

TUESDAY, MARCH 10, 2020

3:43 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Monday, March 9th.

Mrs. Peoples-Stokes.

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

that we dispense with the further reading of the Journal of March the 9th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if the -- if I can have the attention of colleagues and guests that are in the Chambers, just want to give a brief quote for today before we get started. Today our quote is actually coming from our own colleague, Assemblymember Melissa Miller. As you know, last week she reintroduced her son, who I think is now all of our sons, Oliver, on the floor, and she used these words, Mr. Speaker, which I think are very effective and mean a lot to a lot of people across the great State of New York. Melissa says, "I have found that one very effective way to advocate is by sharing our experiences and our feelings. It takes it from being just words on a piece of paper to seeing and understanding better." Again, Mr. Speaker, these words are from our own colleague, Assemblywoman Melissa Miller from the 20th Assembly District.

Members should also be aware that they have on their desk a Calendar and a debate list, and after any introductions and/or housekeeping, we will work off of the main Calendar and we will consent 13 new bills, beginning with Calendar No. 459 on page 4. We will also continue consenting from that same Calendar, starting with Calendar No. 448 which is on page 58. And there are also bills on the debate list we will -- which we will take up. There -- people should

be aware that there will definitely be a need for a Conference at the end of Session, but we will also be calling for Governmental Operations and Transportation off the floor today. That is a -- oh, regarding the need for a Majority Conference, Mr. Speaker, we will talk with our colleagues on the other side of the aisle to see what their needs are, as well.

But in the meantime, if you could entertain any introductions and/or housekeeping and, at the same time, Mr. Speaker, call the Government Operations Committee to the Speaker's Conference Room, we will begin our work that way today, and thank you.

ACTING SPEAKER AUBRY: Thank you, Mrs. Peoples-Stokes.

On a motion by Ms. Weinstein, page 37, Calendar No. 211, Bill No. A-05607, amendments are received and adopted.

Government Operations in the Speaker's Conference Room immediately, please.

And a [sic] introduction -- for the purposes of a [sic] introduction, Mr. Byrne.

MR. BYRNE: Thank you, Mr. Speaker. I rise today to introduce on behalf of myself, Mrs. Galef, Mr. Tague, Mr. Ashby and Mrs. Barrett, some of our County Clerk's from the Hudson Valley. Our Putnam County Clerk -- Clerk, a personal friend of mine, Michael Bartolotti; Holly Tanner from Columbia County, the County Clerk there; as well as Pat Cummings, who is the Counsel for the New York

State Association of Counties. Both of these individuals have had a distinguished career in public service and I'd ask that you please extend the cordialities of the House and give them a great big Albany welcome.

ACTING SPEAKER AUBRY: Certainly. On behalf Mr. Byrne, Mrs. Galef, Mr. Tague and Mrs. Barrett, we welcome you all to the New York State Assembly. We extend to you the privileges of the House on behalf of the Speaker and all the members. Thank you for the public service that you do. We know it is often unappreciated, but we appreciate you. Thank you so very much for being here.

(Applause)

Mr. DiPietro.

MR. DIPIETRO: Thank you, Mr. Speaker, for allowing an introduction. I'm here today to -- two friends of mine, if you could honor them. It's their first time in the Assembly Chambers, Steve Kofta (phonetic), a good friend who lives in Orchard Park, about three miles away from me, that's where the Buffalo Bills play, the only New York State team, and he's also a disabled American Veteran from the 82nd Airborne Division. And he works for Patera (phonetic), and they're up this week visiting. And Lou Gualia (phonetic), he's from Reading, Pennsylvania and he's come up to visit. He works for the NYPTA and also a company out of Jamestown. And they are first time in the Chambers and interested in watching our proceedings, and if you could give them the -- all the cordialities,

thank you. Appreciate that.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. DiPietro, the Speaker and all the members, we welcome these two distinguished gentlemen here to the New York State Assembly, extend to you the privileges of the floor. Thank you so very much for joining us, one from Pennsylvania, the other from Orchard Park. Go Bills. Thank you so very much, sir.

(Applause)

Mr. Epstein for the purposes of an introduction.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise for an introduction. I've been privileged to be joined here by my mother, who's decided to be here today, and with her friend, Paula Blum. They're here for an event up in Albany. I wish you'd offer the cordiality of the House, this is her first time in the Chambers, and I appreciate that.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Epstein, your son, we welcome you here to the New York State Assembly, and also to your friend. We extend to you the privileges of the floor from behalf of the Speaker and all the members. Thank you for the public service that you do, ensuring that democracy continues to live in this State, and thank you for letting us share with your son and your son having served here with us. Thank you. You are family, you are always welcome here.

(Applause)

Mr. Reilly for the purposes of a [sic] introduction.

MR. REILLY: Thank you, Mr. Speaker. I rise today for an introduction. It's for my better half, my wife, Mary Reilly, who thank God next month we'll be married 20 years, and she truly is my rock. She is my inspiration and truly probably one of my tough constituents.

(Laughter)

Some of you may have seen me in -- in the Member's Lounge eating these wonderful meals that she sends me up with each week. So, I can't tell you how grateful I am for this beautiful woman behind me, and for all the support that she gives me. She truly is my partner. Thank you, and please extend the cordialities of the House and welcome her to Albany for the first time that she's been in the Chamber.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Reilly, your husband, the Speaker and all the members, we welcome you here to the New York State Assembly. Again, you are family so you always have the privileges of the floor. How have you stood him for 20 years?

(Laughter)

Certainly there must be --

(Applause)

-- clearly you have angels in your background and will continue to need them.

(Laughter)

Thank you so very much, you are always welcome

here.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can now go to page 3, resolutions, and start with Assembly No. 831.

ACTING SPEAKER AUBRY: On the resolutions, the Clerk will read.

THE CLERK: Assembly Resolution No. 831, Ms. Lupardo. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 10th, 2020, as Maple Day in the State of New York.

ACTING SPEAKER AUBRY: On the resolutions [sic], all those in favor signify by saying aye; opposed, no. The bill -- the resolution is passed.

THE CLERK: Assembly Resolution No. 832, Mr. Dilan. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2020, as Fibromyalgia Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 833, Mr. DeStefano. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2020, as Music in our Schools Month, in conjunction with the observance of National Music in Our Schools Month.

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

Page 4 on consent, the Clerk will read.

THE CLERK: Assembly No. A01313-C, Calendar No. 459, Paulin, Galef, Mosley, Crouch, Dinowitz, Seawright. An act to amend the Civil Rights Law, in relation to creating a private right of action for unconsented removal or tampering with a sexually protective device.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01424, Calendar No. 460, Simon, Abinanti, Englebright, Thiele, L. Rosenthal, Weprin, D'Urso, Lupardo, Mosley, Galef, Paulin, Carroll, Fahy, Colton, Cahill, Lifton, Glick, Gottfried, Richardson, Niou, Davila, Otis, Taylor, Reyes, Ortiz, Arroyo, Burke. An act to amend the Environmental Conservation Law, in relation to granting private citizens the right to initiate civil enforcement actions for violations of such law.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A05896-A, Calendar No. 461, Galef, Peoples-Stokes, Barron, De La Rosa, Ortiz, L. Rosenthal, Taylor, Gottfried, Paulin, Dinowitz, Abinanti, Arroyo, Fahy, Glick, Simon, Stirpe, Santabarbara, Seawright, Thiele, Colton, Quart, Carroll, Jones, Weprin, Jacobson, Mosley. An act to amend the Real Property Law, in relation to prohibiting homeowners' associations from restricting the installation or use of solar power

systems.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07971, Calendar No. 462, O'Donnell, Englebright, Paulin, Lifton, Colton, Gottfried, Abinanti, Peoples-Stokes, Steck, Ortiz, Otis, D'Urso, Jacobson. An act to amend the Environmental Conservation Law, in relation to enacting the Environmental Access to Justice Act.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A08732, Calendar No. 463, Lupardo, Woerner, Crouch, Hawley, B. Miller, Stirpe. An act to amend the Agriculture and Markets Law, the Public Health Law and the Alcoholic Beverage Control Law, in relation to authorizing the manufacture and sale of ice cream and other frozen desserts made with liquor.

ACTING SPEAKER AUBRY: On a motion by Ms. Lupardo, the Senate bill is before the House. The Senate bill is advanced. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Colleagues, this is our first vote of the day. This is the first day of the ninth week of the 243rd legislative Session. Please cast your vote. First vote of today.

ACTING SPEAKER AUBRY: First vote of the day, members. Please come in to the Chamber, cast your vote. If you are in your seats, please vote now.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please call the Transportation Committee to the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Transportation Committee, Speaker's Conference Room immediately.

The Clerk will read.

THE CLERK: Assembly No. A08970, Calendar No. 464, Pheffer Amato, Weprin. An act to amend the Civil Service Law and the General Municipal Law and the Administrative Code of the City of New York, in relation to the review of certain claims; to amend a chapter of the Laws of 2019, amending the General Municipal Law and other laws relating to sick leave for officers and employees with a qualifying World Trade Center condition, as proposed in legislative bills numbers S.5890-A and A.7819-A, in relation to sick leave for certain individuals with a qualifying World Trade Center condition and rights of public employers and employees relating thereto; and to repeal certain provisions of the Civil Service Law relating thereto.

ACTING SPEAKER AUBRY: On a motion by Ms. Pheffer Amato, 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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

Mr. -- the bill is passed.

Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker, for the opportunity to introduce a great guest to our Chamber, Patricia Canzoneri - boy, I have trouble with - the last name is Fitzpatrick, which is a great Irish name, of course. Patricia is here with Thomas Callahan, Tim Sullivan. They're with the -- Tim Sullivan is the Malverne Village Trustee. Patricia is the Deputy Mayor of that great village, and a trustee. She's a lawyer who is very successful with a practice in Franklin Square, which is in Mr. Ra's district. Her son, Thomas, is a student at William & Mary. And if you would welcome Patricia, Thomas and Tim, all hailing from the same area and great, great residents up here visiting us and watching our Legislature in action.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Ra, Patricia, Thomas and Mary [sic], we welcome you here to

the New York State Assembly, extend to you the privileges of the floor, and the welcome of the Speaker and all the members. Please know that we are pleased that you're here. We applaud you for your public service and for obviously raising a great young man. Thank you so very much. Continue that great work.

(Applause)

MR. GOODELL: Mr. Speaker, it is also my great honor to introduce Jodi, her name is spelled exactly like Mr. Giglio's, but it's pronounced differently, Gig-lee-o. Jodi is in Mr. Palumbo's district. She's a Riverhead Town Councilwoman and owns and operates a construction supply company, a New York State recognized Woman Business Enterprise. And we often talk about how important it is to have women being successful in business, and we're -- have that great opportunity to be blessed with her presence here in the Chamber today. If you would extend our welcome and the courtesies of the floor.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Palumbo, 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, our congratulations on your successful business endeavors. We hope you will keep that up, MWBEs are very important to this House and we are always pleased that you have been able to be successful and employ the people of your neighborhood. Thank you so very much.

(Applause)

And, sir.

MR. GOODELL: This is a red letter day for us here in the Legislative Chambers. We have with us Jamie Silvestri. Jamie is a lifetime Long Islander who is a graduate of Farmingdale State College, works in the financial services industry which, as we know, is so important to the economy here in New York State. She works in Melville, New York, is an active community member in Huntington. If you would extend the greetings and cordialities of our -- our Assembly, I would greatly appreciate it, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of the Speaker, all the members, we welcome you here -- also here to the New York State Assembly. We extend to you the privileges of the floor, hope that you have enjoyed today's proceedings and will continue to do so, and hope that you will travel home safely. Thank you for being with us today.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A08973, Calendar No. 465, Simotas. An act to amend the Civil Service Law, in relation to a fair, non-biased compensation structure.

ACTING SPEAKER AUBRY: On a motion of -- by Ms. Simotas, 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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A08997, Calendar No. 466, Richardson. An act to amend the Family Court Act and the Social Services Law, in relation to notice of indicated reports of child maltreatment and changes of placement in child protective and voluntary foster care placement and review proceedings.

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

THE CLERK: Assembly No. A09670, Calendar No. 467, Gunther, De La Rosa. An act to amend the Mental Hygiene Law, in relation to providing incident reports to qualified persons.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A09678, Calendar No.

468, Englebright, Lifton, Simon, Ortiz, Galef, Colton, Epstein, Mosley, Stern, Fahy, Carroll, Otis, Jacobson, O'Donnell, Thiele, L. Rosenthal, Griffin, Paulin, Gottfried, D'Urso, Weprin. An act to amend the Environmental Conservation Law, in relation to prohibiting horizontal drilling and high-volume hydraulic fracturing.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A09761-A, Calendar No. 469, Perry, Cook, Hyndman, Vanel. An act to amend the Insurance Law, in relation to group policies for motor vehicles engaged in the business of carrying or transporting passengers for-hire.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A09762, Calendar No. 470, Vanel, Cook, Perry, Hyndman. An act to amend the Insurance Law, in relation to certain policy review.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A09763-A, Calendar No. 471, Hyndman, Cook, Perry, Vanel. An act to amend the Insurance Law, in relation to establishing the For-Hire Motor Vehicle Safety Program.

ACTING SPEAKER AUBRY: The bill is laid aside.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker and colleagues, if we can be -- now start our work on the debate list, we're going to start with Calendar No. 89 by Mr. Zebrowski. Following

that, we're going to go to Calendar No. 6 by Ms. Rosenthal and then Calendar No. 177 by Mr. Englebright.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A01967-A, Calendar No. 89, Zebrowski, Jaffee, Cruz. An act to amend the Domestic Relations Law, in relation to including acts of domestic violence in the criteria the court shall consider in determining the equitable disposition of property during divorce proceedings.

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

MR. ZEBROWSKI: Sure. Thank you, Mr. Speaker. This bill would add domestic violence to the delineate -- to a delineated section, Section 14, of the Domestic Relations Law, which are the items that a judge shall consider for equitable distribution of property during a divorce proceeding.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

MR. ZEBROWSKI: Yes, I'll yield.

ACTING SPEAKER AUBRY: Mr. Zebrowski yields, Ms. Walsh.

MS. WALSH: So, Mr. Zebrowski, under the existing law, doesn't the court already have the ability in its discretion to consider things like domestic violence in making this award?

MR. ZEBROWSKI: Under the current -- under

existing law, the Court can, under a catchall provision, which is currently Section 14, but we would move it to Section 15, consider additional items; however, courts, when -- courts are doing a few things. One, they're not considering it at all, so we believe by delineating it as a section that domestic violence will be considered in cases affirmatively. I don't think we should necessarily leave it up to whether or not it's automatically pleaded; but number two, I believe the case law varies as to the level of domestic violence that should be considered.

So for instance, in a 1985 case, the court decided that it should be in -- it should be considered in cases -- in egregious cases, which shocked the conscience of the court; however, in a 1995 case where a defendant was verbally abusive, physically abusive, threw an ashtray and lacerated a victim's scalp, threatened to commit arson, placed the muzzle of a rifle to the plaintiff's head and threatened to kill her, this conduct was not considered by the court as it did not, in their view, rise to the level of egregious conduct. So I would -- I would certainly consider that egregious conduct, so I believe that the language that we have here is the correct language.

In addition, I'll say that this -- this situation was brought to me by a specific constituent in my district whose husband nearly killed her, was sentenced and convicted to Strangulation in the First Degree, which is Class C felony, sentenced to 11 years in prison; however, following the -- the conviction in a subsequent divorce proceeding, the court awarded this incarcerated husband \$810 a

month. So, I believe that we need to clear up the language and ensure that domestic violence is being considered appropriately.

MS. WALSH: Thank you, Mr. Zebrowski, for that very comprehensive answer to my very limited question.

(Laughter)

Let me ask you a couple more. When you talk about egregious in terms of the acts of domestic violence that would be considered, the word "egregious" doesn't actually appear in the law as it's currently written, correct?

MR. ZEBROWSKI: Right.

MS. WALSH: So that's just -- that's a gloss that's been put on the existing law through case law? Is that -- is that what you're saying? Where does the word "egregious" appear?

MR. ZEBROWSKI: Yeah, I'm referring to a case, O'Brien v. O'Brien, 66 NY2d 576 for those of you that are following at home, and that is where egregious -- where we believe, I think, egregious first appeared in the law.

MS. WALSH: And that's a Court of Appeals case?

MR. ZEBROWSKI: Yeah, I'm not sure, I'd have to go to the section, but at least an Appellate Division case.

MS. WALSH: It's a -- it's an Appellate Division case?

MR. ZEBROWSKI: If you give me a second, we might be able to look it up.

MS. WALSH: Absolutely. Thank you.

MR. ZEBROWSKI: Court -- Court of Appeals.

MS. WALSH: And that's from what year?

MR. ZEBROWSKI: 1985.

MS. WALSH: And in subsequent cases following that 1985 case, have all of the four Appellate Divisions in the State applied an egregious as standard --

MR. ZEBROWSKI: Um...

MS. WALSH: -- since that's the controlling law for the State through the Court of Appeals?

MR. ZEBROWSKI: I'm not sure if every case has -- has cited the word "egregious," but I believe that a lot of the cases are relying on that type of case law when making their decision.

MS. WALSH: Okay. So your argument then is that the -- the rationale for the law is that courts, although they have this catchall provision currently under the law, are not actually considering acts of the domestic violence. They're applying an egregious as standard which would exclude things that would be very troublesome that should be part of the court's consideration, then; is that -- is that a fair summary of your position?

MR. ZEBROWSKI: It's one of my positions.

MS. WALSH: Okay.

MR. ZEBROWSKI: I also think it should be a delineated item to ensure that it is considered in all cases.

MS. WALSH: Okay. So, under your proposal in this bill, what types of domestic violence acts -- would it be a domestic

violence act versus a, for -- for example, a conviction that would be considered by the court? An act not a conviction could be considered?

MR. ZEBROWSKI: Yes.

MS. WALSH: Okay. And how -- how -- any act at all? I mean, a push, a shove, an unkind word; where do you draw the line?

MR. ZEBROWSKI: When the judge is considering it in the language that we drafted, the judge would consider the nature, extent, duration and impact of the act or acts.

MS. WALSH: Okay. And what standard of proof would be necessary in order to show this?

MR. ZEBROWSKI: Preponderance of the evidence.

MS. WALSH: Okay. So, you know, as I know you're aware as an attorney, as I am, back in 210 -- 2010 we did away with fault in domestic relations and in matrimonial law, and we imposed, now, a no-fault standard. Isn't this kind of provision just bringing us back to those days of showing fault in order to get more in terms of maintenance or equitable distribution in a -- in a matrimonial case?

MR. ZEBROWSKI: No, I don't think so because when the Legislature - and I was here - correctly did away with fault, I think we did away -- away with a fiction that somehow if you didn't correctly prove fault that somehow the -- the judge would make a decision, bang the gavel and people would go back to a -- a marriage.

And I don't -- I don't think that that was necessarily realistic or at all realistic, I guess I should say. However, that doesn't mean that domestic violence shouldn't rise to the level of something that should be considered by a court when they are distributing the marital property; in fact, I would think that that's something that most people in New York State would find to be not only correct, but commonsense in terms of the distribution of the property.

Fault, on the other hand, you know, was more whether or not you could actually get divorced. So, when we took that away, I think everybody can understand why we took. You -- you shouldn't have to convince the court that the marriage has dissolved. But equitable distribution, you know, if you're going to engage in domestic violence, if we're truly, as a State, going to take it seriously, then you are -- then a court is going to have the ability, I should say, to take that into consideration when they're determining whether or not to award pensions, how they're going to award property. I think that rises to a level in a marriage that a court should be able to do that.

MS. WALSH: So if you -- if you're a party to a matrimonial case and you want to get more in terms of maintenance or equitable distribution, if you're able to make allegations of domestic violence, then -- and be able to show it through a preponderance of the evidence, doesn't that create an incentive for all kinds of extremely creative pleadings in this case that are going to just really muddy up the ability for people to -- to dissolve their marriages?

MR. ZEBROWSKI: Well, not to dissolve the

marriage, because obviously we have no-fault, but are you asking whether it would muddy up the distribution of the property?

MS. WALSH: Yes. Yes.

MR. ZEBROWSKI: No, I don't think so. I think that -- I -- I trust judges and I trust the courts to be able to consider evidence. Certainly, it would be inappropriate if not a crime to plead to the court things that did not happen, to lie under oath in a court proceeding. So, I don't think that that fear is enough to not take this affirmative step as a Legislature to bring domestic violence to the level of seriousness in a divorce proceeding what I think it should be.

MS. WALSH: But isn't it true, though, that no divorce can even be granted even under a no-fault situation until there's been a dissolution, a distribution of the assets? So, by adding this section into the law, aren't we just going to be delaying divorces from being granted?

MR. ZEBROWSKI: Why would we be delaying it until -- I mean, an equitable distribution award is going to be made at some point, so by adding a domestic violence factor, why would it be delayed? I -- it would only be delayed if you're saying because somehow that's complicating the proceedings and I would say, sure, it should complicate the proceedings. Let's get domestic violence out into the open and stop trying to hide it under other societal rules. Let's make sure that it's considered as important an issue as it is.

MS. WALSH: I think we are absolutely agreed that it does complicate the proceedings and that when you have a pleading

that's going to be raising, affirmatively, domestic violence as -- as a factor to be considered and you're -- you're going to have a lot more in the way of -- of trial work, I would -- I would assume to try to -- to determine whether or not this occurred or did not occur and to what extent.

MR. ZEBROWSKI: Well, you're going to have a lot more trial work either in, A, as you suggested perhaps people doing this fraudulently, which I would hope they wouldn't and I would hope the courts would come down harshly upon someone that pleads this erroneously or fraudulently, because it would hurt all the people that are victims who are pleading this thing. B, it could lead to a longer proceedings because there was domestic violence and I would say that is the right thing to do. If there is domestic violence, it should complicate the proceedings, they should be a little bit longer, we should bring it to light.

MS. WALSH: Now, isn't it also true that there are couples that continue to live together in the marital home throughout the course of a matrimonial proceeding, neither one will leave the house so they're both living in the same house, isn't that -- I mean, I've found that to be true in my practice; have you seen that as well?

MR. ZEBROWSKI: Yeah, I believe that that can happen.

MS. WALSH: And we all know, I think we all know that domestic violence or even allegations of domestic violence are really made at one's peril, to some extent, because it -- it becomes a

very dangerous time for the individual that's alleging it. And if they're all -- if they're potentially living in the same home together, doesn't this just really amp up a whole proceeding by -- by allowing this type of allegation and proof to be considered to this extent?

MR. ZEBROWSKI: I would leave that to the survivor to determine how to proceed.

MS. WALSH: Yes, if -- if -- yes, if she survives.

Thank you very much for your answers to my questions.

Mr. Speaker, on the bill.

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

MS. WALSH: So, I -- I thank the sponsor for his answers to my questions. I did some digging and kind of went back to 2010 and took a look at when we went over to a no-fault system. And there was some very interesting memos of support and opposition to that. And one was from the New York City Bar and they said that: *Casting blame upon the other in rehashing the often harsh, painful and embarrassing reasons for the divorce just is -- it is a -- it is a very emotional and difficult thing for the parties. They have significant financial and emotional costs. Litigants spend thousands of dollars in legal fees and hearing the details of a marriage which is obviously dead can increase incidents of domestic violence.*

The New York State Office for the Prevention of Domestic Violence said back in 2010: *Divorce is a particularly volatile time for most couples, but especially for domestic violence*

victims. Research indicates that separation can be the most dangerous time for a domestic violence victim. Serving the abuser with papers that detail explicit allegations of fault can cause an escalation of violence or reignite abuse.

So, Mr. Speaker, I believe that although this bill is well-intentioned, I don't doubt that, I believe a couple of things. We -- we in 2010 made an important step, as a State, to go to a no-fault system of divorce. This bill, I think, brings us back to those dark days. I think that by doing this, when we already have a section in the law which allows the court to take full cognizance of any allegations of domestic violence, by spelling it out, by saying that the court shall consider acts by one party against another that have inhibited or continued to inhibit a party's earning capacity or ability to obtain meaningful employment, I think it just plunges us back to a time that ten years ago we were glad to -- to -- to move away from.

And so for those reasons, I do think that -- I -- well, I know that I will be voting against this bill, and I would encourage my colleagues to do the same. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: One of the advantages of being a practicing attorney and going back --

ACTING SPEAKER AUBRY: Shh.

MR. GOODELL: One of the advantages of being a practicing attorney and going back longer than many members of this Assembly are even alive is that you can see the evolution of the law. And when I started practicing, there were very limited grounds upon which a person could get a divorce. And absent your spouse being sentenced to prison or dying or being -- abandoning the spouse, one of the only ways you could get a divorce is to show cruel and inhuman treatment. And in order to establish that, the parties would dredge up every slight insult, abuse of any kind or nature, real or perceived, and often the divorce proceedings were an emotional bloodbath.

So, the State Legislature expanded the grounds for divorce and included the opportunity for someone to get a divorce if they had a separation agreement that both parties signed and they lived pursuant to the separation agreement for a year, and that helped, but not everyone was willing to sign a separation agreement even though the marriage, for all practical purposes, was dead. And you might ask yourself, *Well, why would someone who is married to someone else that they can't stand, they hate each other now, it started out as a match made in heaven and it ended up in a marriage in hell, why would they fight a divorce?* And the answer invariably came back to money, because if they got divorced, they were sharing their assets, alimony would kick in, child support would kick in and almost always it came back to money.

So, even though we expanded the opportunities for

people to get divorced with a mutual agreement, separation agreement, it still left a lot of divorces being litigated. Now, the only advantage of a litigated -- litigated divorce is for my colleagues who are attorneys, because these were nasty, drawn-out affairs. And the parties, particularly if there was problems during the marriage, they could easily spend tens of thousands of dollars in legal fees creating horrific records of everything that went wrong in their marriage. And during the process, the children invariably witnessed some of that animosity. And the animosity during the divorce typically grew as everyone on both sides went back and reviewed all their memory banks over everything that went wrong over how ever many years that that marriage occurred.

Thankfully, in 2010, this State joined the rest of the nation in allowing no-fault divorce. It was great news for almost everyone in the State except lawyers who saw a drop in their income. And when we allowed no-fault divorce, we did one more thing: For the most part, we took money out of fault and fault out of money. And so we said for the most part, we're going to apply general standards that aren't based on who was good or who was bad, we're going to treat the marriage like a partnership. We'll take a financial snapshot at the beginning, a financial snapshot at the end, we'll divide the assets in half after deducting gifts or special situations.

And to provide for those unusual cases, we had a catchall. And under that catchall, the court could consider other things. And back in 1985, the Court of Appeals recognized that if

there was really egregious domestic violence that shocked our conscience, in those situations, in those narrow situations, we would consider that egregious behavior in separating the property. That decision by the Court of Appeals, which is our highest court, which based its decision on years and years of experience, and thousands and thousands of cases, was a careful balancing.

And this bill goes the opposite direction. This bill says that you shall consider whether it's domestic abuse, and it defines domestic abuse in the broadest terms by referencing the Social Services Law which includes harassment, disorderly conduct, forcible touching, identity theft. Those words are a broad, broad definition that, by the way, would pick up the vast majority of those horrifically painful divorces that people suffered through in the past.

Make no mistake about it, when we throw money into an equation involving people who are emotionally upset at each other, it's adding gasoline to the fire, and the only beneficiaries will be the attorneys who drag out these proceedings interminably as merchants of misery. You should also be aware that under current law, which is not being changed, no divorce can be granted, it cannot be granted until the property issues and the distribution have been resolved. So that throws us right back into the situation that we were in 20 years ago where if a person doesn't want the divorce, all they need to do is dredge up all of those situations involving harassment or disorderly conduct or any of the other allegations because no divorce can be granted while those issues are being litigated. And because all those

are factual issues, that means we now open up all these no-fault divorces, then, to extensive discovery with lawyers on both sides charging hundreds of dollars per hour as they go through that emotional carnage that's being fostered and facilitated by financial gain or loss.

Now to be honest, back in 2010 when New York went with no-fault, I had reservations about the no-fault system because I thought if you took a marriage oath in front of God and said for better or for worse, you might be doing a lot better if you spent all the money that you would spend on lawyer fees on your wife, or your husband. But after almost 40 years of private practice, watching families just shred each other and seeing the horrific, horrific emotional damage that occurs, and the damage to children and the longtime animosity that's funded both by their emotional pain and by money, I have come to appreciate the wisdom of the legislators who went ahead of me and the wisdom of our Court of Appeals, our highest judges in New York State, when they said, *We'll only consider these types of personal fault issues in egregious cases.*

Let's not go back to the dark ages of faultfinding funded by the assets of the party where the only people that win are the lawyers that litigate. Our current system has the right balance. Our current system allows the judges to consider it in egregious cases. We do not want to go back to the emotional carnage and the emotional bloodbath that characterized divorces in the past. I urge my colleagues to vote no. Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Zebrowski to explain his vote.

MR. ZEBROWSKI: Thanks, Mr. Speaker. As was previously talked about during the debate, right now a court may -- may take into consideration domestic violence in rare circumstances where there -- it's a, quote, "egregious case or shocked the conscience of the court." Hopefully if this bill passes both Houses and gets signed by the Governor thereafter, the definition of domestic violence will be as is in Social Services Law, "Acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion and such acts or acts that result in the actual physical or emotional injury where it created a substantial risk of physical or emotional harm to such person or to such person's child."

Mr. Speaker, to anyone in the future who commits these acts of domestic violence or has committed them in the past, and you seek or are in a divorce proceeding, the court hopefully will take

these acts into consideration because I believe that's what we should be doing as a State of New York. That's the message we should be sending as the State of New York to people across the State, to all survivors across the State to ensure that we are truly protecting New Yorkers and victims of domestic violence, both in our criminal laws as a whole, but also in these divorce proceedings. That's why I'll be voting in the affirmative, Mr. Speaker. I ask my colleagues to do the same.

ACTING SPEAKER AUBRY: Mr. Zebrowski in the affirmative.

Ms. Cruz to explain her vote.

MS. CRUZ: Thank you, Mr. Speaker. So, for many of us who've represented people in court or who've done social work with survivors of domestic violence, or for many of us who are survivors ourselves, we understand that economic abuse is part of the larger conversation. And the fact that the courts only seem to recognize egregious -- egregious instances, what is it going to take? Because on the one hand we're telling women when they go to get help, that economic abuse is abuse. And when they're trying to get out of their marriage and trying to actually have enough money to survive and trying to actually have the property that rightfully belongs to them, we're going to say only if it's egregious. Just because you can't see it on their body, just because you can't see the scars does not -- does not mean it's not there.

And so, I am thankful to the sponsor for this bill on

behalf of the thousands of survivors around our State. Thank you for recognizing that it doesn't take a -- that it should not be egregious, that it should not take someone going to the hospital, that a lot of the abuse happens inside of the home. It's psychological, it's monetary and that is one of the many reasons people, women, survivors don't leave. And so, I vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Cruz in the affirmative.

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. A00168-B, Calendar No. 6, L. Rosenthal, Dinowitz, Gunther, Weprin, Buchwald, Jaffee, Fahy, D'Urso. An act in relation to establishing Brendan's Law; and to amend the Social Services Law, in relation to requiring cordless window coverings in child day care centers and certain other facilities.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect in 730 days.

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. A04620-A, Calendar No. 177, Englebright, Gunther, Joyner, Arroyo, Davila. An act to amend the Tax Law and the State Finance Law, in relation to providing for taxpayer gifts for diabetes research and education and establishing the Diabetes Research and Education Fund.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: No housekeeping, but resolutions which we will take up with one vote. On the resolutions, all those in favor signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 834-844 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Can you call on Mr. Otis

for the purposes of an announcement?

ACTING SPEAKER AUBRY: Mr. Otis for the purpose of an announcement.

MR. OTIS: Hi there. We will have an immediate meeting of the Democratic Conference in the Speaker's Conference Room upon the adjournment of Session for the evening. Thank you.

ACTING SPEAKER AUBRY: Democratic Conference, Speaker's Conference Room.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I now move that the Assembly stand adjourned until 10:30 a.m., Wednesday, March the 11th, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 5:12 p.m., the Assembly stood adjourned until Wednesday, March 11th at 10:30 a.m., Wednesday being a Session day.)