that's happening right now.

So, definitely in support of this legislation, but it was important to set the record straight, that just arming school resource officers who do not have the training to actually go within facilities, they're actually trained to stay outside the grounds, is not how you address the problem on gun violence. This bill will actually do that. I proudly vote in the affirmative, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Blake in the affirmative.

Ms. Glick.

MS. GLICK: Thank you, Mr. Speaker, to explain my vote. I know that there has been some discussion because of the prevalence of school shootings that we should be arming everyone who is in the school. Teachers -- and there are some states where there are some teachers who have embraced that opportunity. But I do think that the fewer guns, particularly in the hands of those who are not trained and trained for a long time to use them in an emergency

situation. After Virginia Tech, there was a study done and it was determined that one of the reasons that police officers use two hands is because the adrenaline that happens in an emergency situation results in flooding your muscles, large and small, with adrenaline. And your large muscles use them to run and is a good thing, but what happens is that your capacity to hold your hands steady in your smaller muscles is actually impeded.

And so, having a slightly trained person with a gun in a crowded classroom is likely to result in more carnage, not less. And I withdraw my request and vote in the affirmative as I thank the sponsor.

**ACTING SPEAKER AUBRY:** Ms. Griffin.

**MS. GRIFFIN:** Yes. I just wanted to thank all the supporters of the bill and all of the sponsors of the bill. I think this is a really important bill because I think it does what we need to do in New York State. Sometimes New York State has to speak to the school districts, and there are many times and in many cases we feel that an overall rule for our school districts in New York State can make students safer, and this has happened many times. There used to be a time that you were allowed to smoke in schools. New York State decided you weren't allowed to do that. There is background checks, there's all kinds of things we do in New York State to make our schools safer, and today, this is just one more thing that made our schools safer and I feel like this bill, for me, is in honor of Scott Beigel, because he was a teacher and he did everything he could and

he died saving his students. And we couldn't ask more of any teacher, but I do commend his parents, Linda and Michael Schulman. Because of them, they have gone out, ever since their son was murdered, they have gone out and spoken all over the country about how important this is. And to me, if you are a -- if you're a skilled gun -- a skilled -- skilled with guns and you're a teacher, that doesn't mean that you can protect your class, because you might -- you don't have that emergency training, you're not able to all of a sudden act as a -- as a police officer could act.

And so I feel like there are so many things we can do to make our schools safer, but this bill -- and this bill does just that. It makes our schools safer, it decreases the stress and fear from our teachers and our students and I'm happy to have sponsored this bill.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. I'm going to be supporting this piece of legislation and I thank the sponsor, but -- but I think there were a number of important points that were raised today. And something that we need to keep in mind, you know, we -- last year, we did a package of bills and there was a package of bills done down the hall and they kind of never came together. Obviously, a number of these are now going to be signed into law.

But we do still need to have the conversation about providing resources to our school districts so that those local school boards and their superintendents and administrators can find solutions that work for their, not just their districts, but their individual

buildings. So, whether it's, you know, resources for physical security improvements, because one building may need something another building doesn't, you know, funding for mental health professionals, and as well as funding for school resource officers, which some areas have them and others don't.

And, again, I think providing opportunities for those local districts to decide what is going to work best for securing their buildings is what we -- what we ought to be doing. So, I hope that we all keep that in mind as we move through the budget process and hopefully look for opportunities to provide those resources to our local districts so that they can do their best to keep our students safe. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Sayegh.

MR. SAYEGH: Thank you very much, Mr. Speaker, just on the bill. I wanted to indicate that as a trustee of a board of education, when many school districts across the nation, when impacted by tragedies and shootings at schools, it was said that the main response that we heard was arm everybody and give guns to teachers, and this is totally the opposite of what needed to happen.

What happened in cases that I was personally involved as a trustee of a large school district, is we took those concerns and reached out and demanded that the police, local law enforcement and the educational school boards and superintendents met together and they established greater safety initiatives. For

example, to make sure that schools had safety cameras and that hallways and all parts of the buildings were well-lighted and to make sure that there was a special security system whenever, God forbid, there was a serious crime in a school, law enforcement was easily made aware through these technological systems that are now in place, and it causes a much safer situation to have experienced and -- and -- and -- and incredible law enforcement officials at school facilities.

This initiative gets the guns out of hands that may not have the experience and may, at the end of the day, cause more dangers. So, it really forces law enforcement and educators to sit on the table together and there's well-known procedures that's not reinventing the wheel that they can initiate and support to promote safety without having guns that are throughout the school building that I don't think any of us want. This is why I supported the bill.

ACTING SPEAKER AUBRY: Mr. Sayegh in the affirmative.

Mr. Abinanti.

MR. ABINANTI: Thank you, Mr. Speaker. I rise to support this legislation. I commend the sponsor.

I'd like to add a couple of thoughts to this conversation. First of all, let's clarify that this legislation leaves with the school boards the power to designate who they want to protect the students. All it does is say that you cannot include in that designation teachers, administrators and others who have another primary

responsibility, which is to teach and to administer the school. And I suggest that there are good reasons, good policy reasons for making this distinction. Those who are assigned the responsibility of protecting the students should be people who are trained in that art of protecting the school, not just someone who may be skilled with a gun. It's been said before, we should repeat it, it is a special skill to be able to respond to a shooter on a campus.

Secondly, I think this legislation makes it clear to school boards, don't ever be tempted to consider as one of the factors in hiring a teacher or an administrator their skill with a gun. That's not why you're supposed to be hiring them. You're hiring them for other reasons. We're making it very clear as a policy, that should not be a consideration in hiring a school employee. And, lastly, I want to suggest that when an employee has another function, to run a classroom, to be an administrator, they're not necessarily paying attention to where their weapon is or who they're with. They might be with a bunch of students who are in a locker room somewhere and they're distracted. And that makes a gun available to someone else who might misuse it. On the other hand, a resource officer or a police officer is trained to pay attention to the weapon and to focus on protecting the students.

So, therefore, I think this is a good bill. I urge people to vote for it and I will vote for it.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you. To explain my vote.

All of us here were elected as Assemblymembers, and I appreciate the debates that I have heard both for and against the wisdom of this bill, and for and against the wisdom of allowing school personnel to be armed. But there are another group of elected officials who are elected specifically to run our local schools, and that's the school board. The current law allows the school board members who are elected to represent their district, it allows them to make the decision whether or not employees of the school should be allowed to carry guns or not, and they are in the best situation to evaluate whether the response from the local police is adequate or not or what all the alternatives are. We are not a super school board and it's inappropriate for us to assume that role. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Wallace.

MS. WALLACE: Thank you, Mr. Speaker. I rise in support of this bill because like so many in this Chamber, I think we all agree that it's really not a good idea to have teachers who are primarily responsible for teaching children, giving them the added responsibility of also worrying about protecting them with a weapon.

But I do rise to clarify for the record that it is my understanding that this bill will not apply to sportsman's clubs that use NRA precision air rifles. I know that I have schools in my district where students do engage in those clubs and I want to clarify that my understanding under the bill is that it's not going to apply to those in any way and with that clarification, I vote in support of the bill. Thank you.



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

(The Clerk announced the results.)

The bill is passed.

And I believe this is your first bill.

(Applause)

Congratulations, Ms. Griffin. It never gets better than this.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. We are moving along. We could go a little faster, but we're plodding along. But I want to take this opportunity to interrupt the proceedings for a moment to introduce some really great people that I had to opportunity to meet earlier today. Linda Beigel and her husband, Schulman. Linda is the mother of Scott Beigel, who was killed in a shooting that took place on February the 14th, 2018 at Marjory Stoneman Douglas High School in Parkland, Florida. The Schulman's are neighbors of our own colleague, Mr. Stern, and Scott was a great teacher that everyone loved at MSD school. He was both an athlete, a coach and his community really, really admired him. He actually died protecting his students during the Valentine's Day massacre that took the lives of 16 people. His parents are here with us. They honor his legacy, Mr. Speaker, and so do we, so if you could give them the cordialities of the floor, I would appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf

of Mrs. Peoples-Stokes, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor and our gratitude and prayers that you will continue to be strong in the face of the horrors that you have faced, and continue to work for the betterment of our society. Thank you so very much. Congratulations.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can now call Rules Report No. 24, 26 -- Bill No. 2689 by Ms. Simon.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Bill No. A02689, Rules No. 24, Simon, Lentol, Heastie, Peoples-Stokes, Ortiz, Dickens, Pichardo, Gottfried, Mosley, Galef, Glick, Joyner, L. Rosenthal, O'Donnell, Fahy, Seawright, D'Urso, Englebright, Quart, Carroll, Paulin, Magnarelli, Hunter, De La Rosa, Taylor, Abinanti, Lavine, Rivera, Barron, Vanel, Zebrowski, Niou, Steck, Dinowitz, Simotas, Blake, Jaffee, Rozic, Aubry, Wright, Otis, Weprin, Davila, Bichotte, Arroyo, Buchwald, Burke, Griffin, Jacobson, McMahon, Stern, Bronson, Cruz, Reyes, Sayegh, Frontus. An act to amend the Civil Practice Law and Rules and the Penal Law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.

ACTING SPEAKER AUBRY: On a motion by Ms.

Simon, the Senate bill is before the House. The Senate bill is advanced.

Mr. Goodell.

An explanation is requested, Ms. Simon.

MS. SIMON: Thank you, Mr. Speaker. Family and household members and school officials are very often the first to know when someone is experiencing a crisis or exhibiting dangerous behavior. Many even report their fears to law enforcement. In New York, as in many states, law enforcement officers may not have the authority to intervene based on the evidence they're provided with, interventions that could help prevent tragedies from occurring including interpersonal gun violence and gun suicide. One New Yorker dies by suicide by gun every 19 hours.

In 2014, California became the first state in the nation to enact a law empowering family members and law enforcement to petition a court to have individual's access to guns temporarily suspended when they are at risk of harming themselves or others. In 2016, Washington State enacted similar measures through a ballot initiative. Laws providing a procedure for the removal of firearms from at-risk individuals have existed for years in the State of Indiana.

Now, with the escalation of school shootings and other mass shootings, a total of 13 states have passed bills like our Extreme Risk Protection Order bill today, or ERPO, which is also known as a red flag bill. Studies have shown that a similar provision in Connecticut has resulted in a measurable reduction in suicide rates

and since October 1st in Maryland, ERPO has stopped 148 people who are armed and a danger to themselves or others from acting on those impulses, saving an untold number of lives.

This Body took a very important step protecting New Yorkers when it passed this measure the past two Sessions. Since its first passage, the nation has suffered from several mass shootings, which have shocked our conscience, including at Marjory Stoneman Douglas High School in Parkland, Florida, when the Extreme Risk Protection Order could have prevented a mass murder. In Pittsburgh, where a gunman who had demonstrated warning signs that he was armed and a danger to himself or others, killed 11 people worshiping in their synagogue.

Since the first of this year America has experienced 27 mass shootings. Today is January 29th. There is no time like the present. Forty-percent of mass shooters were known to others to have exhibited signs of being a danger to themselves or others. We grieve for those who have suffered, and I'm certain that this legislative Body, by passing this commonsense bill, will prevent needless tragedies here in New York. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Montesano.

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

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

MS. SIMON: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MONTESANO: Thank you, Ms. Simon. This is a bill we've debated once before and I know we've had this bill a couple of times on the floor, and I notice now this bill, since it was on last year and now this year, it talks about now including school teachers and school administrators as part of the reporters and people that could bring on a petition in this special proceeding; is that correct?

MS. SIMON: Yes. Actually, it would be a person that would be designated by the school.

MR. MONTESANO: Okay. Now, this person that gets designated by the school, so they're the sole person that could bring on the petition; am I correct?

MS. SIMON: I'm sorry. Can you ask that question again?

MR. MONTESANO: So they'll be the only person within the school that can bring on the petition?

MS. SIMON: That is the way it is set up at this juncture, so that a teacher, for example, if they had this information could bring it to the attention of the appropriate person in their school and the schools can act, designate who it is, who would be the person to actually file such a petition.

MR. MONTESANO: Now the person that's going to bring on this petition, are they going to have to receive training in any

way on how to commence this proceeding?

MS. SIMON: No. They're free to have counsel. My guess is that school district might have counsel be there. There will be a procedure created by the Supreme Court for the filing of such orders and, today, if someone needs an order of protection, they are free to go -- for another reason, let's say domestic violence, a woman is free to go to court to seek a protective order. She doesn't need particular training in order to do that.

MR. MONTESANO: Okay. Yes. But now we're including school teachers and school administrators to get themselves involved in a legal proceeding. And it's a little bit different than when a parent does it or, you know, a spouse does it. We're involving school teachers and we've had a lot of debates today on whether we should involve school teachers and many different events that go on in the school. So my question is, is there any funding provided to the school districts in order to provide this type of service or proceeding?

MS. SIMON: Not in this bill. That would be, perhaps, a request you would make in the budget.

MR. MONTESANO: So the way the bill goes now at this time, it could be determined to be an unfunded mandate upon the school districts; am I correct?

MS. SIMON: Well, first of all, I would disagree with -- with your terminology, but this is not a mandated reporting. This is not a mandate. This is a tool that allows people who are aware that someone is demonstratively dangerous, such as the shooter at

Parkland, such as the shooter in so many other instances.

MR. MONTESANO: So let me ask you this: If we have this kind of situation present itself in the schools, why can't the school authorities simply call the police and allow them, under this bill, or other proceedings that they have to commence a petition in the courts?

MS. SIMON: They could.

MR. MONTESANO: Okay. So why are we putting the teachers and school administrators into a legal proceeding rather than letting the law enforcement people take care of this?

MS. SIMON: Well, we're not putting them into the proceeding. We are permitting them to do so if that is the decision they make based on substantial evidence. And so, they can go to law enforcement. Right now, law enforcement can't act because we don't have the right for a temporary Extreme Risk Protection Order.

MR. MONTESANO: Understood, and that's not my argument because I know in previous versions of the bill that I could support that involved law enforcement and medical professionals and even the school psychologist or psychiatrist, school nurse, don't have an issue with. But now, we're including school administrators and teachers into this where I think is -- it now becomes the problem and puts them at an unfair advantage -- disadvantage, I'm sorry. So, as -- as we move along, and you say they're not mandated reporters, but this is a provision of law that we're passing. Doesn't it make it incumbent upon them to do something and if they don't act, they can be held

civilly liable for not taking action?

MS. SIMON: Well, that would not be the case, number one, because there's no mandate so they would not be held civilly liable for not taking an action. And, number two, because of, in fact, some of the issues that were raised previously, we have tightened up the language in this bill. And so, for example, the bill reads, "Where a school administrator is defined in Section 1125 of the Education Law, or a school administrator's designee of any school in which the person against whom the order is sought is currently enrolled or has been enrolled in the six months immediately proceeding the filing of the petition." So, it is not nearly as open-ended or is permissive of just anybody in the school environment to sign such a petition.

MR. MONTESANO: Okay. Now, as far as the due process procedure that is involved in this, this application is made ex parte; am I correct?

MS. SIMON: It can be, yes.

MR. MONTESANO: Okay. And so let's talk now about a 16-year-old student, or a 15-year-old student in middle school. He becomes the -- he or she becomes the subject of this petition and special proceeding in Supreme Court and the judge signs an ex parte order, because any judge gets this case in front of them certainly will sign it and not risk himself, and he enters the order that the individual has to surrender all his firearms and et cetera. Now, generally, 16-year-olds are not permitted to possess firearms, but the student's



parents legally posses firearms in their homes. Will this court order be the causation of these parents losing their firearms because the 16-year-old lives in the house with them?

MS. SIMON: Actually, that would not be the case because the respondent would go in, probably go in with his parents, and what the court would require in that instance is that the firearm be safely stored. That is the remedy for that.

MR. MONTESANO: Well, but I don't believe there's specific language in the bill that directs the judges to take that action. So, what's to stop the judge from issuing an order and saying, *I want the firearms removed from the house*. What do we do in the case when one of the parents is a law enforcement officer or a military personnel authorized to posses firearms. What happens to that?

MS. SIMON: What we do in that instance is we require them to safely store their -- their firearms.

MR. MONTESANO: And when you use the definition "safely store", is it still within their possession in the household?

MS. SIMON: Yes, it is, but it is locked away.

MR. MONTESANO: Okay. Now, as far as we talk about the different people that can bring on this petition and your bill has definitions.

MS. SIMON: Yes.

MR. MONTESANO: It seems like we've extended the definition a little bit. So, I'm looking at -- you have a provision

there and if I'm reading it correctly, that one of the categories is "Any of the category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Families Services in regulation." Could you tell us what that's about?

MS. SIMON: Could you tell me what you're looking at? I'm looking at the definition of what a petitioner is.

MR. MONTESANO: Well, it is, and it says who may be a petitioner under Section 459.82 of the Social Services Law. And so, it delineates who can be the petitioner. And it talks about persons related by consanguinity, affinity, legally married to the other, and it goes on and on and on with a list. Then it makes an exception and the exception, from my understanding, is that fraternization between two individuals in a business or social contact should not be deemed to constitute an intimate relationship. But then the further definition is, *Any of the category of individuals deemed to be a victim of domestic violence as defined by Children and Family Services regulation.*

So, we have a Social Services agency that creates its own regulation and that's going to be binding on the courts, also. So, how broad is the scope of people that could bring on this petition?

MS. SIMON: Well, this would be if somebody is a victim of domestic violence, that would be a family member or a member of the household, but also this is the definition that is used both in the Family Law as well as in the Penal Law. So, this is already something that exists in our law that has been in operation for many years, and the courts are more than familiar with the standard that they

would need to meet to permit someone, for example, who is -- who would come under this category to file such a petition.

MR. MONTESANO: Okay. So now I want to revisit the due process proceeding again. So, the petitioner goes to court, takes out the petition ex parte and at that time, a temporary order is issued. And one of the things it does is it prohibits them from possessing, owning and having access to firearms. How many days elapse before that person has to be served and appear before the judge?

MS. SIMON: So they have to have a hearing within three to six days.

MR. MONTESANO: Three to six days.

MS. SIMON: Three to six days.

MR. MONTESANO: And that's specific in the statute?

MS. SIMON: Yes.

MR. MONTESANO: Okay. And what's the remedy if the judge does not hold that hearing within the three to six day period?

MS. SIMON: Hire counsel.

MR. MONTESANO: So is the order vacated?

MS. SIMON: I -- I -- I -- I honestly don't know, but I think that the courts know how to do this.

MR. MONTESANO: Well --

(Laughter)

MS. SIMON: This is the last thing I'm worried about that they're not going to have a hearing within three to six days.

MR. MONTESANO: Well, listen, I know you and I are both attorneys --

MS. SIMON: That's right.

MR. MONTESANO: -- and we both go to court and we know otherwise. So -- at least I know otherwise.

MS. SIMON: For something like this, I'm not -- I have no doubt at all.

MR. MONTESANO: Okay. And so now on the return date of the court -- of the petition, on the return date, a hearing takes place; am I correct?

MS. SIMON: Yes.

MR. MONTESANO: And the petitioner has the burden to sustain the allegations in the petition they signed?

MS. SIMON: Yes.

MR. MONTESANO: Okay. And what kind of evidence do they have to introduce at this hearing?

MS. SIMON: Well, examples of the type of evidence that would be -- that might be available to the court is listed in the statute. And so, some of the factors could be a threat of violence or the use of physical force towards the petitioner, for example, or another person; a violation or alleged violation of an order of protection; a pending charge for use of a weapon; reckless use, display of brandishing of a firearm; a history of violation of Extreme Risk

Protection Order, or a recent or ongoing abuse of controlled substances or recent acquisitions of firearms, for example, that might be considered dangerous.

So, we use the example of San Bernardino where the person who was the shooter had been stockpiling ammunition and guns for a long time and his parents knew it, everybody in the neighborhood knew it. He was getting other people to buy ammunition for him. That is a sign that is demonstrable and people do not stockpile ammunition if they are -- just for kicks. This is not like a --

MR. MONTESANO: Understood.

MS. SIMON: -- you know, a collector's item.

MR. MONTESANO: So let's talk about, I think you just mentioned people that are drug users or... am I correct?

MS. SIMON: That is one of the factors the court may consider.

MR. MONTESANO: Okay. So if that's a factor that the person is a drug user, so anybody that may be in a rehabilitation program, going under treatment or anything of that nature, they could be subject to the provisions of this petition; am I correct?

MS. SIMON: It's ongoing abuse of controlled substances. Somebody who is out of rehab, just had a hip replaced and is using the medication that has been prescribed for them would not be a person with a recent or ongoing abuse of controlled substances.

MR. MONTESANO: Okay. So now the -- they had the hearing. If there's no finding, the judge has the authority to issue the return of the firearms, correct?

MS. SIMON: Yes. The court is empowered to do that.

MR. MONTESANO: Okay. And once they do that and that order goes to the law enforcement agencies that have taken those weapons away in the case of the person was a permit holder and the permit was suspended during this proceeding, what provisions is there in the law that these law enforcement agencies have to immediately comply with the judge's directive?

MS. SIMON: I'm sorry. I'm not sure that I even understand that question.

MR. MONTESANO: Basically what happens is law enforcement is directed to take the firearms and put them in safe storage, and if the court directs their return, they're supposed to return them.

MS. SIMON: Yes.

MR. MONTESANO: But some law enforcement agencies right now when they deal with people with orders of protection and the order of protection is rescinded and the judge orders the return of the weapons to the permit holder, in the case of fire -- you know, handguns, many police departments take a position administratively, *Well, we're going to wait an additional six months before we return these firearms.* Is there anything in your law that

says that the law enforcement authorities have to immediately comply and return the weapons when the judge rescinds an order?

MS. SIMON: I believe the remedy would be to file an Article 78 proceeding.

MR. MONTESANO: Okay. So basically what I see here is somebody brings on this petition, the respondent has to retain legal counsel, or his parents have to retain legal counsel for themselves, in some cases because there could be a conflict between the respondent child and the parent, they may have to have two attorneys to defend themselves and if they're exonerated and law enforcement doesn't return their weapons, they have to incur the additional expense to take out an Article 78 proceeding.

Now, we're causing great expense to people over a petition brought by a layperson in a school. You know, law enforcement bringing this is one thing, but other people bringing these petitions, it becomes costly and reckless and they can use it to retaliate. Is there anything in the law that protects the respondents along the line?

MS. SIMON: The respondents are protected everywhere along the line, both in terms of their Second Amendment rights and their due process rights. And so, for example, in the examples you cite where, let's say, the law enforcement is sort of dilly-dallying in returning the weapons. There's no reason why the respondent couldn't go back to the court and seek an order enforcing the return of those weapons. That would be a perfectly valid process

for them to engage in and they, you know, they can do -- people, they don't necessarily have to hire counsel. They may need to do that or may decide to do that, but I'm sure that there's a process for -- for seeking to enforce that order.

MR. MONTESANO: So let's go back to the court for a moment. Let's -- I guess I'm out of time. Thank you very much.

MS. SIMON: Thank you.

ACTING SPEAKER AUBRY: Mr. Buchwald.

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

ACTING SPEAKER AUBRY: On the bill, sir.

MR. BUCHWALD: And I recognize that we have a storm coming our way, so I will try to be very brief, Mr. Speaker, but I do need more than two minutes so I appreciate the indulgence because, Mr. Speaker, I rise to tell a story. It's not a story of personal loss. It's not a story of something happening in my community or one of the tragedies that has occurred far too often in our country that motivates a lot of today's debate, but it's a story I think all of us can relate to because it begins with my first run for the State Assembly.

Six-and-a-half years ago I ran for this office against my -- the incumbent, my predecessor, in part on a platform of being in support of sensible gun safety legislation. And it's fair to say I made an issue of contrast with my opponent on that front. But at the time, there, frankly, was not a grounds for organization of folks on the ground, in my district or otherwise, backing up the point of view that many of us are embracing today. But I do remember the weekend



after the Aurora movie theater shooting when I think it was on South Greeley Avenue in my district, some folks started approaching me saying we really have to do something about this, and I was pleased to tell them about my positions. And it doesn't give too much away in the story to say that I was elected. I have the honor of serving the 93rd Assembly District, but between my election and when I took office January 1st, 2013, the Sandy Hook Elementary School shooting occurred not too far from my district that borders the State of Connecticut. And that really galvanized us and many New Yorkers into action. I'm very proud of the fact that New York is one of the few states to have responded so firmly then. Certainly, Washington never stepped up to the plate, and I do think, although it's not said often enough on this floor, that our Governor does deserve great credit for the fact that we were able to enact the New York SAFE Act and I firmly believe that that bill has made New York State a safer place. And though you can't connect any particular life saved to really almost any piece of legislation, I think the statistics show that New York is a safer State as a result. In 2017, we are the State with the third lowest rate of deaths by gun violence and there is no doubt in my mind that that enactment of a bill, the first bill that I voted on as a State Assemblymember, a bill that I co-sponsored, has had benefits in keeping New Yorkers safe.

But fundamentally, what we've seen across the country in the last six years has been tragedy after tragedy, whether it's in places of worship, a nightclub, places of employment or otherwise,

we've seen too many times over the last six years that all the more needs to be done in this country and, thankfully, most of those high-profile mass shootings have not occurred in the State of New York, but we can learn lessons from them and I think this bill and with others that we are enacting today, are part of that sense that we will not rest while there are preventable gun deaths here in our State.

And I very much want to thank the sponsor of this bill and the sponsors of all the bills that we are enacting today because I -- I feel that times certainly have changed. It is by no means a lonely fight trying to address the scourge of gun violence. It should not have taken all those tragedies, frankly, for us to have addressed them. There are, without a doubt, many families and communities that have been driven by gun violence and that was true in New York. Well, before six years ago, it's true before today, but we have been shocked into action now. I can proudly say that there are many constituents and many fellow New Yorkers who are on the side of these pieces of legislation, I've been proud to march with thousands and thousands of constituents in my district in support of sensible gun safety legislation, but we really need to continue to show that we will look at what's happening around our country and New York will continue to lead and that's why, Mr. Speaker, I urge support for this legislation and the other pieces of our package dealing with gun violence today. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Walczyk.

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

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

MS. SIMON: Yes, sir.

ACTING SPEAKER AUBRY: Well, we need -- one minute, before we do that. We would like a little quiet around the -- hello? Good. Now we can proceed. Thank you.

MR. WALCZYK: Thank you. Do you consider football and wrestling sports that include physical force?

MS. SIMON: They can.

MR. WALCZYK: I would agree. So, Paragraph 2 under definition, subparagraph C, my question is any designee of the administrator who at a minimum holds a temporary coaching license. Who would that include, temporary coaches?

MS. SIMON: Who -- I'm sorry. You want to know who would be included as temporary coaches?

MR. WALCZYK: Yeah, I guess --

MS. SIMON: That would be an employment decision of the school board if they hire someone for a temporary position.

MR. WALCZYK: Okay. So could a -- could a temporary coaching license be for an assistant football or wrestling coach?

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

MR. WALCZYK: Under the -- under the assurance of Extreme Risk Protection Order in Paragraph 2, subparagraph Alpha, a threat or act of violence or use of physical force toward one self, the petitioner or another person is one of the -- one of the qualifiers there, one of the triggers for the issuance of the Extreme Risk Protection Order. Do you see playing sports aggressively or violently as one of those triggers?

MS. SIMON: I would not read the statute that way at all.

MR. WALCZYK: Okay. That's -- that's encouraging to hear. Does this bill say that physical force is a relevant factor in determining the protection order?

MS. SIMON: Well, first of all, this is a list, a non-exhaustive list of factors that the court may consider. There -- demonstration, let's say, of somebody who was a little too aggressive in a wrestling match would not be probably relevant. It would probably not be viewed by a court that way. But this is about a threat or an act of violence or use of physical force towards the person, right, so somebody who is cutting, let's say, somebody who is hurting themselves, or an act of violence against the petitioner or another person. So, we're talking about acts of violence. We're talking about -- I think you know the difference between somebody fighting and using violence and a wrestling match.

MR. WALCZYK: I do, yeah. I know the difference --

MS. SIMON: Good, I'm glad.

MR. WALCZYK: -- and I know a lot of referees that also know the difference --

MS. SIMON: Good, see?

MR. WALCZYK: -- and throw out things like red cards, for example, which as I read this legislation, maybe you can help ease my mind a little bit. Would a red card for going above and beyond the active play and being too aggressive as a high school student be a trigger or a threat of physical violence or force against another?

MS. SIMON: Well, first of all, this would be evidence presented to the court and the person could make that very argument. Now, the reality is that there's a context here. This has to be somebody who is threatening the use of force and likely with a -- a gun. This is about removing firearms. This is not about a red card in play. If someone does not have possession of a firearm and they happen to be acting in a violent way, there may be many disciplinary issues that arise within the school context, for example, or it might, in fact, be assault and battery. It might be criminal menacing. There are a whole host of things that acting violently could be. We are not talking about every random act of violence.

MR. WALCZYK: Thank you. I appreciate your answer and I'm glad you brought up the point of firearms. Are you aware that many high schools across New York State, especially in the front yard of America where I represent, have firearms as part of their

sporting programs. So, one of these -- one of these petitioners could be out of a -- a trapshooting league or a high school rifle team.

MS. SIMON: So here's the thing: I would assume that in those programs that the students are being instructed in the proper use of firearms, that they are practicing target practice. They are learning how to use and how to clean and take care of their weapons. And they would be doing that under the supervision of people who are properly trained; however, I am quite sure that the head of any club, the faculty member who is the coach, let's say, of such a club, would know if Johnny is playing around with his gun in a way that exhibits a lack of safety with that weapon or is threatening to others. I am absolutely sure. Call me naive, but I am quite sure that no coach who is coaching a team is, A, not going to notice that, not going to say anything to that child, or would in any way encourage that. We need to -- we need to model good behavior, we need to teach students how to take care of their weapons if, in fact, they have them and that has nothing to do with this bill at all.

MR. WALCZYK: And I heed that point very well.

MS. SIMON: Good.

MR. WALCZYK: And I think if you spent any time with rifle teams or trapshooting leagues, you'd know that gun safety is absolutely paramount. They have an excellent safety record across New York State and it's paramount to the parents and -- and coaches that are involved there. Would participating in a rifle or a trapshooting team provide evidence that there is a firearm, which is

another one of, sort of the triggers in this bill?

MS. SIMON: It is possible, right? I mean, anything is possible. If someone is on such a team and has the possession of a weapon and is behaving in a way that is inconsistent with the safe use of that weapon and they are threatening violence towards others with that weapon, that might be evidence that they have a weapon.

MR. WALCZYK: So, if I'm -- if I'm hearing you properly, there are seven determining factors for the petitioner and for the courts to consider within the provisions of this bill. One of them includes physical force; the other includes proof of a firearm. So, my concern and hopefully you can provide some clarification in your response, my concern here is that the physical force of playing certain sports and the actual sport of shooting sports provide two out of just playing these sports aggressively and the fact they're involved in a -- in a sport that does shooting, provide two out of the seven of the things that the courts or the petitioner are looking for before we even get into mental health or anything like that. And what I want to avoid and I hope isn't the case and I hope you can provide some clarification there, that students who are participating in, and I certainly would encourage them to, to participate in sports where they are physically active, and we have a great record and some excellent shooting sports in northern New York where I represent.

MS. SIMON: We have them in Brooklyn, too.

MR. WALCZYK: I wouldn't want to put a -- I wouldn't want to put a target on those students' backs because they're

already at a disadvantage or concerned that this is somehow going to affect their family's Second Amendment. And I'll listen to your response. Thank you.

MS. SIMON: I have to tell you, I cannot imagine a circumstance where someone who is playing football would be at risk for his parents loss of their -- their weapons, or even an order requiring them to be locked up, although I think they should be locked up, simply because they play football. That, I think, is just a bridge too far and not at all relevant to this. And I would point out that the bill refers to relevant factors that shall be considered. That's consideration. It's not an automatic. This is not an absolute. If you have punched somebody in the nose, it doesn't mean that you're going to be at risk for having an Extreme Risk Protection Order, right?

So, these are factors that the court may consider and it is a non-exhaustive list of factors. The court is free to consider additional factors if they are relevant, and that's what courts do.

ACTING SPEAKER AUBRY: Mr. Byrnes.

Ms. Byrnes.

Help me out.

(Laughter)

MS. BYRNES: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, ma'am.

MS. BYRNES: Will the sponsor yield?

MS. SIMON: Yes.

ACTING SPEAKER AUBRY: Ms. Simon does



yield.

MS. BYRNES: Thank you. My apologies.

ACTING SPEAKER AUBRY: Yeah. And I realize it's -- polite society, you look back at the person you're speaking to, but we can't hear you, so you need to address the mic, she'll hear you.

MS. BYRNES: My apologies to the sponsor for turning her back to her.

ACTING SPEAKER AUBRY: No problem.

MS. BYRNES: Nobody wants dangerous people to have guns, but my question to you, Madam Sponsor, is if my home is searched and my gun is seized because a court ex parte perceives that somebody in the home is an extreme risk, I'm not the plaintiff or the petitioner and I'm not the respondent. What standing do I have as the lawful owner to have any due process rights myself in the proceeding to get my own personally-owned weapons returned to me?

MS. SIMON: Well, actually you would have all the due process rights that are attended to your right as a -- as a gun owner. So, first of all, the court would be -- would have that evidence before them. If, for example, the weapon in the -- in the home is not the -- is not owned by, let's say, the young person, assuming it's a family member, it might be an adult who is permitted to -- to have a weapon legally in this State. If it is your weapon, the remedy from the court would be to require that weapon to be safely stored. And I assume that that would be something that anybody would want to do if they were concerned that someone in their household was at risk. And

remember that there's a hearing here to determine that, and it must be done on substantial evidence; in fact, that evidence must be demonstrated to a clear and convincing evidence, which is a much higher burden than the normal civil process. Remember, this is not a criminal process, it's a civil process. So, we're going one better and requiring a very substantial level of evidence of demonstrable danger, right, so I'm not guessing that the person might be dangerous. I have to demonstrate that the person is, in fact, a danger to themselves and others.

MS. BYRNES: But for me to get my -- my lawfully owned weapons returned to me, I'm not a party to the proceeding and I have the burden of proof in order to prove that the weapon is mine, and I'm not even a party to the action. What kind of due process is that to lawful gun owners? These are the concerns raised in our communities.

MS. SIMON: Okay. So I am looking at the bill and it is Section 5B which says, "If any other person demonstrates that he or she is the lawful owner of a firearm, rifle or shotgun surrendered or removed pursuant to a protection order issued in an accordance with this article, and provided the court has made a written finding that there is no legal impediment to the person's possession of a surrendered or removed firearm, rifle or shotgun, the court shall direct that such firearm be returned to such lawful owner and inform such person of the obligation to safely store such firearm." So, you would have no difficulty, presuming you could prove that it was your gun,

having your gun returned to you.

MS. BYRNES: So you're acknowledging that the burden is on the non-party to prove that they have a right to possess their own lawfully-owned gun.

MS. SIMON: You have standing pursuant to this law to appear, and that is very important. You must have standing and you are given standing by the statute to do that, yes.

MS. BYRNES: But you're not a party. So --

MS. SIMON: It doesn't matter if you're a party, you have standing.

MS. BYRNES: -- if a judge rules -- if a judge rules that you're not a party to the proceeding because you're not a petitioner and you're not a respondent, you could be denied that right. It doesn't give you automatic standing because it's your gun.

MS. SIMON: It does. It does. The statute gives you standing. So, you have standing to -- to appear before the court and request that your firearm be returned. You do not need to be a party to make such a request, you only need standing.

MS. BYRNES: Can we add an amendment to the statute to include automatic standing for any lawful person who asserts that they are the lawful owner of the weapon?

MS. SIMON: No amendment is needed because the statute provides for it.

MS. BYRNES: What provisions are there should the lawful owner not be home or not be aware that a search has taken

place of their property? What provisions are there to notify the lawful owner that their gun has been seized?

MS. SIMON: That would be pursuant to the court order.

MS. BYRNES: What is there that requires the court order so they notify the lawful gun owner --

MS. SIMON: So they -- can I finish answering your question?

MS. BYRNES: -- as opposed to just the respondent?

MS. SIMON: Can I finish answering your first question?

MS. BYRNES: Please.

MS. SIMON: So, the court has to write up the order and the law enforcement who is executing the order has to tag everything and properly record it so that you would have notice immediately that those weapons were removed.

MS. BYRNES: From who? If you're not there, you're not present, how do you know that your weapons have been taken and that you have rights that are at stake?

MS. SIMON: I assume when you come, you'd notice.

MS. BYRNES: You're making a lot of presumptions. Someone could be on vacation --

MS. SIMON: Well, you know...

MS. BYRNES: -- somebody could be anywhere in Florida for the winter and they're -- you're putting a burden on

somebody who is not a party and you're just going to make a presumption a judge will sign it. I've looked at enough court orders. I've drafted enough court orders that I know that a lot of things are frequently omitted that we -- or even by the police who might draft them and submit them for signature that do not include these types of provisions. And I think those are things that this Body should think about and should consider before they vote on this bill.

MS. SIMON: Well, this type of order does not yet exist, so we don't have any experience with it in New York. That has not been an issue or a concern in any other state that has these protections. And the courts are more than capable of issuing orders and the law enforcement is more than capable of notifying owners that their weapon may have been removed pursuant to a court order and, of course, there is a hearing and there are appeal rights, as well, so that if there is any question, you have standing, you have no question that you could appear and seek the return of your weapon.

MS. BYRNES: I would respectfully disagree, but thank you. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Reilly.

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

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

MS. SIMON: Yes.

MR. REILLY: I have a -- I have a scenario that

happened last year in Staten Island and I want to share it and then follow up just to ask if this would be covered under this legislation. You have an active duty police officer. His child went to a school in the district. She -- his child had some -- some issues, she was getting picked on at school. She went ahead and said that she was going to the bring a gun to school and shoot them. Now, he's an active duty police officer. Under this bill, what I understand is even though you mentioned it before, the access part is what I'm concerned about because even if he has it locked up in his house, there's still, even though it's in a case, there's still access because it's in the house, whether they can -- whether she can break into it or whatever.

Under this legislation, he would most likely fit the criteria for the extreme removal, right, the extreme circumstances because of the -- it would only require probable cause that she would commit that act. And probable cause, as a police officer making an arrest on the street, it's not that far to get to probable cause when you're going up the chain of levels of --

MS. SIMON: Is this an admission? It's a joke. It's a joke. Go ahead.

(Laughter)

MR. REILLY: Wow, okay. So -- again, thank you. So would, in that circumstance, he be subjected to his firearms being removed, he'd be placed on modified duty. He probably would not get his firearms back from the NYPD for at least a year, only because they would not want to take the chance legally in case there was some

issue. Would that -- would that case rise to this level do you think?

MS. SIMON: So, here's the -- first of all, probable cause is just temporary for that temporary restraining order, right, and within three days, three to six days you have to have a hearing, okay? So, first of all, the issue would order against the daughter, the order would issue against the daughter, not the father. And so, the father, under the statute, would be required to safely store his weapon. And, in fact, that would be good practice for any --

MR. REILLY: Well, absolutely, I agree.

MS. SIMON: And friends of mine who are police officers, they store their guns safely because they have children and they're concerned and they're acting responsibly, and that's all this order requires -- this statute would require of someone who had a member of their household that was, in fact, a danger of using that weapon.

So, the issue would be: How are they going to, in fact, safely store that weapon? Of course, we are concerned that a kid might get into a locked case or a locked cabinet and, perhaps, that cabinet isn't one that is -- has got glass in the front so that we're not worried about someone breaking in, for example.

MR. REILLY: Okay.

MS. SIMON: So, this is a very real concern, but we are -- this bill is drafted very narrowly to ensure that no one's 2nd Amendment rights, no one's rights to their weapon are infringed upon and that their weapons are not removed if, in fact, they are not the

person who is in danger of acting as a threat to -- of harm to others. And that if, in these particular circumstances, where very often someone in the household gets a hold of a weapon, this happens every day in this country, that a kid gets a hold of a weapon because the parents hasn't safely stored it. And there's no reason that the parent has acted irresponsibly in any other way. This happens every day. We're seeking to ensure that those who we can demonstrate are a danger to themselves and others do not have access to that weapon.

MR. REILLY: So, who would make the determination if it was properly secured? Because the application could come from the school administrator, right, who's saying that there's a threat that was made and now we know that the student's father is a police officer. Now, who at that point is going to make that determination that the firearm is securely safeguarded and the student doesn't have access?

MS. SIMON: Well, that is already in the Penal Code and so, for example, there is a definition of "safe storage depository", meaning a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other locking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein. So, that would be if your container met that requirement, you would be -- you would not have to demonstrate anything else.

MR. REILLY: So, who would --



MS. SIMON: So if the court tells you that you must safely store your weapon, this is what they mean.

MR. REILLY: Okay. So who is -- how are they getting into the house to inspect to make sure that it's safely secured? Is there a requirement? Would you agree that they would need a search warrant now to come in and make sure that the firearm is secured?

MS. SIMON: Yes.

MR. REILLY: Okay. So we're going to just take firearms without -- if it's in the house, we're going to come in without a search warrant because we're going to remove it.

MS. SIMON: No, the court would issue that warrant. In the first instance, the court would be issuing a warrant, right? And so, for example, if those weapons were safely stored, the person who comes to execute on the warrant would know that and they would know the definition of safe storage.

MR. REILLY: The warrant that you're describing is the removal warrant, or is it a search warrant? Because wouldn't they need two?

MS. SIMON: I'm sorry, it depends on what the court issues. If the court is issuing a temporary restraining order, okay, a temporary protective order, to remove those weapons that would be in the court's order. That is the job of the judge.

MR. REILLY: So would they be applying for a search warrant, then, too? That's --

MS. SIMON: The court might issue such a search warrant, yes.

MR. REILLY: Okay.

MS. SIMON: Because that might be needed.

MR. REILLY: Okay.

MS. SIMON: And if turns out that the lawful owner is able to safely store them, the court will return them.

MR. REILLY: Will return the firearm.

MS. SIMON: Of course.

MR. REILLY: But, you just said that they were removed, because you're saying they would return them.

MS. SIMON: No, but it's temporary. This is not like, nobody's taking your guns forever. This if a -- if there's a temporary order of protection, within three to six days there will be a hearing. If you can demonstrate you have the ability to safely store that weapon and you are a legal owner of that weapon, and you are -- the court is concerned that your child is suicidal or your child is -- has expressed to people that they want to take your gun and shoot someone, then the court would tell you, lock that up. Safely store it in accordance with the law.

MR. REILLY: But before it gets to that point where you're going to the court to plead your case, your guns have already been removed.

MS. SIMON: And then they will be returned under this law.

MR. REILLY: But that -- but that's what I'm trying to get at. At the time that they're coming to remove it, if I have it safely secured and I'm the officer say, they would still take it?

MS. SIMON: Here's the thing: You're assuming that the first issuance of the protective order would be a removal order; that's not necessarily the case. It would depend on the evidence before the court. So, if someone comes in and that hearing is three days later and says, *Your honor, I have X, Y, Z, you know, container that I bought at such and such a place and that's where I safely store my weapons*, the court may never remove the weapons. There's no requirement to remove them. There is an issuance of this that permits the removal of weapons in the cases where someone is a danger to themselves or other demonstrably so and they are not safely stored. If it was my weapon, they could remove it from me. If it is my sister's weapon and she's safely storing that, the court does not -- is not going to issue an order removing the weapon because you can demonstrate it's safely stored.

MR. REILLY: But that -- pardon me for asking again. To me, you're saying that they can demonstrate, they don't get -- you're putting the cart before the horse because they have to demonstrate that in the three to six days.

MS. SIMON: Yes.

MR. REILLY: So, it would have been removed already.

MS. SIMON: They might not have been removed

already. The -- that's what I said. It is not necessarily the case that the court would issue a -- a -- an order to remove the weapons in the first instance, because there may already be evidence that the weapon is not in the possession of that person, but there's a concern that the person could get possession of.

MR. REILLY: Access, that's the --

MS. SIMON: Exactly, it's about access.

MR. REILLY: Okay.

MS. SIMON: And so, what we want to do is have people who are lawful owners of guns have access to their weapons and we want other people who should not have those guns not to have access to those weapons.

MR. REILLY: No, I definitely get the intent, and I just want you to know, what we -- dealing with it when I was in the Police Department and I saw legislation and laws, how they're enacted, it's a big difference between what we see on paper here and what plays out in the street. And it just -- I want to make sure that there's some realization how it's going to impact on the street, because I can tell you right now if I'm the patrol sergeant in New York City and that scenario, and I come in, we're getting probable cause, we're taking the weapon no matter what, even if you have it -- you know why? Because if we don't, it's coming back to bite us in the butt.

MS. SIMON: And the Police Department is free to make that determination for its employees. That is not --

MR. REILLY: I'm not even talking about the

employees, I'm talking about just anyone, anyone. If I'm the -- if I'm the patrol sergeant and I come to the scene and we're talking about this actual law, I'm taking it just to be cautious, and that's what going to happen --

MS. SIMON: And, in reality --

MR. REILLY: -- even if it's locked up.

MS. SIMON: The people who own the weapons are free, they have standing in the court to have those weapons returned. I can't control what the NYPD does, whether they're sitting on something and not removing -- not returning something they should be returning that's, you know --

MR. REILLY: Just a point of clarification. I can tell you firsthand what we do in these Chambers actually demonstrates what the cops on the street do. And I mean that with all due respect, because that's what I'm looking at. I'm looking at how this is going to turnkey from here, our votes, to what happens every day on the street, and that's the only reason why I'm asking these questions. So, thank you so much.

MS. SIMON: Thank you.

MR. REILLY: I appreciate it.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Epstein.

MR. EPSTEIN: On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. EPSTEIN: So, I know this is an important issue

for many of us and an Extreme Risk Protection Order is something we've seen as a potential across the country, a way to prevent gun violence, a shameless loss of life. But really, I just want to talk to you about a personal matter and how this would have helped me and my family. These red flag laws are really meaningful. And if we had had these laws in place in New York, a tragedy that afflicted my family may not have happened. My spouse, Anita, and I were working with her brother who had a serious substance abuse problem and he was in and out of rehabs for many years. We worked with our tough love to get him clean, to get him along a better path. But, unfortunately, his life began to spiral out. And his wife Rhea needed to get away and get some space.

So, she ended up moving in with my wife Anita's mom, get some space from her brother. And he basically flipped out. We knew that he had some issues with substance abuse and we were concerned about potential violence, but we had nothing that we could do. There was no opportunity to protect my family from a potential opportunity that he might take, and that's what he did. He legally purchased a gun in New York, went to my mother-in-law's house, shot her and then shot himself. This law, this law could have prevented that. This law would have made a difference in my family.

So these have human consequences. Standing up saying a concern about a gun owner, that's real, but think about the consequences for New Yorkers all over New York State. Think about the consequences for families like mine who had to grieve and suffer

and the loss that we experienced that could have been prevented if this law was in place. It could have been prevented if we could have stand up and said if family matters -- families know what's going on in their family. People who are closest to them know what's happening and if we respect them enough to be able to be careful about this, respect them enough to understand that these are not light decisions, we could have done this and maybe saved human life.

We can't change what happened to my family, but we can change what's happening to future families across New York. I want to thank the sponsor for bringing this forward. I want to thank the Speaker for letting us move forward on this bill and I will be voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield?

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

MS. SIMON: Certainly.

ACTING SPEAKER AUBRY: Ms. Simon yields.

MR. FITZPATRICK: Thank you, Jo Anne. I'd like to go back to the -- the petitioner portion here, especially with regard to school personnel. We heard in the debate on the prior piece of legislation about how teachers are primarily employed to teach, not to be involved in school safety. Are we not dealing with a similar situation here by naming them as petitioners, or potential petitioners.

Primarily they're educators, but now we're asking them to also be school psychologists, are we not?

MS. SIMON: Actually, no. We're allowing teachers to be teachers, to do the teaching that they do. Sometimes kids talk to teachers. Sometimes teachers know when their -- their student is suffering and they may have evidence that that student could be a danger. That teacher would be permitted, not required, but permitted to bring that information to the appropriate person who has been designated by their school and say, *I'm really worried about Mike Flanagan*.

MR. FITZPATRICK: So the school will designate one individual or more than one individual, or could every teacher be a designated person to be a petitioner?

MS. SIMON: The school could designate a person or two. There would only be one person who would actually file the petition. So, for example, if there were two people authorized by the school, only one of them would be needed to file the petition.

MR. FITZPATRICK: Correct. So you could have -- a school superintendent could designate one petitioner or could they possibly say, *You can all be petitioners*. Every teacher could potentially be their own petitioner under this legislation.

MS. SIMON: Well, that would be on a case-by-case basis, right? Because that's -- it may be that the petitioner has no nexus to that student. Let's say the school district designates somebody and that person doesn't have any nexus to the school that



that child attends. The school district would be free to identify a couple of people who could act as petitioners in a particular circumstance. That is really the job of -- and we do this, you know, teachers are mandated reporters of child abuse, for example, right? The schools already have protocols for that.

MR. FITZPATRICK: Right, okay.

MS. SIMON: Every teacher is not filling out forms for ACS or the -- the local agency that would receive such reports. And so, it would -- and when I've talked to the school boards people and they have indicated that they would follow a similar protocol in this instance, and they support this bill.

MR. FITZPATRICK: Okay. Are non-teaching personnel, say a janitor; would a janitor potentially be a petitioner?

MS. SIMON: The bill indicates that it would be a school administrator as defined by the law, or their designee, right? For purposes of that, the school administrator's designee has to be employed by the same school as the school administrator and to be one of the following who has been designated in writing to file a petition. So, that's up to the school. If the school says, *I'd like the part-time janitor to be the authorized person* --

MR. FITZPATRICK: As you said before, you know, students --

MS. SIMON: Okay, so it's limited. But let me just --

MR. FITZPATRICK: Yeah, yeah.

MS. SIMON: -- correct myself. It's limited to the --

the positions that are identified already in the Education Law.

MR. FITZPATRICK: Okay. So if a, as you said before, a student, students will confide in their teachers, but what if you have a situation where say a janitor is busy in the janitorial closet just within earshot of our lockers and two students are in an argument, one threatens the other. What would happen in a situation like that?

MS. SIMON: Well, what could happen is that the janitor goes and speaks to the principal --

MR. FITZPATRICK: Okay.

MS. SIMON: -- or someone, a designated administrator, and says, *I'm really worried about this kid*, and then that person who is authorized to act would -- would make a determination whether or not they would be acting.

MR. FITZPATRICK: Okay. What -- what if you have a situation whereby --

MS. SIMON: So the janitor is not authorized, but he would have to talk to somebody.

MR. FITZPATRICK: Okay. So, what --

MS. SIMON: The janitor could go to the cops, too.

MR. FITZPATRICK: If there's a -- what if you have a situation where, say there's some conflict internally within a school district, say between management and labor, and the superintendent would like to designate a petitioner, but no teachers are willing to do that because of the labor, you know, the labor conflict. What would happen in a situation like that and would the superintendent be the

petitioner? What if the superintendent would prefer not to be a petitioner and would like to designate someone else, but the teachers are saying, *No, maybe we'd like to collectively bargain for, you know, if you want us to do this, we want something in return.* Is there a potential for that type of situation to develop in districts where there might be some, you know, an expired contract and this becomes a labor item and what happens in a situation like that?

MS. SIMON: Well, that would not be the situation because it would be somebody who is designated to be the petitioner on a case-by-case basis. So, it's not going to be that somebody has a job and their job is designated petitioner, right? It would be a person that would conform to the law that would be somebody that would be designated for the purposes of filing that petition with regard to that child.

MR. FITZPATRICK: Well, what I'm asking is what if there is no one in that school who is willing to accept that responsibility because there may not be a contract at that time or there may be some labor strife? What -- what happens when you have a situation like that?

MS. SIMON: Well, first of all, if someone doesn't want to report, this is not mandatory.

MR. FITZPATRICK: Right.

MS. SIMON: Right. So, the teacher could go to the superintendent who would be a default petitioner, let's say, or they could go to the police. Right now, if they went to the police, the

police couldn't act either. This would allow them to -- to act if they were designated by their school to act in that particular instance with regard to that particular student --

MR. FITZPATRICK: Right.

MS. SIMON: -- or if they were themselves unwilling to do that, there are other people within the school institution that could do it, or that person would be free to go to the police, for example, and law enforcement could do that. And, in fact, I believe that probably that may happen. It might also happen in a family circumstance where someone is afraid of the person they're living with and they don't want to be the petitioner, and that's why having law enforcement be able to do this is so important.

MR. FITZPATRICK: Okay. Jo Anne, thank you very much. Thank you, Mr. Speaker.

MS. SIMON: Thank you, Mike.

ACTING SPEAKER AUBRY: Mr. Raia.

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

MS. SIMON: Yes.

MR. RAIA: Thank you, Jo Anne. I voted for this last --

MS. SIMON: You're welcome, Andy.

MR. RAIA: Pardon me?

MS. SIMON: You're welcome, Andy.

MR. RAIA: Oh, thank you. I voted for this last year

and I plan on voting for it again, but I do have some new questions that have arisen from last year to this year, and the primary -- primary concern is we stand on the cusp of legalizing marijuana. Now, when you apply for a NIC's check, background check, you actually have to swear that you do not use marijuana. How is this going to -- because there's provisions that deal with drug abuse and what have you. How is this going to play when, essentially, a Federal law enforcement could arrest you or take away your guns just based on marijuana use, but we stand ready to legalize marijuana for adult recreational use. And based on that, is it possible that someone could file a complaint, go for an order based on somebody's legal recreational marijuana use, because it runs contrary to the Federal law.

MS. SIMON: Not because it runs contrary to the Federal law, but because it is an abusive use of that substance. Now, if marijuana is legalized, it wouldn't be a controlled substance, but the law also indicates alcohol and, as you may know, alcohol is perfectly legal and many people abuse it and that is warning sign that might be taken into consideration by the court in making a decision whether to remove a weapon from the household.

MR. RAIA: I -- I agree with you on that standpoint, but somebody who abuses alcohol tends to be more readily identifiable. When I've sat in numerous legalization hearings where I've heard medical professionals say, you know, you can never overdose on marijuana, there's no specific test to see if you're actually really high at a particular time, whereas you can take a Breathalyzer

test. So, I see potential issues down the road and if we're not going to correct them or be aware of them in this legislation, I hope we see some type of Chapter Amendment down the line that clarifies it a little bit more and spells out the difference between what's Federal law, what's State law, because I do see some potential problems here.

MS. SIMON: Well, I'm pretty that when we actually get around to legalizing marijuana that we will, in fact, address those issues.

MR. RAIA: Thank you.

MR. SIMON: Thank you.

ACTING SPEAKER HUNTER: Mr. Ashby.

MR. ASHBY: Thank you, Madam Speaker. Will the sponsor yield?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MS. SIMON: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. ASHBY: I have a -- I have just a few questions. In terms of the language, in terms of "threat", is there a specific definition that you're working off of?

MS. SIMON: So, it's not -- first of all, it's a threat of being a danger to themselves or others, and that is a standard that is in the law already and is well recognized by the courts. So, it's not -- you know, as I said, it's not somebody who goes --

MR. ASHBY: Okay. It seems rather subjective.

And in other states that have adopted laws similar to this -- for example, in New Jersey, there was a student who made a remark on the security that was in place at his school, and it resulted in an ERPO being filed. The exact language wasn't determined in that, but I'm curious as to whether the interpretation of the school officials responsible for submitting a petition for this, what types of parameters are we allowing here? Is it --

MS. SIMON: Well --

MR. ASHBY: -- freely -- is it freely up to -- is it freely up to their interpretation as to what a threat actually is?

MS. SIMON: I don't believe so. First of all, this is a threat of serious harm, serious harm to himself or others as defined by the Mental Hygiene Law. So, the Mental Hygiene Law already knows what it means. Now, the person filing that petition would have to meet that standard or the court would not, in fact, issue that temporary protective order.

MR. ASHBY: One other -- one other question. Going back to the -- the safe -- the safe storage discussion that was going on previously, if law enforcement comes to a person's home who isn't the recipient, but the parent, and it's found that they are safely storing their weapons, will their weapons be removed temporarily?

MS. SIMON: I don't see any reason under this law for a court to make such a determination.

MR. ASHBY: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. ASHBY: I -- I thank the sponsor of the bill for taking my questions, but the language in -- the language in this bill is -- is very broad. And I think that school officials, in augmenting the language to include many more school officials to execute such -- such a submission is -- it stretches the boundaries and is definitely an infringement on our Second Amendment rights. Thank you.

ACTING SPEAKER HUNTER: Mr. Montesano for your second.

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

MS. SIMON: Certainly.

MR. MONTESANO: Thank you --

ACTING SPEAKER HUNTER: The sponsor yields.

MR. MONTESANO: Thank you. I just wanted to ask a few questions. Let's look in the area of a domestic violence victim who has been the victim of domestic violence by an abuser, and now has obtained a valid pistol license to have either a handgun on the premises or a rifle or a shotgun, and the abuser brings on this type of application against her to get the weapons taken away. Is there anything in this legislation that prevents that from happening?

MS. SIMON: The -- so the abuser, if I understand your question correctly, is finding a -- filing, in your -- in your mind, a scenario of a retaliatory --



MR. MONTESANO: Mm-hmm. Correct.

MS. SIMON: Okay. I have to believe that the court would -- would recognize that. They have to demonstrate by clear and convincing evidence that there is serious harm about to befall that person who is the abuser.

MR. MONTESANO: Mm-hmm. Right.

MS. SIMON: At the -- the action of that other person. They'd have to prove that in court. And my guess is that that person, and I don't mean to be flip, but I think it's probably -- would be a very significant burden for that abuser --

MR. MONTESANO: Right.

MS. SIMON: -- who it would be known to have been an abuser in this case, because they already were adjudicated to be an abuser, to be able to make out that application.

MR. MONTESANO: Thank you. But let me ask you, what happens in the case now we get it back to the court proceeding, so a hearing takes place and there's a-- a finding against a respondent. So, the judge now enters a permanent order --

MS. SIMON: It's -- it's still a temporary order of protection.

MR. MONTESANO: Okay. And for how long does that --

MS. SIMON: For up to a year.

MR. MONTESANO: Up to a year.

MS. SIMON: The petitioner could reapply if those

facts and circumstances were still an immediate threat of harm. And otherwise, the -- the weapons would be returned.

MR. MONTESANO: Okay. So there is a review period built into the bill.

MS. SIMON: Mm-hmm.

MR. MONTESANO: All right. Thank you. And -- Okay. On the bill. Thank you.

MS. SIMON: Thank you.

MR. MONTESANO: On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MR. MONTESANO: Thank you. Well, I said this bill has been around for a while and when it first came into existence, I was very happy to support it because it has certain important provisions in there. And although I'm not thrilled about some of the due process proceedings because, you know, from experience now, my ninth year here and seeing a lot of bills that we pass and then see or hear how they hit the ground in reality at home, there's a big difference.

So when we pass a bill like this, the language contains -- says certain things, but then the policymakers when they implement it, whether it be the Office of Court Administration, it be the different law enforcement agencies, maybe even the Attorney General's Office, will take a different position on how things are going to be handled. How is the court going to entertain this petition? How is it going to be processed in the timely fashion? What's the order

going to look like? All these things have to come into effect, and they're going to -- and they're going to implement it the way they see fit. You know, a lot of our agencies that are enacted by an act of the Legislature get to make a lot of their own policies, like Department of Motor Vehicles, Department of Social Services. And unless we take affirmative action to change their policies, some wrong can happen.

With regard to the schoolteachers and the administrators, I think we're putting a substantial burden on them to do -- to do this type of proceeding. We're putting them, I believe, in harm's way because if they bring on a petition against a student, and let's assume for the moment it's unfounded, the parents or the student can take retaliatory action against the teacher. They can sue that teacher, not sure if the teacher is going to be indemnified under the school district's insurance policy, and other personal attacks upon the teacher. So, we're putting them in harm's way, when simply all they would have to do when they get a student who exhibits some behavior that concerns them, is to notify the police and let the police bring on this application. Let the District Attorney bring on the application. Let the County Department of Social Services bring on the application. Bring in Child Protective Services. If a student makes threats in school, he can be prosecute -- arrested and prosecuted for a terrorist threat, which is a felony in this State. And many a student has already been arrested and prosecuted for making threats on websites, Internets and all the social media, threatening of the children, passing notes, so they have a lot of remedies in place now.

But to, in my opinion, drag teachers into this type of situation, I believe it creates an unnecessary burden upon them, it puts them in harm's way when simply, paid law enforcement who are trained to make these assessments and evaluations can do this, the school nurse can be involved, the school psychologist could be involved. All those people are properly trained for these types of things, that the teacher can go to. But to turn around and have the teacher be designated as someone to commence the proceeding, sign the petition, make the sworn affidavit, having to go to court, is very burdensome on the teacher; but also financially taxing on the school district who has to pay this teacher to do all this extra work, take time out of the classroom to go to court for this proceeding, a substitute teacher has to now be brought back in to cover that class, and we're not funding this at all.

So, it's an unfunded mandate, it's an extreme burden on the school districts. I don't believe the -- the due process is adequate, there's a lot of speculation as to what law enforcement will do when it confiscates weapons, especially to people that live in the same household with the respondent. And in the case of a lawfully issued permit, what will happen to their permit? So for those reasons, until this bill is amended where it takes out the teachers and we clear up some of this due process stuff, for those reasons stated and many others, I will be voting in the negative and I would encourage my colleagues to do the same. Thank you, Madam Speaker.

ACTING SPEAKER AUBRY: Mr. Manktelow.

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

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

MS. SIMON: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Simon yields.

MR. MANKTELOW: Thank you, ma'am. On this bill, I've read through it and reread through it, and the one question that comes up to my mind, as we talk about this, let's --let's suppose I had a girlfriend for 20 years --

MS. SIMON: Good for you.

MR. MANKTELOW: -- and now she leaves me and she knows I have a lot of guns in my house --

MS. SIMON: I'm sorry.

(Laughter)

MR. MANKTELOW: Thank you. What happens if she does the same thing and says, *Mr. Manktelow, he's not in good -- good mind or anything* and goes ahead and does the petition, what happens to my -- my guns that are in the house?

MS. SIMON: Well, she would have to prove that you were, in fact, an imminent threat of danger to yourself or others; that you had demonstrated conduct that would justify the removal of your weapons. And I -- it may be that you have acted in such a way and she would be able to do that, but if she's no longer in your household, then she would not be permitted under this statute. She could go to

law enforcement and ask them to make out such a -- a petition.

MR. MANKTELOW: So, did you say if she's not in my household, she doesn't have that opportunity?

MS. SIMON: That's right.

MR. MANKTELOW: Okay. All right. Thank you, ma'am.

MS. SIMON: You're welcome.

ACTING SPEAKER AUBRY: Thank you.

MR. MANKTELOW: Nothing else -- nothing else, sir.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect in 180 days.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Braunstein to explain his vote.

MR. BRAUNSTEIN: Thank you, Mr. Speaker. I rise to explain my vote. I want to thank the sponsor for introducing this legislation and pushing to make sure that we pass it today. I think over the years we've seen time and time again mass shootings in our country, and often we see the evidence that the shooter had exhibited characteristics of someone who is likely to cause harm to themselves or others. And we ask ourselves, why didn't someone do something? Why didn't someone intervene? And now we have an opportunity to

petition a court, whether it's a family member, whether it's law enforcement, whether it's a school official, to have firearms taken away from individuals who exhibit this kind of behavior. This will make our communities safer, and it's commonsense legislation.

I think it's interesting, a Quinnipiac Poll last year said that of Americans polled, 89 percent supported Extreme Risk Protection Orders. So, I think we're on the right side of common sense, we're on the right side of what Americans want to see done. And once again, I want to thank the sponsor for all her hard work in making sure that we have this legislation passed today. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Lavine.

MR. LAVINE: Well, we've already 25 mass shootings in the United States this year alone. And as I get ready to vote, I am thinking of the dead and those who grieve for the dead. And I'm thinking of the 58 souls lost at Las Vegas, 49 at Orlando, another 25 at Sutherland Springs. And it's gets closer to home. Closer to home when we think of Sandy Hook, which is a short drive away from Albany. It's closer to home when we think of Parkland, and Scott Beigel being killed at Parkland. Scott grew up with a cousin of mine in Dix Hills, and he was the camp counselor for children of other friends of mine at Camp Starlight. I have no more tears. And the tears I had were bitter tears. It is no more time for crying. It's no more time for the offering of sanctimonious and hollow expressions of offering our thoughts and our prayers.

Discussion has centered today on this bill perhaps being an unfunded mandate. Well, how long can we go on without taking action to protect our citizens? And try telling the families who are paying for funerals about the fact that that's an unfunded mandate, while we remain silent. But we remain silent no longer. Today we take action. Enough of this ritualized slaughter, slaughter at the altar of the National Rifle Association. So, today is a day for action and I am going to be casting my vote in the affirmative. And let us stay strong, because this battle will continue. Thank you.

ACTING SPEAKER AUBRY: Ms. Glick.

MS. GLICK: Thank you, Mr. Speaker, to explain my vote. First, I want to congratulate the sponsor for not just bringing the bill before us, but for a very calm, clear debate, explaining the limited nature of this. This is not somebody who in a snit, can "rat-out" some friend or family member.

Suicides actually outpace homicides in our country. And when a gun is available, firearms are available, they are more likely to be used in a suicide. And in states like Wyoming, where 63 percent of households reported owning guns, rates of suicide were higher. People can act in a moment of despair and not be able to take back that action. Family members should be able to intervene and ensure that a family member who is depressed and expressing desires to do away with themselves cannot continue to have a firearm for the period of time that they are experiencing those emotional distresses. So, I withdraw my request and vote in the affirmative.



ACTING SPEAKER AUBRY: Ms. Glick in the affirmative.

Mr. [sic] Frontus. Ms. Frontus.

MS. FRONTUS: Thank you so much, Mr. Speaker. I rise to explain my vote. I want to thank the sponsor of this bill, my colleague and everybody else in this Chamber who, like me, has been fighting and advocating around this issue.

I want to say a few words, you know, when we talk about gun violence, it's fine a lot of times we think about mass shootings, of course. Those are extreme cases that are very, very painful for us as Americans I'd like to say, too, that on a local level, many of us are from communities where gun violence have ravaged our neighborhoods. I stand here today representing the 46th Assembly District. In my hometown of Coney Island which is known, frankly, for its amusement park and has a kind of iconic status around the world, unbeknownst to a lot of people, there is a community there beyond the rides that has long been plagued by gun violence.

When I was a little girl growing up, the conventional thinking was that people would go to college and would get out of there as soon as they can because people just said, you know, we -- we want to move away from here. Nineteen years ago this month, my neighbor just a couple of doors down from the house that I grew up in, Johnny Wong, who was only 18-years-old, lost his life due to gun violence. It happened right in front of his door, and I remember it like it was yesterday.

Over the years, I've seen a two-year-old shot, a ten-year-old boy going to the store, a mother with children in her hands going to the store after school shot right there in the neighborhood. I'm proud to say that instead of running and leaving the neighborhood and saying this is no place to live, I decided to do something about it. And I'm very proud today to say that I started two anti-gun violence organizations in my neighborhood, the Coney Island Coalition Against Violence in 2009, and the Coney Island Anti-violence Collaborative in 2013. As I sit here today as an Assemblymember, I'm proud that the anti-violence --

ACTING SPEAKER AUBRY: Ms. Frontus.

MS. FRONTUS: Oh, am I out of time?

ACTING SPEAKER AUBRY: Yes, you are.

MS. FRONTUS: Forgive me. Forgive me. I --

ACTING SPEAKER AUBRY: How would you vote?

MS. FRONTUS: I'm proud to cast my vote in the affirmative. Thank you, everyone.

ACTING SPEAKER AUBRY: Ms. Frontus in the affirmative.

Mr. Mosley.

MR. MOSLEY: To explain my vote, Mr. Speaker. I want to thank the sponsor, who I have seen over the past several years from coast to coast, literally from Los Angeles, California to New York and several points in between, diligently advocate for this piece

of legislation.

To the advocates, I want to thank you for pushing the envelope each and every year, each and every day. Without you, who knows where we would be with this piece of legislation. We have seen it pass in other far less progressive states than ours, but finally it's come to pass and I look forward to never having to see this debate ever, ever again.

And last, but certainly not least, in the memories of the families and loved ones we've lost, not only here in New York City and New York State, but throughout the nation, who don't have an ERPO policy in place. We always ask of ourselves, what can we do more to make sure those that who -- who are exposed to gun violence don't have to experience what many of my colleagues here in this Chamber and my -- I, myself, personally having a family victim gunned down right before our eyes.

And certainly last, but not least, I want to thank all of you, for we have now put one more nail in the NRA's coffins, and we're looking to put further nails going forward in an effort to see one thing die that all of us believe, at least on our side of the aisle, will be to the betterment of our State, and that's the NRA being out of business. Thank you, Ms. (inaudible).

ACTING SPEAKER AUBRY: Mr. Walczyk.

MR. WALCZYK: Thank you, Mr. Speaker. I rise to explain my vote. Just 21 days ago in this Chamber, we raised our right hand and we swore to uphold the Constitution of the United

States of America, which includes the Second Amendment. Six days ago we restricted an American's right to life, and today we're attacking the liberty by infringing on our Second Amendment rights. Next week, I hope there isn't an attack on the pursuit of happiness, because I'm going to carry on nonetheless. But you swore an oath -- you sworn an oath to uphold the Constitution. Stick to that oath. Pursue life, pursue liberty, pursue happiness in New York State, and do so for your constituents.

Mr. Speaker, I withdraw my request and I vote no.

ACTING SPEAKER AUBRY: Mr. Ortiz.

MR. ORTIZ: Thank you, Mr. Speaker. I, too, would like to thank the sponsor for her calm and dedication to this particular piece of legislation during her debate. In 1994, when I first got elected to office, my first -- my first welcome to the Assembly was a tragedy that happened in the Gowanus in Brooklyn, where a young man by the name of Heyward was -- was killed in the playground. So, by saying that, so I make any commitment to ensure that every day that I come to this Chamber that we will continue to work hard to get guns off the people that they don't deserve to have. So, today is a great day that we have passed all this legislation. Today's a great day that we finally make it very clear, not just by this bill, but with the prior bill to ensure that teachers are there to teach, not to have guns to bring to school.

And I also would like to -- to thank the Speaker, because I think that what we have managed to do here in the last two

weeks, it's very simple, is to ensure that what we could not have done in 20 years or 25 years, now we have the green light to do what is the best for our constituents and the people of the State of New York.

And that is the reason why they elect us to be here today, to make sure that sometimes we have to take tough vote, difficult vote, but to the benefit of our children and the safety of our neighborhood and community. And as close -- and I close with this quote, Mr. Speaker, and the quote is go, and I close quote, "You can put a silencer -- a silencer on a gun, but not on the voice of the people. And the people have spoke today." And I close quote and I vote in the positive, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Stern.

MR. STERN: Thank you, Mr. Speaker. Scott Beigel was killed in the shooting that took place on February 14th, 2018 at the Marjory Stoneman Douglas High School in Parkland, Florida. The Schulman's who are here with us day are my hometown neighbors, and we welcome them to be with us in the People's House today. Scott graduated from Half Hollow Hills High School East on Long Island. He was a teacher and a coach at MSD. He was truly loved by all; his students, his athletes, his entire community. He died protecting his students during the Valentine's Day shooting that took the lives of 16 others. Scott placed his own life in peril to save others, and was shot outside his classroom door after hurrying in as many students as he could to safety. He was 35-years-old.

Scott Beigel is a hero. His parents have made it their mission to help ensure that Scott's murder will not be in vain and have become tremendous leaders in the fight to keep our families and our communities safe from gun violence. Anybody that has had the opportunity to speak with Linda Schulman and hear her story knows, particularly as she spent time down in Florida, that everyone knew. Teachers knew. Administrators knew. Fellow students knew. So much of the community of Parkland, Florida, knew that the killer had issues and presented a threat to his fellow students in the school. Clear warning signs for too long went either ignored or too many in that community said that they simply had no alternative, there was nothing that they can do.

Mr. Speaker, I will be vote voting in the affirmative for, yes, it's an Extreme Risk Protection Order initiative, but what I consider today to be the Scott Beigel Red Flag Law, because it is a commonsense pro-active initiative that will keep hands out of the guns -- out of the hands of people who should not have them. And this is an initiative that will save lives. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Jacobson.

MR. JACOBSON: Mr. Speaker, I rise to explain my vote and explain why I'm voting in the affirmative. The next time there's a school shooting, I do not want to have to answer the question, *When are you going to do something about allowing the mentally-ill to legally buy guns?* The same is also true the next time we read in

the newspaper about one spouse shooting -- shooting his or her spouse, and then shooting the children. And they'll say, *When are you going to stop allowing the mentally-ill to buy guns?* The same will be said for suicide; when his family knew he was reaching out for help, but instead he reached for a gun. So, I think that we can at least say today that we took one little step to prevent these kind of shootings. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Miss -- Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Well, we've had a very extensive debate. I would just want to just quickly explain what my vote is. I think out of the package of bills that we've been asked to consider today and whatever ones we're still going to consider before we try to get home, this one really worries me the most. I -- we debated this last year, I wasn't in favor of it last year. I think -- I'm going to just offer two quick reasons why I'm so worried about this bill. The first is that, having worked in Family Court for a number of years, I've seen what happens when you have such a large group of people who are able to come forward, whether they're ex-boyfriends, ex-girlfriends, ex-spouses, people who used to live with somebody, but no longer does, when you have a group of people like this that are able to come forward and make allegations, I'm very concerned, because I've seen it happen, that they -- it can be used -- the process can be misused to harass and annoy and try to gain some type of tactical or strategic advantage in -- in a court proceeding.

That's one thing that really does worry me, I think that's going to happen.

And I think that the other thing -- I don't think that this has really been mentioned yet, everyone's been talking about the Second Amendment, I'm really concerned about the First Amendment to the Constitution because of this legislation. I think that when we start focusing on policing people's thoughts, we're -- we're on a very slippery slope. And I -- and I'm very concerned about that. Whether -- if someone is making a terroristic threat, we have already found a way to address that in the law. When we are starting to think about what people might be thinking, or things that they might be expressing, then we're going to be chilling speech and I think that there's going to be a grave overreaction here.

I understand the -- the laudable intent behind this bill, but I do think it's -- it's a frightening one to me and for those reasons, I will be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Crespo.

MR. CRESPO: Thank you, Mr. Speaker, to explain my vote. Today, this package of bills -- I first want to commend all of the sponsors, not just for this bill, and all the other ones that were taken up today, they really respond to something that's been discussed not just in this Chamber, not just in our State, but nationally, in depth. And when you see students not only victimized, but organizing and advocating for change around these issues for sensible regulations that



protect their future and their ability to remain healthy and -- and alive, I think that's -- that's something we should respond to. That's something we should listen to.

And finally, it's great to see that both the Senate and the Assembly sponsors are up there and that this bill not only gets passed, but becomes law. The fact is, there's nothing sadder when we see these cases, more so than not just what occurs, but when you look at the story and you realize that somebody should have realized something was wrong, that something could happen, that somebody knew and just didn't -- couldn't do anything about it. I think this bill is a -- is the right approach. I think it's an important protection. I'd rather err on the side of caution that if -- if somebody is going to be discomfited because an allegation comes forward, I'd rather that be addressed the right way and dealt with rather than address it after there's been victims left behind. Or in the case has been mentioned, sometimes when there are suicides, individuals who we know were at risk of depression and other issues, but we allowed them to continue to have these weapons in hand.

I think this is the right thing to do. This is a message to the people of the Bronx who have seen enough gun violence in our -- in our history, but also to the State and to the country, that finally we can do more, to do the right thing, to do the sensible thing and to protect New Yorkers from these conditions. So I'll be proudly voting in the affirmative.

ACTING SPEAKER AUBRY: Thank you.

Ms. Simon to close.

MS. SIMON: Thank you, Mr. Speaker. Gun violence throughout the country, including the school shooting last year in Parkland, Florida has shaken the country to its core. I am so proud of the young people in Florida and in New York who are standing up and speaking up for their lives. They, the first of the post-Columbine generation, are changing the world and I feel privileged to do my small part to amplify their voices and bring change.

After the Parkland shooting, which claimed 17 lives and left many others injured, we learned that the shooter had a history of escalating violence; that family and others close to him were concerned about his behavior and reported it to law enforcement, but there was no mechanism for law enforcement to act. A temporary Extreme Risk Protection Order could have prevented this tragedy. And I point out that the arguments about unfunded mandate are, in fact, not valid arguments. It is not a mandate, it is permissive, people are permitted to seek such an order to protect their lives.

A temporary Extreme Risk Protection Order could have prevented this tragedy. When people exhibit warning signs that they pose a risk of serious harm to themselves or others, family and household members often observe these signs firsthand, but they feel powerless and unable to intervene, even with law enforcement support, before a tragedy occurs. Like Florida and New York, even if these concerns are reported, law enforcement has no authority to act to

help prevent the tragedies from occurring, including interpersonal gun violence or suicide involving a gun. A temporary Extreme Risk Protection Order would restrict the person's access to firearms if they pose a serious risk of harm.

This bill helps prevent gun violence and ensures due process under the law. It removes firearms from those who should not have them, and does it with respect to the Second Amendment and for people's due process rights, which I add is in the First Amendment.

I'm going to keep going.

New York has worked hard to prevent gun violence through a community gun violence prevention programs and enacting sensible gun laws. The SAFE Act became the first State law passed in response to the Sandy Hook shooting in 2012. But now several years later, we must do more and today we have committed to do more. With us today from Long Island are Linda --

ACTING SPEAKER AUBRY: Ms. --

MS. SIMON: -- and Michael Schulman, the parents of Scott Beigel.

ACTING SPEAKER AUBRY: Ms. Simon.

MS. SIMON: Scott, a Long Island native, was a 35-year-old teacher at Marjory Stoneman Douglas High School in Parkland and lost his life tragically --

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

(The Clerk announced the results.)

The bill is passed.

(Applause)

MRS. PEOPLES-STOKES: Mr. Speaker, I want to thank my colleagues on both sides of the aisle for the conversation that we've had here today, it's been handled in a very civil, calm manner. Although there have been some disagreements, we've moved on.

And since we have moved on, Mr. Speaker, we have one last bill that we need to take care of this evening, and we would ask that you would call Member Paulin on Rules Report No. 23, Bill No. 2686 -- 25.

ACTING SPEAKER AUBRY: The Clerk will read.

MRS. PEOPLES-STOKES: I'm sorry. Rules Report No. 25, Bill No. 2690.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A02690, Rules Report No. 25, Paulin, Lentol, Heastie, Dinowitz, Galef, Gottfried, Mosley, Simon, Jaffee, Blake, Buchwald, Abinanti, Otis, Steck, Fahy, Taylor, D'Urso, Simotas, Ortiz, Englebright, Weprin, Hevesi, Perry, Seawright, Bichotte, Cruz, Frontus, Griffin, Jacobson, Pichardo, Reyes, Sayegh, Stern. An act to amend the Penal Law and the General Business Law, in relation to establishing an extension of time of up to 30 calendar days for national instant background checks.

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

advanced.

And, Ms. Paulin, an explanation is requested.

MS. PAULIN: Sure. What this bill will do is will extend the period of time that the FBI has to investigate gun purchases from the three-day business mandate at the Federal level to a 30-day calendar now would be State law.

ACTING SPEAKER AUBRY: Mr. Ra.

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

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

MS. PAULIN: Yes, I will.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: Thank you very much. If you recall, we had -- we had a conversation on a similar bill last year, so I -- I thank you for -- for your answers last year, and -- and I just want to go through a little bit of what the impact of this would be. I guess starting with -- last year we did a bill that would have made the waiting period ten days. And part of the discussion we had was what might be the appropriate number. So, I mean, is there any information we have that says 30 calendar days as opposed to ten business days is -- is what would be the appropriate length of time?

MS. PAULIN: Yes, we do. I've had a subsequent conversation with the FBI/NICS personnel and learned in that conversation a few facts. The first is that, you know, similar to what

was true last year and over the past several years, the NICS personnel strives to have about a 90 percent determination rate after three business days, and that's about the same as they had. So, what happens to the 9 to 11 percent, which is about a little less than a million gun purchases, and in New York that turns out to be about 42,000, a little bit more; you know, every year's a little different.

So, what is that 9 to 11 percent, and how do we get that number down to fewer? Because what happens for the 9 to 11 percent essentially, or who are they, it's essentially the same type of gun purchases, but they're primarily domestic violence misdemeanors, which are difficult to detect. You can only get domestic violence misdemeanors down to about 70 percent at that three-day point. It's also a large number of convicted felons, they're old -- they are old convictions, so they're harder to detect. So -- so, what the FBI said as to me was that they need additional time, particularly for domestic violence. You don't really reduce the rate until about 11 calendar days to that 30-day. And for -- and for old convictions it takes longer, as well.

So, the ten-day last year was my effort to see if I could get something done on a bipartisan basis on a -- a Senate and Assembly basis, and I wasn't able to achieve that, so I amended this year to be 30 days, which is much more in line with what I heard in the conversation I had last year with the FBI, and in subsequent conversation this year.

MR. RA: Okay. Thank you. And the current

proposal that's in the Executive Budget is that ten-day number, correct?

MS. PAULIN: Yes, it is. I think that it was merely copying the bill that I had last year. It's -- the only, I think, difference was the effective -- you know, date that it would take place. But, in further conversations with the Governor's Office and explaining my conversations with the FBI, I have reasonable confidence that the Governor will support and sign this bill.

MR. RA: Okay. Now, just to walk through this process. My understanding is -- so, somebody comes in to purchase the firearm, they run through the -- the system, most of the time it's going to come back immediately, you know, to proceed or -- or a denial, and then this deals with the situations where there is a delay, correct?

MS. PAULIN: Yes. So for, let's say, every hundred cases, almost -- in fact, instantaneously, they say about 69 are instantaneous, of the hundred. Thirty-one then get referred to the NICS personnel for follow-up. Within that three-day period, they get done maybe another 20, leaving the 11 percent. And those 11 percent, you know, could happen on day five, or more likely it's going to take that extra time, the 20 to 30 days that are -- that really require a lot more investigation. And so they -- and -- and the FBI keeps that record open for 88 days, and usually at day 88, which is just arbitrary, it's not, you know, they -- they get down to about 1 percent. But they also get down to about 1 percent, or nearly 1 percent at day 30, which

is why we chose that.

MR. RA: Okay. Now, I believe last year, you know, what you said as this process goes on, if somebody's delayed, one of the things that they would be doing is perhaps, you know, they -- they know there's an issue and they -- they try to like work within the confines of -- of what the -- I believe it's nine different things that are checked?

MS. PAULIN: Yes, there are nine prohibitors but the -- our State has additional prohibitors. The NICS check personnel looks at both the nine prohibitors at the Federal level, but also the additional prohibitors that we have put in law at the State level.

MR. RA: Okay. Now, would one of those include the Terror [sic] Watch List?

MS. PAULIN: So, what happens with the Terrorist Watch List is, there -- that would have to be set at the Congressional level. Although, as it was explained to me by the FBI, you don't want to let someone necessarily know, you know, that they're being watched. So, what do they do when they see someone's on the Terrorist Watch List? There's an automatic delay. An automatic three-day delay. And then they look for one of the prohibitors, whether it's at the Federal level nine or the additional State prohibitors, to really find something that could -- could create a real denial, and they go -- they -- they really investigate and they go to the Counterterrorism portion of the FBI to work with them, and they really look for an additional denial.



And so, we're -- we're hoping that, you know, in New York that will really help us, because, you know, we know that many, many, many -- I think the number is -- I have in my notes if you want the exact number, but many of the delays turn into automatic giving them the gun when they're terrorists. And we -- I think they did a survey and it was more than 2,000 across the country and, again, I could extrapolate New York data, but, frankly, one terrorist is too many, you know, if they're going to get the gun. So -- so, I think this will give the tools to the FBI that they need to help avert any potential tragedy.

MR. RA: Okay. Now -- now, one of the things people have also expressed that sometimes can take time is like somebody that has a very common name, perhaps, because it may be submitted and it may, you know, trigger who knows how many different people with that same name and then they -- you know, dig further into it and they can match who this person actually -- actually is. Would -- would that -- would this create, you know, for that type of individual, you know, potentially a -- a 30-day wait -- when really they have nothing in their background that should disqualify them?

MS. PAULIN: Usually those are the ones that are easy to figure out. It may take a couple of extra days for, you know, a John Smith, let's say, but usually they can, you know, bring them down to the local level. Those are not the ones that are the real prolonged delays and almost always get solved in a -- in a reasonable time. The real prolonged delays are the old convictions and the DV

misdeemeanors. Those are the ones that I've been told are the ones that really take those -- and the Terrorist Watch List, to be able to identify a prohibitor. So, those are really the three categories that are the most time-consuming.

MR. RA: Okay. Now, my understanding is there's been some efforts at the Federal level in terms of making sure, you know, the system is more comprehensive. Obviously, there's always an issue of making sure, you know, data is being shared between different jurisdictions so that -- because at -- at the end of the day, whatever the timeframe is, we're only going to be as good as -- as the information that is there to check it against. Do you know, you know, if any of the changes they've made at the Federal level might actually, you know, be speeding up this process? Because one -- one of the complaints, you know, we've heard over the years with regard to the three days is that the system is handling just so many more transactions than it used to back when it was first established and -- and that's part of the issue here. So, have -- have the changes made it a little quicker?

MS. PAULIN: Well, I would say that, you know, the NICS has done a very good job at keeping the 90 percent goal of three days pretty much consistent, you know. But, as you say, there's many more transactions. So, that means there are more determinations, or un-determinations, you know, no determination out there than there had been because of the number of gun purchases generally. We're only as good as we communicate to NICS, because it's up to the State

to send that data. New York is fairly good at it, but there are weaknesses, you know, the misdemeanor domestic violence is one example of a weakness because it's complicated. But we're only as good as the State data.

So, for example, you know, in Virginia Tech, the, you know, the -- the shooter was an adjudicated mentally-ill person, right? That should've been in the system. Virginia didn't do it. If they had done a better job, you know, then they would have -- that would have turned up a denial. Same thing for Devin Kelley, who's the Texas shooter, there was a dishonorable discharge, and the military didn't send in that information. So, we're only good as the information sent.

So, hopefully, you know, in New York, we're doing both the better job of sending in the information, which will result in immediate, and -- and also cooperating, because we have to cooperate with NICS when they call our local courts and our local police and our local jurisdictions, to identify people and to get out the information. But, you know, are they doing a better job? I -- I think they're doing the same job because the stats are relatively the same, but there's more --there's more gun purchases out there.

MR. RA: Okay. Now, with -- with regard to the 30 days, I tried to do a little bit of research, you know, what different states have and some states, obviously, don't have any waiting period, but I saw a lot of -- some of the states that are on the longer side being, you know, 14 days or some -- somewhere around there. Are

there any states that currently have a 30-day period?

MS. PAULIN: Yes. The -- or near. So, sorry. California has a 30-day extension time for investigations. They also have a ten-day absolute waiting period, which is not what this bill does. Colorado has like almost like an appeal process, but it's also 30 days. Delaware has 25 days. Florida actually has an indefinite amount of time, as does Pennsylvania and as does -- no, Tennessee has 15 days. Utah has an indefinite time amount of time, and Washington State has ten days.

MR. RA: Okay. Now, one other concern that has come up with -- my understanding is the NICS check is only good for 30 days. And I don't know, have -- how any of these other states have -- have perhaps dealt with that issue. But it seems to me if somebody comes in and the check's only good for 30 days and now they've waited 30 days, theoretically there would need to be a, you know, a new check started. So, is there potential that somebody in that situation could have to wait again, because then they'd -- could the process start all over again?

MS. PAULIN: I was concerned about that myself and so I talked to California, and have an e-mail that I'm happy to share --

MR. RA: Okay.

MS. PAULIN: -- that is from the Office of Attorney General, the California Department of Justice, because they have the -- the bill that looks the most like ours, and what they have assured me

that -- that the transaction will have started, which is the regulation for NICS so, therefore, the gun dealer, at their discretion, can transfer the weapon or the gun or rifle, whatever, over to the person if it's -- you know, if it's still up in the air. But it's so few cases by day 30, that, you know, California's example or California's experience is that almost no gun dealers do that; in fact, they all -- gun dealers are required by Federal law to have some kind of liability insurance -- actually, California has that requirement, as well. And -- and so, gun dealers are afraid to transfer. So, you see very little transferring.

And I think that we have the same experience in New York, because, you know, there's only so few guns that are left out there, you know, that are going to be distributed around the State, and if one gun dealer sees one case, you know, they might be a little leery. We see the big gun dealers like Wal-Mart already making that decision. They do not transfer if there's an unknown. What -- what we're doing here is we're actually protecting gun owners because to some degree, you know, they will have passed a background check and then that's good for the entire period if we just give the FBI a little more time.

MR. RA: Sure. So, in -- in that instance, so if there is a delay, the 30 days, you know, goes by, and the -- and the gun dealer decides, *You know what? I -- I don't want to transfer a weapon to this person because I haven't gotten a proceed from the FBI*, can they -- you know, are they free to do that?

MS. PAULIN: They're free now. They can do that

now. It's always at the discretion. So, on day four, what happens in New York, it's up to the gun dealer to make that transfer at their discretion. Some gun dealers do it and some gun dealers don't. For example, as I said, Wal-Mart has made it a policy not to make those transfers. Smaller gun dealers probably do, but I would argue that some of them probably don't.

MR. RA: Yeah, I would -- I would say --

MS. PAULIN: It's their prerogative.

MR. RA: Or I would think, like -- like you said, many might be concerned of potential liability if they haven't gotten the proceed order. Thank you.

MS. PAULIN: Thank you.

ACTING SPEAKER AUBRY: Mr. Ra, you have exhausted your 15.

Read -- read the last section.

THE CLERK: This act shall take effect on the 45th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Dinowitz to explain his vote.

MR. DINOWITZ: I will very briefly explain my vote. You know, in -- in this country, about 40,000 people die a year from car crashes, but we take all kinds of action making the roads safer, making cars safer, making people drive more safely. In New

York City, we have the Vision Zero, we lowered the speed limit. It's generally agreed that we should be taking steps to save lives because 40,000 people a year die in the United States from car crashes; however, 40,000 a year people die from guns, but there doesn't seem to be this universal agreement that we should be taking steps. The fact is, there are people around the country who think we should not be taking steps to fix the problem. And to me, fixing the problem means saving lives.

I think what we've done here today by passing these bills is that we will be saving lives in the State of New York. And make no mistake, these bills will become law very, very quickly. And I believe these will be the last time we will be voting on these bills. So, thanks to everybody who participated in this and who supported these bills, many lives will be saved and I think we should all be very proud of that. I cast my vote yes.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Bichotte.

MS. BICHOTTE: Yeah, thank you, Mr. Speaker, for allowing me to affirm my vote. I would like to thank all the sponsors of these gun safety bills for being such great leaders around gun reform. I trust that New York State will continue to remain the forefront of these issues, such as gun control. I vote today in support of the safety and well-being of the State of New York, and the right of the people not to be harmed.

I would like to also clarify that these bills do not

impede on the Second Amendment of the Constitution. We do pursue life, liberty and happiness when our communities are not vulnerable to massacre and gun violence. We implement these laws to make sure that we do uphold to the Constitution in the right and humane way. And, as you know, just last year we had a horrific tragedy where a mass shooting erupted in a synagogue in Pittsburgh, Pennsylvania, claiming 11 victims and injuring many more. Another incident was the assassination of State Senator Clementa Pinckney at the shooting at Charleston's church in South Carolina. These atrocities happen in institutions that makes their mission to welcome individuals into their ministry. These events beckon the question as to whether we are safe to extend invitation.

The list goes on and on. And our -- our history also holds the memories of actions such as shootings at Columbine in 1999, killing 15; Virginia Tech massacre in 2007 killing 32 people on campus; the Sandy Hook Elementary School shooting in 2012 killing 27, including 20 six- and seven-year-old children; and the Parkland High School shooting in Florida. These are establishments frequented by children, and we seek to ensure that guns are kept away -- kept away from children. So, today I proudly vote for all of this to end, especially in loving memory of my sorority sister who was gunned down by her partner, Angela Bledsoe. And so, I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Smullen.



MR. SMULLEN: Mr. Speaker, thank you. I -- I rise to -- to explain my vote on this issue. As we talked about earlier with some of the other bills that we've passed, particularly the bump stock ones, I reflected on the reasonableness of the bill. And to me, that one was reasonable. But when I look at this one, when it takes the waiting period and it -- and it -- it not only -- we had talked about having it ten days, which is three times what the current law allows, but to change it to ten times, I find that to be unreasonable and that the bureaucracy needs to get better to catch up so people's right to have these -- these arms is not infringed. So, for that reason, I'm voting in the negative.

ACTING SPEAKER AUBRY: Thank you, sir.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker.

Mr. Speaker, we have four more bills that we're going to take up, and I really hope that these don't take as long, as we have been here for all day today. They are on the Calendar, Mr. Speaker, they begin with Rules Report Nos. 12, 13, 14 and 15. And I would ask that you would call them in that order, Mr. Speaker. And, hopefully, we will cast our votes as -- as quickly as possible and move on.

With that, I also want to make one announcement,

Mr. Speaker. There will be no Democratic Conference today. As I said earlier, we all have been watching the weather. Some of us would like to get home. I hope that we do get home safely and come back on Monday at 1:00 for a Democratic Conference.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will read.

THE CLERK: Assembly No. A00208, Rules Report No. 12, Giglio. An act to amend Chapter 98 of the Laws of 2009, amending the Tax Law relating to authorizing the County of Cattaraugus to impose an additional mortgage recording tax, in relation to extending the expiration thereof.

ACTING SPEAKER AUBRY: On a motion by Mr. Giglio, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk. 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.)

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

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A00209, Rules Report No. 13, Tague. An act to amend Chapter 218 of the Laws of 2009

amending the Tax Law relating to authorizing the County of Greene to impose an additional mortgage recording tax, in relation to extending the effectiveness thereof.

ACTING SPEAKER CAHILL: On a motion by Mr. Tague, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER CAHILL: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

Mr. Tague, your first.

(Applause)

Congratulations, sir.

The Clerk will read.

THE CLERK: Assembly No. A00210, Rules Report No. 14, Sec. An act to amend to amend Chapter 368 of the Laws of 2008, amending the Tax Law relating to authorizing the County of Warren to impose an additional mortgage recording tax, in relation to extending the effectiveness thereof.

ACTING SPEAKER AUBRY: On a motion by Mr. Stec, the Senate bill is before the House. The Senate bill is advanced.

Home Rule message is at the desk. 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.

The Clerk will read.

THE CLERK: Assembly No. A00211, Rules Report No. 15, Stec. An act to amend Chapter 327 of the Laws of 2006, amending the Tax Law relating to authorizing the County of Essex to impose an additional mortgage recording tax, in relation to extending the expiration and repeal of such provisions.

ACTING SPEAKER AUBRY: On a motion by Mr. Stec, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Daniel Stec to explain his vote.

MR. STEC: Thank you, Speaker. I just want to pause and -- and from the bottom of my heart, I want to thank the Chamber for bearing with us on this wintery day. These four local

bills, the last two of which were mine, are extenders, very important to those counties. These were holdovers from the summer, didn't get done at the end of Session. Very important, this is money -- the clock's ticking for them. So, from the bottom of my heart, I thank the Speaker and the Chamber for entertaining these and get them done. And I hope everyone's safe home.

(Applause)

ACTING SPEAKER AUBRY: Thank you, Mr. Stec.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

Mrs. Cook.

Welcome, Mrs. Cook.

MRS. COOK: Thank you, sir.

ACTING SPEAKER AUBRY: It's good to see you.

MRS. COOK: But I'd like to call on Mr. Otis to make an announcement.

ACTING SPEAKER AUBRY: Mr. Otis for an announcement.

MR. OTIS: I'm here to announce this evening that on Monday, a reminder for Monday, there'll be a Democratic Conference at 1:00 p.m. See you on Monday.

ACTING SPEAKER AUBRY: Monday, Democratic Conference at 1:00 a.m. [sic].

Mrs. Cook.

MRS. COOK: Mr. Speaker, I now move that the Assembly stand adjourned until Wednesday, January 30th, tomorrow being a legislative day, and that we reconvene on February 4th at 2:00 p.m., that Monday being a Session day. Thank you. Everyone get home safe.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 4:47 p.m., the Assembly stood adjourned until Wednesday, January 29th, Wednesday being a legislative day, and to reconvene on Monday, February 4th at 2:00 p.m., Monday being a Session day.)