THURSDAY, JUNE 12, 2025 12:16 P.M.

ACTING SPEAKER HUNTER: The House will come to order.

Good afternoon, colleagues.

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 members in the Pledge of Allegiance.

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

A quorum being present, the Clerk will read the Journal of Wednesday, June 11th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, I move to dispense with the further reading of the Journal of Wednesday, June the 11th and that the same stand approved.

ACTING SPEAKER HUNTER: Without objection, so ordered.

MRS. PEOPLES-STOKES: Good afternoon, colleagues and the few guests that are in the Chambers. I know we are embarking on the Juneteenth holiday, and such, I would like to give honor today to none other than Muhammad Ali. So the quote for the day is coming from my brother Muhammad Ali in his absence. *Service to others is the rent you pay for your room to be [sic] here on Earth*. I should just repeat that because it's so important. *Service to others is the rent you pay for your room here on Earth*. Again, these words by the greatest boxer of all times [sic], Muhammad Ali.

Madam Speaker, members have on their desk a main Calendar and soon to be a debate last. Before any housekeeping and/or introductions, we're gonna call the following committees to meet: Ways and Means followed by Rules. These committees are gonna produce an A-Calendar that we will definitely take up today.

We're gonna begin our floor work today by taking up the following bills on consent: Rules Report No. 1 -- 318 by Ms. Rosenthal, Rules Report No. 332 by Ms. Barrett, Rules Report No. 493 by Mr. Weprin, and Rules Report No. 547 by Ms. Paulin. Also, Calendar No. 132 by Ms. Hyndman. There will definitely be a need for further floor activity as we proceed, Madam Speaker. I'll be

pleased to announce that at that time.

However, that's the general outline of where we're going. If you could begin by calling the Rules Committee to the Speaker's Conference Room.

Actually, you know what, Madam Speaker? We'll change that. If you would begin by calling the Ways and Means Committee to the Speaker's Conference Room. Thank you.

ACTING SPEAKER HUNTER: Okay. Thank you.

Ways and Means Committee members, go see Chairman Pretlow in the Speaker's Conference Room. Ways and Means Committee members, please make your way expeditiously and quietly to the Speaker's Conference Room.

We have no housekeeping this morning, no introductions this morning.

(Cheers)

Oh, wait, wait, wait. We just got a light.

Ms. Levenberg for the purpose of an introduction.

MS. LEVENBERG: I'm sorry, colleagues. I -- I really wrecked the -- the thing here. But I have some cousins actually came to visit today, Gregg and Anna Pasternack. And they have been to the Capitol before but never in the Chamber. And they actually are coming from the Berkshires. But their brother -- I'm sorry, Gregg's brother recently passed away, Wayne Pasternack. And Wayne was -- actually, I think he lived in service to others and paid his rent for his room here on Earth, per the Majority Leader's quote. He recently

passed very sadly, and he was a constituent of my colleague Assemblymember Shimsky. He lived in Dobbs Ferry. And I attended his service, and all that really anybody talked about was what an incredible person Wayne was and how giving he was, and how he would drive anybody anywhere to the end of the earth and back. He was an amazing sports fan, a phenomenal musician. And I think that his brother also shares many of those same qualities. Gregg and his wife Deborah run a company called the Singing Classroom, a subscription website that's a searchable database of songs, games, videos and animations to help pre-K through 6 music teachers with their curriculum planning. Anna is being home-schooled, and this is part of her home schooling. So please, if you have the opportunity, colleagues, to share something important with Anna, please do so today.

And Madam Speaker, if you would please extend the cordialities of the House to my cousins and condolences for brother Wayne.

ACTING SPEAKER HUNTER: On behalf of Ms. Levenberg, the Speaker and all members, we welcome the Pasternacks to the Assembly Chamber and extend the privileges of the floor to you. Anna, a great learning experience here today for school, so we look forward to seeing questions you might have for some of us later. And condolences, sir, for the loss of your brother. We hope you enjoy the proceedings today. Thank you so very much for joining us.

(Applause)

Page 9, Rules Report No. 318, the Clerk will read.

THE CLERK: Assembly No. A05392-B, Rules Report No. 318, Rosenthal, Shimsky, Lunsford. An act to amend the Public Health Law, the Education Law and the Insurance Law, in relation to expanding the definition of epinephrine devices to include nasal sprays.

ACTING SPEAKER HUNTER: 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 immediately.

ACTING SPEAKER HUNTER: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

This bill is passed.

Page 10, Rules Report No. 332, the Clerk will read.

THE CLERK: Assembly No. A06918-A, Rules Report No. 332, Barrett, Schiavoni. An act to amend the Town Law, in relation to authorizing the Town of Copake to establish community preservation funds; to amend the Tax Law, in relation to authorizing the Town of Copake to impose a real estate transfer tax with revenues therefrom to be deposited in said community preservation fund; and

providing for the repeal of certain provisions of the Tax Law upon expiration thereof.

ACTING SPEAKER HOOKS: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER HOOKS: 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: Madam Speaker, if you could call the Rules Committee to the Speaker's Conference Room.

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

Page 14, Rules Report No. 493, the Clerk will read.

THE CLERK: Assembly No. A03687-B, Rules Report No. 493, Weprin, Hevesi, Davila, Paulin, Brook-Krasny, Jacobson. An act to amend the Insurance Law, in relation to addressing non-covered dental services.

ACTING SPEAKER HOOKS: Read the last section.

THE CLERK: This bill [sic] shall take effect January 1, 2027.

ACTING SPEAKER HOOKS: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

Page 15, Rules Report No. 547, the Clerk will read.

THE CLERK: Senate No. S04204, Rules Report No. 547, Senator Comrie (A00589, Paulin Otis, Sayegh, Alvarez). An act to amend Chapter 154 of the Laws of 1921 relating to the Port Authority of New York and New Jersey, in relation to Port Authority organization, appearance and notice.

ACTING SPEAKER HUNTER: Read the last section.

THE CLERK: This bill [sic] shall take effect immediately.

ACTING SPEAKER HUNTER: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 27, Calendar No. 132, the Clerk will read.

THE CLERK: Senate -- Senate No. S04892-B, Calendar No. 132, Senator Stavisky (A07832, Hyndman, Seawright, McDonald, Davila, Buttenschon). An act to amend the Education

Law, in relation to physical therapist assistants.

ACTING SPEAKER HUNTER: Read the last section.

THE CLERK: This bill [sic] shall take effect on the 365th day.

ACTING SPEAKER HUNTER: 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: Madam Speaker, if we could ask for members' attention as we begin our debate process, we're going to start with Rules Report No. 385. It's on page 12 and it's by Member Chandler-Waterman.

ACTING SPEAKER HUNTER: Thank you.

Page 12, Rules Report No. 385, the Clerk will read.

THE CLERK: Assembly No. A04762-B, Rules Report No. 385, Chandler-Waterman, Simon, Lucas, Anderson, Hooks, Burroughs, O'Pharrow, Jackson. An act to amend Executive Law, in relation to requiring documents utilized by State agencies, public authorities and municipalities to replace the term "emotionally disturbed person" with the term "person experiencing an emotional crisis."

ACTING SPEAKER HUNTER: An explanation has been requested.

Ms. Chandler-Waterman.

MS. CHANDLER-WATERMAN: Thank you. New York State Assemblymember Monique Chandler-Waterman of Assembly District 58 and currently serving as a member of the New York State [sic] Mental Health Committee.

This bill, A.4762-B, which -- which my office and I have worked hard to advance in coordination with my in-district AD 58 Mental Health Task Force, local and national advocates, community leaders and fellow elected officials, is crucial. According to the National Institute of Mental Health, nearly one in five adults in the U.S., which comes to 57.8 million people, in 2021 experienced mental illness each year. This is a public health priority, and disregarding the impact of language surrounding it carries real consequences -- compassion. This bill ensures that New York's public institutions speak about mental health with respect, accuracy, and is person-centered. By replacing the outdated term "emotionally disturbed person" with "personal experiencing an emotional crisis", this will reflect our growing understanding of mental health and the importance of language in shaping public's attitudes. Words matter, especially in government. The change reduces stigma, promotes dignity, and aligns with best practices supported by the National Health Organizations [sic], without affecting police operation, criminal statutes or incurring new costs. It's -- it's a simple but

powerful step towards more humane and person-centered public policy.

Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Gandolfo.

MR. GANDOLFO: Thank you, Madam Speaker. Would the sponsor please yield for just a couple of questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MS. CHANDLER-WATERMAN: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. GANDOLFO: Thank you. So first, we had had a conversation, I guess offline, about this bill and I appreciate some of your clarifications. I just want to put them on the record here.

So, one of my concerns was the provision in here that any agency or municipality would have to replace any public-facing materials with materials that include this updated language. If they currently have any manuals, any documents that use the term "emotionally disturbed person", would they have to throw those out and replaced them immediately or would this be on some kind of updated schedule?

MS. CHANDLER-WATERMAN: No, they would not have to replace it immediately. They do have time. This bill takes effect immediately, but it gives a year for the agencies to be able to update their materials as they would with any normal change.

MR. GANDOLFO: Okay. So one year and then after a year any, you know, training materials just have to have this updated terminology for their next release of the --

MS. CHANDLER-WATERMAN: Yes.

MR. GANDOLFO: Okay. All right. Thank you for that. That relieves a lot of the burden that I thought would be on it.

And another concern I had, which you had clarified and I just want to mention here for our colleagues, is that in Federal regulation there's not a definition of "emotionally disturbed person", but there is a definition of an emotional disturbance that an individual may possess. And it's defined as something over the long-term. It would include conditions such as schizophrenia; however, I believe your bill is more geared towards first responders and law enforcement when they're filling out a report to rather than refer to someone as an emotionally-disturbed person, to referring to them as a "person experiencing an emotional crisis." So this is more for the reporting of for first responders?

MS. CHANDLER-WATERMAN: This bill doesn't impact how medical professional [sic] diagnose or treat patients, it simply updates outdate -- outdated language on State and local forms, training materials that are publicly posted.

MR. GANDOLFO: Okay. And that would include law enforcement forms and, you know, if any EMS, if they fill out a report to when they responded. Like, forms such as that?

MS. CHANDLER-WATERMAN: Just forms.

MR. GANDOLFO: Okay. All right. Thank you very much. I appreciate your clarifications.

Madam Speaker, on the bill briefly.

ACTING SPEAKER HUNTER: On the bill.

MR. GANDOLFO: I appreciate the sponsor clarifying some of these things. When I had started researching the bill and I came across the fact that there was a definition of emotional disturbance in Federal regs, I had a concern that this might cause a conflict and lead to some imprecise language; however, after speaking with the sponsor and hearing her responses here, I don't believe that to be the case. Because someone who is experiencing an emotional crisis might not have an underlying emotional disturbance as defined in Federal regulation, and someone with an emotional disturbance might not constantly be in a state of crisis.

So I think the intent of this bill is good. I think it does actually make the language more precise, especially when filling out a -- a report after a response. So I -- I will be voting for this bill and I would encourage yes votes from my colleagues as well.

Thank you to the sponsor and thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. Will the sponsor yield for a question?

ACTING SPEAKER HUNTER: Will the sponsor

yield?

MS. CHANDLER-WATERMAN: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MRS. PEOPLES-STOKES: So, you mentioned that this is going to impact the language that's used in most forms that people have to fill out for whatever reason, as it relates to some level of government authority. Is this also including the courts?

(Conferencing)

MS. CHANDLER-WATERMAN: No, this is just for the agencies, update their outdated language.

MRS. PEOPLES-STOKES: Did you say agencies?

MS. CHANDLER-WATERMAN: Mm-hmm.

Okay. Agencies and local municipal corporations.

MRS. PEOPLES-STOKES: Okay. So that includes social service departments?

MS. CHANDLER-WATERMAN: Repeat that, please?

MRS. PEOPLES-STOKES: Inclusive of social service agencies?

(Conferencing)

MS. CHANDLER-WATERMAN: Yes.

MRS. PEOPLES-STOKES: Okay. Thank you. Thank you very much.

On the bill. I just want to mention --

ACTING SPEAKER HUNTER: On the bill.

MRS. PEOPLES-STOKES: I really do think this is an amazing idea to transform how we think about people and the condition that they're in. And it -- it brings me to yesterday's conversation on Mr. Hevesi's bill when I wondered, how did we get here when there are so many dysfunctional families in our society. This may be one of the ways that we got here, by the harsh language that we sometimes use that is not necessarily intended for every person.

So I'm extremely impressed with the thought process of changing how we discuss this issue, and I think we may get to a better place with it as well. So thank you, and I commend the sponsor on this legislation.

ACTING SPEAKER HUNTER: Read the last section.

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

ACTING SPEAKER HUNTER: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Chandler-Waterman to explain her vote.

MS. CHANDLER-WATERMAN: Thank you, Madam Speaker. The implementation of this bill underscores the importance of how we think about, feel towards, and respond to people experiencing mental health crisis. Language has the power to heal or to harm. We, as humans, know that how a system talks about

people is often how it treats them. Shifting from emotional [sic] disturbed to person experiencing an emotional crisis is not only person-centered, it is trauma informed. This terminology deescalates public perception, particularly in police or emergency context, and restores dignity to individuals in moments of vulnerability. When we label someone as "disturbed" we distance ourselves from their humanity. When we say that they are experiencing a crisis, we invite empathy and action. Ultimately, the way we talk about mental health can either promote understanding or reenforce stigma, discrimination and exclusion.

As we conclude, it is important to recognize that words shape our thoughts and action, making today's focus on the power of language all the more vital. I choose -- I choose to use language as a tool to break stigmas and ultimately save lives.

I will be voting in the affirmative and I encourage everyone here to vote as well. Thank you.

ACTING SPEAKER HUNTER: Ms. Chandler-Waterman in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, we can continue on our debates. We're gonna take -- actually, we should advance the A-Calendar first, please.

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

MRS. PEOPLES-STOKES: Thank you. Now, from the A-Calendar we're going to take up Rules Report No. 700 by Mr. Rivera. It's on page 15. Followed by Rules Report No. 699 by Mr. Dilan. It's on page 15 as well. And then we're gonna go to Rules Report No. 656 by Mr. Bores. That one's on page 5. Rules Report No. 686 by Ms. Gallagher. That one's on page 12. And we're gonna end up with this level of debates at Rules Report No. 675 by Mr. Otis. That one's on page 10. In that order, Madam Speaker. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Page 15, Rules Report No. 700, the Clerk will read.

THE CLERK: Assembly No. A08883, Rules Report No. 700, Rivera, Peoples-Stokes, Bronson. An act to amend the Judiciary Law, in relation to judicial departments.

ACTING SPEAKER HUNTER: An explanation has been requested.

Mr. Rivera.

MR. RIVERA: Thank you. The State Constitution empowers the Legislature to adjust judicial districts including increasing or decreasing their number, and altering their composition once every ten years. This allows for the reapportionment of justices within these altered districts. The Legislature last exercised this authority in 2007 when it established the 13th Judicial District in Richmond County. This bill aims to make sure our elected judges

genuinely reflect the diverse communities they represent. Presently, existing judicial district lines dilute the voices of various communities, preventing a representative Judiciary from being elected. By drawing districts that accurately include and empower diverse populations, we can cultivate a Judiciary that better understands and serves everyone, building greater public trust and delivering more equitable justice.

ACTING SPEAKER HUNTER: Mr. Jensen.

MR. JENSEN: Thank you, Madam Speaker. Will the honorable gentleman from Buffalo yield for some questions?

ACTING SPEAKER HUNTER: Mr. Rivera, will you yield?

MR. RIVERA: For the honorable gentleman from Monroe County, sure.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. JENSEN: You're -- you're too kind, Mr. Rivera. I appreciate it.

I know you just talked a little bit about the process about why we're doing this, a previous example of -- of when we last did this and -- and utilized our role per the State Constitution. But could you delve into a little bit more about the justification for bringing this now, maybe by expanding on the issues of diversity or equity that you -- you brought up in your explanation?

MR. RIVERA: Sure. This is an issue that I have been looking at over the last few years. Last year I proposed a similar

piece of legislation that spoke to the 8th Judicial District where I live. Other members have proposed similar ideas for the judicial districts they lived in. And as we know, this is something to be done once every ten years, so collectively we came to the conclusion that it was wise to do it together. At the end of the day we feel as though, especially considering how long it's been since these lines have changed and the nature of the changing population of these areas, that it was essential for us to consider whatever we could do to create a more reflective judiciary in these -- in these regions.

MR. JENSEN: So when we talk about -- when you talk about a reflective Judiciary, and with myself being a member of the 7th Judicial District, which I think is the most affected part of this proposed legislation, and making it to your point more reflected, is that -- is that based on race? Is it based on gender? Is it based on populations from the communities that these individuals that currently serve on the Supreme Court are elected from? What's -- what's, I guess, the biggest equity argument that you think is most compelling?

MR. RIVERA: Yeah. No, I mean, it -- it ranges. So, for example, you know, if we're looking at Monroe County, for example, you know, the district as it currently stands is a little over 1.2 million people. The substantial amount of that 1.2 million people, 61 percent, just live in one county; that's Monroe County. Of that -- of Monroe County, it is the overwhelming center of not just population, but of diversity. For example, in -- in Monroe County the population of the -- of the entire sort of judicial district, 91 percent of the African-

American population in Monroe -- in -- in the judicial district is in one county; that's Monroe. Eighty-seven percent of the Asian population of the entire judicial district is in one county; that's Monroe. Almost 80 percent of the Hispanic population of the entire judicial district is in one county; that's Monroe. And as it stands right now, out of the 67 justices of the 4th Department, only two of them are African-American. None are Asian. None are Hispanic. And we feel as though, you know, looking at those numbers in and of itself we see that there's a correlation between the difficulty to have representation and sort of the drowning out of the bigger judicial district when so much of the population is concentrated into one county.

MR. JENSEN: So under that explanation, would it -- would it surmise -- do you surmise that by specifically designing the 7th Judicial District to wholly contain Monroe County, the 8th Judicial District to wholly contain Erie County, and the 14 -- the new 14th Judicial District to wholly contain Onondaga County, that we would see Supreme Court justices elected that reflect the -- the racial makeups of those three counties specifically?

MR. RIVERA: I would say that the population reflects a higher probability -- well, let's see. In the new maps there's a higher probability that individuals that reside in those counties are gonna find themselves in front of a judge that -- that is from their community. We're focusing now on sort of the -- the ethnic/racial part of it, but the reality is also if you just look at my judicial district, for example, the 8th Judicial District and Erie County is a over 900,000-

person county. So more often than not, judges are elected from Erie County in the entire judicial district. So now if I was a resident of Orleans County or Allegany County or Wyoming County, I would find it difficult to find a judge from my county. But under this new design, under these new boundaries, there's a much higher probability because Erie County is separate from the rest of those counties. So right now, if I'm a resident of -- I'll just pick one -- for example, Allegany County, that from my understanding hasn't seen a Supreme Court justice elected from that county since the early '80s, could now mean if I'm from Allegany County there's a higher probability that the judge that's in front of me is from my -- from my county, from my community, knows my community.

MR. JENSEN: But doesn't -- so, understanding that the -- the voters in each of the judicial districts elect the Supreme Court justices from the judicial district, doesn't the O -- doesn't OCA determine where the Supreme Court judge is located? So couldn't a judge elected out of Allegany County, to your point and your example, be assigned to either another county within the same judicial district or an entirely different judicial district that OCA could assign somebody from Allegany County to Suffolk County or to the City of Buffalo?

MR. RIVERA: Sure. Under that scenario it's assuming that someone from Allegany has won an election -- well, has gotten the nomination, has been endorsed by whatever party they're affiliated with, has gone through their judicial convention, and got on

the ballot and has won. The problem is the fact that somebody from Allegany County hasn't been elected since 1981 means that that's not happening. So you're right in theory that OCA can put a judge here versus there. But if a person's never elected to begin with, then OCA has no (indiscernible/cross-talk).

MR. JENSEN: But there's also -- but they could be elected from Allegany County or any of the other counties in these five proposed JDs. But there's no guarantee that they will actually have their court based in the county from which they are elected -- that they reside in.

MR. RIVERA: I would say OCA has broad authority on a number of things.

MR. JENSEN: Speaking of OCA, have they weighed in on this proposal?

MR. RIVERA: In the conversations I've had with OCA, they are fully in agreement that the issues that we see around diversifying the Judiciary is something that they're fully aware of and it's something they wish to tackle.

MR. JENSEN: Okay. Well, my -- my understanding is that they -- they have, I think today or earlier this week, did put out -- and whether it's from the Chief Judge -- Judge or another spokesperson for the -- the court -- that they said that acting on this -- I'm paraphrasing -- that acting on this today was not in OCA's best interests, that they prefer it be delayed until next year to have further conversations, discussion and study about the implementation of any

new JDs.

MR. RIVERA: I guess I'd have two points to that; first, the Constitution of the State of New York is clear. It's the obligation of the Legislature to do this.

MR. JENSEN: Mm-hmm.

MR. RIVERA: We have the responsibility to do this once every ten years, and we have not done this in quite some time. So -- so OCA might say, *Yes, I would like to have taken part in some sort of conversation*. In reality, as I mentioned before, I had a bill on this a year ago.

MR. JENSEN: Mm-hmm.

MR. RIVERA: Conversations with OCA happened then. I'm sure my Senate counterparts had conversations with OCA on their side. So it's -- it's not from out of left field, by any means. What I would also say is, aside from it being our responsibility and our obligation, I'd also say, you know, I -- I tried with the best efforts I could to try to determine, at least in the case of my judicial district, when the last time it was redrawn. And I talked to, you know, attorneys and retired judges that go far back, to say it bluntly, a lot older than you and I, and the conclusion that they all had with some of them practicing law for 40, 50 years is that as long as they could remember, these lines looked this way. So that means -- and some of them assumed as far as back as it could have been this way, this exact same setup, since the turn of the century. So -- so taking into account how much population changes and how much people move and -- and

what districts look like and simply what we've changed in the last 100 years in this State, we -- we can't say that -- that now's not the right time. We -- we've missed the boat too many times to say, *Oh, let's just wait another year.*

MR. JENSEN: And certainly I can understand that and -- and you're certainly not gonna get an argument from me as somebody who believes in our institution, the Legislature as an institution about utilizing every -- every arrow in our constitutional quiver when it's appropriate. But I think -- I think it'd be a different conversation if we were up against a deadline where we -- we couldn't act because of a -- a set cutoff. But with the most recent creation of a judicial district happening in -- in 27 -- 2007, there is no deadline that we have to meet that -- you mentioned that you -- you introduced a -- a standalone piece of legislation for the 8th JD. I know one of my colleagues did one for the 7th JD. And so the conversations have led to the bill we have before us today. But there is no statutory rush for us to not have larger discussions, especially with OCA and the residents of the existing 5th, 7th and 8th judicial districts.

MR. RIVERA: I -- I would say it's in that absence of a deadline or of a rush that has made it so that these districts have not changed in both of our lifetimes put together. So the change -- the absence of a -- of a deadline or a rush has only left it the same way it's been for as long as many of us can remember. And in reality, I feel strongly that we're here, elected from the various districts we come from, to sort of move in a faster action than just sort of saying, *Well,*

it's always been this way and that's how it is. I -- I think that we're here to -- to bring forth a change, and if nothing else, to ensure that whatever form of government is standing before a person it's -- it's more better reflective of that community.

MR. JENSEN: And certainly I -- I don't have any argument on -- on that general statement.

I want to get back to that in a moment, but just to finish up on my OCA tangent. Is there any fiscal cost attached to the this legislation? And if there is, is there any appropriation language either in this bill or a bill that we can expect to see before the end of this year's Legislative Session to cover the cost of creating two new judicial districts?

MR. RIVERA: I would say that there are no new creations of new judgeships. There is not any speak -- there's no sort of a requirement of building new courthouses. You know, counties have courthouses in every county of this -- of this State. I would say that the -- the cost of this is gonna be deeply nominal.

MR. JENSEN: So --

MR. RIVERA: No, go ahead.

MR. JENSEN: So -- so, deeply nominal. The OCA estimates it's gonna cost about $9.6 million to create the two new judicial districts, which I -- I would agree that in a budget of $254 billion, 9.6 million would be in that classification termed as nominal. But yet there is still a cost that the Judiciary Branch would have to incur, especially if these seats are gonna be up for election in 2026.

So I guess that's -- you know, I'm a little hesitant about proceeding with a change where certain parts of this bill become effective immediately without having appropriation outlays to ensure that justice can be heard, given, directed in a most expedient manner.

Going back to the part about making sure that our communities have been heard, certainly we all do that here. We're all represented by -- we all represent constituents. A lot of legislation has come up this year and it's -- it's been justified why we did it; because our constituents have been calling for it, interfacing. Were there any public hearings amongst the residents of the 5th, 7th or 8th judicial districts to get their feedback on this proposal or on the proposal of any new judicial districts in New York State?

MR. RIVERA: You know, as per the State Constitution, it doesn't say that it's required, certainly. That being said, I've had countless conversations with the most directly-affected sort of stakeholders, including OCA and -- and an array of judges. So I -- I feel that everyone is in agreement that the -- the changes need to be made in every conversation I've had. And the only conversation that I've had that's led people to sort of -- well, let me take a step back. The -- the intent of what we're doing here is universally sort of perceived to be the right thing to do. Some people will say that the timing is this or that. But at the end of the day, like I said before, you know, this has been far too long that it's been this way and, you know, we're not on any other timeline other than the timeline of the need that we see in front of us today.

MR. JENSEN: Okay. You know, certainly I -- I believe in, and you mentioned, and I think rightfully so, that before legislation comes before us that the sponsor or the proponents are speaking to stakeholders. And I would argue that, yes, the existing judges who currently serve in these -- the three existing JDs, you know, they would certainly have the need to weigh in. The three existing administrative judges would have a say. Has there been a -- have you had a conversation with the administrative judges from the 5th, 7th and 8th JDs about how this change would impact their courts, as well as the judges and, more -- most importantly, the New Yorkers who come to trial for whatever reason in those jurisdictions?

MR. RIVERA: I've spoken to administrative judges within -- I've spoke to an administrative judge in -- within OCA; yes, I have.

MR. JENSEN: So -- so just (indiscernible/ cross-talk).

MR. RIVERA: And he was of the thought that -- you know, he also concurred with my position in that there is a diversity problem in the bench. I think that's universally accepted. I mentioned the statistic earlier of the 67 justices that are in the 4th Department, only two of them are Black, and frankly, that's all in one county. So the overwhelming majority of -- of -- of this department does not have a single person of color on the bench. That's a problem for an enumerable set of reasons.

MR. JENSEN: Just -- just --

MR. RIVERA: Hold on.

MR. JENSEN: I'm sorry.

MR. RIVERA: But at the same time, you know, your -- your take on, you know, how much conversation has existed between us and OCA, you know, like -- like I said before, it's our obligation, there's a reason. In the State Constitution it's clear that it's our duty, it's our responsibility. And to sort of broaden that to take in the input of the Body itself that we are looking to sort of realign, you know, I don't see why we would give up a space in our duty and responsibility that we're elected to do to really anybody.

MR. JENSEN: Fair enough.

Moving into how certain specifics of this legislation were decided, what was the -- the justification or the reasoning for assigning the judges from the three existing JDs into five JDs? And not talking about the -- the total number in each JD, but the actual specific named judges. Like, why would Jane Doe go from the 7th to the 15th, but Jim Smith would go from the 7th to the 5th?

MR. RIVERA: Sure. A couple things were taken into account. For example, one, we took into account the seniority and where they currently were assigned. I think it's also important to note that OCA has the authority to sit judges where they are, as you said before, and often they do that. You know, we -- you know, would also like to make that clear to everybody, that -- that as it currently stands, we took into account, you know, seniority and we also took into account where that judge is located and feel that the end

result is -- is, you know, fair to -- to all of those. But at the end of the day the other thing to consider is who's occupying a judicial seat today, just much as any of us in this room who occupy our seats today, it -- it -- you know, our seats, my 104th Assembly District, must last much longer than I will. And at the end of the day, you know, we make decisions based on not on the individual, but on the -- on -- on the district.

MR. JENSEN: I -- and I would agree with that. You know, whether it's a Supreme Court judge, a State Assemblymember or a village trustee, there's no guarantee that it'll be a certain -- a member of a certain political party, that it'll be a certain gender, a certain ethnicity. Because at the end of the day it depends on who the candidates are and who the voters choose to put their faith in to fulfill the obligations of the job that they're seeking to fill. So I would agree with that.

So you talked about the judges are assigned based on seniority. So you mean that it was based on the number of existing senior judges who are now no longer in an elected seat but they've hit senior status? Are you talking about the judges who are approaching the mandatory retirement age, or are you talking about longevity of service on the bench in that role or in any judicial office?

MR. RIVERA: I guess the starting point that I should have mentioned before is that it's clear by our Constitution that there's a maximum number of just -- justices spelled out, and it's 50,000 residents per justice.

MR. JENSEN: Mm-hmm.

MR. RIVERA: So that's sort of a starting point I should have mentioned as well. That's unaffected by this as well.

MR. JENSEN: Mr. Rivera, I conceded that fact. I didn't --

MR. RIVERA: Yeah, yeah. I wanted it mentioned.

So the -- the question is what -- what was taken into -- into account?

MR. JENSEN: Yeah. So how were you -- you mentioned that one of the big things was seniority, and I just asked for clarification. Was it trying to place judges who are in senior status into the larger judicial population areas? Was it looking at judges who are getting close to this -- the -- the mandatory retirement age --

MR. RIVERA: No, no.

MR. JENSEN: -- into specific areas, or was it based on total longevity of service on the Supreme Court bench or on the judicial bench at-large?

MR. RIVERA: The latter.

MR. JENSEN: The latter. Okay. Thank you.

Were the -- and I know you mentioned you -- you spoke to one administrative judge. I'm -- I'm guessing that was in the 8th. Was there any consultation with the five -- or not the five, the three administrative judges on the assigning of judges across the new proposed five JDs?

MR. RIVERA: One of the concentrations that we did

take into account is that we made sure that those that were Appellate judges stood in the same place.

MR. JENSEN: Okay.

MR. RIVERA: And if you're -- to the question of did I have conversations, I spoke to presiding judges of Appellates. I've spoken to, as you can imagine, more judges in the last couple of weeks than I have in my whole life.

MR. JENSEN: See, I typically try not to talk to judges, but that's just normally --

MR. RIVERA: Same.

MR. JENSEN: -- I try not to talk to people with the power to send me to prison.

MR. RIVERA: My -- my number's out there, so --

MR. JENSEN: But that -- that's just by and large a personal policy.

MR. RIVERA: Yeah. I get it.

MR. JENSEN: Fair enough.

You mentioned that in the entire 4th Department there's only two minority judges, two African-American judges. And I -- forgive me, I don't know what judicial district they currently serve in.

MR. RIVERA: Eighth. Solely in Erie County.

MR. JENSEN: Solely in Erie County. Were they kept in the 8th Judicial District or were they assigned either separately or together to a new -- to the 15th JD?

MR. RIVERA: They were kept in the 8th.

MR. JENSEN: They were kept. Okay, so the two African-Americans judges were kept in the 8th District. Okay.

MR. RIVERA: Right. And truthfully, in the -- in the scenario of both of them, they're both Appellate judges.

MR. JENSEN: Okay.

MR. RIVERA: And all the Appellates are kept together.

MR. JENSEN: Okay. Thank you. And this is -- I'm -- I'm not a lawyer, I try not to play one.

MR. RIVERA: Me neither.

MR. JENSEN: It's great that we're -- we're probably --

MR. RIVERA: Sure.

MR. JENSEN: -- the two most appropriate people to be debating this.

MR. RIVERA: Sure, sure.

MR. JENSEN: But what would be the impact -- and in my unfamiliarity with the mechanisms of court cases, is there a concern that a case that is currently being heard in a -- in a -- in one JD in a county that's now being assigned to a new JD, could cause a disruption in the proceedings of an ongoing case -- and certainly, some cases can last for years -- that it could still be heard or in the process of being heard upon the full implementation of this law?

MR. RIVERA: So -- so, you know, no -- no judge

that's currently sitting a judge -- as a judge today is -- is, you know, no longer gonna be a judge because of this. So their caseload, their -- whatever things that they're working on are unchanged.

MR. JENSEN: So if -- if a -- if a court -- and we've -- we've mentioned Allegany County a couple of times --

MR. RIVERA: Sure.

MR. JENSEN: -- so I'm gonna -- I'm gonna reference that Allegany County is currently in the 8th JD, correct?

MR. RIVERA: Correct.

MR. JENSEN: Correct. So in Allegany County today is -- you know, a case may be brought before a Supreme Court judge sitting in Allegany County. Their case is being heard and it's brought and, you know, the opening motions are brought in the 8th. Then by the time it goes to trial, it's -- now the time frame has passed and we're now in full implementation of this law, and now they're being heard in the 15th JD but the judge who's hearing the case has now been assigned into the new 8th District. Would that provide any sort of hardship or grounds for a dismissal or a -- a mistrial? Is there any judicial issues that could arise?

MR. RIVERA: None. None. I mean, at the end of the day they're all still within the 4th Department, so that's one part of that.

MR. JENSEN: Okay.

MR. RIVERA: And the second thing is as long as -- presumably, unless that judge retires or which would happen with or

without this, it would be the same judge that would see the same case. That -- that wouldn't matter.

MR. JENSEN: Okay. Certainly you referenced one of the considerations being population, and certainly, unfortunately, for our representation in the Federal Government, Western New York and the Finger Lakes have seen a -- a decrease in population. While Monroe County as a whole may have seen a population increase, our region as a whole has saw a -- a reduction.

Not just looking at issues of -- of diversity makeup or the -- the population at-large, was there a weighing of existing caseloads out of each county when assigning counties to specific JDs?

MR. RIVERA: The -- I didn't want to touch anything around caseloads, in part because what's -- what the -- you know, whatever the burden of caseloads is today is different from a year from now and two years from now. That's a moving target that, you know, you don't -- you don't make a long-term decision like this, something we can only do once every ten years, based on today's caseload. It wouldn't be reflective of -- of really much in the grand scheme of things.

MR. JENSEN: Okay.

MR. RIVERA: And although it's ten years, take into account that these are -- these are individuals that have to run for 14-year terms, so it's -- it's even -- they have all the more time is what I'd say to that.

MR. JENSEN: Okay. Looking at population of the

new proposed judicial districts, the largest would be the 8th, which is Erie County with approximately -- 2024 estimates have a population right around 950,000, yet the population of the smallest proposed judicial district is the 14th in Onondaga with just under 490 -- 470,000, a difference of almost 4 -- 481,000 New Yorkers.

MR. RIVERA: Mm-hmm.

MR. JENSEN: Is there a concern that you have about the way these judicial districts were determined where you have such a dramatic population difference in -- in the same region?

MR. RIVERA: I -- I would say no. I -- I would say, you know, number one, in 2007 when we did this with Staten Island it actually had a smaller population than the county of Onondaga. So there's precedent for the number. The other thing I'd say is that, you know, the idea here is we're -- there -- there are population centers that are, you know, that -- that dominate the entire population of their counties, and those counties dominate the population of their judicial districts. So by isolating that County of Onondaga and Monroe and Erie, it makes it so that those other towns that -- that are on the outskirts or -- or those other counties that have towns in the -- in the outskirts of Monroe, Onondaga and Erie have now a better likelihood of -- of, you know, electing judges from their counties.

MR. JENSEN: And I -- I can understand that, and -- and going down that -- that line of reasoning. You know, certainly Buffalo being the -- the State's second-largest city, Rochester being, unfortunately the fourth, Syracuse I think fifth at this point.

MR. RIVERA: Sounds about right.

MR. JENSEN: Why wasn't Westchester County included in this legislation? Certainly the City of Yonkers is the third-largest city in New York State. They have a large population center, to your point you just made. Why -- why didn't you look at separating Westchester County from the rest of their judicial district in a similar fashion than you did for Erie, Monroe and Onondaga?

MR. RIVERA: By our estimates -- well, for a couple of reasons. You know, one, as I mentioned before, these were the initial bills that we had and kind of this is what we've been running with. But also, the population shifts that we've seen in the Western New York, sort of Upstate Western New York region, has demonstrated greater shifts than that neck of the woods.

MR. JENSEN: And -- and I understand that, to your point you just made and was made earlier about existing legislation that would create a 14th JD, two separate 14ths for Erie and Monroe. But there was no pre-existing, that I'm aware of, legislation for Onondaga. So the decision was made to add a third county to whole -- be wholly contained in a judicial district. So under that same logic, Westchester and the diversity, and I believe they have see growth in population, that they may have been appropriate to create their own judicial district as a standalone and allow for greater representation from the other counties in that judicial district.

MR. RIVERA: Yeah. I mean, truthfully, I can only speak to the bill in front of me, and whether another bill is introduced

in the future for other counties, that's, you know, for the future to see. But also, you know, the -- the -- there's a glaring issue around not just the diversity of a county, but then the representation of that diversity on the bench. And we see that being a much starker problem in Onondaga, Monroe and Erie.

MR. JENSEN: So that's your -- the belief is, and -- and I don't have -- you've certainly done a tremendous amount of research into this, and -- and I -- I recognize that and can't -- can't disagree with that. So you see the larger diversity issues as being more prevalent in Erie, Monroe and Onondaga than in any other locations in New York State that don't already have a standalone judicial district. For instance, Westchester.

MR. RIVERA: The population numbers are what they are, and they show what they show us.

MR. JENSEN: Okay. Fair enough.

I think one of my colleagues is probably gonna touch on this more, and I know I'm short on my -- on my second 15. Are there any other areas of State law that rely on the judicial districts to fulfill the statutory terms of State law?

MR. RIVERA: As you're probably aware, judicial districts also -- the conversation around judicial districts also come into account when we talk about the Board of Regents.

MR. JENSEN: Okay. And I'm sure I'll have a colleague who will delve into those questions more at length.

But Mr. Rivera, I appreciate our -- our robust

conversation on this topic and I appreciate our colleague's graciousness in -- in listening to our loquaciousness.

MR. RIVERA: Thank you.

MR. JENSEN: Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Tannousis.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes, of course.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. TANNOUSIS: You hesitated a little bit.

MR. RIVERA: For you, never.

MR. TANNOUSIS: Okay. Thank you.

Mr. Rivera, I -- you mentioned diversity quite a few times in your -- in your debate thus far. Can you please define for us what diversity is?

MR. RIVERA: Well, I read earlier around some of the numbers and I used my judicial district for an example. I have similar numbers around ethnic diversities and -- and the population reflected in each county and each judicial district by comparison. But I'd also say, you know, it -- it goes past that. I mean, I mentioned a bit earlier in that -- I used Allegany as -- as an example but I'll use another county. You know, for example, Steuben. Steuben, the

likelihood of a person, you know, being elected from Steuben County as it currently sits is difficult because Monroe County is the population center. It's the, by far, more so than any other county in the judicial district, and it makes it that much more difficult for somebody that's from a Steuben or a Livingston or an Allegany or a Wyoming, to -- to become a Supreme. So it -- it's diversity in the way that I said before. As, you know -- you know, as -- as a -- as a Latino person myself, I have yet to meet a Supreme Court judge from the 4th Department of my ethnicity. I know that there's future and there's progress and we see that, and I hope that that will be different one day. But I also say if I'm a resident of Steuben County, I -- I look at it and I said, *Well, what's the probability that I'm ever gonna see a judge from my county in the Supreme Court when Monroe is such the big population base and the majority of judges come from Monroe County?* So now under this scenario, so many more counties are on a way more level playing field because there's not this heavy, big county like Erie or Monroe is and their -- and their judicial districts. Now there's gonna be more opportunity for folks that just as much as I don't see somebody that -- that -- that I say is from my community on the Judiciary, someone from Steuben County, regardless of their ethnicity, frankly, cannot say that they often see someone from their county represented in the Supreme Court.

MR. TANNOUSIS: So just to be clear, when you're speaking about diversity, you are most certainly speaking about race; is that correct?

MR. RIVERA: I just gave you an example that it wasn't.

MR. TANNOUSIS: Well, no, you kind of gave us an example that it was, because you just mentioned the fact that you are Hispanic -- of Hispanic background, and you just said that the chances of seeing a judge of the same ethnicity as you --

MR. RIVERA: Sure.

MR. TANNOUSIS: -- was slim to none. Isn't that what you just said, Mr. Rivera?

MR. RIVERA: As much as I said about the average voter in Steuben County.

MR. TANNOUSIS: Now, do you believe that the residents of these counties, do you think that they're interested in seeing people of the same ethnic makeup as potentially them, or are they more interested in seeing actual fair judges that will make the right decisions?

MR. RIVERA: Well, I think we're able to accomplish both.

MR. TANNOUSIS: I noticed, Mr. Rivera, you didn't really touch upon about backlog at all. So is it fair to say that backlog was not looked at at all when preparing this bill?

MR. RIVERA: As I said before, I mean, I'll -- I'll lump the conversation around backlog in the same way I lumped the conversation around current caseload. It's -- it's reflective of a moment in time, not reflective of the needs of the whole department.

You know, this is something that -- that is a multi-year, long-term thing, and we'd do a disjustice [sic] if we're just focusing on today's caseload.

MR. TANNOUSIS: Okay. So then just to confirm, I just want the record to be clear.

MR. RIVERA: Mm-hmm.

MR. TANNOUSIS: Backlog was not taken into account in preparation for this bill, correct? It is just diversity, as you just stated.

MR. RIVERA: The number of judges based on population already takes into account the processing of cases.

MR. TANNOUSIS: So the answer is no, right, Mr. Rivera?

MR. RIVERA: It's what I just said.

MR. TANNOUSIS: It's a -- it's a very simple yes or answer. It's either you did or you didn't.

MR. RIVERA: I -- I gave you my answer. If you don't like it --

MR. TANNOUSIS: Thank you.

Let's talk about the judges that are now present that will be affected by this. These are judges that were elected within certain judicial districts, correct?

MR. RIVERA: All of these judges were elected in their judicial districts, yes.

MR. TANNOUSIS: And when we say elected in

their judicial districts, they were on the ballot. Voters from those particular districts that they ran went to the ballot box and voted and expressed their desire to see these people on the bench in their district; is that correct, Mr. Rivera?

MR. RIVERA: Just like folks that vote for us.

MR. TANNOUSIS: Correct. And now as a result of these bills some of these folks will no longer be in those particular judicial districts; correct, Mr. Rivera?

MR. RIVERA: Just as much as when we get redistricted, we face the same situation.

MR. TANNOUSIS: Well, not exactly. Right, Mr. Rivera? Because I have not been told that I now represent a completely different district than I currently have, and I'm assuming that hasn't happened to you either, Mr. Rivera, has it?

MR. RIVERA: No.

MR. TANNOUSIS: Thank you.

Mr. Rivera, you mentioned conversations that you had with the Office of Court Administration. Have you received any type of memo or paperwork in support with regards to this bill currently from the Office of Court Administration?

MR. RIVERA: Nor have I received a letter of opposition.

MR. TANNOUSIS: But you -- we did, however, were informed by the Office of Court Administration that they would like this bill to wait until next year to allow for further discussion and

analysis; isn't that correct?

MR. RIVERA: That could be their will, but at the end of the day it's the same districts that we've had for longer than anyone can, you know, can remember in -- in the 4th Department. And waiting another year, kicking the can, seems unprudent [sic] in the face of what we know to be a problem.

MR. TANNOUSIS: Well, Mr. Rivera, the Office of Court Administration, you would agree, that this is the Body that runs the courthouse, correct? That manages the courthouse, manages the staff, manages the finances for these court systems; isn't that correct?

MR. RIVERA: But we are the Body that the Constitution calls upon to do this.

MR. TANNOUSIS: But we are not the Body that actually directly manages the courthouses throughout New York State, correct?

MR. RIVERA: I suppose I would say we, as the Legislature, not only determine the districts and what they look like, we, as the Legislature, approve a budget. We, as the Legislature, do countless things around the Judiciary.

MR. TANNOUSIS: Do we manage the courthouses around this State on a daily basis like the court -- Office of Court Administration does?

MR. RIVERA: No.

MR. TANNOUSIS: And that's what the court of -- the Office of Court Administration does, correct? That is their

purpose?

MR. RIVERA: Yes.

MR. TANNOUSIS: So you would agree that they would be in the best possible situation to know if they -- a bill such as this should go through this year, or perhaps maybe wait for a later date for various reasons?

MR. RIVERA: I generally think the independent nature of what we did was the wiser thing to do. And that's why the Constitution is clear that it is us that makes that decision, not OCA.

MR. TANNOUSIS: Mr. Rivera, are you -- are you telling us today that you know more than the Office of Court Administration that manages the -- all these courthouses, including this particular courthouse that will be affected?

MR. RIVERA: I would say that the wise people that made the language, what it is in the State Constitution, took into account the justices of their day just as much as we're taking the justices of our day.

MR. TANNOUSIS: Okay. So I believe, then, I would take that as a yes. You believe that you know better than the Office of Court Administration.

MR. RIVERA: I know better than to say that.

MR. TANNOUSIS: The Onondaga City Bar Association, are you familiar with them, Mr. Rivera?

MR. RIVERA: Can't say I am.

MR. TANNOUSIS: Do you -- do you know that they

have put forth an opinion stating that this bill would cause operational dysfunctions -- disruptions, I apologize, significant financial costs and potential barriers to justice. Are you aware of that?

MR. RIVERA: I would say waiting another year wouldn't have changed that position.

MR. TANNOUSIS: Okay. But that was -- that was the Bar Association that made that -- that made their feelings known.

Other questions, Mr. Rivera.

MR. RIVERA: And -- and just to mention --

MR. TANNOUSIS: Yeah, of course.

MR. RIVERA: -- I've spoken to Bar Associations. I have -- and I have gotten the same pushback. And frankly, Bar Associations don't make determinations on where judges sit.

MR. TANNOUSIS: But Bar Associations are made up of attorneys that practice in this courthouse; wouldn't you agree?

MR. RIVERA: I would say I have a letter of support from the Trial Lawyers Association. So those are attorneys, too, that are supportive of it.

MR. TANNOUSIS: Well, who would know better about this particular courthouse, the Onondaga City Bar Association that actually is full of attorneys from this county, or associations potentially from -- made up of attorneys from other counties?

MR. RIVERA: I would say I have the full confidence that what we've done, what's on paper, this bill, is going to be reflective of the will of -- of these communities and the

representatives that represent them.

MR. TANNOUSIS: Another question for you, Mr. Rivera. Was LATFOR consulted in terms of making up these judicial districts?

MR. RIVERA: Can you say that again? I'm sorry.

MR. TANNOUSIS: LATFOR.

MR. RIVERA: No.

MR. TANNOUSIS: Okay. Was there any type of either bipartisan entity or independent entity that was consulted in regards to the drawing of these particular judicial districts?

MR. RIVERA: I would say honestly, between all the judges that I've spoken to in the -- in the building up to this point, I'm sure there were multiple parties, and frankly, I never asked any of them what party they're affiliated with. But I would say yes, I have consulted with people from both Democrats and Republicans.

MR. TANNOUSIS: Oh really? Well, let's -- let's go into those groups, then, if you have. Which independent groups or people did you consult with in coming up with this type of legislation?

MR. RIVERA: No, what I said is I spoke to judges that reflect multiple parties.

MR. TANNOUSIS: Oh, you spoke to judges.

MR. RIVERA: Yes.

MR. TANNOUSIS: Okay. Did you speak to any type of independent group or good government group in relation to these judicial seats?

MR. RIVERA: No.

MR. TANNOUSIS: Okay.

MR. RIVERA: And frankly, this bill -- the -- the initial version of this bill has been out for the public's viewing for over a year, and the only feedback I had ever gotten was the deep understanding that -- that -- that there are necessary changes needed.

MR. TANNOUSIS: Well, Mr. Rivera, I just mentioned at least two entities, including the Office of Court Administration which directly manages the -- the structures and the personnel that are involved in this, and the Onondaga City Bar Association which is made up of attorneys that practice in -- at this location, and I've expressed deep reservations that they have expressed in regards to this bill. So are you stating that you -- beside -- you -- you have not heard of any other type of reservations in regards to the -- to this bill?

MR. RIVERA: No.

MR. TANNOUSIS: And did you hear from those two entities?

MR. RIVERA: No.

MR. TANNOUSIS: Did you have conversations with any of those -- with either of those two entities?

MR. RIVERA: Oh, wait. OCA? Yes, of course.

MR. TANNOUSIS: You had -- did they explain that to you?

MR. RIVERA: They explained to me that they see a

need for a change. They know that there's a problem. They've done estimates and conversations with countless, you know, members of -- of the 4th Department and they know that there's a problem. Where their concern is is around timeline, but not on the substance of what we're doing.

MR. TANNOUSIS: I see. So they did express to you the desire to not pass this this year and push it a little bit further down for -- for various reasons, correct?

MR. RIVERA: You said it yourself in a statement that -- that you read earlier.

MR. TANNOUSIS: Thank you so much. Thank you, Mr. Rivera.

On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MR. TANNOUSIS: Madam Speaker, the sponsor has made it very clear that the only reason for the change of judicial districts in -- in the words that he has put forth are in regards to diversity. But I submit to this Body that the colors here involved have nothing to do with race. It has -- has to do with Democratic blue or Republican red. Those are the colors that this piece of legislation has to do with. He has admitted himself that he has -- was given various reservations by groups in regards to this piece of legislation, including the Office of Court Administration who, by the way, would probably be in the best possible position to know if this bill is actually feasible to pass this year. They have made it clear that it is not feasible, it

should not be passed this year. But yet here we are, because certain members of this Body believe they know best. They know better than OCA.

I am against this bill and I advise my colleagues to vote against it as well. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Maher.

MR. MAHER: Thank you, Madam Speaker. Will the sponsor yield for some questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. MAHER: Thank you. So this bill creates -- (indiscernible) to create two new judicial districts within the 4th Judicial Department. I just had a couple of questions for you.

MR. RIVERA: Sure.

MR. MAHER: When it comes to the cost in the budget, can you go over what we have in this currently adopted budget and what -- potentially what we're thinking the shortfall is in terms of total cost?

MR. RIVERA: Well, I guess, number one, it doesn't take effect until '27 so there's no shortfall for '26. What I'd say is there is no creation of new judge -- judicial spots. You know, there's no new judges being -- no judgeships being created. So we believe that

the cost is quite nominal. I heard a figure spoken earlier; I disagree with it. We're gonna have to address it at the right time.

MR. MAHER: Okay. We did a little bit of research, my team and I, and we were looking at other areas around the State and around the country which may or may not be comparable. But just so you have them, anywhere from 1- to 1.5 million for transition IT costs; ongoing operations, potentially another 1 million a year. And then really where it gets interesting is if there are any courts that need infrastructure improvements. In your delib -- deliberations going over this bill, did you run into any conversations where there might actually by some physical issues with the buildings or rehab to the buildings in terms of this transition?

MR. RIVERA: I have the full confidence that OCA is gonna be able to manage, as they already do, in those court -- in those spaces. There -- there is not a need to build new courthouses. There's -- it's just a matter of allocating judges to certain places.

MR. MAHER: Okay. There were some concerns --

MR. RIVERA: I'd also say, you know, OCA has a budget of approximately $3 billion, and this is a legislative Body, frankly, that wants to support that and has always done so and will continue to do so.

MR. MAHER: Since you bring up the number of 3 billion, do we know typically year by year what the use of that 3 billion is? Is there a bit of an issue with spending all three? Is it to the T? Is it operational mostly? Is there really that much wiggle room

in that number?

MR. RIVERA: I would say that's in the budget that's before us every year. I don't have that off the top of my head.

MR. MAHER: Okay. All right. I'm curious. You got me curious now. Okay.

So, another issue that's been brought up is disruptions -- the potential of disruptions to court personnel and the legal process when it comes to redistricting, potentially leading to staff reassignments and really the caseload in general. Were there any issues with the potential caseload brought up during the discussion of this bill?

MR. RIVERA: As I said before, to -- to take into account caseload would not be the proper sort of variable in it all. What I'd also say is where there's greater population there's more cases and, therefore, more judges. That doesn't change. That's how it is today. If there's a caseload problem today, this wouldn't affect it going up or down tomorrow. So caseloads are just caseloads.

MR. MAHER: Okay. So you don't think this will potentially have a negative impact on caseloads during the transition?

MR. RIVERA: No, it's the same judges, it's the same staff, presumably. It's --

MR. MAHER: Okay. Thank you for that answer.

When it comes to -- bear with me one minute.

(Pause)

When it comes to certain types of cases, housing,

family court, same question. Do -- do you envision any sort of issues with the creating of -- of potential justice deserts because there are issues with the transition on those specific housing and family court cases?

MR. RIVERA: This is solely dealing with Supreme Court. So village courts, town courts, county courts, family courts are not affected.

MR. MAHER: Awesome. Thank you.

You answered my active cases. You answered my funding questions. Oh, when it comes to data that was being presented, what sort of data was used? I know you -- you talked about the disparities, which I think are -- are legitimate in terms of the racial equity aspect of this. What other data-driven framework was created when drafting this bill?

MR. RIVERA: I would say the majority of information is just from the Census. You know, the population of particular counties, the populations of judicial districts. That's all directly from the Census without, you know, yeah.

MR. MAHER: All right. Well, we appreciate you answering our questions. Thank you, Mr. Sponsor. Appreciate it.

MR. RIVERA: Thank you.

ACTING SPEAKER HUNTER: Mr. Sempolinski.

MR. SEMPOLINSKI: Would the sponsor yield for some questions?

ACTING SPEAKER HUNTER: Will the sponsor

yield?

MR. RIVERA: Certainly.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. SEMPOLINSKI: In an earlier question you mentioned a couple counties with which I am familiar, Allegany and Steuben. Did you consult with the representative for Allegany County when constructing this bill?

MR. RIVERA: No.

MR. SEMPOLINSKI: No? Who is the representative for Allegany County?

MR. RIVERA: I got a sense.

MR. SEMPOLINSKI: That's right. Did you consult with any of the Steuben County Delegation when constructing this bill?

MR. RIVERA: No.

MR. SEMPOLINSKI: No. So you're making decisions about our counties, assuming what perhaps we might like or prefer as far as the State court system without talking to us.

MR. RIVERA: You know, I would -- you know, correct me if I'm wrong, but if I'm an Allegany resident or a Steuben resident or a Chemung resident or a fill-in-the-blank county resident --

MR. SEMPOLINSKI: Chemung is not in the 4th Judicial Department.

MR. RIVERA: Correct. I'm just using it as an example. But if I'm of any -- if I'm a resident in any county, the -- the

-- the higher probability of me being in front of a judge from my county is a positive. And I think that's what this will do.

MR. SEMPOLINSKI: I -- I think maintaining the integrity of the court system is more positive than whether my particular county or any particular county gets a judge. I'm more concerned about that. But maybe you have a different feeling.

MR. RIVERA: But if it's the same judges, then what's the (indiscernible)?

MR. SEMPOLINSKI: Well, I --I have some broader --

MR. RIVERA: (Indiscernible/cross-talk).

MR. SEMPOLINSKI: -- concerns which I'm gonna get into.

MR. RIVERA: Okay.

MR. SEMPOLINSKI: First of all, I just wanna clarify -- you did say this for some of my colleagues -- there are currently 67 judges in these three judicial departments. At the end, we're gonna have five judicial departments with 67 judges. There's not a change, an increase or a decrease in the number of judges?

MR. RIVERA: The 67 is the department. So yes, that number doesn't change. (Indiscernible/cross-talk).

MR. SEMPOLINSKI: So the number of judges throughout the department --

MR. RIVERA: Correct.

MR. SEMPOLINSKI: -- is the same?

MR. RIVERA: Correct.

MR. SEMPOLINSKI: The date of effect we talked about a little bit, it will be next year, and as was mentioned -- and -- and I'm looking at the sponsor's memo, and in the sponsor's memo, these are your words, correct?

MR. RIVERA: Yes.

MR. SEMPOLINSKI: Yes. It says the last time that the Legislature actually exercised their authority was 2007 to change these lines. And you state that the -- the leg -- the Constitution authorizes the Legislature to make these changes. It does not require them to make those changes. Am I interpreting your words correctly?

MR. RIVERA: Yeah. That's correct.

MR. SEMPOLINSKI: Right. So unlike the State Legislature or unlike Congress, we are obligated to change or redo the lines after every Census. Your words say we are authorized, and I think that is a correct interpretation of the Constitution. We don't have to exercise that authority, and in this case it has not been exercised in some time.

MR. RIVERA: And just -- it -- it's not that I'm saying we're authorized, the State Constitution says we're authorized.

MR. SEMPOLINSKI: I would -- I would concur with that assessment. Why do you think it's different between judges and between the Legislature, as opposed to a requirement as opposed to an authorization?

MR. RIVERA: Well, that's interesting. I mean, I

suppose the terms are drastically different. Like, the length of time one serves is 13 years for -- for -- I'm sorry, 14 years for -- for Supreme and our terms are two years. I'd also say like the biggest difference when it comes to redistricting us versus judicial districts is that the State Constitution is clear that the judicial districts cannot divide counties. So it has to be entire counties, wherein the case of your district, my district and all of our districts, it can be broken down to a village line, a county line, a town line, a city line, a counciled line, a legislature line. So there is far more, you know, you know, fine points to our redistricting because we don't have the parameter of being county only. So there's simply just more complexity to our districts because we don't have that restriction.

MR. SEMPOLINSKI: Okay.

There was some mention -- I wanna just hit one point on how judges are allocated. The judges are allocated by name, based on the current occupants of that particular seat and they're allocated across the five different judicial districts that are contemplated in this bill, correct?

MR. RIVERA: Correct.

MR. SEMPOLINSKI: So, and you said what was taken into account was seniority, geography, those sort of things. Was partisanship taken into account?

MR. RIVERA: Not at all.

MR. SEMPOLINSKI: I -- I was curious, because I went to see who would be the judges in the judicial district where I

would reside and that I would represent, and all the folks that were allocated, all the ones that wouldn't age out before their term were Republicans. So are you saying that's just a coincidence?

MR. RIVERA: I'd say that in the case of the 8th judicial -- or the -- the new district, I would say that factors are taken into account like seniority, whether they were Appellate, and then taking into account, you know, where they currently reside. For example, I know that there's a judge in Chautauqua County, Judge Hanlon --

MR. SEMPOLINSKI: Correct. Grace Hanlon, yes.

MR. RIVERA: -- who is a resident of Chautauqua County, a Democrat --

MR. SEMPOLINSKI: She is a Democrat, correct.

MR. RIVERA: And she's gonna be located in the new district.

MR. SEMPOLINSKI: And -- and she'd be one that wouldn't be up for reelection, though. Her age would --

MR. RIVERA: Surprisingly, that was the case with an overwhelming majority of these judges, that they're --

MR. SEMPOLINSKI: Well, a 14-year term, that does happen. So my --

MR. RIVERA: Not much I could do about that.

MR. SEMPOLINSKI: So my overarching philosophical concerns with this is this appears to be a judicial gerrymandering. Do you fear that injecting gerrymandering such as

we've had be a source of great controversy in State legislative and congressional elections, so much so that the people put on to the Constitution an anti-gerrymandering provision relatively recently, injecting that type of action into the court system undermines faith in the courts?

MR. RIVERA: I would say that when we have the conversation around gerrymandering it -- it -- it's not exactly close to this subject because we're not dividing municipalities. We're not dividing communities. We're just keeping entire counties whole. So I don't think it's the same thing.

MR. SEMPOLINSKI: Well, you're drawing particular districts for particular purposes. And -- and I'm -- again, you said the sponsor's memo is your words. You said the bill is designed to remedy the inequality -- and you referred to specifically racial inequality -- you're drawing districts for that particular purpose, your words. Is that not a gerrymander?

MR. RIVERA: No, I don't think --

MR. SEMPOLINSKI: How is that not a gerrymander if you're drawing particular districts for a particular purpose?

MR. RIVERA: It would be gerrymandering if I decided to cut the County of Erie in half, split it up some way. Because that's the population center where there's the most diverse populations. We're not doing that in any county.

MR. SEMPOLINSKI: You can draw a gerrymander without drawing weird districts if you draw it for a particular purpose.

How it looks, whether it's a snake or -- or some sort of squiggle or something is irrelevant. It's -- you are drawing it for a reason other than good justice.

MR. RIVERA: I would say that I'm confident in the 67 judges that we have before us and they are delivering justice. None of them are changed. So...

MR. SEMPOLINSKI: Because the people themselves are not changed you feel it's not a gerrymander, even though you're changing how all future judges will be selected?

MR. RIVERA: I would say that there is a process that's been set in place by the State Constitution that we, as a Body, have not taken up in this region for -- from, half jokingly, what I've heard is almost a century. I would say that it is --

MR. SEMPOLINSKI: Is that not a source of stability, though? Isn't that a positive that we haven't changed judicial districts?

MR. RIVERA: I don't think that that's -- stability is not the priority when we're talking about representation. I would say the --

MR. SEMPOLINSKI: So your goal is representation?

MR. RIVERA: I would say that --

MR. SEMPOLINSKI: Just to be clear, your goal is representation.

MR. RIVERA: I'll get to my point. What I would

say is that the neighborhood, the city, the town, the whatever you live in, looks drastically different than what it looked like, we'll say 70 years ago, which is probably even further back. So why we would continue to move and operate under the idea that things look the same way they looked at almost a century ago is -- is never gonna be okay.

MR. SEMPOLINSKI: So your -- again, your goal is representation so that folks look like the folks that are -- that -- the districts that they're coming from.

MR. RIVERA: As it should be, yes.

MR. SEMPOLINSKI: As it should. Okay. I would say when we're talking about the Legislature, the goal is representation. When we're talking about the judicial system, the goal is justice. But that's just me.

Election Law --

MR. RIVERA: Just to be clear. There's not -- the idea of representation and justice are not diametrically opposed. That can exist simultaneously.

MR. SEMPOLINSKI: My -- the --the overarching goal of the judicial system is justice is my supposition.

Election Law. Recently there are new statutes for certain Election Law actions have to be brought in New York County, Albany County, Westchester County, and Erie County. With one of those jurisdictions being impacted, would that not lock in, potentially, since Erie County is an overwhelmingly Democratic jurisdiction, Election Law matters in Erie County being determined by Democrats?

And by the way, the other three jurisdictions are also overwhelmingly Democratic.

MR. RIVERA: I would say what matters are before what courts was never something I took into account in any way.

MR. SEMPOLINSKI: My final question is, you mentioned that this bill has been in the works for some time. I found out about it yesterday morning, personally. But it's been in the works for some time, different versions. I know there was a 7th Judicial District version, there was an 8th Judicial District version. If it's been in the works for some time, why didn't it go through any hearings or the proper committee process?

MR. RIVERA: I would say no bills tend to do that. We passed bills just this past week probably in the -- the hundreds. The -- you know, I'd imagine --

MR. SEMPOLINSKI: Most of which came out a committee of jurisdiction. Did this go through the Judiciary Committee?

MR. RIVERA: Ways and Means.

MR. SEMPOLINSKI: Yeah. It didn't go through the Judiciary Committee. Okay. Thank you very much.

MR. RIVERA: You got it.

MR. SEMPOLINSKI: On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. SEMPOLINSKI: I am against this bill. I think it, one, was done in a way where proper consultation with all the

parties involved was not handled. It sort of popped out of the air here at the last minute at the end of Session. But more importantly than that, as I said yesterday in the debate regarding judicial certificates of authorization --

ACTING SPEAKER HUNTER: Ms. Walker, why do you rise?

MS. WALKER: Madam Speaker, I rise to see if the speaker would yield for a couple of questions.

MR. SEMPOLINSKI: No, I will not. I will finish what I'm saying.

ACTING SPEAKER HUNTER: The speaker does not yield,

MS. WALKER: Thank --

MR. SEMPOLINSKI: So, it's -- it's popped out of the air at the last minute at the end of Session, and undermines faith in our judicial system. The judicial system is a source of stability in a world, a political world, with a lot of unstability [sic], a lot of partisanship and a lot of polarization. This completely undermines that as a bulwark of stability within our system of government and, therefore, I will be voting in the negative.

ACTING SPEAKER HUNTER: Mr. Ra.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. RA: So, I have a number of questions, but I'm gonna start in a totally different area. For -- many of my colleagues are probably aware of the fact that we base the New York State Board of Regents on judicial districts. So have we done -- because obviously, as -- as it pertains to the judges, there are judges, their names are in this bill as to where they're going to end up. Have we done a similar thing in looking at who the members of the Board of Regents are, when their terms are up, and how that would play out with these changes?

MR. RIVERA: No. No. The -- you know, the changes wouldn't take into effect until '27, so, you know, it doesn't affect the current Board of Regents.

MR. RA: Well, but there would have to be Regents for those new districts. There could be Regents that are currently living in one judicial district that are no longer in that judicial district. And the terms might expire at a particular time, which is why it's troubling when a bill like this gets dropped a couple of days before it's passed; which is why OCA is weighing in saying slow down. There are implications to us passing this. I don't care when it takes effect. We are addressing the justices and -- and where they're being allocated. But -- so we haven't -- this hasn't been looked at at all, how this would impact the current makeup of the Board of Regents and the makeup of the Board of Regents in the future?

MR. RIVERA: Whenever their terms will be up will be up. There was no consideration for Regents in this bill, no.

MR. RA: Okay. So what if a current member of the Board of Regents is suddenly in a different judicial district? Or what if -- I mean, what if two members of the Board of Regents -- and I assume by your answer that you haven't looked at this -- what if two members of the Board of Regents, you know, one is currently in one judicial district and has now moved into another judicial district? That district is only allowed to have one Regent. What happens? Does one get kicked off the Board of Regents?

(Pause/Conferencing)

MR. RIVERA: As it stands right now, if any -- if any Board of Regent [sic] that happens to be in one of these judicial districts where I'm -- I'm not even sure if that -- if there is any. If there are any, they would go through the same process that we would do in any other sort of year. Their terms are unaffected by this. So that's it.

MR. RA: Okay. Well, thank you. I -- I -- I think this is something that should have been thought about as this was being advanced.

So going back to really the issue at hand as it pertains to the Judiciary. You -- you stated to one of my colleagues earlier that you disagreed with the information he had come up with with regard to cost. Do you -- do you have a dollar figure that you feel this -- that would be associated with this bill? Obviously, we would have to look

at that in future budgets. This is going into effect in two years. Do you have a fiscal amount with regard to any new administrative staff, any new infrastructure? Anything that would be involved in the implementation of this bill.

MR. RIVERA: Yeah. It's our belief that, again, considering that we are not creating new judgeships that, you know, we're simply placing them in different places. We believe that the cost is absolutely nominal.

MR. RA: Well, it -- it doesn't seem like OCA agrees with -- with that. And -- and just as my colleague noted, I -- I will say this -- because of the time in Session we are, it went through the Ways and Means Committee rather than the Judiciary. So I wish we had a more firm answer as to what that -- that number was.

With regard to the apportionment of these judges, so we -- we spell out the names of each of these judges, correct, and what judicial district they would be serving in.

MR. RIVERA: That's required by the Constitution.

MR. RA: Now, am I correct that there are judges that would now be serving judicial districts that they don't reside in?

MR. RIVERA: In the scenarios where that's happened we tried to minimize that as much as possible. That is what's going to happen whenever a redistricting occurs. There's not a residential requirement to serve in the district, so it -- it's not the inconvenience of somebody literally moving where they live. Again, I -- I -- the -- the burden is not, you know, excessive.

MR. RA: Okay. And have you looked at in terms of these judges that are listed, how many of them are, you know, in the situation that they may be hitting retirement, mandatory retirement age in the interim of this bill going into effect? Do we know that number?

MR. RIVERA: Well, as in how many are going to retire next year?

MR. RA: Yeah. As -- as we know, you -- you have to retire at 76. So do we know if any of these judges who are spelled out are going to hit that retirement age before this bill goes into effect?

MR. RIVERA: We don't.

MR. RA: Because, you know, the reason I'm asking is we've spelled out the names of them rather than, you know, it -- it's -- it's unique, I -- I would say, to the Judiciary, right? If we were talking about Assembly Districts, there's a district number and -- and we'd be talking about the district itself. I -- I ask that because that also is going to have an impact on future elections.

Now, it's spelled out in this bill that when people run as -- for justice spots on the Supreme Court in 2026, they'll be running in line with these new districts; is that correct?

MR. RIVERA: Correct.

MR. RA: What about anybody who's up this fall?

MR. RIVERA: Oh, well if they're running this fall they're already on the ballot.

MR. RA: No, they're not.

MR. RIVERA: Or they will be after the judicial

convention is over.

MR. RA: The judicial convention is over the summer.

MR. RIVERA: Yeah. So that doesn't -- it doesn't change for this year.

MR. RA: But how -- so they would run under the current judicial districts?

MR. RIVERA: If I'm on the ballot today running for Supreme Court, I'm running under the current judicial district.

MR. RA: Well, again, you're not on -- nobody's --

MR. RIVERA: (Indiscernible/cross-talk)

MR. RA: -- on the ballot. It could be -- judicial conventions occur over the summer --

MR. RIVERA: Correct.

MR. RA: -- to designate those candidates.

MR. RIVERA: Right.

MR. RA: So what -- how are we going to apportion any judges -- any justices of the Supreme Court who are elected this fall if they're in one of these districts? Do we -- are we gonna have to come back and, by name, do, you know, essentially a chapter amendment to figure out which district they would be serving in going forward? Because they're gonna be elected to a 14-year term.

(Pause/Conferencing)

MR. RIVERA: Whether we anticipate a chapter amendment, we do not. There's been conversations between the OCA

and we don't anticipate that being a scenario that we have to be concerned with.

MR. RA: Okay. But if -- if somebody, say, is elected to become a Supreme Court justice in the 14th Judicial District this fall --

MR. RIVERA: There is no 14th Judicial District.

MR. RA: I'm sorry?

MR. RIVERA: There is no 14th Judicial District currently.

MR. RA: Well, I'm sorry. The -- one of -- in the -- okay, so let's say --

MR. RIVERA: Let's say the 8th.

MR. RA: -- the 7th Judicial District.

MR. RIVERA: Okay.

MR. RA: Okay? How are they going to be allocated come January -- does it go into effect January 2027 or sometime later in 2027?

MR. RIVERA: January 2027.

MR. RA: Okay. So how are they going to be assigned in terms of which district they will serve come January of 2027? Because their name's not in this bill because they haven't been nominated yet, how are they going to be assigned which district they'll be serving in after they've gotten elected this fall to represent the 7th Judicial District?

MR. RIVERA: This deals -- this bill deals with the

judges who are judges today. There is no way to capture what could be a hypothetical election of a hypothetical candidate. So I guess -- this speaks to the judges who are judges today.

MR. RA: It may be hypothetical, but I -- I mean, I don't know about everyplace else in the State. We have Supreme Court justices on the ballot every -- every year. So I don't think it's hypothetical. We don't know the individual's name, but I could pretty close to guarantee you that there's somebody that's going to be running in one of these districts this fall that's name is not in this bill and is not gonna -- there's gonna be some, I don't know, legal ambiguity as to where they're going to be serving come January of 2027.

MR. RIVERA: Yeah. I mean -- yeah, I mean the seat is -- you know, we -- we list the names of the judges that are currently there. The seats that those judges currently occupy are no different from the seats that are gonna be up for election this year. So the election will be held, OCA would -- would -- would determine it. They would stay within, you know, the -- they'd certainly stay within their department, and then OCA would assist in allocating them where to be.

MR. RA: So the -- so OCA will determine which district they're assigned to going forward? Is that what you're saying?

MR. RIVERA: OCA, in any scenario, determines where they sit.

MR. RA: Well, where they sit, but --

MR. RIVERA: That would be no different.

MR. RA: Yes, but we have statutory numbers of judges in each of these departments. So presumably, somebody has to be able to determine that this person -- yes, you can sit in a different district, as -- as we know. I mean, I could -- I could be on the ballot this fall -- I'm not going to be, obviously -- but I could be on the ballot this fall in Erie County for a justice.

MR. RIVERA: Come on down.

MR. RA: Nah, I like Long Island.

MR. RIVERA: I figured.

MR. RA: But, so you could sit in a different district, but in terms of where they are actually allocated for purposes of that statutory number we have of districts in each -- there -- there seems to be a great deal of ambiguity here as to how we're going to deal with that if somebody's elected in the interim of -- of after we've passed this bill. And I -- I don't -- I don't see how there's any other solution other than us anticipating doing some future amendment to this to name those judges and where they're going.

MR. RIVERA: I don't perceive it to be ambiguous. I think that OCA creates the rules and makes the decisions administratively to determine these things.

MR. RA: Okay. So -- so you are saying that OCA is going to make that determination then.

MR. RIVERA: Well, there's already a designation of how many judicial district slots or judgeships there are in each one of these districts.

MR. RA: Yes.

MR. RIVERA: If one district is down one, we know where that person would be placed.

MR. RA: Okay. So OCA will have the ability to make that determination administratively as to what judicial district that individual is -- is serving?

MR. RIVERA: I perceive that as no different from the abil -- the -- sort of their capacity and what they can do today.

MR. RA: Well, I -- I wouldn't agree with that because they could -- they can allocate judges different places. They can't change which judicial district they've been elected in.

MR. RIVERA: Correct.

MR. RA: Those are two different things.

Lastly, I -- I know you said, you know, that you did not look at caseload, but my understanding is that in 2024 there were 7,000 new cases filed in Erie and 2,900 filed in the other seven counties of the 8th Judicial District. So if you divide that by 13 judges, that's about 22 -- 220 new cases per year. Now, if we're dividing the districts now, I mean, are we basically gonna have to have a lot of these judges still be assigned to work in Erie anyway to be able to keep up with that caseload?

MR. RIVERA: Well, I'd say that -- that's why the -- the new 8th Judicial District has 18, and the -- sort of the newly-created one around it will have ten. You know, it -- the population of these municipal -- of the counties are taken into account on the

portions of what judges go where. You know, caseloads are gonna come and go. They're gonna be up and down, and we're making the best decisions we can with the information we have before us.

MR. RA: Okay. I -- thank you, Mr. Rivera.

Madam Speaker, very briefly on the bill. I still have 15 seconds.

ACTING SPEAKER HUNTER: On the bill.

MR. RA: I'll come back and explain my vote. But there are far too many questions here that don't have answers. That's why bills that are this complex should not be dropped the last week of Session when there are so many different entities that need to weigh in to make sure something like this is done effectively.

Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Reilly.

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

MR. RIVERA: Yes, sir.

ACTING SPEAKER HUNTER: Will the sponsor yield? The sponsor yields.

MR. REILLY: So, Mr. Rivera, just -- what I heard earlier was that the intent of this bill is for the Judiciary to be reflective of the community that it's represented by; is that correct?

MR. RIVERA: In 2007 when we made sure that the good people of Staten Island were gonna have their own district, we

did so, I believe, granted it predates me, that we were doing so believing that, you know, the folks who live there and wanted to be represented more fairly and I think that this is exactly the same thing we're doing now.

MR. REILLY: Okay. Does this bill add a judicial seat to Richmond County?

MR. RIVERA: No, but if you want now -- no.

MR. REILLY: We're gonna get into that.

MR. RIVERA: I'm sure.

MR. REILLY: Thank you.

On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MR. REILLY: So, I heard so many things here about diversity, equity, inclusion. Not only in this bill, but, of course, over the several days that we've been here. One of the things that the sponsor mentioned, which I reiterated, right, reflective judiciary of the community. When we debated a bill about judges that were being appointed, or seats being created, we were told, *don't worry about Richmond County. They can get elected in Manhattan and they can be sent to Richmond County*. The exact argument that I used of saying, we need a judicial representation that's put in place by the community they are going to hear cases in. I was told, *there's nothing to worry about with that*. On this legislation, it's the exact opposite. The hypocrisy is just outstanding. And when I -- the reason why I brought up diversity, equity, inclusion, we hear diversity, we hear

equity, but we always leave out that "I"; inclusion, inclusiveness. That means hearing from all sides. We don't ever hear that part. Being inclusive sometimes is allowing people with different opinions to have input. We see often in bills that we put in about forming commissions, *oh, there's no Minority member appointments*. I get it. I get it. You control the House, the other House and the Executive. That's how it works. I get it. But if you truly want to have DEI and be inclusive, then we would hear from all stakeholders. But, the hypocrisy of this bill coming to the floor right after we had budget season and the same exact arguments that I'm bringing up today, I was told, *don't worry about. You can get elected in Manhattan. You can get elected in Queens. You can get elected in the Bronx. They can assign someone to Richmond County.* Why does it fall on deaf ears? There's only one reason. It's about politics and we know that.

Now, ironically in this bill, it's one of the seats there, one of the judicial seats here, would hear election appeals. That was a bill that we did last year I believe, right? And we made it where only four counties can hear and appeal on an Election Law in regards to elections. Isn't it ironic that now we're changing those seats so that maybe the scale of justice may tilt a little to the left? Justice, when you look at it, right, it wears a blindfold, right? She's always wearing a blindfold. Obviously, it does not wear -- she does not wear a blindfold, because we all know that this has nothing more to do than being a Democrat or a Republican. And I get it, you're in charge, that's how it's done. We can do better and we must do better.

Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Bologna.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. BOLOGNA: Thank you, sir. So, Mr. Rivera, being from the same county, same next of the woods --

MR. RIVERA: Yup.

MR. BOLOGNA: -- familiar backgrounds, would it be fair to say that when it comes to political operations; petitions, opt of ballot, the mechanics of ballot access, what -- whatever -- it doesn't matter. The office; whether it's a town judge, town board member, county, State Assembly, whatever it is, that there's a small group of -- of insiders, generally referred to as polls or politicos, that generally understand the mechanics of how ballot access and how this stuff works. Would you -- is that a fair assessment?

MR. RIVERA: If you're saying that the majority of the people that are involved in politics is a small subset of people from our region, I suppose that's partially true. Sure, I suppose.

MR. BOLOGNA: And then --

MR. RIVERA: But I'd also say that it's incumbent

upon us that are elected, you know, we represent districts of 130,000 people, impossible to meet them all. So, we know that at the end of the day we're just trying to, you know, be as fair as we can to as many people as possible, being honored by their vote. And at the end of the day, I think one universal thing that people have communicated to me on both sides of the aisle, as you know, I represent a district that is, you know, certainly not as blue as others, I -- I -- I would say the one universal truth is, people want to know that -- that the people that they're engaging with in government, is represent -- are they a representative of who they are? And I do look at the other counties in the current judicial district and I know that's it not reflective. I know that if I am from Wyoming, or Genesee County, Orleans County, the probability of being elected to the State Supreme Court is minimal, regardless of your political affiliation, because Erie County just occupies so much seats in that judicial district. So, I think, at the end of the day, whether there are many people involved in politics, very few people involved in politics, people that are brand new, or people that have been here forever, at the end of the day, you know, the -- the eagerness to be reassured a fair representation supercedes all -- all of it.

MR. BOLOGNA: Thank you for that. I mean -- but as far as the mechanics are concerned, I mean, it's -- it is a small -- this is a very inside baseball build in -- and within that political structure, there's even a smaller subset of -- of people who are of the legal political, you know, judicial, you know, ilk of that.

MR. RIVERA: Yeah --

MR. BOLOGNA: So, my -- my question for you is, why are we -- why are we doing this? Like, who is -- who is calling with -- what public outcry is happening here? Who is calling for this?

MR. RIVERA: If we waited for public outcry for every bill we did, we wouldn't do many bills here. So, that's why.

MR. BOLOGNA: Okay. So, why are we doing this?

MR. RIVERA: We're doing this because these lines, I said to Mr. Jensen earlier, I can say it easily to you too, these lines haven't been changed since both of our, you know, times on this planet multiplied by two. There is no reason that we should wait another minute to look at the lines that determine who our judges in this State, that have been still, stagnant, there, the same way for decades and look at it and say, well, *what's the outcry? Well, what -- what difference does it make?* There is a problem. The fact that we have not done this faster and sooner is the problem.

So, you're right. There is no public outcry, but for the same reason you mentioned before. It's because the average person who lives in New York State, especially if you're just living paycheck to paycheck, they are not concerned, or aware, of judicial conventions and when that happens and all of that in between. All they know is if they are confronted with the justice system, they want -- they want to know that they are treated fairly and justly and ideally by someone that knows their community and that's what this does.

MR. BOLOGNA: I can -- I can appreciate that. I really can. So, I guess, another question and based on that would be, why, given the current makeup and -- and, I guess, I'll speak specifically to the 8th Judicial of which you and I currently live in.

MR. RIVERA: Yup.

MR. BOLOGNA: Why is it, you know, that the process -- what -- how -- how do I say this? Why is it that it is the way it is? Why is that there is this lack of representation, whether it's diversity based on, you know, location? Why -- why is it that that is happening? Based on the -- the -- I mean, I know that judicial conventions happen. Don't -- don't committee and judicial delegates work through the Chair? So, isn't this kind of a problem of -- of the -- of the Chairman, longstanding tradition of both parties and not nominating more -- a more diverse group of people?

MR. RIVERA: I would say, going back to your point earlier about -- about, sort of, some folks not knowing processes. The truth of the matter is, there are -- the -- the way that we elect judges and vote for judges, you know, the conventions, none of that, number one, has changed in this bill. So, the processes by which we elect judges is unchanged. So, we'll put that aside. But the fact that this was sort of a longstanding thing is not reason to continue to perpetuate it. The fact that it has been a longstanding, sort of, way that the judicial districts are configured is all the reason to change it. We're not changing processes. People will still get elected the way they got elected. There is, you know, the -- the mechanics of it all, as you put

it, is -- is unchanged. What is changed is the -- the simple boundaries of what -- where those districts are.

MR. BOLOGNA: So, how does this fix -- how does this fix that? What -- what is so special about Erie County? What is it about Erie County specifically, that giving it its own judicial district that will now change that lack of diversity of representation? What is it specifically about Erie County?

MR. RIVERA: Well, as I said before, if you look at the population of the 8th Judicial District, currently, as it stands, it's about 1.5 million people. Of that, 61 percent of it live in Erie County. So, it's a bit unfair for the other six counties that are currently in the judicial -- there are seven counties that are -- in the judicial district, to constantly be at the whim of Erie County. A county that is like a 900,000 plus person county when these other counties are substantially smaller. So just as much --

MR. BOLOGNA: So you're doing this for the benefit of Niagara and Orleans and all those counties? That's -- that's -- because you want to make sure that they're not at the will of Erie County?

MR. RIVERA: Yeah. I genuinely believe that now, if I am resident, a voter in Wyoming County, that I have a higher likelihood today under the new maps of elect -- of electing a judge from my town -- from my county.

MR. BOLOGNA: Okay. So, then I -- I guess, based on that, then and, again, specifically -- because I know you -- you gave

some numbers earlier with, you know, the populations and -- and the metrics within Niagara -- or Erie County. So, like, is the objective of this bill, then, to create a judicial district based on representation of race and ethical -- and ethnic background?

MR. RIVERA: No. I'm -- my -- the interest of this bill --

MR. BOLOGNA: Is it a factor?

MR. RIVERA: -- is to make it so the judicial districts can more easily reflect the -- the -- the -- what makes them what they are. For example, like I said before, Erie -- Erie County is an almost million person county. It should be in its own judicial district in part because of the population, but in part because the -- the nature of that county and the makeup of that population is so drastically more diverse than any other county in that judicial district, that it puts both sets of those -- of that argument, whether it's just Erie County, or the remaining counties in the judicial district, at -- at -- at an impasse of having to, you know -- if I am from -- I'll use Cattaraugus, for example, Cattaraugus, which, I think -- I don't think has any judges to Supreme right now, although I might be wrong, in our judicial district, gives them a fighting chance to elect somebody from their county. And in Eric County, it allows us to -- to commit to the goal that OCA itself acknowledges that we have not had sufficient diversity in our justice system.

MR. BOLOGNA: Okay. So, it -- diversity then, in that -- in that context, is a factor. Racial, ethnic diversity is a -- is a

factor in this legislation.

MR. RIVERA: I'd say it's a factor in every aspect of the justice system. So --

MR. BOLOGNA: Okay.

MR. RIVERA: -- yes.

MR. BOLOGNA: Okay. So, back to the -- the 8th, I -- off the top of my head, I forget what Erie -- the new Erie County District is going to be, but this -- let's just focus on that for a second.

MR. RIVERA: Mm-hmm.

MR. BOLOGNA: So, we're essentially creating a State Supreme Court judicial district for the County of Erie by itself?

MR. RIVERA: Correct.

MR. BOLOGNA: Okay. And with the goal of hopeful -- hopefully making that more diverse. There are countywide judges, currently, in that. Now, not for State Supreme Court, but for county offices, correct?

MR. RIVERA: Every county has county court judges, yes.

MR. BOLOGNA: Okay. So, what we have, Erie County Family Court, right, that are basically be running in the same district, correct?

MR. RIVERA: The county lines are the county lines, whether you're running for county executive, comptroller, county judge. Yes.

MR. BOLOGNA: So --

MR. RIVERA: A county's a county.

MR. BOLOGNA: Out of the current Erie County Family Court judges -- I'm just trying to think of the makeup. Is there -- are there any -- off the top of your head, do you know of any ethnically or racially diverse members of that Body?

MR. RIVERA: Of what Body? I'm sorry.

MR. BOLOGNA: Eric County Family Court.

MR. RIVERA: Honestly, I couldn't tell you. This bill is about Supreme Court. I --

(Crosstalk)

MR. BOLOGNA: I'm gonna get to that --

MR. RIVERA: (Indiscernible/crosstalk)

MR. BOLOGNA: So, we have -- we have one. And then Erie County Court itself, are you aware of anybody who's ethically, racially diverse on that court?

MR. RIVERA: On which court? Sorry.

MR. BOLOGNA: Erie County Court.

MR. RIVERA: Again, this is about --

MR. BOLOGNA: All right. Zero --

MR. RIVERA: -- the judicial districts.

MR. BOLOGNA: It's zero. So, it would seem to me that --

MR. RIVERA: So, you're -- you're essentially supporting my point that the --

MR. BOLOGNA: No. I -- I --

MR. RIVERA: -- court should be more diverse.

MR. BOLOGNA: -- I think the issue is more with your county chairman and less with the judicial lines, in terms of candidate recruitment. That is what I think the biggest issue here is. And if it -- actually, Madam -- thank -- Mr. Rivera, thank you very much.

Madam Speaker, can we go on the bill?

ACTING SPEAKER HUNTER: On the bill.

MR. BOLOGNA: I -- I think that this is a -- a -- an attempt to consolidate judicial power in political parties. I -- I'm -- really, it's a -- we've done two bills now in two days that have really, frankly, dis -- disheartened me towards our judicial system.

I've always been taught from the time I was in grade school that -- that justices are -- are made to be impartial. And I don't really see a way that, you know, this helps that, because this is hyper politicizing everything that we're doing within this system. So, I -- I -- I'm -- I'm actually sorely disappointed. I think that one of my colleagues used the word "hyp -- hypocrisy". I think there is a -- a fair amount of hypocrisy within -- trying to preserve our -- our judicial system and preserve what we think is good about that. And what is impartial about that, neutral is the way it should be. But yet, we've spent now 48 hours politicizing the New York State judiciary system. So, I'm very disappointed in that regard.

And, Madam Speaker, I'll be voting down on this piece of legislation.

ACTING SPEAKER HUNTER: Thank you.

Mr. Durso.

MR. DURSO: Thank you, Madam Speaker. Would the sponsor yield for some questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes, sir.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. DURSO: Thank you, Mr. Rivera. So, I am probably one of the least knowledgeable people about this topic. So, this should be pretty easy. My questions will be somewhat basic. When will this law take effect if signed by the Governor and passes today?

MR. RIVERA: The -- the actual judicial districts take effect in '27, January 1st, '27. The judges that run for office in '26 will be ruining on the new lines.

MR. DURSO: I'm sorry. Say that last part again, sir.

MR. RIVERA: The -- the -- the folks that are running for office, to assume office January 1st, they run in '26. The -- the new offices will be '27.

MR. DURSO: So, the people that are already elected, that are already sitting in those judicial seats will then also move in '27, correct? If they are the ones chosen to move?

MR. RIVERA: Yes.

MR. DURSO: Oh. Bless you, sir.

MR. RIVERA: Yes.

MR. DURSO: So, how -- do we know how many judges that are currently seated, will have to be moved once this takes place in '27?

MR. RIVERA: Well, I suppose it's -- it's laid out in the bill what judges go to what districts, but I would say -- when you say moved, you mean like physically relocate?

MR. DURSO: Yes. Yeah. Will -- will be running or -- excuse me, be put into a judicial district they weren't elected to.

MR. RIVERA: Well, just remember, this -- this doesn't truncate their terms. So, if anybody is a sitting judge currently and they were just elected last year, they still have 13 years under, you know, without having to run again is what I'm saying.

MR. DURSO: Right. I -- I understand it doesn't change the -- the length of time that they're running. I'm saying, if they ran in district -- this district here, they could be moved to another district, right, to -- to fill those vacancies that you need.

MR. RIVERA: Well, remember these folks are assigned by OCA to the county that they're assigned to. That doesn't change in this. So --

MR. DURSO: So, who -- who votes for these judges then?

MR. RIVERA: Like who el -- who elects them?

MR. DURSO: Yes.

MR. RIVERA: Oh. Well, the process is unchanged,

you know, the -- the whatever -- a party circulates petitions in the same timeline as when our petitions are circulated for judicial delegates and then a convention is held in usually August. August. And then, the -- the delegates of their respective parties, choose their respective candidates.

MR. DURSO: Well, I -- I understand that part of it. I'm -- I'm saying the residents that live in the area, correct, vote for these judges, correct?

MR. RIVERA: Sure.

MR. DURSO: Okay. So now, they're voting for a judge that's running on the line that represents their area, essentially, at the time for that district that it was presently constituted. Not starting next year, currently, correct? So, in other words, I voted for a judge that's on the ballot that I go and vote, you know, if it's my election, your election, if someone's on the ballot that year, people are going out and voting for these judges, correct? Just like you, or me?

MR. RIVERA: Correct.

MR. DURSO: Okay. Now, it's possible that a judge was elected, right, by people that will no longer be able to vote for that judge, per se, if they were able to run again, not represented. In other words, I voted for you to be, you know, on the ballot as -- as the judge I'm voting for, they can now be put into a district where I could've no longer voted for you to be that judge, correct?

MR. RIVERA: Well, that could happen today, I guess is what I would say. That -- that could hypothetically happen

today. But, for example, in the -- in -- in my district, where I live, we'll use that as an example --

MR. DURSO: Sure.

MR. RIVERA: -- in a -- if -- if I voted for a judge in Cattaraugus County --

MR. DURSO: Okay.

MR. RIVERA: -- I'm just picking a county, currently in the 8th Judicial District, it's in the 15th District as well. So, there's no change. In the majority of counties, there is no change.

MR. DURSO: But there will be a change in some. There -- there -- there's a possibility that it could, correct?

MR. RIVERA: Yeah. But, again, where a judge is seated is depended upon what OCA designates -- where -- wherever they tell them to sit.

MR. DURSO: Do we -- do we have an idea of how many of those judges may be moved out of a district they weren't elected in?

MR. RIVERA: Well, it's reflected in the -- in the bill where it lists the judges. So, it says, if you're, you know -- it -- it lists judges in Judicial District 8. I'll use as an example, the new Judicial District 15, it lists the ones that are there. It's there.

MR. DURSO: Right. So, if I voted in 8, but now that judge is moved to 15, right, if that election would have taken place today, I might not have been able to vote for a judge that I voted for last year, this year.

MR. RIVERA: That's true, but you're (indiscernible/cross-talk) -- somebody that has a 14 year term, so, it's unlikely.

MR. DURSO: Well -- well --

MR. RIVERA: Just -- I mean, yes, you -- you might be able to say, *well, I can't vote for this person who I voted for 14 years ago.*

MR. DURSO: Correct, but -- but -- but when you go in to elect these judges, it does say on the ballot, ten year term, 14 year term, correct?

MR. RIVERA: Sure.

MR. DURSO: But, now, your -- so, someone I may have voted for for a 14 year term, I no longer have as a judge in my district, correct? Even though I voted for them, they could essentially be taken away from me as the voter?

MR. RIVERA: But, you know, this bill doesn't change that because you could vote for them today hypothetically --

MR. DURSO: Right.

MR. RIVERA: -- and they now -- they might not be in your district. Not be seated, I should say, where you are.

MR. DURSO: Okay. But, I can still vote for them? So, what if -- if they're -- and I understand they're not seated where I am, right, but the overall vote -- I still have to vote for them, correct?

MR. RIVERA: Once every 14 years.

MR. DURSO: Correct. What I'm saying is, they

were elected into that position by the voters that they -- I don't want to say "be represented by", you know, those voters aren't represented by a judge, but they are voted on by the voters in that district. Which now they will no longer be the judge in some of those districts any longer, correct?

MR. RIVERA: Yeah. But, what you're not taking into account is the -- the probability of that narrows because, again, in the case of my county, it, you know, the only change in my judicial district is one county. So, if you lived in any other county, you are getting the same district, the same judge. Judges.

MR. DURSO: Okay. I'm -- I'm not taking into account the probability, but what you are saying, it is going to happen in certain districts?

MR. RIVERA: It is going to happen in certain districts, yes.

MR. DURSO: Okay. So, and -- and that just brings me to my larger point, is that we are now, essentially, disenfranchising voters, because they voted for someone that no longer is going to be in their district. So, we vote -- we -- we had voters last year that could have went in and voted for someone for a 14 year term and now we're telling them, *sorry, they no longer are in that district.* How is that fair to the voters who voted for them?

MR. RIVERA: Yeah. The -- that only matters for purposes of reelection.

MR. DURSO: Well, no, but it doesn't. So, what --

what I'm saying to you is, you're -- you're saying that you want more people in those districts to be representative of the people that are in that district, correct? Which, I understand. But, at the time, they were voted on for a ten or 14 year term and we're now telling the people in that area, the person that you voted for, whether they voted for them, or against them, is no longer going to be your representative and we're making that decision here. We're not letting the voters decide, we're just saying, *sorry, you could no longer have this judge.*

MR. RIVERA: Yeah. I -- I guess the only thing I would say is, I mean, we can kind of go in circles on it, but, at the -- at the end of the day, OCA can make that decision with or without this.

MR. DURSO: But -- but -- right, I -- and I understand exactly what you're saying. But --

MR. RIVERA: That's the higher probability -- actually, the two higher probabilities is that these judges are not going to run for reelection. So, they would retire at some point, either because of their age, or for whatever reason, or that OCA could potentially just move a judge to a different place. That's substantially more likely than the scenario, I think that -- that -- that you're --

MR. DURSO: But, what my concern is, it is -- it's possible. So, again, you brought up redistricting before with us, right? It -- it does happen every ten years, but every time there's redistricting, we have public hearings and you can't be redistricted out in the middle of your elected term, but we're doing that to judges. Isn't that disenfranchising voters? Again, whether you agree with who's in that

position, why they're in that position, who voted for them, the fact of the matter is, they were voted for and we're saying, that person will no longer represent you.

MR. RIVERA: I -- I guess that what I would say to that at the end is that the State Constitution is clear. We're able to do this every ten years, despite their terms being even larger than that. So, this is an inevitable thing that -- that would happen no matter the scenario, no matter the timing, that as long as we're able to do this every ten years, if we choose to -- since we're authorized to and their terms are greater than ten years, then that is something that's taken into account and considered.

MR. DURSO: Okay. So --

MR. RIVERA: And everyone obviously finishes their current term. So, it's not as if a -- a voter can look at a judge and that judge look at them and say, *sorry, because of a bill that they passed in Albany, I no longer am a -- am your judge. I disenfranchised* -- you know, the State doesn't disenfranchise somebody by saying, *judge, you can't be a judge anymore.* That would be the problem.

MR. DURSO: No.

MR. RIVERA: These judges are able to fill their -- their terms and they're still, as they are today under this new bill, they are, you know, constraint to how OCA determines how judges are placed, seated.

MR. DURSO: I completely understand, but as much

as a judge can't sit there and say to the voters, *sorry, I no longer represent you*, we shouldn't be able to sit there and say, *sorry, you ran for office, we're just going to move you.* That being said, I have a question: Could a current elected Supreme Court judge that's unhappy with where they were moved to, or they're assigned to, under this legislation, run for a Supreme Court seat from the original JD that they're assigned -- instead of being assigned to another?

MR. RIVERA: Nothing prevents a judge from seeking a -- a -- an election anywhere they want to run.

MR. DURSO: Can they --

MR. RIVERA: There's no residency required --

MR. DURSO: And I'm -- I'm asking that because there's no residency requirement.

MR. RIVERA: Correct.

MR. DURSO: So, if they're elected to a 14 year term last year, they get moved to a different JD, they could run next year for Supreme Court judge again, do they still get a 14 year term? Do they have to run -- can they run in another district?

MR. RIVERA: Oh, I mean, there -- there's nothing preventing a judge today from running for a different judicial office in a different region. I would only say, it would be a strange thing to do because at the end of the day, OCA can just put them back to where they were in the beginning, but --

MR. DURSO: Right, but you --

MR. RIVERA: -- I suppose.

MR. DURSO: And again, like I said, I'm not fully knowledgeable of this, it's just more of a question. So, while they're a sitting judge, let's say on their tenth year out of 14, can they -- they can run for a different JD before their term is up?

(Conferencing)

MR. RIVERA: Yeah, I mean, there's not a limitation on what a judge can do as -- as a candidate running for office, but I think at the end of the day, we've spent a lot of time talking about the -- the -- the -- the what perceived to be inconvenience of a judges moving a county over, which in many cases, is a pretty short commute frankly. When, at the end of the day, what we really should be talking about is the representation, how judges are -- are elected, the -- the ability for people to be able to seen by people from their community, I think that just is more important than sort of the -- the emphasis on what could be a very slight inconvenience for judges.

MR. DURSO: Oh, I'm not looking at the -- the inconvenience for judges, believe me. I'm more looking at it as -- it doesn't matter to me, I'm being perfectly honest. Judges, lawyers, it's fine. My concern is the people that voted for them and put them in those positions.

MR. RIVERA: I -- I guess my response to that is, my bigger concern is not the folks that had voted for whatever candidate is in front of them, is the -- is the fact that the voters that vote are -- are so, more often than not, given the opportunity to vote for somebody from their community, because of the way that the lines are

-- are -- are set to begin with. So, the disadvantage isn't whether I voted for a -- for a person and now they're going to be in the county over, the disadvantage is, I am -- you know, what history has already shown us, it is im -- not impossible, but highly, highly, highly improbable and historically, has never happened in some of these regions, that -- that -- that someone from a community is actually seated as a judge. And that's because we have this sort of disproportionate thing going on where we have a -- a -- a sort of, three population centers that overpower judicial districts and it prevents certain people from being elected from certain places, when this looks to cure that by allowing people a -- a clearer path, frankly, to -- to -- to running for judge if you live in -- in one of these non, sort of, massive counties. And that's really the -- the -- the bigger, you know, sort of the bigger point of it all.

MR. DURSO: I understand what you're saying. So, and -- and I'm trying to put it into words exactly what I feel like you meant. Which is, you want representatives from your area, being the representative that you want, correct? Not -- from that -- from the area, just like anything else. Just like you representing your district, you're going to vote for someone from your district. You want people that live in your district, right, represent -- you have the same values as you do, to be your representative. Correct? I mean --

MR. RIVERA: Right. And currently, the way that the current lines are drawn, we're looking at possibly a dozen, if not more, counties and telling them, you're so small compared to the

county next to you that is so big, the likelihood that you will get a judge from your county is almost impossible. This looks to cure that problem.

MR. DURSO: Okay. So, and -- and Mr. Rivera, I -- I appreciate you answering the questions. My -- my only concern and only real thought on this, again, is the election process and in my opinion, circumventing it. And my last question for you is, do you have that concern when we're doing that here? Just as your concern is with the judges from the areas, right? As you want people to be representative of the areas that they're in, we want people that we represent to have confidence. Confidence in the judicial system, confidence in elections, confidence in this Body. Are you concerned, at all, that by changing the will of the voter, that have already voted for these judges, that we are, again, disenfranchising voters and taking away their right for who they've already elected?

MR. RIVERA: Honestly, I -- I would say my greater concern is the fact that anybody, whether you're a super informed, you know, member of society or not, if you were to be told that the -- where you live is within a judicial district that hasn't been reviewed, changed, amended --

ACTING SPEAKER HUNTER: Thank you.

Ms. Walker.

MR. RIVERA: -- in possibly decades, that's a bigger problem.

ACTING SPEAKER HUNTER: Ms. Walker.

MS. WALKER: Thank you, Madam Speaker.

On the bill, please.

ACTING SPEAKER HUNTER: On the bill.

MS. WALKER: So, you know, sometimes when you go to church and you hear the Pastor, Bishop, speaking and you're like, *they must be talking to me.* This is exactly what I was hearing as I listened to the banter, the debate, over the sponsor of this bill introducing a bill that talks about judicial representative representation. Then, I was like, *is this a referendum on DEI?* Then it made me look at myself to say, *is this DEI conversation about me?* And I said, *yes, of course, because I DEI definitely earned it.* The ability to be able to stand here and listen to the hypocrisy that I've heard in this moment. It also made me go back to a poem that I heard in talking about redistricting. It was something that was given out by a Klansman regarding a U.S. election poll and it reads; *when cotton grows on the fig tree and alfalfa hangs on the rose. When the aliens run the United States and the Jews grow a straight nose. When the Pope is praised by everyone in the land of Uncle Sam and a Greek is elected president, then the Ku Klux Klan won't be a damn*. Well, one of the seminal pieces of legislation in this country is the Civil Rights Act of 1965 and its progeny. We know that its core is to prohibit racial discrimination and then going into the Voting Rights Act which protects under the 15th Amendment, the right to vote which shall not be denied by any race. And as the circumstances was going around with respect to how we got to the Civil Rights Act and the Voting

Rights Act, there was an amajing -- amazing Archbishop -- Archbishop who was from the Central Council of the Archdiocese who passed a resolution on racial equality. It was signed by Archbishop Iakovos which condemned segregation and racial bigotry. He issued a statement that persecution, prejudice and intolerance is the greatest sin that the -- of the free soul of the man can bear. We know race is a social construct, but we kept hearing it today. We know at one point when it came to race, it was only a WASP generation. Those who were White, Anglo-Saxon and Protestant. Yes, we also heard about Lady Justice. Lady Justice reads "qui pro domina justitia sequitu" - protecting liberty and justice for all. But guess what, just as we've seen under the Civil Rights Act, just as we've seen in that case that we talked about about that U.S. election poll and the Klu Klux Klan, while we know that justice for all is supposed to be for all, sometimes you gotta go to the Legislature to get the all to include you. Sometimes you have to go to court to get the all to include you. And then we're talking about court systems and having -- and being able to elect somebody who shares your values. I remember there being this case. It was a case of a young man who was accused of robbery, and one of the determining factors on this case was whether or not this young man actually went to the Chinese restaurant in his community in order to purchase two chicken wings and french fries. The jury in this situation could not understand because, in their community they can get dim sum, but they certainly were not ordering chicken wings and french fries at the Chinese

restaurant. But for the judge who sat on that bench who had the lived experiences in order to be able to identify and speak to the jury in private to be able to say, *yes, look, this is the Chinese restaurant menu from my community and a person is able to get those things, so we absolutely need a representative representation.* The spirit of this legislation is to undo existing laws and procedures that have denied equal political opportunities for voters in those counties to be able to elect candidates of their choice. Over time, there had been schemes to dilute protective classes and their access to voting. And protective classes was not created here. A protective class is a group of people who are legally shielded from discrimination, or harassment, based on a shared characteristic. Yes, such as race, religion, gender, disability and age. So again, this is about access to justice, this is not a new phenomenon and we know how important it is for redistricting to be able to speak to apportionment, because our Census has told us that numbers are growing, people are moving and demographics are changing. And so, in that regard, I encourage everyone to support this piece of legislation to allow for the voters in those particular counties to be able to seek and get access to real justice with a shared level of values, lived experiences, circumstances and by gosh, yes, including those who share characteristics of them such as; race, religion, gender, disability and/or age because those are protected classes. It may have taken us a generation to be able to get those classes to be protected, but it will take a lifetime for us to protect it and in the matter of standing up for democracy, as we are watching a Department of

Justice who is eroding its very nature.

I support this legislation and I encourage our colleagues to do the same day in honor, yes, of fairness, justice and equality. Thank you, Madam Speaker, for allowing me to support this bill.

ACTING SPEAKER HUNTER: Thank you.

Ms. Bailey.

MRS. BAILEY: Thank you, Madam Speaker. Would the sponsor yield for a couple questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Sure.

ACTING SPEAKER HUNTER: The sponsor yields.

MRS. BAILEY: Thank you very much, Mr. Rivera. And I do apologize, you may have said it --

MR. RIVERA: It's okay.

MRS. BAILEY: -- there's been a lot said. I've been trying to take notes.

MR. RIVERA: It's all good.

MRS. BAILEY: Just real quick, when I -- when I take a look at -- specifically, I currently reside in the 7th JD. So, some of my questions might be more appointed to that. I know you've been talking about the 8th --

MR. RIVERA: Sure, sure. What county do you live in?

MRS. BAILEY: I'm sorry?

MR. RIVERA: What county?

MRS. BAILEY: When you -- as far as how the justices were assigned, did you say that constitutionally you have to assign the judges with -- when we're redistricting, or were they just decided that that's where those individuals were going?

MR. RIVERA: The -- the Constitution lays out that -- that, you know, it authorizes us to do this at -- at -- at, you know, ten year increments and that it lays out -- we have to -- you know, we have to determine where the current judges go. So, yes, I suppose.

MRS. BAILEY: Okay. So, constitutionally. And did I hear you correct when you indicated that some of that decision-making was based on where they reside?

MR. RIVERA: Yes.

MRS. BAILEY: Okay. I just -- because I was trying to figure out, you know --

MR. RIVERA: Oh, forgive me. When I say "reside" I mean where -- where they preside, like where -- where -- where -- where they actually -- where they work. Where they're seated, I should say.

MRS. BAILEY: So, where -- so, in the case of Monroe County, it would be down at the Hall of Justice. Is that what you're referring to?

MR. RIVERA: No. What I'm saying is what we took into account was seniority and where they actually conducted work.

So, it's if a person, for example, was in Erie County, we kept them in Erie County. We didn't move a person from Erie County to Monroe County, in other words.

MRS. BAILEY: Okay. But if you took folks from Monroe County and moved them to the 7th -- or to the 15th Judicial District, that's taking them out of Monroe County when we created the 15th JD.

MR. RIVERA: Say that again?

MRS. BAILEY: I -- I guess maybe I didn't understand your -- your answer there. So, there's justices that reside in Monroe County currently, right now --

MR. RIVERA: That are judges in that judicial district, yes.

MRS. BAILEY: -- that are judges in the 7th JD.

MR. RIVERA: Okay.

MRS. BAILEY: Currently the 7th JD, what was it, 20 -- 20 justices -- Supreme Court judges, it goes down to 13. When you create the 15th District, we have 13 seats and then we shifted some into the 5th District, which is going up to 14 seats.

MR. RIVERA: Yeah. The total number of judges does not change amongst the 4th Department in its entirety. What's taken into account is that the -- there is kind of -- there are points around the minimum needing to be 50,000 people in order to have a judicial district. So some counties are much larger than other counties and when you take into account the population, that's how the judges

were distributed.

MRS. BAILEY: I completely understand that. I was just trying to figure out how the judges were assigned to the different districts and I'm still trying to wrap my head around that.

So, if we use where they were when -- when the methodology came out to assign folks to the 5th JD, or to the 15th JD, coming out of the 7th JD, it's my understanding if, I heard you correctly, you spoke with an administrative judge, who I presume is in the 8th JD, who helped you delineate where the other judges were going to be -- where their new judicial district was going to be.

MR. RIVERA: Well, I -- I suppose when it comes to the 8th and 15th Districts, it's really about population size. So, in the County of Erie, as I said before, is about 950,00 people, give or take. So, you know, what -- what made sense is to bring together the, you know, surrounding counties under the next judicial district. There's not much, you know, past that considering that, you know, it -- it would be similar size by population, but, you know, once you remove Erie County from the judicial district, it was such a -- a mass majority of that judicial district that the remaining counties combined made more sense to have another district.

MRS. BAILEY: I'm not -- my question isn't specifically how, my question is how the judges were assigned to those judicial districts once we took the 7th Judicial and shrunk it down now to where we have 13 justices versus the 20. So, those six -- or those seven individuals, I only counted six that I could find, but

those -- so those six or seven individuals have now been disbursed either into the 15th JD or the 5th JD. So, my question is, how did we delineate that methodology?

MR. RIVERA: The majority of the circumstances, it was based by seniority and then there was other considerations as in what judges started in the appellate, but in -- in general, it was about seniority.

MRS. BAILEY: I apologize, I missed the part about about the appellate.

MR. RIVERA: That within -- within the 4th Department there's appellate judges and we grouped the appellate judges together. But, outside of that, everything was really about seniority. How long they had been in office.

MRS. BAILEY: Okay. And the only reason why I ask is I looked at two individuals that I know, one is on the -- the southwest end of Monroe County, they're getting moved to the 5th JD. And then one who is on the northern east part of Monroe County is getting moved down into the 15th JD. So, I'm just trying to figure out as far as, you know, how -- how they were assigned. But I'll go onto my next question and point.

So we talk a lot about population and I completely understand the population and how that works out and we see that even here when -- when our districts are realigned, when population and then you look at square miles. Was there anything considered when -- when different counties were grouped together to create, you

know, the -- the two new districts when we're looking at square miles within the JDs now?

MR. RIVERA: I mean, square miles, no, but what I would say is, you know, even currently if -- if we're just looking at, you go, the old 7th District, you know, if you lived in Southern Steuben County and you would've had to go all the way up to -- to Northern Monroe County in Rochester. I mean, it -- it was -- it was a distance in its old format and it's a similar distance by the nature of people just being spread out and populations being where they are and county's lines being where they are. It -- it's sort of unavoidable.

MRS. BAILEY: Okay. The 5th JD is now almost 10,000 square miles. The 15th JD is just shy of 7,500 square miles and as I indicated, those judges that we've assigned coming out of the -- the 7th JD and where they're located, now we've just added more to their commute. So obviously not knowing where they are going to sit OCA can, you know, in all honesty, OCA could say, *you're going to be up in Monroe County.* You know, if they're in the 15th, or the 5th JD --

MR. RIVERA: They could do that today with, or without this bill.

MRS. BAILEY: Absolutely. Yup. I completely understand that. I'm just trying to figure out how they were assigned, where they were assigned and I think you have answered my questions in and around that. So I appreciate it very much. Thank you.

And on the bill, Madam Speaker.

ACTING SPEAKER WOERNER: On the bill.

MRS. BAILEY: I don't want to reiterate what my peers have already said, but it is interesting that we are here hurriedly to discuss this bill when OCA specifically has asked to maybe pause it. There's been other legislation that this Body has done that with and we continue to discuss it over and over and over again. I won't get into the energy mandates because we'll talk about those, I'm sure, you know, over the next few days, but it is truly concerning. I completely understand, you know, it's our constitutional right if we want to redistrict judicial districts. Absolutely. But speaking to an administrative judge, I'm not sure we're getting a full appetite for what the thoughts might be. That is very concerning to me, and when I look at the judges that have been assigned to various spots, the elections that are coming up this year, there are elections for two Supreme Court judges in the 7th JD. Where do they -- where do they fall? You know, where are they going to go? Do they now just take spots of the seat that is vacated? Is that how they're allocated? What does that look like? So, I think we really need to take our partners here when we're looking at OCA, speak with the administrative judges and -- and if we're going to do this, let's get it right. Let's not just arbitrarily put something out there.

The other piece is the expense. The staff and the resources that are needed for each judicial district is immense. Having served in my prior position, I worked with our Supreme Court justices on a daily basis. I worked with those judge -- those justices

coming out of the -- the 7th JD on a daily basis and I worked with their support staff. I worked with the district staff. There are many mechanisms that -- and many pieces that we really need to take a look at. It is going to have a financial hit to us as a State and unfortunately, we have not budgeted for it. Will it be budgeted? I would hope so. But where do we come up that money as we continue to see our expenditures just continue to bulge, year after year.

So, for those reasons, Madam Speaker, I will be voting no.

ACTING SPEAKER WOERNER: Mr. Molitor.

MR. MOLITOR: Thank you, Madam Speaker. Would the sponsor yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

The sponsor yields.

MR. MOLITOR: Thank you. Thank you. Mr. Rivera, I just got some questions, maybe some practical questions. I'd like to focus on the 8th Judicial District, since that's where both of us are from.

MR. RIVERA: Sure.

MR. MOLITOR: As you know, in the 8th Judicial District, your interpreters, stenographers, clerks, commission of jurors, those are all assigned out of Buffalo, right?

MR. RIVERA: At -- at the -- at, you know, at the decision of OCA, I suppose.

MR. MOLITOR: Yeah, but there -- for example, if I wanted to become a stenographer in the 8th Judicial District, I would be assigned to Buffalo and then Buffalo would assign me out to wherever they think I need to go. Isn't that right?

MR. RIVERA: That's how it is currently in the current 8th, but in the new 8th, that might not necessarily be the case.

MR. MOLITOR: Okay. And that's what I want to talk about. In the -- in the new 8th --

MR. RIVERA: (Indiscernible) it might not be that way and it might not be that way and it might not be that way in the new 15th.

MR. MOLITOR: Right. So, how -- that's kinda where I want to -- where I'm trying to go is how would it work with a new 8th and a new 15th?

MR. RIVERA: You're asking me how OCA would assign stenographers and staff in the new district?

MR. MOLITOR: Yeah, how would it work?

MR. RIVERA: The way that OCA does it today and how it does it in every other judicial district.

MR. MOLITOR: So, right now, in the 8th Judicial District, they're all assigned out of the Buffalo office?

MR. RIVERA: Because Buffalo is in the 8th. How it will be done in the 15th? Presumably, OCA can choose to assign them out of the 15th.

MR. MOLITOR: Okay. So, this is -- this legislation

would have no impact on how -- on the -- let's call it the home base of OCA staff for the different judicial districts?

MR. RIVERA: I mean, OCA can choose to have a sort of similar home base we'll call it, in one of the counties in the new 15th.

MR. MOLITOR: But they -- and they can also, if I'm correct on this, they can also keep everything exactly as it is, keep the home base in Buffalo and assign those -- those individuals out to people in the 15th District?

MR. RIVERA: It's the will of OCA how they want to structure how they staff.

MR. MOLITOR: Okay. And that's kind of the same way it is in maybe other parts of the State, right? A judge might get assigned from one judicial district to another, staff might get assigned from one judicial district to another. All that stuff happens under the direction of OCA, which is a Statewide agency.

MR. RIVERA: Correct.

MR. MOLITOR: Okay. So, there's no concern -- you don't have any concern that -- and this is really where I'm -- I'm kind of going; there's no concern that the staff that currently exist in, let's say, my county, who are gonna go from the 8th to the 15th Judicial District, there's no concern that they're going to have to move to another part of the -- to a different district, or different part of the State, necessarily? Or is that something you can't answer because that's up to OCA?

MR. RIVERA: That concern could exist with or without this bill because all of it is at OCA's discretion today.

MR. MOLITOR: Okay.

MR. RIVERA: If OCA decided tomorrow to no longer have Buffalo be the home base as you put it and decided Dunkirk to be it, then that -- we would have no say in what OCA does in that matter. So, it would be no different.

MR. MOLITOR: Okay. And that's the way I understood it. I just wanted to explain -- have that explanation on the record.

MR. RIVERA: Sure.

MR. MOLITOR: Thank you, Mr. Rivera, for answering my questions.

ACTING SPEAKER WOERNER: Mr. Manktelow.

MR. MANKTELOW: Thank you, Madam Speaker. Would the sponsor yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. RIVERA: Yes.

ACTING SPEAKER WOERNER: He yields.

MR. MANKTELOW: Thank you, Mr. Rivera. If you could help me out just a little bit. We've talked about diversity here on the floor for the last couple hours here, in and out of this debate. Can you explain to me what they means as far as what we're talking about from this judicial change?

MR. RIVERA: Sure. I mean, I -- I described it earlier around, you know, racial demographics of a region, but I also described the nature of residing in a more rural county and not being represented. So, diversity as, you know, as it is, it -- it -- it means many things. And for example, you know, the -- the example I used earlier I think was Allegany. You know, if I am a resident of -- of Allegany which is perceived to be a more rural county, as a lot of Upstate New York State is, the likelihood that I would have a judge who represents my community, from my community, as a member of the Supreme Court is very, very slim. In my own research, it's been about 40-ish years from what I've heard and that's just one example of one county. So, I think that no matter how you cut it, the what we're doing today ensures a higher likelihood of people from counties seeing folks that represent them and more closely who they are.

MR. MANKTELOW: All right. Thank you. So, with the changes, the Monroe County will be its own county. It will then be the 7th Judicial District; is that correct?

MR. RIVERA: Correct.

MR. MANKTELOW: And what -- with what you just told me -- told me, how does that benefit Monroe County?

MR. RIVERA: It benefits Monroe County because to date, despite being very, very diverse ethnically, they have still, in its current form, have not elected, or currently do not have a single member of the Supreme Court that is a minority.

MR. MANKTELOW: Is -- I'm sorry. I couldn't hear

the last thing.

MR. RIVERA: I said despite Monroe County being very, very diverse, especially in comparison to the neighboring counties of the current judicial district, this -- it -- it -- it is still yet to been able, or been afforded the -- the ability to be -- to -- to elect a member of color to the State Supreme Court. Currently, there is none in the entire 4th Department, there is only two members of color, both only in Eire. So I believe that the people of Monroe, one, are going to benefit from the potential diversity of the court, but, also, two, that also means that if you're a Monroe County resident, you will be seen by a judge from Monroe County, not a judge from a neighboring county wherein which the nature of the county, the demographics of that county, the -- the way that that county, you know, exists being drastically different from Monroe. We're ensuring that people from Monroe have -- are gonna be in front of judge that is aware of the community there and what it's comprised of.

MR. MANKTELOW: All right. So right now the 7th Judicial District repre -- represented by Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates counties as -- as we are today. Most of those counties will now go to the 5th Judicial District which will consist of Oneida, Oswego, Herkimer, Jefferson, Lewis, Cayuga, Ontario, Seneca, Wayne and now Yates counties. Now, we'll be going to ten counties. So, I look at this and we talk about diversity. Is diversity -- to me, diversity should be a -- a two-way street; is that not correct?

MR. RIVERA: How do you mean?

MR. MANKTELOW: So let's say this goes through the way you're talking about. Now we have a set of judges in Monroe County; okay?

MR. RIVERA: Mm-hmm.

MR. MANKTELOW: They're going to be based out of Monroe County, they're going to service the people that are in Monroe County and not any of the other districts, or any of the other counties pretty much; correct?

MR. RIVERA: Well, I would say, yes, but remember that OCA does have the ability within the -- within the 4th Department to place judges in other places, so. But, in general, yes.

MR. MANKTELOW: Okay. So have you ever farmed?

MR. RIVERA: I have never farmed, no.

MR. MANKTELOW: Have you ever run a business?

MR. RIVERA: The closest I've been to running a business is I was a banker and had many, many business clients, but no.

MR. MANKTELOW: All right. Well, my question here is, a lot of times when we as farmers contract with construction people, people that buy our grain, they're really based out of the city areas, not so much in the rural areas where the farmers are. And some of them are even based out of the Rochester area which consists of Monroe County and other parts of the area. So, with this change and

we're going to take a farmer now, that there have been lawsuits, the will be other lawsuits, will now be based out of Monroe County because that's where the business is that we are going to be involved with. If we change the makeup of the judicial represen -- representation, how is that person -- how is that farmer going to get a fair shake if by what you said, we need to change the makeup of the judges so they know who they're do -- dear -- dear -- dealing with. Now, as a farmer, I'm gonna go to Monroe County and I'm going to deal with the judge that knows absolutely nothing about farming, or the agricultural area, or a rural area. How do we fix that?

MR. RIVERA: I guess, I would say number one, county judges still remain, so I don't know if the matter would go to a county judge versus a Supreme, so that's one thing. And I'd also say, this bill ensures a high -- a much higher likelihood that you'd be in front of a judge that is aware and more present in your community and even potentially from your community. The way it currently is, is that if you're from Steuben County, you're dealing with a judge in Monroe County. That's -- that, you know, that's what we want to sort of, I don't want to say avoid, but that -- that's what we're looking to address. Now, if you're from, you know, Wayne, Oswego, Jefferson, Oneida, you're one district and the likelihood that the matters before those folks in those counties are similar, I think are higher.

MR. MANKTELOW: All right. Well, I believe if truly part of this change is the diversity and getting people in front of the right people, or having the ability, that -- that has to be a two-way

street. We can't just block off Monroe County and anything that comes out of a lawsuit that's gonna end up in Monroe County, that means we're going to have judges that we're going to be in front of that know nothing about our businesses, that know nothing about the background of agriculture. How -- how is that fair? How is that being diversified?

MR. RIVERA: I -- I honestly look at the new 5th District and -- and really perceive it to be very, very, you know, as a person who has toured just about every county in the State of New York, I would look at the 5th District and say, for rural matters, I would much rather, you know, for awareness of the needs of the rural community, the 5th District actually looks far better than the old 7th District. But I -- I'd also say for anybody, you know, the -- the -- so, the hypothetical scenario is, you know, how do we sort of explain this to somebody. The -- the bear, you know, the -- sort of the boiling down of it all is, you know, we have an authority as the State Legislature to pursue this at any time. These district lines have -- have existed long before you and I were here and have not been addressed. I have called an array of attorneys and judges that are retired now to ask what their take is, at least in the case of my judicial district, which is the 8th and asked them, when was the last time we pursed changing this? And half jokingly and what I think might be true is, it -- it might have been the turn of the century. So there's no way we can justify not changing lines in response to an ever-changing population, by simply keeping it the way we are -- or the way it is. I find that argument to be

undefensible [sic] like, we have to make a change here and I think that this bill before us is a -- is a respectful and common sense way to do it.

MR. MANKTELOW: So, maybe you've answered this question and I apologize if -- if I ask it again. Who actually drew up the new lines? Who -- who -- who drew them up?

MR. RIVERA: Oh, well, you know, I mentioned it before, I -- I originally had a bill last year that touched my judicial district. Other members had bills that -- that touched their judicial district. We came together knowing that we could only do this once every ten years, put it together in a single bill. The -- the -- to boil it down in its simplest form how we came up with -- with these districts, you know, we believe that there are population dense urban center counties. Those counties we felt had sufficient population to necessitate their own district and then we -- we -- we -- we carved together the neighboring counties to form other districts. As I mentioned before, the State Constitution is clear. We -- we -- we can't divide counties, so entire counties obviously have to be kept whole.

MR. MANKTELOW: Yeah. I -- I -- I understand you can't divide -- divide counties, but sometimes the way the lines are drawn up and if we're truly looking out for the people of this House that we represent, I just feel these lines could be just a little bit different. And just giving you the example, it -- it may be hypothetical to you, but in the real world, that's the way it works.

So, I appreciate you answering the questions.

Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. MANKTELOW: I think that's one of the problems we have in this House. We -- we sometimes forget the people that we represent back home, the people that are going to be going to these judicial courts to be in front of a judge and I think it's our job to provide them the best service possible. And we are again, now going to silo certain groups of people, certain counties, into silos. We had one county versus ten counties and I know it's rural. You can't tell me we can't divide it up a little bit better than that so there's a mix? So there is a true meaning of diversification across the court system, not dealing with just one city? Why not deal with a city and several rural counties to make it truly a diverse way of doing the judicial work in New York State.

So, I appreciate the time of the sponsor answering my questions, but I do believe in a rural area, there needs to be fair representation across the board because much like many lawsuits, we're probably going to end up in a large city whether it's Buffalo, Rochester, Syracuse, Albany, New York City, it doesn't matter. We're probably going to up there from a rural area down the road.

So, thank you, Madam Speaker, for your time.

ACTING SPEAKER WOERNER: Thank you, Mr. Manktelow.

Mr. Tague.

MR. TAGUE: Thank you, Madam Speaker. Will the

sponsor yield for some questions, please?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. RIVERA: For you, certainly.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. TAGUE: I do just for the record want to know that I can attest to Mr. Rivera traveling across the State of New York, because he traveled with me on my farm tour and I thank you --

MR. RIVERA: Of course.

MR. TAGUE: -- very much for doing that, Mr. Rivera.

The first question I have is, how many judges' names are spelled out in this bill?

MR. RIVERA: Every judge -- every judge of the -- of the 4th Department that are -- that's affected by this. So all of them.

MR. TAGUE: So now my understanding is that 66, but isn't there 67 --

MR. RIVERA: Yes, but --

MR. TAGUE: -- in that district? Didn't judge Doran who resigned in March, isn't he also listed?

MR. RIVERA: There's one vacancy, yes.

MR. TAGUE: Are there any laws restricting a venue from bringing election cases?

MR. RIVERA: Say that again, I'm sorry.

MR. TAGUE: I said, are there any laws restricting the venue from bringing Election Law cases?

MR. RIVERA: If -- I'm unaware of that. Not -- not to my knowledge, no.

MR. TAGUE: So what about Election Law 16-101 that requires constitutional election cases be brought in certain particular counties?

MR. RIVERA: I'm taking your word for it.

MR. TAGUE: Okay. So, under this bill, if someone brings a challenge to the Election Law in the 4th Department, what district would they have to bring it in?

MR. RIVERA: As you said, Erie.

MR. TAGUE: Correct.

MR. RIVERA: Yup, yup, yup.

MR. TAGUE: Well, let me ask you this: are there currently any Republican just -- judges elected from Erie County?

MR. RIVERA: Oh, sure.

MR. TAGUE: Could you name them for me?

MR. RIVERA: I can't confirm the affiliation of every judge, but I know that there are some in the 8th Judicial District, yes.

MR. TAGUE: Okay, because my understanding was there were no judges in that judicial district for -- actually from Erie County.

MR. RIVERA: Oh, no, there -- there are.

MR. TAGUE: Okay.

MR. RIVERA: As you could imagine, I've gotten a lot of calls this week, so I'm certain there are.

MR. TAGUE: Well, would you say that there's a large majority of Democratic judges from Erie County?

MR. RIVERA: Oh, I don't know if that's true. I would say, I -- I haven't done a sort of a polling of who's a Democrat, who's a Republican. What I will say is, I know that the enrollment of Erie County is -- is Democrat, but in my experience, a lot of the county offices that are held in Erie County, it's never been entirely Democratic. For example, there's only been two Democratic county executives ever elected in Erie County, there's only two. Majority of them have been Republican. Only one or two county sheriffs in my -- at least in my lifetime, for Erie County. So, it -- it -- it's a mixed county where we will elect both Republicans and Democrats to countywide office.

MR. TAGUE: But you're sure that there are Supreme Court judges in that judicial district that actually reside in Erie County?

MR. RIVERA: Yes, certainly.

MR. TAGUE: Not just -- not represent Erie County, but reside in Erie County?

MR. RIVERA: I'm certain of that.

MR. TAGUE: As you said before, I'll take your word for that.

MR. RIVERA: Thank you, sir.

MR. TAGUE: Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. TAGUE: Listen, in this bill we've already put forum shopping in law and now you're putting judge shopping in play. First, you told us where you can take the cases, now you're telling us who can hear the cases. My friends, we sat here today, we hear again about racial and diversity, but to me, the judicial system should be about judging people on their character and whether they've committed a crime, or not. Not their race, not where they live, not where they come from. Judges are supposed to look at everything independently. To me, I can tell you right now, there are lawyers sitting around a table right now waiting for the vote of this bill and I am sure that the constitutionality and how this bill came about, there will probably a law -- there will probably be a lawsuit filed today, or in the next few days, once it goes through both Houses, if the Governor signs it. But I don't understand why we politicize the judicial system. Everybody in this room knows that this -- the only thing that we didn't talk about today was the politicization of the judicial system and that's exactly what this bill right here does. It politicizes the judicial system. This says that we're going to only have judges of one certain party in (indiscernible) area, hearing certain cases. And I just -- I, you know, I -- I just can't believe it.

Madam Speaker, I will -- even though my respect for the sponsor of this bill I'd call a dear friend, I -- I will be in the negative on this bill and I hope my colleagues that care about

democracy and care -- actually care about the judicial system, will do the same. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Tague.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. Will the sponsor yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. RIVERA: Yes.

ACTING SPEAKER WOERNER: The sponsor yields.

MRS. PEOPLES-STOKES: Thank you. I -- I heard you mentioned earlier and in fact, I knew for sure that you had bill in -- on this specific topic designed for the 8th district to change in a way that makes Erie County a district on its own.

MR. RIVERA: Correct. Last year.

MRS. PEOPLES-STOKES: How -- how old was that bill?

MR. RIVERA: Oh, it -- that was from last May. So it's been over a year.

MRS. PEOPLES-STOKES: Over a year.

MR. RIVERA: Yeah. Give or take.

MRS. PEOPLES-STOKES: And you also mentioned that our colleague from Monroe had a similar bill --

MR. RIVERA: Correct.

MRS. PEOPLES-STOKES: -- how old was his bill?

MR. RIVERA: Quite some time, and I know it wasn't done in -- in the last -- it -- it's been awhile. I don't know the definitive (indiscernible)

MRS. PEOPLES-STOKES: So these are not new thought processes --

MR. RIVERA: By any means, no.

MRS. PEOPLES-STOKES: -- these are things that have been thought about before and have been given some conversation to. I guess the next question I will ask is: Do you know -- I heard you mention more than once that twice your age and the speaker's -- the person that you were talking to's age. How old is this process for establishing these districts?

MR. RIVERA: It's a good question, because it is a bit of a moving target. I've asked -- what I was -- what I was going to say earlier and it's sort of stark how bad it is; I spoke to a -- a --a judge, or a retired judge, who is now, you know, mid '70s and I've asked him, *you know, you've been practicing a long time. Before being a judge, you were an attorney. How long has the judicial district -- our judicial district looked this way?* And he said -- he thought it was turn of the century. He thought it was, you know, beginning of the 1900s is the last time that our district where we live had been, you know -- and the trouble is, it -- it's -- however old it is, it's so far back that we don't really have accessible records to

determine when it was. That's how far back it's been. Decades upon decades.

MRS. PEOPLES-STOKES: Okay. Well, you know, I -- and I think you're something like 200 and some-odd years.

MR. RIVERA: I believe it. It could be the founding district that never changed. It quite possibly can be.

MRS. PEOPLES-STOKES: And I'm sure you know, as I know, things do change after 200 or so years.

MR. RIVERA: Yes, they do.

MRS. PEOPLES-STOKES: In -- in pretty significant ways. I guess the other question I want to be clear on is that the current judges who sit in State Supreme Court for this particular district, how many of them will no longer be a judge because of this action we're taking today?

MR. RIVERA: All of them remain as judges. That is unaffected and they are able to fill their full terms.

MRS. PEOPLES-STOKES: Okay. Thank you very much for you comments.

On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MRS. PEOPLES-STOKES: I had the occasion to go to a memorial service for Judge Sam Green's wife, Ernestine Green. Quite a pillar. I mean, this young lady was really a -- awesome community member. She was a retired teacher, an amazing fundraiser, a former chair of many very influential boards in and

around Western New York. And her husband, Judge Green, was the first African-American man to be a State Supreme Court judge in that district. And for, I'm going to guess 70 years, he probably was the only one. And that's not because qualified judges of color, either they're Latino or African-American, did not run for these offices, did not be educated, get in a position where they could become a judge at -- at lower levels, they wanted to go to the next level. Some of them spent as much as $250,000 trying to win a race and in all of these counties. I actually supported some of them and went with them. And I mean, I went into communities that I had never been in before and most of them were not receptive. And I didn't -- I wasn't with the person who was spit on during a parade while they were trying to get votes, I wasn't with that person. I'm really glad about that quite frankly, because it wouldn't have been pretty. My point here is that when things -- time changes, things change, we ought to be amenable to some level of change. Now, since Judge Green is clearly retired, there has been at least a few other people who have made it to that court. One of them almost spent $300,000 just to get there. Not because it's a $300,000 job, but because it was her goal. It was her goal. It was her mother's goal. They actually wanted to go to the higher courts and it took her three elections to do that. And one of -- all three of those times she did have the support of the Erie County party. But she did not have the votes in those other counties, in and around. And because of that, it took her three times to run. And so to me, this is not just about diversifying opportunities to run for office,

it's -- it's -- it's a lot more than that. It's -- it's about the justice that we say is for everybody. The liberty that is for everybody. Well, if it's for everybody, you can't say I got to go to Eaton in order to get elected, when I know the people of Eaton are not going to elect me because they're going to elect their cousin.

So I want to commend the sponsor of this legislation. This is hard -- this is hard -- this is something hard to do, because people don't want to see this kind of change when we talk about inclusion, for real, for real. This is inclusion for real, for real. And maybe if there isn't an upcoming election and a Latino woman runs and doesn't win, we can't say she didn't have a chance. We can say she did have a chance and she just didn't win, because the most qualified judge won, or the one that the voters wanted the most won.

In the City of Buffalo, in the County of Erie, we have wanted new judges at the Supreme Court level for decades and have not been able to get it. This might be our opportunity and I want to thank the sponsor for introducing it. I look forward to voting for it.

ACTING SPEAKER HUNTER: Thank you.

Mr. Ari Brown.

MR. A. BROWN: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. A. BROWN: Like my colleague, Mr. Durso, certainly not a lawyer, I swing a hammer for a living. I sat back and figured the lawyers will work this whole thing out and I heard

questions going back and forth; is this bill -- does this bill have anything to do with racial redistricting, racial gerrymandering? I heard yes, I heard no, I heard the question asked a thousand different ways. It was kind of, it may be, it was, but thank God it would -- it took my two colleagues, Assemblywoman Walker and our esteemed Majority Leader to point out that it's exactly what this bill is all about. Racial gerrymandering. Racial gerrymandering violates the Equal Protection Clause of the 14th Amendment if race is the predominant factor in drawing district lines. It's a Supreme Court precedent in *Miller v. Johnson, 1995* and *Bush v. Vera, 1996*. The court held that race cannot be the predominant factor in drawing any district, including judicial districts.

And for that reason, Madam Speaker, this bill certainly won't pass judicial muster and I will certainly vote -- be voting in the negative and thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Chang.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes, sir.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. CHANG: To be honest, I'm not familiar with Upstate New York district. I live in Brooklyn and know my life is

Downstate --

MR. RIVERA: Come on down any time. Come up.

MR. CHANG: Out of the question with my colleagues and arguing about the 8th Judicial Districts and whatever judicial district and Erie County. Which I -- I have an idea where it is, but I don't know exactly where it is. But, how will that factor in -- in my community of Asian community with a population of New York State represented by nearly 12 percent? New York City gets nearly three-quarters of it. How would -- how would judicial redistricting actual balance out my community in Upstate?

MR. RIVERA: You're -- you're asking more or less how does this potentially affect the Asian community in Upstate New York?

MR. CHANG: That's correct. If it's so few judges, I -- I don't know how many Asian judges are that -- 67 there are.

MR. RIVERA: I can tell you that in the 4th Department, which is the department that sort of are the districts that we're talking about. Currently, there are no judges that identify as Asian, or Hispanic. What I will say is, just using my county as an example, I used some of these numbers before but I'll give you the rest of them, it's that, you know, this district, the current 8th Judicial District, serves about 1.5 million people and 61 percent of them reside just in the one county of Erie. And Erie County is the primary home for communities of color within the district, representing 90 percent of its Asian population of the entire judicial district are in one county.

So it's staggering. It's 83 percent of the Black population and 68 percent of the Hispanic population are all located in one county. That county being its own judicial district, presumably, means that there's a higher probability that a person of color could seek the office and -- and potentially be elected. That's sort of the -- the numbers of it, is what I'd say.

MR. CHANG: As you mentioned a little earlier, that this hasn't been redistricting for many decades from your research --

MR. RIVERA: Correct.

MR. CHANG: -- so, before you go -- I mean, I don't mind change, change could be good. But, have you decided perhaps create a comission to -- to make this study, other than just a -- this bill and make this drastic change without further study?

MR. RIVERA: Yeah. I -- I guess what I would say is, the -- the State Constitution is clear that the responsibility for making these, you know, I guess creating new lines is wholly on the Legislature. And I would say that, although there has been countless members of these legislative bodies that have come and gone in the last, what could've been 100 plus years, they've never taken this up and there's a reason why they've never taken it up. It's because some people don't want change. It's because there's some people that simply benefit from the nature of how these current districts are drawn and I believe that over time, it's -- they have become less and less reflective of the communities found within them. So, it -- it -- it's taking an act of this Body to move under its constitutional duty to address it. I -- I

think waiting another year would be unwise, especially considering how stark the problem is in our Judiciary.

MR. CHANG: Because it has definitely unintended affect because it will change the resources, manpower, real estate, everything when you start changing the districts itself. I mean -- and we have to budget for these -- for these costs as well.

MR. RIVERA: Yeah. I -- I would say, unlike other divisions of State Government, OCA has a really broad set of abilities to determine and -- and allocate resources to regions that they feel are -- are needing of it and that doesn't change here. You know, the -- the -- the budget of OCA is what I'm told to be near -- near $3 billion. What we're talking about here in costs is potentially not creating new judgeships, not building new buildings, we're talking about the -- the -- the small incremental amounts it -- it -- it -- that are absolutely nominal, not just in the face of the grandness of our State Budget, but certainly even in the grandness of the OCA budget. So, you know, if we were having a conversation of creating a lot of new judgeships, I would agree. But that's not what we're doing here.

MR. CHANG: You know, we lost populations for a past decade. About more than a million, I believe. And (indiscernible) unintended effect. But, you know, previous case, old cases may be residing in one district and potentially have to relocate the other judge. I'm not sure you're able to grand -- grandfather those -- those old cases that still impending.

MR. RIVERA: Yeah. I guess I would just say that

the actual judges themselves aren't changing. Obviously, if they choose to retire or -- or they're aged out, that would be different. But, you know, the judges and their cases that they currently have, they'll continue to have with -- with minimal disruption, truthfully. And remember that OCA does have the ability today, with or without this bill, to allocate a judge in County X versus County Y today, and this doesn't change that. So I -- I perceive the disruption to be very, very minimal.

MR. CHANG: Well, thank you very much, Mr. Rivera.

And on the bill, please.

ACTING SPEAKER HUNTER: On the bill.

MR. CHANG: I think we can kill several birds with one stone if we want to do this redistricting of judge during every annual -- every ten years when we do a redistricting our Assembly. I think we should marry up the same time because it's a process that -- because we have a Commissioner every ten years to -- to -- this is redistricting. We don't need to do this in between the ten years. We can wait for a few more years. I mean, we waited for at least several decades or more, maybe 100 years. We can wait a few more years until we lined up during the redistricting year, and perhaps we can do this all in one big -- one big -- one big draw.

Thank you very much, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Ms. Walsh.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. RIVERA: Yes, of course.

ACTING SPEAKER HUNTER: The sponsor yields.

MS. WALSH: Thank you very much. So I -- I read through the whole bill and I also read the Memorandum of Support, and a few people have referenced that. But in the Memorandum of Support that you provided with the legislation, there's a justification section and it specifically says that this bill aims to address that inequality, and because you had just cited some statistics about particularly racial -- a lack of racial diversity. You say this bill aims to address that inequality by establishing two new judicial districts in the 4th Judicial Department. So I guess -- and I don't think anybody's really asked you this, maybe directly -- or as directly as I'm gonna ask you. How do you believe that this legislation will remedy racial inequality?

MR. RIVERA: Oh, because as the numbers that I stated before, within each one of those judicial districts, the current judicial districts, the uniqueness about them is that each -- not -- the thing that makes them all similar is that in each one of those three judicial districts, a -- a central dense -- densely-populated diverse county exists. An urban center exists within that entire judicial district.

MS. WALSH: Yes.

MR. RIVERA: So allowing that single county to be its own judicial district does address it, in my opinion.

MS. WALSH: But how so? I mean, the -- the way that Supreme Court judges are elected is unique. It's not like the way that we're elected. As you mentioned before, there's a judicial convention. There are judicial delegates that go to a judicial convention. Those judicial delegates, there are petitions passed to select those judicial delegates. So have you done any looking around to see whether -- what -- what's the diversity like for judicial delegates right now, and how do you think that would change after this legislation? Because isn't that exactly -- I mean, isn't that your premise is that if we have racially-diverse judicial delegates that will then result in a racially-diverse slate of potential judges to be elected by this urban center in this district?

MR. RIVERA: I -- I would disagree that the issue is with the judicial delegates entirely. I -- I would say the issue here is with the judicial -- you know, folks that are seeking the office of a judgeship today. There are people fully aware and fully capable of the -- the ability to -- to seek a judgeship in either A, they perceive themselves to be outside of that process, just as much as I'm sure that there are people that perceive themselves to be outside the process for many offices. But especially this one, under the thought that just because, you know, you come from a -- a neighborhood, a community, a county that has many, many similarities

demographically to you, because you're lumped in with eight other counties, in some cases even more other counties, it -- it minimizes the -- the probability of being represented by someone from your community. And I'd say that, as I said before, from somebody from Allegany County. You know, if you're from Allegany County, the probability that you are represent -- or you will be seen by a judge from Allegany County is -- is highly, highly improbable. So that sort of, you know, representation issue exists in the urban centers and it -- and it exists in the rural parts as well. So I think that, you know, taking into account the changes in population that have happened over the last century, it's -- it's clear why we have the issue we have in the 4th Department of only having two judges in the entire 4th Department being people of color.

MS. WALSH: All right. I -- I mean, I'm just saying that if -- if judges candidate -- if judge candidates are selected at a judicial convention by judicial delegates and those judicial delegates are White, I don't know if they are or not. That's why I was asking you. But, I mean, isn't that how you get to the candidate on the ballot is through a convention? So --

MR. RIVERA: I guess I'd disagree --

MS. WALSH: Oh, okay.

MR. RIVERA: -- that just because a judicial delegate is of one race they wouldn't be likely to support a person of a different race. I -- I guess I disagree with that position. I -- what I will say is, as long as the judicial districts look like the way they look, we will

forever gonna have the problem that we have currently. I'm not looking to change the process by which we elect judges and the mechanics of how parties put judicial delegates in petitions. That's a process that exists, and it's -- it is what it is. I find the people that collect petitions to be reflective of the communities that they're from, and that's fine. I would say if the end result is what we have today, it is insufficient. And the reason that I think it's insufficient is because we've been comfortable with these lines as they've been for the last countless amount of decades and that's where the problem is.

MS. WALSH: Okay. Well, let's say that another ten years -- I mean, the previous speaker thought it was a great idea that we should maybe redistrict every ten years. I don't think I really agree with that. But let's say in ten years we look and we don't have any more racial diversity as a result of this legislation. Would you then introduce a bill that would say that, *Well, now it looks like we got to look at the judicial delegates now. We've got to make sure that there's racial diversity with the judicial delegates because obviously it's not resulting in more judges*, which is what our goal is.

MR. RIVERA: I guess if the premise is that I'm here in ten years, it's to be seen. But what I'd also say, not jokingly, is that these terms are 14 year terms. So that also has to be taken into account, too.

MS. WALSH: Okay. All right. Well, thank you very much, sir.

MR. RIVERA: Sure.

MS. WALSH: Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MS. WALSH: So I want to just note at the outset, I mean, this is a really important debate and it's just come to my attention, I'm so sorry to report that the live feed from this debate cut out for an-hour-and-a-half. So unfortunately for folks who were trying to watch this being debated live, you missed a really big chunk of what was a very important debate. So I really hope that when -- when this -- I think the last time it happened was when we were debating Medical Aid in Dying, it also cut out for a period of time then, too. So I really hope that when the full debate is available to everybody who might want to watch it later, because it's a very important debate. And I think it has a lot of implications, you know, overall.

So I want to say that, you know, I listened very closely to all the previous debate that we've had, and what I found out is that in developing this legislation there was no consideration of how this legislation might impact the Board of Regents. There was no consultation with LATFOR. There was no consideration of court backlogs. There was no consideration of the Unified Court System's view that this legislation should be deferred until next Session, at least. There was no consideration of the Onondaga County [sic] Bar Association's concerns. So I would ask rhetorically, since I'm on the bill, why are we doing this bill suddenly at the end of the Session? The -- the reason that was given and -- and has been talked about is

that we want more racial diversity. We want to remedy the inequality that there are only two judges that are racially diverse in this area.

I would say this: There are plenty of different ways that we can try to -- and listen, I represent an area in Upstate New York that is very White, and we are trying to -- it is, it's very White, and we try, through our local Bar Association and through a number of efforts in our county, to try to encourage people of color to get involved in our process who -- particularly attorneys that want to get involved. And it -- it's -- it's work. It's uphill, and it does -- it is taking a while. But I would say that the way that we try to get more diversity on the bench is I think we need to start at a very grassroots level, trying to reach out to individuals who have recently graduated from law school, and try to engage them in the process. And we know that the process has got politics in it, right? I mean, we can all say that there's no politics involved, but there -- there are -- there's a party structure that leads to a convention that then puts candidates up. So we need to encourage people of color to get involved in the political process, both sides of the aisle, and -- and try to have those people see -- see a future and see themselves being able to get on the bench.

But the way that this bill is being done, unfortunately, is either, one, social engineering, or, two, playing partisanship, or, three, both of the above. Right? So I don't think -- no matter how you slice it, this, to me, is a very offensive bill. I don't believe that this can be legal for the reasons that my colleague sitting in front of me referenced in his discussion. What do I want to see in a judge? What

do I think are the top qualities in a judge? I want excellence. I want the best. I want judges that are impartial. That are independent. That are rational. That are fair. That are reasonable, and that have a good knowledge of the law. And I don't care -- I don't care, and I don't think most people care, what color they are. I -- we want excellence. That is what we're looking for. How do we achieve that? I don't think we achieve that with this bill. I don't think we achieve that at all. I think what we do is, as has been pointed out by others, is I think that this really just creates a very cynical, very distrustful attitude towards this Legislature and also the Judiciary. I think that this is the absolute wrong way to go about this. And, you know, I feel like a little bit that I, as one of only three women in the Minority Conference here out of 47, I think I -- I speak, you know, from some experience. I -- I think that, you know, I wish that there were more women in my Conference. I work towards that. I try to encourage more women to run for office, to become engaged, to -- to see themselves. I don't -- I personally don't believe -- and I won't disclose my age because as my grandmother said, you never ask a lady her age -- but I've -- I've been around for a while. I've been practicing as an attorney for a while. When I started practicing -- when I came out of Albany Law School, 50 percent of my graduating class were women. And then when I went into trial work, when I did my first trials, do you know how many women I saw? Nada. Nada. We weren't there. I don't know where the women went. I don't know if they went into State service. Maybe they went into different positions that have more humane

hours. I don't know. But they certainly weren't in trial work. You know, did I say that I wanted there to be a certain, you know, quota, number of women trial attorneys? No. No. I got in there and I did my cases. And I tried to be excellent and I tried to be the best attorney that I could be, regardless of what my gender was.

So I think that there is a way to encourage diversity in our Judiciary, in our Legislature, in business and our lives. I don't think that this legislation is the way to do it. I -- and I do -- I do find it offensive and I will -- I will be voting in the negative along with, I would assume, a -- a good number of us here.

So thank you very much, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Read the last section.

THE CLERK: This bill [sic] shall take effect immediately.

ACTING SPEAKER HUNTER: A Party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Madam Speaker. The Republican Conference will be in the negative in this legislation. Any other votes can be cast at the desks now.

Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam

Speaker. The Majority Conference is gonna be in favor of this piece of legislation.

ACTING SPEAKER HUNTER: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mrs. Peoples-Stokes to explain her vote.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker, to explain my vote. Of course everyone knows I'm definitely in support of this, but I -- for the record, I would like people to understand that I have been a judicial delegate, as well, more than once. And for clarity, it's the 8th Western New York County Chairs from the multiple different parties that really break down what the decision is when who's gonna be the person that runs for office, and who's not only gonna be the person, but who's gonna get the support from their respective area.

So again, I want to commend the sponsors of this legislation and I -- I look forward to the results of it. And there is no guarantee that it's going to elect judges of color because, quite frankly, the only way to do that is for there to be a State Supreme Court race that focuses just on one-half of Buffalo. If we had that, they we can assure that. But there's no way you assure it otherwise. But there is an opportunity to elect people like that because I know the people who live in the community and I know that they're open -- more open to diversity than other communities are.

Thank you.

ACTING SPEAKER HUNTER: Mrs. Peoples-Stokes in the affirmative.

Mr. Bologna to explain his vote.

MR. BOLOGNA: Thank you, Madam Speaker. As the sponsor said a little bit ago when talking to Mr. Chang, that 96 percent of the Asian population in Western New York resides in Erie County, thus making the probability, I think, of racial diversity -- by concentrating the judicial districts to just Erie County, it makes it more probable. By definition, that is racial gerrymandering. In my view, it is unconstitutional based on the Equal Protection and Voting Rights Act. In addition to which the assertion that this would be a negligible amount when the OCA is already saying that this is gonna cost $9.6 million. Again, it's very frustrating to hear that during the course of a debate. The OCA also says it costs about a million dollars to bring in a new judge. We could have ten new judges in Western New York for the amount that this is going to cost, and -- and kind of let the chips fall where they may. So that is, again, frustrating to hear.

I have a feeling that we're probably going to be hearing from the Federal Gov -- Federal Government regarding our HAVA funding for racially gerrymandering judicial districts. So I vote in the negative.

ACTING SPEAKER HUNTER: Mr. Bologna in the negative.

Mr. Bronson to explain his vote.

MR. BRONSON: Thank you, Madam Speaker. I

rise to speak about this bill and to thank the sponsor for bringing it forward and for doing an excellent job during the debate.

We are constitutionally authorized to do this. So all the complaints about why are you doing this and, you know, we should leave it for a different time, we have the authorization under the New York State Constitution to do this.

I strongly believe that this measure will transform the Supreme Court in these various districts. It will move the Supreme Courts to be move reflective of our communities and our counties. It will, indeed, allow us to elect a more diverse bench, which we do not have in Monroe County, and a bench that reflects the community. And, you know, I think we'll get there because our delegates reflect the community. This is not gerrymandering. This is recognizing that dense populations in these particular counties have not been represented. Those communities have not been represented, and it will help us.

I will share from a retired judge from the community who wrote me when this bill was introduced, which combines a bill that I carried previously. *This bill does the job in transforming the Supreme Court in our region. Over the long run, the Judiciary in our community in Monroe County will better reflect who we are as a people and who we are as a community*.

Once again, I thank the sponsor. I thank the Speaker for bringing this forward, and the team and our staff for making this such a good bill.

Thank you, Madam Speaker. I vote in the affirmative.

ACTING SPEAKER HUNTER: Thank you.

Mr. Bronson in the affirmative.

Mr. Chludzinski to explain his vote.

MR. CHLUDZINSKI: Thank you, Madam Speaker. I rise to explain my vote today. After hearing this debate to go on for several hours, it's -- it's very clear that this is an unnecessary bill and it's very divisive. Gerrymandering of our judicial system, while it uses the -- the text of this being to increase diversity, it's obviously judicial gerrymandering. The only color involved here is red and blue. And we shouldn't be using that for -- our judicial system shouldn't be based on -- on political ideations.

So for that reason and many others on this bill, I'll be voting in the negative.

ACTING SPEAKER HUNTER: Mr. Chludzinski in the negative.

Mr. Ra to explain his vote.

MR. RA: Thank you, Madam Speaker. So just quickly because I ran out of time earlier, I want to point out as we talk about this as if it's, you know, a issue of -- of race. The fact of the matter is, many of these judges get cross-endorsed in the current system. And so that means that even on the side of the aisle that's pushing this bill, leadership politically has chosen not to nominate individuals that you're saying would reflect the community to the

bench. So I don't know why that is. But I think that's something that needs to be pointed out. Even earlier this week, the Senate went through a confirmation process. There were Court of Claims judges, interim Supreme Court judges appointed that the Governor prioritized; judges who were more reflective of the -- the communities made up for in these districts.

So let's be realistic about what this is. It will make sure that, in particular, one district that we have now restricted the ability of New York State residents to bring constitutional election challenges, it'll essentially make sure that there is one party in every single one of those judgeships and they will be the only one that will get those -- those cases. Let's be realistic about what we're doing here.

I vote no.

ACTING SPEAKER HUNTER: Mr. Ra in the negative.

Mr. Meeks to explain his vote.

MR. MEEKS: Thank you, Madam Speaker. The honorable great Martin Luther King, Jr. once stated, "The time is always right to do what is right."

I want to commend the sponsor on this legislation. It is absolutely necessary. I look forward to these things being implemented. Truthfully, it will not happen quick enough; however, I support this legislation, I'll be voting in the affirmative.

Thank you.

ACTING SPEAKER HUNTER: Mr. Meeks in the

affirmative.

Mr. Molitor to explain his vote.

MR. MOLITOR: Thank you, Madam Speaker. You know, when a -- a court stenographer or an interpreter applies for a job within a district, the -- the job opening is under that district. And, you know, I have a lot of problems with this bill, but one of the, I think, unintended consequences of this bill is you're severing rural communities from their population centers. And I think you're gonna make it harder for those districts in rural commun -- the judicial districts that represents rural communities from having enough qualified candidates to staff their courts. I think it's gonna be a real problem. I think it's a -- a major unintended consequence of this bill. For all the reasons cited, including this one, I'm voting in the negative.

Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Molitor in the negative.

Mr. Burroughs to explain his vote.

MR. BURROUGHS: Thank you, Madam Speaker. I just -- at times I like to always delve in reality. And so when you hear of times of people speaking of change, to me and many others that means they have a hard time with moving forward to changing things for the better. And so I have to commend the sponsor for this bill, because for me, this change represents something positive throughout the State and particularly his district.

And so when we hear the word "gerrymandered," I'd

just like to recite some words, put my teacher's cap back on. Whenever the term "gerrymandered" is discussed, typically it's the other side of the aisle who has committed gerrymandering in order to disproportionately give themselves an advantage in political persuasion. So with that being said, when we hear these terms being thrown out, we have to know that gerrymandering usually doesn't help the Democratic side. It's always being addressed to help the other side. So I would like to just be someone who delves in reality and say when you hear these words, let the words apply to what it actually applies to, and in this case it doesn't. We're actually trying to fix some of the rights and the social ills that have gone on throughout this State and in the country for hundreds of years.

And so for that I am voting in the affirmative.

ACTING SPEAKER HUNTER: Mr. Burroughs in the affirmative.

Mr. Reilly to explain his vote.

MR. REILLY: Thank you, Madam Speaker. Just a point of clarification. I think there were some maps that were thrown out in New York State for gerrymandering, and I got news for you, this side of the aisle did not have control.

So I will be in the negative on this bill.

ACTING SPEAKER HUNTER: Mr. Reilly in the negative.

Mr. Lemondes to explain his vote.

MR. LEMONDES: Thank you, Madam Speaker. I

rise to explain my vote. I listened to the debate very carefully, and I wanna -- I -- I wanna highlight the comments made from both sides. But the most important thing said here today was the comments from our Floor Leader, Ms. Walsh. And I want to hit the -- the notion of professional ethics and the need for impartiality. And this took -- this took -- this debate took me back to my military career where over three levels of command and 27 years of time, I adjudicated hundreds of disciplinary cases from every ethnic group in this country and never once had anything challenged. And there's at least one former JAG in here that would say, *Hey, that's a pretty good accomplishment*. So the -- the -- the notion of this gerrymandering and the perceived necessity of this change is completely based on -- on reasons that -- that don't make sense. And I think that if we were true with ourselves and really professional, I would hate to think that any Black judge or any White judge or any Hispanic judge would adjudicate circumstances before them any differently based on the person that was before them of a different race.

Thank you. I vote in the negative.

ACTING SPEAKER HUNTER: Mr. Lemondes in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 15, Rules Report No. 699, the Clerk will read.

THE CLERK: Assembly No. A08871, Rules Report

No. 699, Dilan, Forrest. An act to amend the Correction Law, in relation to requiring the disclosure of video footage related to the death of an incarcerated individual involving a correctional officer (Part A); to amend the Correction Law, in relation to requiring institutions and local correctional facilities to adhere to certain camera footage, recording and investigation standards (Part B); to amend the Correction Law, in relation to providing notice of the death of an incarcerated individual occurring in the custody of the Department of Corrections and Community Supervision (Part C); directing the State Commission of Correction to conduct a comprehensive study on deaths in State correctional facilities within New York State (Part D); to amend the County Law, in relation to requiring autopsy reports to include photographs, microscopic slides, and post-mortem x-rays taken by, at the direction of, or reviewed by the person performing the autopsy (Part E); to amend the Executive Law and the County Law, in relation to conflicts within the Office of Special Investigation (Part F); to amend the Correction Law, in relation to reports on data collected from the Office of Special Investigations (Part G), to amend the Correction Law, in relation to the membership of the State Commission of Correction (Part H); to amend the Correction Law, in relation to correctional facility visits by the Correctional Association (Part I); and to amend the Civil Practice Law and Rules, the General Municipal Law and the Court of Claims Act, in relation to the tolling of statute of limitations for individuals in State custody (Part J).

ACTING SPEAKER HUNTER: An explanation has

been requested.

Mr. Dilan.

MR. DILAN: Thank you, Madam Speaker. This bill would enact into law, if signed by the Governor -- it is an omnibus bill that would enact 11 -- or ten bills and 11 ideas, legislative ideas, into ten parts and they all vary by issue -- issue area.

ACTING SPEAKER HUNTER: Mr. DiPietro.

MR. DIPIETRO: Thank you, Madam Speaker. Would the sponsor yield?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Absolutely.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. DIPIETRO: Thank you, Mr. Dilan. Let's start with on Section J there's some things where the incarcerated will have, is it up to three years after they're released to possibly bring any actions?

MR. DILAN: Yeah, so if -- if I may, a second, Mr. DiPietro, in my opening I omitted that the -- the main goals of the bill are to achieve accountability, transparency and oversight in light of the two homicides and many other untold others that we've seen recently. So specifically to your question --

MR. DIPIETRO: Yeah.

MR. DILAN: -- if you could repeat it for me, I'm sorry.

MR. DIPIETRO: Oh, yeah. On Section J it says they will have the ability, the incarcerated individual, the ability to file within three years after release from custody a Notice of Claim or Notice of Intention to file a claim related to civil actions to recover damages for both physical and/or psychological or other injuries. I just want to double-check. So it's three years from release date?

MR. DILAN: Yeah, so I take it you mean Part J, not Section J.

MR. DIPIETRO: Yeah.

MR. DILAN: And yeah, I guess the -- the idea behind this was as a safety measure. From time to time incarcerated individuals will choose to remain silent about any potential abuse that may have happened to them while they were under custody. So if they choose to do so, as a safety measure currently the statute of limitations is running on them. So by the time they're released and they deem themselves to -- to be safe, they may have lost the -- the opportunity to bring an action. So, yes, this does give them three years upon their release to commence one.

MR. DIPIETRO: When you're talking physical or psychological on a -- are those -- to be able to bring a suit or action, do those have to be documented at the time when they are incarcerated?

MR. DILAN: Well, I think if the -- the -- and I'll dis -- for clarity, it was initially sponsored -- a bill sponsored by Council Member -- excuse me -- Assemblymember Cruz. I think she could

speak to more to her intent. But the way it appears to me, it is a safety measure. So I believe it doesn't have to be documented because if they document it, that is the trigger for an incident that might put them at harm and, therefore, jeopardize their safety. So I would -- I would -- no, it doesn't have to be. They can -- they can commence it afterwards.

MR. DIPIETRO: How will -- what will be the parameters on proving that someone on the physical side was harmed?

(Conferencing)

MR. DILAN: Yeah. So there's no specific requirement, but obviously, they'd have to, you know, be able to prove that it has happened and the ordinary pleading requirements still apply.

MR. DIPIETRO: Okay. So -- so I'm just trying to sort this through. So let's say hypothetically an inmate has an altercation --

MR. DILAN: An -- an incarcerated individual.

MR. DIPIETRO: An incarcerated individual has an -- has an altercation with a CO or another inmate. If another inmate has -- does physical damage, can they still sue or bring action against the State, being another inmate-on -- excuse me, incarcerated individual versus --

MS. WALSH: A point of order please. Point of order.

MR. DIPIETRO: (Indiscernible/cross-talk)

MS. WALSH: We need to not have this conversation going on in the background throughout this whole debate. Would you please, Madam Speaker, admonish the gentleman to -- to the back of me to please keep his mouth shut, please?

ACTING SPEAKER HUNTER: We will have questions and answers only during the debate. Outside conversations should be taken outside of the Chamber. If you wish to speak, put on your light and we will call on you when we get to your turn.

Mr. DiPietro.

MR. DIPIETRO: I'm sorry. Thank you, Madam Speaker. Sorry, Mr. Dilan. The incarcerated individual, if it's incarcerated individuals on an incarcerated individual, is that grounds also for an action?

MR. DILAN: Any actions that have to do when they're in custody. So potentially, yes.

MR. DIPIETRO: Okay. So incarcerated individual attacks an incarcerated individual and, say, hurts him in the arm or in the leg. And obviously it heals up and he's fine. But how -- how would that go if he comes out -- when he's released, how will you -- will you bring an action and -- and how would that work? Would he just say, *I was injured by another incarcerated individual?*

MR. DILAN: Yes, it -- it would be the same as -- as any other -- the same as if he wasn't in custody. The same as it would be on -- on the outside. But what -- what this would do would give him, you know, the three-year period -- give him or her, excuse me,

the three-year period if they think their safety's at risk to delay that proceeding.

MR. DIPIETRO: Does it change the -- the degree of proof?

MR. DILAN: No.

MR. DIPIETRO: It doesn't?

MR. DILAN: No.

MR. DIPIETRO: So this is -- is -- I guess I look back to a -- a bill we passed a number of years ago, I think you were here, where it's the look-back bill. And I know this is only three years, but I'm just looking at -- so without any proof there were -- there were people claiming that they had been abused 50 years ago by someone of the clergy, and they were getting these settlements. And now I know this is only three years, but is that -- are we -- is that a parallel thing because of the fact that the claim is being made without --

(Indiscernible/cross-talk)

MR. DILAN: I think I know where you're going. There -- there's no look-back provision in this bill. It would only be eligible at the time it becomes effective under the section.

MR. DIPIETRO: So, just because I'm trying to be clear. The -- that's physical damage. Psychological damage, I -- I would think that anyone who is incarcerated, actually going behind bars -- I've toured every facility in my district and others outside my district -- it's pretty intimidating. And I would think that most incarcerated individuals would be able to claim some sort of mental

tragedy by being in there. What -- what degree does it have to be to bring that?

MR. DILAN: So we're -- we're really not adding anything new. Currently, if they want to bring these claims now they can. The problem that I believe the sponsor's looking to address is that if they opt to -- if they opt to choose silence as a safety measure because they're afraid of -- of what may happen to their physical person, they can choose to delay commencing that action three years after their release. Everything else about it, you know, doesn't change. If they want to commence an action while in custody, they certainly have the right to do so. This doesn't take that away.

MR. DIPIETRO: I'm just --

MR. DILAN: It would -- it would be similar, if I go further, as an elected official, you know, the statute of limitations on anything we do doesn't -- that clock doesn't start until we're out of office.

MR. DIPIETRO: So -- so I appreciate that. I just look at -- I'm not -- I'm not questioning the three-year period, okay? I understand why that's -- that's in there. But I'm -- what I'm trying to get to is what are the facts that are gonna be presented in front of a judge or a jury from this incarcerated individual to prove that there was physical or psychological damage so that they would be able to be -- to get an award?

MR. DILAN: This section doesn't change any of that. All -- all the section really does is a give them an additional

three years post-incarceration. So whatever facts or protocols or laws that are currently on the books will remain. The only additional benefit, if -- if you will, is for them to choose to protect themselves, but not miss out on, I guess, commencing the proceeding that they would still have to prove an additional three years after they're released.

MR. DIPIETRO: Okay. Understood.

Is there -- under current law, is there a limit to rewards or monetary values that they can receive? Is there a limit?

MR. DILAN: I mean, I -- I guess what I'm hearing is that it's out -- it's really outside the -- the scope of this bill. I guess there -- there would be -- under current law, it would be like any other proceeding that could be commenced, whether in -- incarcerated or in the -- in the free world. So the difference is really (indiscernible/ cross-talk).

MR. DIPIETRO: So you're not trying to -- you're not trying to change that aspect of the law that's current, correct?

MR. DILAN: We don't change that at all.

MR. DIPIETRO: Okay. That's what I wanted to see.

Is there anything that -- can you expand on, is there anything that improves the safety of the corrections officers? I know there's a few things in there, like with the cameras. Can you expound on those?

MR. DILAN: Well, I mean, as in the case with Robert Brooks, I mean, it's long been the sense of a lot of folks who

have had family members who are incarcerated and have had them die and -- and maybe thought they were murdered but couldn't prove it because there were no cameras. I think the -- the profoundness of Robert Brooks' murder is that it is probably the first one that was on camera for the entire State and the entire world to see. And I believe what everybody saw, they -- they can't unsee. So the cameras potentially could do the same thing for any type of assault or murder of -- of any kind, whether it is incarcerated-on-incarcerated, whether it's officer-on-incarcerated individual. So the cameras show you what -- what they show you. It's not intended to benefit one side or another. It's intended to give us more transparency, which is why it's important to the -- to the title of the bill because we want to deal with the facts of what happened. And we also don't want to allow, you know, any entities to basically hide or -- or change the facts of what actually happened.

MR. DIPIETRO: There's a -- no, I agree, and I've talked a number of corrections officers who are in favor of more cameras because -- for their safety. So I'm -- it goes both ways, it's a two-way street.

MR. DILAN: Listen, if the -- if -- if cameras improve safety for everyone I think that's a laudable goal. I also hope and I believe it's the hope of many others that having the additional cameras, both fixed and body-worn, will be a deterrent on abuse of imprisoners and -- and hopefully a deterrent on murder of incarcerated individuals.

MR. DIPIETRO: So -- thank you. With the -- when this bill was getting put together, were there any discussions that you could alleviate [sic] or -- or expound on that had to deal with the overtime issue with the corrections officers? Was that ever discussed in bringing any of this together?

MR. DILAN: Well, that's -- no, that's a function of the Executive. You know, we tried to stick to, you know, our -- our -- the legislative aim. We -- we -- the legislative functions. We looked at agencies that, you know, clearly were -- were broken in terms of accountability and transparency. But to get into functions that the Executive needed to do with their labor force, we -- we did not consider that. We left it to them.

MR. DIPIETRO: Okay. Now, I -- I appreciate it, Mr. Dilan. I appreciate those answers.

On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MR. DIPIETRO: I want to thank my colleague. This bill, it just -- when I look at when we were trying to alleviate some of the tragedies that have happened on both sides between the incarcerated individuals and the corrections officers, I just don't think this bill goes far enough. The -- it does nothing to address the main causes of the strike that -- that got the attention of the entire nation, and those were the mandatory overtime and the HALT Act. So this bill, I -- I think it could have gone a lot further than it does. It does -- I guess it does put some parameters in place. I just expected when we

were told -- when we knew the Majority was working on this that -- that we expected a little bit more. It just doesn't seem to follow that -- pardon? Yes.

ACTING SPEAKER HUNTER: Go ahead, Mr. DiPietro.

MR. DIPIETRO: Okay, thank you. The -- the main part -- parts obviously, which were very aggrievous [sic] was the fact that this strike was not about money and that the Governor threw money at it. When I talked to some of the negotiators, they were just dumbfounded. And I want to tell you a story that I was told personally by one of the mediators. And it was on that week when they were going to mediation Monday, Tuesday and Wednesday. And on Monday night while this strike was in full blown, the Governor went out in public and said, *I don't know why they're striking*, to which the mediators on both sides, from what I was told, went ballistic. They called her and talked to her, and they said, *You can't make statements like that. But when we settle this, we all got to be together. When the corrections officers come back, we've got to put this all to bed*. And what I was told specifically was that she was adamant that they were -- she wanted them to be put in jail, everyone who struck. And that was just very, very, very disheartening to hear that. And the one quote that stuck with me that this gentleman said, he said, *On both sides of the mediation*, he said, *We were the adults in the room. "We" were the adults in the room*. That the Governor was so adamant and so petty to make sure that these officers were put in

jail and were never gonna work in New York State, and we've seen the results of that, that -- they could not believe it. And so that's just one.

The other is, you know, there's -- it goes both ways. There's -- there is a gentleman who died on the job a couple of months ago, three months ago. He was -- because there was a posting that said if he took time off, if any corrections officer called in and tried to use sick time or call time off that they would be terminated. And that was posted and they have copies of that. Well, this gentleman was forced to work a 24-hour shift followed by 16, 16, 16, 16, and was -- and he kept telling from day one that he didn't feel well. He told his supervisor and he was told that he would lose his job, so he kept coming to work and he died at the facility. There's gonna be a lawsuit, I think, pretty soon on that one. So this is how bad it got.

The -- the HALT Act, which was not the main reason they struck, because it was all about the overtime and being away from their families. If anyone had been following this, there were people, they had not seen their families -- they'd go 16 hours and then they would go home, sleep, get up and work another 16, come back. I got so many stories of corrections officers who were not able to put their kids on the bus, had to hire babysitters and neighbors to come over and watch their kids for weeks at a time, unable to see their family or get their kids to school, pick them up, be with them on the weekends because they were forced into working. This is unheard of. And this is where we should have been putting the focus on

remediation for these corrections facilities. That's one of -- one of them.

The other is the HALT Act, from all -- every corrections officer in -- that I've spoken with. That -- that was probably the biggest tragedy and that's probably why we're here on this bill. But if we did not have the HALT Act, every corrections officer will tell you, that gentleman probably would be alive today because of his actions when they were transferring him -- and again, nothing's going to make any of that any better or justify anything they did. But the fact is as soon as there was an issue they probably would have put him in the SHU for 24 hours or 48 hours and that never would have happened and he'd be alive today. And every corrections officer will tell you that. So the HALT Act did the exact opposite of what it was supposed to do, and now we have a tragedy on our hands.

So with that, Madam Speaker, there's so many other things but I know I want to leave -- I want to let others have a lot of other questions on this. And I just wish that this had addressed more. It's a start, this bill. There are some good things in it. But overall, it doesn't go far enough. It's got some things that are negative, and I'll be voting in the negative. And I just wish it had -- we had done more because the entire situation has not been fixed and this was supposed to fix it.

Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Ari Brown.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: If the question is germane to the bill, certainly.

Yes. Yes, I -- I yield.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. A. BROWN: Okay. Thank you. Under Part B, what is the estimated cost to State and local governments -- this is under Part B, Section 4, lines 6 to 9. Under Part B, what is the estimated cost to State and local governments of mandating long-term video storage in the correctional facility? And how do you justify forcing counties to potentially spend -- you know, store tens of thousands of hours of footage for years with no funding mechanism? I say that because I did something like that on a smaller level, at a village level, to store meter footage for parking stall -- people backing into parking stalls and it was a fortune. This could run tens of millions of dollars.

MR. DILAN: So I -- I would say to the question, this is -- had already been funded in the budget that we just passed to the tune of $400 million that we added for cameras in the budget that we just adopted. So the funds can be taken from there. As it relates to the locals, this funding and this section replies [sic] only to State facilities. Locals are not included.

MR. A. BROWN: Thank you, Mr. Sponsor. What -- that being said, what do you think this portion of the storage of this unlimited amount of hours would cost, taken from the State's budget?

MR. DILAN: You know, to speak to that, it was DOCCS that had submitted the cost to the Governor in the -- in the aggregate of the 400 -- of the 400 million to speak to the detail to the cost of that. I -- I don't -- I don't have the answer. Maybe Ways and Means has it. But it's included in that cost. And I believe the technology that they are using limits to some degree, not -- not completely, the amount of man hours it would take to do the storage and -- and the like.

MR. A. BROWN: Right. What I was trying to say, not to belabor the point, Mr. Sponsor, but the storage itself is very costly. I'm saying on a small scale for a little village it cost tens of thousands. Is it millions?

MR. DILAN: Like -- like I said in my previous answer, they're not included. It applies only to State facilities.

MR. A. BROWN: I understand. Thank you, Mr. Sponsor.

Another question. Does this bill create any legal standard or chain of custody for the video evidence, or are we just handing over raw uncontextualized footage to the AG's political staff with zero evidentiary safeguards, potentially opening up the door to manipulation, leaks or selective editing?

(Conferencing)

MR. DILAN: Yeah, so it provides that if a -- if a correctional officer -- excuse me, if an incarcerated individual died at the hands of an officer, that information has to be given to the AG. In terms of the politicalness, it's the AG specifically. It doesn't say the AG from which party. Historically, AGs have changed parties over time. We've tried to keep this as apolitical as possible, and as much as on the substance of the tragedy as possible, and tried to address the gaps in our agencies as much as possible. I -- I think what most folks forget is that the AG wanted to try this case herself, and because of conflicts she couldn't. Those conflicts arose because she was defending corrections officers who had been excused of abuse of people under custody. So I think it's important to allow, you know, any AG -- and I understand your concern. Like, we -- we are politicians. It can be political at times. But this sends it to the newly-created unit of the AG's Office of Special Investigation. Those guys are, you know, not politicians. They're usually professionals. And it -- it -- this legislation, which was worked on in part by the AG, you know, certainly tries to protect the AG's Office, and they took careful consideration to wall it off for many conflicts. So I think they have gone a long way to try to view this as a substantiative matter because they care about getting the -- the policy right. And I know there's a lot going on in the national theater. But I think this, you know, really has nothing to do with that. Folks are just trying to get their agency's structure right so they can do the jobs that they were elected by the people of the State to do.

MR. A. BROWN: Thank you, Mr. Sponsor. Maybe I just wasn't clear. I hear what you said.

(Indiscernible/cross-talk)

MR. DILAN: -- interrupt me and we can save (indiscernible/cross-talk).

MR. A. BROWN: You're entitled to speak. I was really getting into chain of custody of the video itself, because what happens is it's stored where? How does it get to the AG's Office? We don't have an Epstein-style --

MR. DILAN: It -- it's --

MR. A. BROWN: Hold on, hold on. An Epstein-style situation where the video disappeared. Who's taking ownership of it? What happens to these endless hours of video? Is it in the Cloud? Is it on a hard drive?

MR. DILAN: Yeah, so the -- the bill's not prescriptive in that manner. It's up to the agencies. Generally this data is stored at DOCCS. The part of the bill that you're speaking about lays forward the guidelines for DOCCS that if an incident under these guidelines happens, that's when they're triggered by law to turn the information over to the AG's Office of Special Investigations.

MR. A. BROWN: Thank you, Mr. Sponsor. So let me ask, why should the State expose itself to this open-ended civil liability -- this is Part J, lines 30 to 32 -- by extending the statute of limitations under Part J for years beyond incarceration? I heard your answer earlier, but even in cases where there's no physical evidence,

no witnesses, and no way for the defendants to protect themselves after years. I understood why your answer was good, but, you know, there's a lot of circumstances where --

MR. DILAN: Well, I -- I would say why would we allow someone to bring a proceeding while they're under custody and they have to run the risk of bringing that proceeding at the risk of their life? I mean, what we want to do is give people as many -- as many tools that they can to protect themselves and keep themselves safe. Now, some people may not elect to -- to care, and they certainly can commence an action now. But some people may say, you know, *The -- the money or anything I may deserve as a potential award is not worth my life*. And some people at the moment aren't thinking about money at all, they're thinking about their life. Our lives and our time is a lot more valuable than money. But then after you are -- are released and you feel like you're safe, there is an -- there's, I believe, many opportunities that have been missing. I believe the sponsor believes that there's been many opportunities that have been missed to address it.

MR. A. BROWN: Thank you, Mr. Sponsor.

My next question. Doesn't granting the Correctional Commission [sic] Association access to sensitive -- sensitive facility records, personnel files, 24/7 entry rights without any judicial oversight violate not only privacy laws, but also undermine basic operations, security and inmate-staff safety?

MR. DILAN: Well, I would say this: I mean, I'm

glad you brought up the State Commission -- oh, CANY, sorry. Could you repeat the question? I'm sorry, I got it confused with the State Commission (indiscernible/cross-talk) -- talking about CANY, I'm sorry.

MR. A. BROWN: No problem at all. Doesn't granting the Correctional Commission [sic] or Association access to sensitive facility records, personnel files and 2/47 entry rights without judicial oversight violate not only privacy laws, but also undermine basic operational security and inmate-staff safety?

MR. DILAN: So, look, CANY -- CANY -- what we're doing, CANY can do many of those things now. We're -- we're expanding the powers of CANY because historically, you know, CANY was founded in approaching almost 200 years ago. CANY was founded in 1844 by people of the State of New York who -- who were private. In 1844 it was citizens and they wanted independent oversight of agencies back in 1844. In 1844 there were, you know, our -- our prison system looked dramatically different. And then two years later this Legislature, you know, granted them that authority to monitor that -- that you just prescribed to some degree and that we're expanding today. But what it says to me, something profound happened before the Civil War in our State prison systems and, you know, here we are today, almost 180 years later and we still haven't got -- gotten our independent oversight systems as a State correct. So this is the first step out of many in an attempt to try to correct those issues. So yeah -- yeah, I think it's founded. Under the legislative

authorization back in the 1800s, the Legislature granted them the right to do these reports and share and -- and -- and provide all these -- this information to the Legislature and the public. And I would say in the -- in the recent incidents, it was the CANY report that was ignored that led to -- to where we are today as a result of the murders. And I would say our actions here as a -- as a Democratic Body and as a legislature weren't -- weren't to address a strike. And I think we have a difference of opinion as to why that strike was commenced. But, you know, I would say that in -- in -- in this instance, had CANY's report been followed and more people would have been widely aware of what CANY does, potentially, Robert Brooks' murder could have been prevented. Because their report clearly said that instances of abuse on incarcerated individuals was abnormally high as compared to their other reports that they had issued.

MR. A. BROWN: Thank you, Mr. Sponsor. One last question. Under Parts A and F, how is it not a blatant con -- conflict of interest for the Attorney General's Office to investigate State officers and employees while also defending them in civil suits, or worse, to refuse to defend them and bury the records under the guise of internal conflict?

MR. DILAN: Yeah, I -- I -- I'm glad you asked that question because that -- that, to me, is some of the structural flaws that we have found since, you know, the -- the murder of Robert Brooks. And then I would say one of my main concerns when we found out the severity of -- of how bad it was, the first thing I noticed that there

was a -- a report of a death in -- of an incarcerated individual. Then we saw the video and we clearly saw that it was more than just a death. And then we got communications from the Attorney General's Office that there -- there's a potential conflict because the Attorney General may be representing some of the individuals who are -- stand accused of murdering Robert Brooks. The Attorney General was also defending them on civil -- on other matters related to abuse. And then a few months later, even though the calendar year was different, the same thing happened with Messiah Nantwi, and the Attorney General had to again recuse herself because she was defending herself on other actions -- or she was defending corrections officers for other allegations of abuse. So in two homicides, the Attorney General has been, like, two for -- two for two in having to recuse because she has to defend folks who stand accused of -- of murdering incarcerated individuals. Now, the first question it leaves you to believe is how many other instances of -- of abuse is the Attorney General defending corrections officers on? And I think that could be, could be a clear indicator of who your problematic corrections officers are.

MR. A. BROWN: Thank you, Mr. Sponsor, for answering my questions.

MR. DILAN: And I -- and I certainly hope she doesn't have to go three for three.

MR. A. BROWN: Thank you, Mr. Sponsor, for answering the questions.

Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. A. BROWN: There's always the other side. You know, we have the incarcerated individuals and we also have the correction officers who put their lives at risk every single day. So where in this bill is the protection for the correction officers whose split-second decisions, often under life-threatening circumstances, are now going to be reviewed years later by activist lawyers with edited footage and a political axe to grind? There's absolutely nothing in here looking out for them. A blatant omission, and for that reason I will be voting in the negative.

Madam Speaker, thank you for the opportunity.

ACTING SPEAKER HUNTER: Thank you.

Mr. Maher.

MR. MAHER: Thank you, Madam Speaker. Will the sponsor yield to questions related to the bill?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Absolutely.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. MAHER: Thank you, sir.

MR. DILAN: Absolutely.

MR. MAHER: All right. First I want to say in Part A, looking at the video disclosures and certainly other aspects of this bill where we're talking about the videos, I think that's gonna help in terms of transparency. I think it's gonna be an area where you're

gonna see, hopefully, encouragement in behavior. So we're very hopeful. I know a lot of us and a lot of COs that I've talked to, that if and when this implemented correctly, it can have a positive impact for sure.

My first question is related to when we talk about the incarcerated individuals and some of the mandates that are put on getting that footage within 72 hours to the Attorney General's Office, OSI. There are other similar issues, and I wanted to know if they came in discussion when we were preparing this bill. When it comes to correction officers that also have to create reporting to do their use of force policy, is there going to be a similar type of access for them when it comes to accessing video footage when some of their superiors or folks that they're supposed to be talking to question some of their writings in their use of policy -- use of force reports?

MR. DILAN: So it wasn't -- it wasn't contemplated in this -- in this part of the bill.

MR. MAHER: Okay. Thank you for that answer.

Funding. I know that we talked about in the budget what was funded for body-worn cameras, and I believe there was a very large number for -- for cameras also related to prisons in general. I see there's a very, very aggressive plan here. I just want to make sure that funding in this Capital budget is -- is gonna be enough. In your estimation, do you think it's gonna be an appropriation next year on top of this year, or do you think it's properly funded in this budget?

MR. DILAN: It -- it may be properly funded in the

budget, but if -- if the Executive determines they need more, I'm sure they would have the opportunity to come back to us and make that request.

MR. MAHER: Okay. I just definitely wanted to be on the record. It's -- it's a very aggressive plan. These cameras are very expensive. There's a lot of places in the prison that are gonna have interesting angles. So we definitely want to make sure that we're covering all of our bases and that it's properly funded, so that's good to hear.

I want to talk about Part C, notice of deaths. I just want to make sure this is perfectly clear. When -- this part requires DOCCS to promptly notify the next of kin and any other person designated as a representative of the death of the incarcerated individual. This prompt notification will include the circumstances surrounding the death, the medical procedures used, and the cause of death including preliminary determinations as well as the final determination, reported by autopsy result -- autopsy results as such information becomes available. Is this just for incarcerated individuals or any death at a DOCCS facility?

(Conferencing)

MR. DILAN: Any -- any incarcerated individual.

MR. MAHER: So this is not in relation to a civilian staff or a correction officer who is -- is killed or dies in a DOCCS facility? This -- this would not account for them as well?

MR. DILAN: No. But to my knowledge, the last

line-of-duty death for an incarcerated individ -- for a correction officer was around 19 -- 1982. This doesn't address that. This just addresses incarcerated individuals.

MR. MAHER: Can I ask why we are only dealing with a notice of death in correctional facilities for incarcerated individuals and not correction officers, civilian staff, or even our National Guard service members? My thinking would be we'd want to try to put them on an even playing field in terms of their lives and the value of their lives.

MR. DILAN: Well, I -- I -- this basically amends six -- Section 624 of the Correction Law's current law. So we're not creating a new section. Current law leaves it at incarcerated individuals and doesn't expand it to correction officers or non-corrections staff. So I think the intent of the sponsor on this bill was to change the language to shall -- what does the language say -- shall contact -- shall -- (indiscernible/cross-talk) -- that's what it is now.

MR. MAHER: I think it's 24 hours after the next of kin or designated representative have been notified of the death of an incarcerated individual, DOCCS must publish a public notice of such death on the Department's website; is that correct?

MR. DILAN: So the -- yeah, the employers have to do the next of kin. I'm sorry, I couldn't hear the question because I was getting -- could you repeat it?

MR. MAHER: All right. I think we're on the same

page there, through. But --

MR. DILAN: I think so. But I just want to make sure.

MR. MAHER: But it's just incarcerated individuals.

MR. DILAN: Yes.

MR. MAHER: Okay. Okay. Thank you for your answer.

All right. Going to Part D, a study on DOCCS -- a study in deaths on DOCCS correctional facilities.

MR. DILAN: Yep.

MR. MAHER: All right. So, I know these records exist. I was looking up online, I was actually stunned by some of the statistics that are online, so I'm assuming the purpose of this section is to get little bit deeper and get explanations. For example, in 2023 it looks like out of the 107 total deaths, zero accident, one homicide, 68 natural causes, eight overdoses, 11 suicides, and then 19 unknown. And then I look at 2025 it says 37 unknown. So I'm -- I'm assuming that the purpose of this is to get a little bit more information. My question to you is, in your discussions of putting this bill together, why isn't this getting looked at a little deeper from DOCCS? Have -- have there have been any discussions as to how we got here in terms of not being able to properly get into the details of all of these deaths that are occurring in any calendar year?

MR. DILAN: So I -- I would say no. And I think, you know, this bill, this section has been around. I believe I debated it

last Session with Mr. Goodell. And, you know, certainly since then circumstances have -- have changed. You know, certainly a lot of this is under the -- the -- you know, the deaths and -- and the reporting are certainly on DOCCS' website. That's some of the stats that -- that you just read off. But SCOC does this. So when we originally debated this, we wanted to take a -- a holistic approach. And then certainly after what happened recently, we thought it -- it applied even more to drill down on some of the answers -- or some of the questions you may just -- that you just asked, so we thought it was appropriate and -- and put it in. Because like you said, like we have, you know, a lot of questions as to, you know, how those numbers read the way they read, and I think further information and further detail on these deaths in the future will benefit us all.

MR. MAHER: I agree.

I want to get down to Part H and to follow up exactly when we're talking about the State Commission of Correction Expansion. Look, I think this is -- this is a good thing. There's two questions that I have. The first, why were there no Minority leadership appointments that we could also make for this? Was there a discussion on that?

MR. DILAN: Well, again, like I said earlier, the State Commission of Correction was established again at the end of the 18th -- excuse me, in 1895, roughly. And I think as it relates to appointments, the way the bill reads, it -- the Governor retains her three that she has now. That's the current composition. The current

language says the Governor appoints -- it doesn't say the -- the Democratic Governor appoints. Then next it says the Speaker of the Assembly will have two appointments, the President Pro Tem of the Senate would have two appointments. We found that over time, SCOC -- legislation in around SCOC had been amended, and it had been sufficiently been amended by either party. So if you recall the Attica riots in the 1970s, the Governor was Republican.

MR. MAHER: Right.

MR. DILAN: The Speaker of the House was Republican. The President Pro Tem of the Senate was a Republican. And they enacted good reforms in -- in the wake of Attica. It worked then, and I -- I believe it will work now. And when you -- the reason why I bring up the dates is that when you look at the context of the State of New York and how long the people of this State have been trying to solve this problem, the individual party really, you know, is inconsequential. Because Republican administrations have done good job -- done a good job in enacting reforms, and so have potentially Democratic ones. So the reason why there's none lined out is because the way it's written, it's -- it's worked.

MR. MAHER: Okay. Your -- your point is -- your point is well- taken. I'll look forward to revisiting that when we have a Republican Governor in a little while.

MR. DILAN: Well, and under a Republican Governor, the policy will be the same and they would have the right to make their appointments. But, you know, it could take 200 years.

MR. MAHER: Eighteen months?

(Laughter)

Yeah, we'll -- we'll revisit that. Thank you, sir.

Okay.

I also want to talk about just reporting in general. Was it discussed, talking about some of the injuries that are taking place, again, with civil staff, the correction officers, with National Guard service members? And also, was there any discussion to the real serious issue going on within our State prisons in terms of fentanyl, other exposures that are creating hospital visits and even our incarcerated individuals and correction officers and civilian staff to be Narcaned, even, and to be taken to the emergency room? I know in my district alone there's been dozens of those cases. I have four prisons within my district.

MR. DILAN: Yeah, so while those are important issues that I believe should be addressed at some point, it's -- it's really outside of the scope of the bill. It's about transparency, accountability and -- and oversight. And again, like I said to -- to many of -- people on the outside, this is the first step and they'll be ways for us to holistically look at our government agencies and government systems to address a lot of the problems. But I think the intent here by us was not to look at issues that are definitely problems, like drugs in -- inside our facilities are definitely problems.

MR. MAHER: Right.

MR. DILAN: Staffing problems and -- and issues on

where they -- why they may or may not have gone on strike, you could say it's a problem. But our intent here was to strengthen our government systems so that we could have better accountability on these agencies, have better independence on some of the information that flows from DOCCS, and better oversight just generally, and accountability, should they decide to, you know, take action -- actions that are not prescribed by a judge.

MR. MAHER: Thank you for that. I -- I do want to go on the bill, but I have one final question I want to ask. When it comes to discussion of the body-worn cameras and the need to have them be sent to the AG OSI in 72 hours, is anything related to the cameras that were put in this bill, was -- was there a discussion with the union, and is there a concern that there's an issue with the union contract, should there had been some discussions with the union for any of these policies?

MR. DILAN: No, but the union might have been, you know, a little busy at the time. But, no.

MR. MAHER: Okay. All right. I just wanted to have that on record. Thank you, sir. I appreciate the answers to my questions.

On the bill, Madam Speaker.

ACTING SPEAKER HUNTER: On the bill.

MR. MAHER: Okay. So, I really appreciate the answers to my questions and some of the acknowledgments and some of the concerns, especially the -- the fact that there is a lot more work

to be done. I think that acknowledgement is important. I do want to give an appreciation to my colleague and many of my colleagues for sitting down and actually speaking to correction officers up here in Albany who had legitimate concerns. I hope to continue those conversations moving forward. I do believe there are so many things that we could have put in this bill that could speak to the staffing crisis and the safety concerns within our prisons. It is dark right now within DOCCS in the State of New York. The current state of our facilities, you really have to go there and see it for yourself and talk to the folks and the families that are impacted. It is devastating, and it is getting far worse. We still have thousands of National Guard service members throughout the State of New York. We're spending tens of millions of dollars on a regular basis to fund them, and we're having real issues. While at the same time, we have correction officers who are going to the hospital due to exposures. One individual in my district -- I'm not gonna use his name -- he hit his head, passed out due to an exposure, went to the hospital. Ended up getting a TBI. Reported back for duty, wasn't able to go back to work. Applied for light duty, was denied and was recently fired. While we have National Guard service members doing administrative duties, we couldn't find light duty for a correction officer and instead fired him. And there are so many different issues happening since the work stoppage where we really are ignoring folks that want to be in an environment and do well in that environment and provide a public service, and instead spending an -- an awful amount of money and

putting folks who are not trained in a position to potentially hurt themselves and others.

When it comes to incarcerated individuals and the -- the environment, we need to make sure that environment is safe for everyone. And I'm going to continue to pursue that route, working with our correction officers, our civilian staff, those that are incarcerated, their family members. And I just want to warn my colleagues; in the future when it comes to prison closures, we've really seen that not be something that helps the situation, but really only exacerbates it. I really want to be mindful going forward. I want to be able to work with everybody in a collaborative way. But on the record, it's just really important when we talk about programming, when we talk all of these things that we need to fix, we can't fix them without appropriate staffing levels. Appropriate staffing levels will remain in -- in crisis mode until we have a serious conversation with both parties in the room, and right now I -- I don't think we're there. I'm going to keep working and hopefully --

ACTING SPEAKER HUNTER: Thank you, Mr. Maher.

MR. MAHER: -- we'll get there at some point.

Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Mr. Palmesano.

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

ACTING SPEAKER HUNTER: Will the sponsor

yield?

MR. DILAN: Yes.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. PALMESANO: Thank you, Mr. Dilan. I -- I know we've had a number of conversations offline, at hearings, and I just want to say right up front I -- I really appreciate how upfront you are. I know this -- this issue has been very personal and very passionate for you because of the tragedies that happened with Mr. Brooks and Mr. Nantwi. So -- and I know the one thing you said is, you know, initially you were looking at this from a holistic perspective and because when we talked, and I know we had discussions, we talked about, obviously, there's what's going on with incarcerated individuals and violence inside our prisons. But also, we talked about the assaults and things like that that's going on with the corrections officers. Was there any discussion or when did -- was there any discussion on trying to address that as part of this package or not really at this time? I know we've talked about HALT and the repeal of HALT is not on the table. But was there -- any of that discussion to try to look at this holistically, to look at the conditions that the corrections officers and staff are working in?

MR. DILAN: So what I -- when -- when you say "holistically" you're correct. And not just me, myself and many of my colleagues, many members of the Caucus, because a lot of this information derived from legislation that they introduced. And I think there are many things that the Caucus were [sic] promoting that, you

know, hasn't made it yet into a -- an omnibus bill or to this floor that we -- we still support. That included a holistic approach, too. But I think what we did here was, again, tried to see if we could at least get a two-way agreement with the Senate on the systemic issues that clearly have not worked, to see if we could get a package that would immediately stop the murders; get a package that, you know, could help reduce assaults; find out where our -- you know, our systems again were broken, and you know address that. There were many other conversations that we addressed via HALT. You know, it certainly has been discussed publicly, it's came [sic] up at hearings, it's been discussed privately. I've made plenty of comment -- public comments on HALT. But this bill really wasn't considered to be a attempt -- an attempt to address or do anything as it regards to HALT.

MR. PALMESANO: I -- I understand.

MR. DILAN: In that regard, no.

MR. PALMESANO: I can understand that, though.

On the issue of body cameras, I know this has come up a couple of times. I know we have a policy that's kind of used, and this is going to be taking a Statewide policy. Does this bill do anything to ensure -- or is there gonna be regulations in place to ensure -- number one, ensure proper training is received and that the cameras are maintained, equipment is properly maintained and functioning? Does this bill address that or say anything -- speak to that at all?

MR. DILAN: So, this bill doesn't do that specifically,

but that was addressed in the budget that we just passed.

MR. PALMESANO: Okay. Would this -- would this bill or what we passed in the budget just deal with clear guidelines on the use of cameras or maybe lack of use? You know, sometimes we hear about it being in sensitive -- sensitive areas must be considered or accommodated. Does this bill address that or was this addressed in the bill that we passed during the budget, or is this something that's got to be looked at?

MR. DILAN: Yes, it does. And then additionally, some of the things that the Governor enacted after the -- the murders, some of her initial actions that didn't require legislative actions would go to do that as well.

MR. PALMESANO: Okay. And -- and I -- and I do agree. I think this use of body cameras is gonna be a good thing. Obviously, we saw the horrific abuse of staff on the -- the video cameras. But also, this could be used in a way when on the other side these video cameras will be able to capture things when maybe there's accusations are unfounded, accusations against COs by others, too, right? So it's basically there to catch everything. So I think the -- the video cameras is a good part of this bill, so I just wanted to mention that.

MR. DILAN: Yeah. And I would say, look, it -- it -- it works all ways, but I think we want folks -- the job is already hard enough, and for the folks who do the job the right way, you know, they deserve protection, too. But for the folks who are the bad actors

and potentially give a bad name to everyone else that -- that's doing it right, you know, for the folks that are doing it right, they deserve protection, too.

MR. PALMESANO: And I -- and I appreciate you saying that because one thing we don't wanna do is paint everyone with one broad brush, and that's why we want accountability and transparency and I think this part of the bill I think is a -- is a good thing.

I did wanna move on. You know, we were talking about the -- the Commission on Corrections [sic] and I -- I won't [sic] wanna belabor the point on the Minority appointments. I -- I get that. I think what I'd probably say, and maybe I'll elaborate more when I go on the bill, but I think the reason we talk about Minority appointments is because, you know, there might be differences of opinions on different things, but to have a different perspective. I mean, for the Speaker to have two appointments, we get zero appointments. I just think that's something we should look at a little bit more, especially like on -- on something like this that's so broad, omnibus. We should have that expert difference of opinions to bring those discussions together to get difference of opinions, whether they agree or disagree. I think that's something we should keep in mind as we move forward. So it was more of a statement there, I guess, than anything there. So I just wish that would be kept in mind.

MR. DILAN: Well, I -- I would say point taken, but I also think it's important for the debate on this question is that CANY

also gets two appointments and they're non-political. They're not a member of either -- either side or either party in House.

MR. PALMESANO: And I can under that -- understand. I saw, like, you have the composition must include at least one member from a different area groups. You know, it could be a person formerly incarcerated at a facility, a health professional, a behavior healthcare professional, an attorney. A professional in any other field useful in the promotion of humane -- is -- I guess my thought is, wouldn't a -- a retired corrections officer be someone -- the reason I ask that question is obviously they've seen it all. They've been -- they've been inside the facilities. They've seen the challenges. They've seen the opportunities. They know where the problems is [sic]. Wouldn't it be -- wouldn't that be a wise appointment to have on this commission? Just because of the experience and background they can bring from a diff -- again, from a different perspective than others, just like when we talk about the Minority appointment.

MR. DILAN: So the way the language reads, and you go that part right, the way it reads it says includes those individuals, but not limited to. So certainly if CANY or the Executive or any other entity that gets to make an appointment, whether it be the Speaker, the President Pro Tem, if they wanted to include that they're not prohibited from doing so.

MR. PALMESANO: Okay. Just -- so I wanna just -- and I -- just to clarify the statute of limitations. I was listening to the discussion. So the way I understand it, if I'm correct, once someone,

an incarcerated individual finishes their sentence, they would have three years upon finishing that to file a claim; is that correct?

MR. DILAN: That is correct.

MR. PALMESANO: And that is regardless if it was a 10-year sentence, 20-year sentence? Whatever it is, they have three years after they finish, correct?

MR. DILAN: Regardless of sentence, correct.

MR. PALMESANO: Okay. And so they would have -- now, this question, and I think I know the answer but I just wanted to be sure to be on the record. Now, would the -- a suit that was brought back, would that be against the State of New York? Could it fall back upon the corrections officer personally? How does this language adjust that? Is it just the State because they were the employer, or could the individual corrections officer be under this law, new law?

MR. DILAN: So it -- it -- it's not specific. You know, certainly, if the -- the nature of the injury is against the State, the State could be liable but it's not specific.

MR. PALMESANO: Okay. Well, Mr. Dilan, thank you for your time. I appreciate it.

Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. PALMESANO: Madam Speaker and my colleagues, at the Public Protection budget hearing in January at the follow-up Joint Senate and Assembly Corrections Committee hearing,

public hearing on what was going on in our -- our prisons and prison safety, I said right up front at both hearings that what happened to Mr. Brooks and subsequently to Mr. Nantwi was absolutely abhorrent, totally unacceptable, and those individuals should be held responsible and held accountable. But I also said that any reform measures we -- we are looking at must look at the entire system and all the violence as a whole that's going inside our correctional facilities because there is rising violence inside the correctional facilities. And violence in any form is unacceptable and shouldn't be condoned and acceptable. Certainly what -- if it's a corrections officer on an incarcerated individual, an incarcerated individual on a corrections officer, or an incarcerated individual on an incarcerated individual, violence is prevalent inside our correctional facilities, unfortunately. We've talked about, it I'll say it again. The HALT has caused problems and we've seen dramatic rise in the violence since three years of its implementation. Incarcerated individual on staff assaults are up 76 percent over the three years since this implementation. Incarcerated individual on incarcerated individual is up over 169 percent to a record high of nearly 3,000 assaults. Contraband seizures are up over 32 percent during this time period, from 3,500 to 4,700. And we know drugs create violence and untenable situations inside our correctional facilities. We've heard about the exposures that are happening to people time and time again. This is something -- and it's like a dangerous powder keg envir -- inside our correctional facilities. This is something I, and I think many of my colleagues, would have

liked to seen addressed more holistically, but I know that's something we're gonna continue to deal with. Because this is one of the issues that was the main reasons [sic] for the protests or strikes, whatever word you want to use, we saw when we went with the corrections officers not working. It was about their safety and quality of life. And we still have a staffing crisis. And to keep in mind, you know, the staffing crisis, we -- there are programs that they want -- we want to put in place for incarcerated individuals. If you don't have the staff to provide those programs, then they're -- they're not gonna benefit from those programs. So we have to do a better job of staffing and just -- and recruitment and retention. And there are much -- many other things we could do from there; from whether it's the death gamble, looking at the pay structure, the benefits, all those things. Because if we have good staff in there, that's gonna be able to help our incarcerated individuals rehabilitate and be better and be able to get out.

The State Commission on Correctional's [sic] expansion -- and I know I brought this up during our discussion -- I just believe, and many of us believe, not having a Minority appointment on this committee [sic] -- I mean, we've seen some little things come through. But things like -- and I talk about energy policy. If we didn't have certain people on the Climate Action Council, it would have been -- would have been a disaster. Big policies. We should have a voice at the table. It's good to have difference and diverse voices to have a discussion to come to a consensus. But our

voice is kind of left on the side and I think that's unfortunate. And I also think that we should also look at those people that get appointed, I think we should look at corrections officers because they bring a unique experience. They've seen it all. They understand the challenges, they understand the opportunities. And that would be something that could bring some value to that Commission on Corrections [sic]. And I think, again, to have that different broad view of opinions is something that would be really helpful. I mean, I think there's some questions, obviously, about the statute of limitations. You know, the questions we ask now, okay, will it just be on -- the suit go against the State or could it come back and fall on an actual corrections officer or a staff member in the future? That's something I would have concern about, and for how long and when's the end date. The -- the body cameras, we need to make sure there's proper training, equipment and material are -- are properly checked. That there are clear guidelines on use, and absolutely at the end of the day, to make sure there's accountability. And no doubt, reform was needed.

There are some good things in this bill, and we understand the genesis behind the bill. And I know my colleague worked really hard on this bill, and I know others worked really hard on this bill. And I can respect that. But I think because of the things that were not included, that were left out, things that we talked about and we will continue to talk about in this House, the impact of what's going on, you know, especially with our staff inside our correctional facilities. The overall environment, the powder keg environment

that's been created, the -- the violence that's going on and the prison closures, the staffing to the assaults, the drugs. We need to do better. We need to look at this more holistically. We need to help our corrections officers with their recruitment and retention. You know, one such issue we talked about that passed in this House two years in a row that the Governor vetoed two years in a row, said it should be part of the budget, is death gamble. And we've had two bills that passed the House this -- earlier this week; one for counties and one for judges. Why are we not providing that security to those corrections officers and their families? And this is something not only that they earned or deserve, but they earned it. So we should protect that pension for those corrections officers. That will help retain corrections officers at a time when we need more of them. That will also help to recruit more officers when they see that benefit. So there's much more we can do. Although I understand the intentions behind this bill, there are some good things in it, it's because of the things that aren't addressed and my concerns and some others, I will be voting in the negative on this piece of legislation.

Thank you, Madam Speaker and my colleagues.

ACTING SPEAKER HUNTER: Thank you.

Mr. Gibbs.

MR. GIBBS: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. GIBBS: Madam Speaker, I want to start off by

apologizing to my colleagues; Member Walsh and others. But I want to explain to them also that the word "inmate" is very degrading. And as the only member here with lived experiences, I can tell you how dehumanizing it is. Palmesano and I, we had several conversations regarding this word and he's gotten better. In fact, he hasn't said "inmate" in months because he understood that the word is degrading. So I apologize for getting emotion -- emotional when you say those words because it takes me back to being inside the prisons. And often the corrections officers would use it to dehumanize us. So hearing it come out of the people [sic] mouths that I really respect, and in fact, Diapetro [sic] prayed for me right before the debate started and then went on and said "inmate" three times. Member Ari said the word "inmate" two times. And when he came over here I just asked him, Sir --

MS. WALSH: Madam Speaker, point of order. We should not be using the other members' names in -- in the comments that are being made by --

MR. GIBBS: I -- I apologize.

MS. WALSH: -- the member who is speaking. Thank you.

MR. GIBBS: I apologize. I'll get better, Member Walsh, I promise you.

ACTING SPEAKER HUNTER: Thank you. Mr. Gibbs, if you could just leave your comments without names of colleagues, please.

MR. GIBBS: Okay. So when the other members say the word "inmate" it's degrading. Especially those who I look up to and respect wholeheartedly. I also agree with 95.7 percent of the things Palmesano said just now. I know it's unbelievable, but I agree with him most of the time.

When I was appointed to the Assembly Committee on Correction, it seemed monumental. As the first formerly-incarcerated State legislature [sic], I will have a seat at the table of the Committee that determines the future of our prison system.

In December when we all viewed the horrible and horrific video of Robert Brooks beaten to death by prison guards at Marcy Correctional Facility while other staff and nurses looked on laughing, I imagined we were facing a reckoning; one that would require this State legislative Body to ask the question, for whom do we grant humanity? For whom do we say your life is worthy of protection?

During this important debate I've heard members discuss it's how important that correction officers be safe. And I agree. But DOCCS do [sic] not have a functioning system of discipline for corrections staff. At a recent Correction hearing, Commissioner Martuscello agreed that I am not safe alone inside any New York State correctional facility. During conference recently, Chairman Erik Dilan concluded that I am not safe inside any New York State correctional facility alone. In fact, I am more safe with the incarcerated individuals, but not so with the correction officers. If a

sitting New York State legislature [sic] is unsafe in these New York State prison facilities, what do you think the incarcerated individuals are? They're not safe either. Ever since the modern-day lynching and murder of Robert Brooks, I've been under attack. I shared it with a few members on that side. NYSCOPBA released the footage of me disagreeing with an abusive sergeant, and they edit this footage and put it out into the universe. The night I slept at the facility and me and this young lady got into a debate about whether or not I should be there. As a result of that footage of being released, I received life-threatening notes left on my vehicles five times at five different facilities. *Edward, don't come back here. You'll die. Edward, you why you coming into these facilities?* And, in fact, at Coxsackie my tire was slashed. And our New York State Trooper told me I have to do this on my own. Two weeks later, I go to Marcy, come out and mysteriously there's a nail in my back tire. My gas tank was (indiscernible) and tampered with several times. Several incidents of road rage, most recently two weeks ago. A colleague on my side was driving back to Harlem with me. Two corrections officers in pickup trucks cutting us off and giving us the finger for 15 miles. Thank God for the State Trooper behind him. He pulled us over, starts an investigation. All because I spoke out on a Black man being murdered in prison. We all seen the footage. We all know about Sam the next week, right across the street from Marcy. We heard about the murder of Freddie McCree [phonetic] down at Coxsackie.

And as a human being -- not a politician, a

peopletician -- a person who love [sic] and respect all humans, White, Black, whatever, yellow, I respect and love you all. So as a guy who really love [sic] humans and felt that as a State Legislature [sic] I should speak out on murders and abusers in prisons. Now I'm attacked. And some of my friends on the other aisles who I thought were really close to me used the "inmate" word loosely to trigger me. I thought this Body was a Body that solved problems. And joining the Correction Committee, I was honored because I was willing to share my story and my experiences. Eighteen years old, sent to a maximum facility in Elmira, men amongst men. Eight months later I'm transferred to Cayuga Community. I'm hired as a GED rep. And a young lady across the street from the program where I'm at -- Palmesano -- excuse me, member -- liked the fact that I was teaching formerly-incarcerated individuals how to get they [sic] GED. And as a result she wrote me a letter and sent me two mock necks and said thank you for helping these individuals. Corrections found out about it. They fired the civilian and they transferred me. Though I had no history of talking to this young lady, I never responded. Never even said hi to her. But they transferred me and they transferred me to Mid-State where there was a welcoming party. Five officers waiting. *How dare you talk to a White woman in prison?* Now, I could share the abuse. I could share the 25 minutes of beating. I could share the ten minutes of stepping on my head and ankles and everything else. I've shared that with many on the other side already. And I thought that I garnered enough respect that you guys wouldn't even use that

word around me anymore. I share with most of you over there than I share with my colleagues over here. Most of you over there know about the threats. You know about the windows and the letters left on my windshield. In fact, Commissioner Martuscello talked with five of us about that. Diapetro [sic] being one of them. So I'm human. To human is to be err, to err to be human, however you professionals say it. I have emotions. I love people. All people. Be you know that. And all I ask is for the same amount of respect that I give you. I don't know if I can say "cracker" in this Chamber, I don't want to be written up. I'm not gonna say that. But those terms don't come to my mind when I see you guys. I see humans. And all I ask is for that same amount of respect.

Now, back to this package. Though I believe this package is heading in the right direction, it's simply not enough. When a member of the Correction Committee, Wayne Jackson here in the New York State Assembly is not safe to go inside of a prison -- four minutes? Thank you. It's a problem. And I shared with most of you guys that I'm threatened and tires are slashed and stabbed, running me and Jordan off the road. I don't feel supported. I don't feel the love from my colleague [sic]. I don't feel the love from the Chamber. I don't feel the love from my Conference or the Committee. Not the same love I give each and every one of you. I give you all authentic, open Eddie Gibbs. That's all I ask for in return.

So this package, it's a good package. It really is. But it's simply isn't enough. Not enough to address the years of abuse and

murder. Most that was swept under the rug because we didn't have cameras then. I encourage each and every one of you go to a prison and visit. Talk to correction officers and talk to incarcerated individuals. Stop legislating blindly. And you'll see the real story. All I want to is do what is right. My community elected me here to do what's right, and I did that, Your Honor. And I'm attacked. That's where my emotion and anger comes from. Worry about getting in your car. Worrying about going to a prison, are you gonna come out safe? Are they gonna put stuff on you? Are they gonna accuse you again? All I'm trying to do is what's right. And I spoke out on (indiscernible) injustice. And now I got a whole union attacking little old me. Can't even drive down I-87 no more. Get my car checked for trackers because I can't figure out how they find me. All because I spoke out against a murder in prison. So I expected this package to be a little bit more. I expected my colleagues to be more understanding. And maybe I just don't share enough.

So as a result I'm a negative on this package. But I believe that we are heading in the right direction. Three men were killed and nobody bat [sic] an eye. Nobody. I'm in a Chamber full of professionals, and I ain't seen one tear. So again, Member Walsh and my fellow colleagues, I apologize for that and I hope you guys truly understand that that word is hurtful, very hurtful. I apologize. Very hurtful to me. And you know I would never disrespect any of you guys over there. And for a member to invite me outside because I asked him not to use that word anymore --

ACTING SPEAKER HUNTER: Thank you, Mr. Gibbs.

MR. GIBBS: -- it's discouraging.

ACTING SPEAKER HUNTER: Thank you.

Mr. Beephan.

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

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Yes, Madam Speaker.

ACTING SPEAKER HUNTER: The sponsor yields,

MR. BEEPHAN: I figured you got a good 15 minute break there.

MR. DILAN: Well, I think the -- I think the message was important to hear.

MR. BEEPHAN: I agree.

MR. DILAN: But I will say that my position on the floor here puts me kind of at a disadvantage as it relates to these debates. Very important message to hear.

MR. BEEPHAN: No worries, no worries at all. So, can we discuss the changes regarding CANY in this legislation?

MR. DILAN: Certainly.

MR. BEEPHAN: Would you like to give a brief overview of what's changed in the legislation? Or --

MR. DILAN: Yeah. So, I guess to -- a -- a brief

overview, right, would -- the bill will make several changes to expand the authority of CANY, including allowing notice -- including more notice like right now, even if there's a lockdown, if there's an emergency-wide lockdown, CANY can operate. This will address some of CANY's ability to operate during a lockdown, DOCCS certainly retains, you know, some -- some emergency protocol. They do retain that, but it doesn't automatically prohibit a CANY visit.

MR. BEEPHAN: Has CANY reported that they have difficulty accessing facilities right now?

MR. DILAN: Well, I guess -- I --

(Conferencing)

So, yes. So, I guess the issue is not necessarily CANY being inside during a lockdown. Currently, it's the amount of notice that CANY is required to provide DOCS.

MR. BEEPHAN: Because right now it's 72 hours, but it seems (cross-talk/indiscernible) to 24.

MR. DILAN: This would change it to 24, yes.

MR. BEEPHAN: Okay. And say, you know, the facilities are, you know, many of them are currently understaffed by thousands of employees. Weekend staffing is sometimes even smaller or less than their -- their required amount or amount they'd like. So, say on a Friday, they call and they say they're going to be visiting Saturday afternoon. Is that jail now required to make staffing changes to the account for CANY coming there?

MR. DILAN: Well, I mean, there -- there's --

(Conferencing)

So, there -- there's never been a difficulty in the past as it relates to CANY staff -- staffing. I guess under -- under the shortened window, you know, CANY is not -- while they have authority under the legislation provided back in the 1800s that I discussed about earlier, they still have a 72 hour notice. So, this gives DOCCS -- any DOCCS facility up to three days to prepare for --

MR. BEEPHAN: No, they're -- you're reducing it to 24, I believe.

MR. DILAN: I spoke wrong. Yeah, of course we're reducing to 24. Currently laws -- currently, it's 72.

MR. BEEPHAN: Well, I figured with 72 hours -- because CANY as it stands right now, they can't be in that facility without an escort, correct?

MR. DILAN: That is correct -- correct.

MR. BEEPHAN: So, my thought process is 24 hours of noticed, especially when we're already suffering with staffing -- a staffing crisis, you know, are we going to be mandating COs to stay overtime to be there when CANY's there, walking the facilities, meeting with incarcerated individuals?

MR. DILAN: I don't -- I don't know that we'd be mandating overtime, but I also don't see a situation in where it would be a burden on the facility. So, I -- to provide color, I last summer did a visit with CANY and we -- we were, at that point, supervised. I think the difference between me and CANY is that, certainly, one,

CANY is much more prepared and professional and know the right -- knows the right questions and the things to look for, as it relates to what they are looking for in deficiencies or potential problems in the facility. But what they don't have is something that every State legislator has, is the pop-up authority to go visit a facility. They have to provide, under current law, 72 hours notice --

MR. BEEPHAN: Right.

MR. DILAN: So, that could potentially -- not that three days is enough to -- to hide anything that they may be concerned that may come out in the CANY report and it -- it may potentially provide them a way to, I guess, address the staffing issues. On my visit, the -- the -- the staffing requirements on what we did was (indiscernible) one of two individuals.

MR. BEEPHAN: Now, I see this also limits the Commissioner's authority to restrict their access during emergencies and lockdowns. Is there any situation where he will continue to be able to restrict it? You know, especially under extenuating circumstances?

(Conferencing)

MR. DILAN: Yeah. So, under emergency situations, they would be limited to the administrative offices.

MR. BEEPHAN: Okay. So, they will still get access inside the facility, just to the administrative offices.

MR. DILAN: Correct.

MR. BEEPHAN: Okay. Would you describe CANY

to be more of an incarcerated individual advocacy group?

MR. DILAN: No, and I -- I -- I think that's unfair to classify them that. I mean, you know, clearly that's why I thought it was important to establish when CANY was founded. CANY, like I said earlier, was founded in -- in the 1800s because citizens were concerned about what was going on in prisons. And on my visit, you know, they certainly did a thorough job in interviewing incarcerated individuals on their conditions. I spoke to them privately, you know, so, privately there was, you know, certainly DOCCS staff there. But they were away. They were able to have one-on-one conversations that the -- the DOCCS staff was not privy to, but what I would say is they spent an equal amount of time talking with the management at every facility. They spent a good amount of time speaking to the heads of each of the unions at the facility and, you know, they also asked them questions about concerns and conditions that they are under as well. And, you know, I think it was beneficial to me to do that visit with them last -- last summer, because I got to -- one, it improved myself as a -- a legislator, but two, I got to really appreciate how thorough they are in their jobs and how independent they are and that they do truly speak to all sides.

MR. BEEPHAN: Do -- do they often in their reports discuss issues facing corrections officers? Like staffing, mandatory overtime, assaults on corrections officers?

MR. DILAN: They -- they -- they do do that, yes.

MR. BEEPHAN: They do? I -- I just find it

interesting that now they get two appointees to the commission in this bill, correct?

MR. DILAN: They do.

MR. BEEPHAN: And, you know, from my perspective, I see them oftentimes as advocates for the incarcerated individuals. You know, it would've been, you know, a bit more of a fair situation than say with NYSCOPBA or also able to appoint a person, or two, to this commission, in -- you know, in addition to the Governor, the Speaker, the Senate. But I guess we'll move on from that topic.

MR. DILAN: Yeah, and I -- I would just say my opinion in CANY and I know there was -- there's a certain perception, because I -- I -- I might have shared it before my visit, but upon conducting a visit with them and seeing how they conduct at work, I -- I would say they're the most balanced, nonpartisan entity in this bill.

MR. BEEPHAN: Now moving onto video disclosure. So I see now that they have 72 hours to turn over any video footage relevant to a death to the AG's office, correct? That's body cams, facility footage, fixed cameras, all that?

MR. DILAN: That's correct. To the AG's OSI.

MR. BEEPHAN: Okay. So that's like an internal communication between DOCCS and the AG. No formal request needed, nothing like that?

MR. DILAN: No. It's mandatory they have (indiscernible).

MR. BEEPHAN: Okay. Now, were there any discussions of perhaps using the same 72 hour time frame to allow for corrections officers or other entities to request video footage when say they were assaulted by an incarcerated individual?

MR. DILAN: Well, I guess --

(Conferencing)

I guess the concern is -- the reason why the AG's unit of the OSI was created, it didn't only include corrections officers at the time, it also include members of the police force. It -- it was intended to -- that whole unit was intended to investigate deaths when they were occurred by police or peace officers. So, it's -- it's -- it's geared that way so that, you know, the -- the -- the counties across the State, regardless, are -- are taking it out. And if we're going into other sections of -- of the current law, not the bill now, but just for -- for color, you know, it's certainly geared that way so that the familiarity that -- and the work -- and the strong working relationships that county DAs and county police forces have, it was done that way to, again, remove any appearance of unfamiliarity, or -- or conflicts, or working relationships so that the true facts of the matter all other deaths done by a peace officer could be investigated independently by the AG's office.

MR. BEEPHAN: Yeah. I understand --

MR. DILAN: So, this -- so, this would -- continue that.

MR. BEEPHAN: Yeah. No, of course. But, I -- I'm

just saying that now there's going to be a process in place where, you know, DOCCS could come up with that footage within 72 hours and turn it over to the AG, why can't they also be able to come up with footage within 72 hours and give it to one of their own employees?

MR. DILAN: Because that's an issue for -- for DOCCS to address and certainly in legislation wasn't really needed for DOCCS to -- to deal with things that are -- that are in their possession and -- and do things within their own agency.

MR. BEEPHAN: Does this bill expand the use of body cams for corrections officers?

MR. DILAN: No.

MR. BEEPHAN: Okay. Does it address a body cam policy in any way?

MR. DILAN: No.

MR. BEEPHAN: Okay. Got it. So, I know that, you know, in the budget we covered it and, you know, we've discussed this at our hearings with the -- the Commissioner. You know, not that long ago, corrections officers were forced to wear their body cams in bathroom. So, I hope that, you know, as these discussions, you know, carry on, we kind of address those concerns whether it's administratively or here legislatively. As we expand the use of cameras, we keep a focus on privacy and making sure our own employees aren't being violated in any way.

MR. DILAN: Yeah. So, I would -- I would say to that, that, you know, obviously that's a concern. We -- we're looking

for the relevant facts of any potential -- of potential situation that may arise inside a facility. Certainly, you know, areas of privacy like you mentioned, I'm glad they corrected and even in the instances where we are expanding authority, we do make references to a, you know, place where folks are entitled to privacy.

MR. BEEPHAN: When -- when coming up with this omnibus bill, did -- were any proposals made to address the staffing situation? Specifically regarding the -- the employees that were fired post strike?

MR. DILAN: So, I don't know that there -- there are any --

(Conferencing)

Yeah. So, it -- it -- it -- it's certainly out of the scope, but I would say that discussions on recruiting to addresses the -- the staffing crisis has, you know, come up not -- not only in your conference, but in mine as well. We all recognize that there is a -- a crisis and we recognize how hard it is to gain and -- and retain corrections officers. Some of those we've addressed in -- in the budget by actions we've taken in -- in the budget. So while this package doesn't address that, folks recognize that it is a legitimate issue.

MR. BEEPHAN: Got it. Does this omnibus bill address visitation at all?

MR. DILAN: No.

MR. BEEPHAN: Okay. All right.

I guess I will go on the bill. Thank you.

MR. DILAN: Thank you.

ACTING SPEAKER HUNTER: On the bill.

MR. BEEPHAN: Well, I can tell you that I want to start with saying I truly am sorry for the family of Mr. Brooks and the others impacted by what's happened in our facilities. I -- I completely agree change needs to happen within our correctional facilities. I think this omnibus is a start in many ways, whether I agree or disagree with some components of it. But I don't believe it goes far enough. I believe that we have not addressed the root cause of this bill. Whether it's some of the provisions at HALT, to the staffing crisis, to addressing drugs within the facilities and exposures that both incarcerated individuals and our corrections officers face each and every single day. And it also doesn't address the -- the overall need for an expanded recruitment process and retention process that I think would tremendously change the environment within each of our prisons. For that I'm gonna have to heavily consider how I'm gonna vote on this bill, but I thank the sponsor for his time.

ACTING SPEAKER HUNTER: Thank you, Mr. Beephan.

Ms. Cruz.

MS. CRUZ: Thank you, Madam Speaker. Will the sponsor yield for a quick couple of questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Certainly.

ACTING SPEAKER HUNTER: The sponsor yields.

MS. CRUZ: Mr. Chairman, does this bill change the public's access to the actual video footage if there is a -- a death or a murder inside one of our prison systems?

MR. DILAN: No.

MS. CRUZ: Who retains power to make a determination of what is relevant parts of the video or make any redactions to the video?

MR. DILAN: The AG's OSI unit.

MS. CRUZ: Thank you. And does this bill change anything else other than the actual statute of limitations in the process of someone filing a lawsuit? For example, would it change the type of evidence, where to file, when it file?

MR. DILAN: Nothing. It simply just gives them three more years.

MS. CRUZ: Thank you.

On -- on the bill, Madam Speaker. Thank you, Mr. Chairman.

ACTING SPEAKER HUNTER: On the bill.

MS. CRUZ: Before I start, I want to address everyone on a personal and professional level. We are entitled to our views, to our religious and political beliefs. What we cannot do is carry on in this House with carelessness and even sometimes purposeful use of words that do not belong on this floor. Words

matter. We owe it to each other to have respect. If a colleague tells us whether it's in here or outside that the word you are using is dehumanizing, have enough decency and respect for your colleague not to use it. You can't get -- you can get your point across without dehumanizing someone and that once a debate is over, you're gonna come out of here and act like they're your friend or your colleague. Have some respect and decency for your colleagues.

I want to thank the Speaker for this package and our colleagues who led the fight and our Corrections Chairman for carrying it, but I especially want to thank my friend and colleague, Eddie Gibbs, for channeling his lived experience and trauma to help us make real change. This is a starting line, not the finish line. There are a significant number of bills that did not make it into this package that must be considered next year, including Second Look Act, the Earned Time Act, Fair and Timely Parole and Elder Parole Acts. The murder and violence against incarcerated people in our State is an epidemic and we must address the underlying reasons why it has happened. Address roadblocks and investigate when it happens and punish in order to deter this horrific behavior.

In 1976, the State began tracking the deaths of incarcerated individuals while in custody. The numbers are quite horrifying, but truthfully, not shocking. 7,504 have died while under the custody of DOCCS. This is seven times more than the number of people that we executed in the State when it used to be legal. This includes individuals like Layleen Polanco, Mr. Robert Brooks and

Messiah -- Messiah Nantwi and many others who were murdered by staff. But this is not just a murder of -- murder victims, there are hundreds and possibly thousands of individuals who've been physically and sexually assaulted while in our prison system and our jail system. An astonishing 719 sexual assault lawsuits have been filed against the Department of Correction by formerly incarcerated women, alleging a pattern of abuse that goes back decades. We have a duty to them, to their families, to all incarcerated individuals to put the legal tools in place to begin real change. The bill today includes two key legislative proposals. One ensures the video footage is turned over to the Attorney General's Office swiftly to ensure a thorough investigation and the subsequent prosecution can be done when someone has died in custody and staff is involved. And the second ensures that when the statute of limitations is told to ensure that survivors can seek justice when they have been physically or sexually abused by staff. When incarcerated people die under suspicious circumstances, it is critical that an independent investigator have full access to the video and immediately and without interference. Right now correctional facilities control the very evidence that might implicate them and their own officers. This creates an inherent conflict of interest and invites for cover- ups. Even in high profile deaths, families and (indiscernible) bodies have waited months or maybe never even received them. This bill ends that by routing footage directly to OSI; a neutral and independent entity created to investigate the deaths in custody. We improve accountability without

compromising legal procedures. Officers who acted appropriately should want this footage reviewed. It exonerates them and the -- and identifies systematic failures, not just individual wrongdoing. The bill upholds New York's values around government accountability in incarceration and ensuring all lives, including those behind bars, are treated with dignity. This bill also creates an avenue for individuals who have a claim arise while in custody to bring a suit by tolling the civil statute of limitations until the individual is no longer in custody and can feel safe to come forward and seek an attorney. The bill removes unfair legal hurdles, keeping survivors abused in the -- our State custody from accessing the justice they deserve and provides deterrence to prevent new abuse from occurring. While the bill idea comes from work we've done with women who were sexually assaulted in prison by their correction officers, or other staff. From LGBTQ individuals who are physically and sexually assaulted due to negligent supervision while in custody, it will help any incarcerated individual who was abused while in custody.

We've heard the reality lived by victims who are incarcerated. They face retaliation in a variety of forms, including further physical and sexual and emotional abuse, having legal papers destroyed, had mail and packages destroyed, faced delays in seeing their legal counsel, verbal abuse and so on and so on. We know that it is incredibly difficult for a person to come forward and that person is not incarcerated. Add to that being in the care -- in the care of a system that is allowing further abuse to continue. This bill is

necessary to provide adequate access to justice once a person's out.

Further, we know that many justice involved individuals are not informed about the Notice of Claim requirement and are unaware that they have just 90 days to file in order to pursue a future civil claim. And I suspect that many of us didn't -- didn't know that that was a requirement as well.

Lastly, but importantly, I want to recognize the families of those murdered while in custody. The survivors who have fought for change, we are beginning today. I know I speak for many of us here today, we are sorry for your loss. We are sorry for the abuse you have suffered. We hope this will begin a path to justice and healing and we are comitted to continuing to fight for real change. And I know he had stepped out, so I do want to say thank you to my friend Eddie for teaching me and for teaching many of us what real courage looks like. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Ms. Gallagher.

MS. GALLAGHER: Thank you, Madam Speaker. Will the sponsor yield?

ACTING SPEAKER HUNTER: Will the sponsor yield for some questions?

MR. DILAN: Yes, Madam Speaker.

ACTING SPEAKER HUNTER: The sponsor yields.

MS. GALLAGHER: Sponsor, can you explain to me why is CANY being authorized to make appointments to this board?

MR. DILAN: Well, I think it -- it -- it's important because CANY obviously is, you know, an independent oversight Body as prescribed by laws back -- way back when I said earlier. They conduct these visits, they give reports on potential conditions to us publicly as charged by law and so is the State Commission on Corrections. So, I think it's vitally important that the two independent oversight entities that we have in this State, one set forth by charter, one set forth by legislation, actually get together in an official form and communicate with each other. So, this particularly doesn't say a member of CANY has to serve on that board, but they can appoint someone to be their liaison. It doesn't prohibit them from appointing one of their members on the board either, but I think it was important so that the two independent bodies have a more connected professional relationship. This will do that formally, and I also think we need to do more to strengthen the operations of the State Commission on Corrections, even though it's not directly related to your question. We -- we -- we gave them more funding in the budget, but they were charged to do as a government entity, similar to what CANY was charged to do as a non-government entity. So, the fact that they are talking and working together is vital.

MS. GALLAGHER: Thank you so much.

Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MS. GALLAGHER: Thank you, Madam Speaker. I'm proud to vote for this omnibus bill, which includes two of my

original bills; the SCOC Reform Bill and the Terry Cooper Autopsy Accountability Act. We all began this Session with the image of Mr. Robert Brooks' lynching burned into our minds. The way he was beaten with his hands cuffed behind his back while at least 14 corrections staff eagerly participated, or casually watched, spoke to an engrained culture of violence and impunity. For me and for many of my colleagues, his murder lit a fire under us to increase oversight and accountability to protect our incarcerated community members. This bill will deliver that and it will save lives.

Briefly, just a bit about my two bills that are included in the omnibus. The SCOC Reform Bill has been a labor of love and passion. My office wrote it after I visited Rikers Island in 2021 and witnessed the utterly inhumane and degrading conditions people are subject to. The experience lead me to a question: Who is statutorily responsible for providing oversight in our jails and prisons? The answer is, the State Commission on Correction [sic]. This bill will expand and diversify the SCOC, so it can once again be a robust body with the people and resources necessary to protect incarcerated people. With us today are advocates from the Katal Center and they, along with the Jails Justice Network, have been fighting alongside me for the bill for years. This year, Mr. Brooks' father, Mr. Robert Ricks, also played a crucial role in fighting for these life-saving bills. Thank you all for your work, this is your victory today.

The Terry Cooper Autopsy Accountability Act was named after Terry Cooper, a husband and father, who was beaten by

officers using batons. He was beaten so badly that he died. They tried to pass his death off as a natural cause, because the beating triggered an asthma attack. His autopsy report did not include photographs that had been taken of Mr. Cooper after he passed away, which clearly showed that he had been beaten with batons. The photographs were ultimately discovered years after his death when his family filed a lawsuit, which they won. This bill would require autopsy reports to include all photographs of the body, slides and post-mortem X-rays when someone dies, or is killed in State custody. As we've seen with the murders of Mr. Brooks, Mr. Nantwi and Mr. Cooper, we cannot count on corrections officers being forthcoming about the cause of death when someone dies or is killed in State custody. The Terry Cooper Autopsy Accountability Act will ensure that everyone who is incarcerated is afforded the basic dignity and transparency that everyone deserves, particularly when they die on our watch. Thank you to Mr. Cooper's family, Dave Rankin and Joshua Moskovitz, Mr. Cooper's lawyers and the lawyers who fought for justice in their landmark case.

These two bills and the package as a whole will increase oversight and provide an essential layer of protection, accountability and transparency. It is not enough and it is certainly just the first step. There's a crisis in our prisons and jails and oversight alone won't solve it. We must enure that HALT is fully implemented and that programming is restored and expanded so people are able to rehabilitate themselves while inside. We must fight

for sentencing and parole reform to address mass incarceration and ensure that people who have been rehabilitated can be released and rejoin their communities and their families. I also urge my colleagues to personally visit prisons and jails alongside CANY. It has changed my life and been extremely informative about the failures of our State and what we must do to correct them. I am dedicated to continue visiting and I want to change it. This bill is an essential first step if we are to meaningfully move the needle for our incarcerated community members. It will save lives and begin to change the culture of violence and impunity in our prisons and jails. I want to thank Speaker Heastie and Chair Dilan for their work on this package together and thank you for including these two very personal pieces of legislation. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Gandolfo.

MR. GANDOLFO: Thank you, Madam Speaker. Would the sponsor please yield for a couple of questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Certainly, and --

ACTING SPEAKER HUNTER: The sponsor yields.

MR. DILAN: --and as we -- we -- Phil, I forgot to say -- excuse me, as with the previous member, this is the first time we get to do this and --

MR. GANDOLFO: Yeah. I'm very excited about

this. But a lot of my questions have been asked and answered already, but I have a couple of things I do want to clarify. First, on the topic of video surveillance. This requires the installation and maintenance of cameras throughout the facilities. I was wondering if you could speak a little bit about the current state of cameras at the State facilities; are -- if there's certain facilities where this is a particular problem? Are most already maintaining these cameras?

(Conferencing)

MR. DILAN: Yeah. No, I -- yeah. So, certainly we put a lot of money in the -- the budget on it. There are some facilities that do have the cameras, but to speak to the specific ones that have problems or don't have problems, I don't know that I'm prepared to give you that answer at this time. But I know that the DOCCS commissioner is certainly aware of that and which ones and is working on it.

MR. GANDOLFO: Okay. Thank you for that answer. And -- now, the superintendents and wardens are responsible for the assessment and making sure everything's up. Is there a certain, I guess, time frame if they discover any kind of malfunction or lapse in coverage if they have to get this back up and running? Or is this just you see it, you fix it as soon as reasonably possible?

MR. DILAN: It would be the latter part.

MR. GANDOLFO: Okay, thank you. And this requires the footage to be stored for a minimum of a year, my colleague touched on that earlier. Is that only the physical, I guess,

stationary security cameras, or does that also include the body camera footage?

MR. DILAN: So fixed or stationary, no body cameras.

MR. GANDOLFO: Okay. So, body cameras -- is there a length of time -- I know we did that in the budget, so it's probably not in this bill, is there a length of time that the body camera footage has to be stored?

MR. DILAN: My gut says yes, but we have to get back to you on that.

MR. GANDOLFO: Okay. All right, thank you. Now, and I know the -- there -- there's a sensitive areas provision here where cameras can't be placed: showers, bathrooms, inside the cell. Could -- is it your estimation that maybe if there's a camera outside one of those areas, not in those restricted areas, that it would still pick up audio possibly if there was an incident that happened?

MR. DILAN: Po -- Potentially --

MR. GANDOLFO: Okay.

MR. DILAN: -- but I think the concern is about privacy.

MR. GANDOLFO: Right. I was just curious if like in case there was an incident in one of those areas, what --

MR. DILAN: Like if there's a fight or something like that?

MR. GANDOLFO: Yeah, a fight. Like --

MR. DILAN: Um, I mean, sure. Potentially.

MR. GANDOLFO: Okay.

MR. DILAN: But, you know, for the most part, while people are doing the things that -- that -- that everybody does needs privacy.

MR. GANDOLFO: We would like some privacy, I agree. And I wanted to clarify a couple of things on -- in Part J, the look-back period. So, just briefly, let's say a -- the statute of limitations on a personal injury claim is three years. Say someone wanted to bring a claim from something that happened in prison, let's say from ten years ago, but the statute of limitations would have run out on that claim. Is this extra three years restarting that statute of limitations? So, if you were serving a 15 year sentence and something happened in year two and now three years when you're released, could you still bring a claim on that if the statute of limitations has previously expired?

MR. DILAN: Yeah. Well, so, I -- I guess, to clarify, it's not a look-back provision.

MR. GANDOLFO: Okay.

MR. DILAN: So, if anything that has happened and no one has yet brought an action before this is effective, the new part -- the new proposal that we're addressing today won't be able to cover that part. However, if enacted into law by the Governor, that would be -- the second part of your question would be, that would be the exact purpose of this, so that if this is enacted and someone chose

their -- their safety, but maybe got out and got advice, they have three years to commence that action post-release.

MR. GANDOLFO: Okay. So -- just so I want to make sure I understood your answer. So, essentially, this could potentially, I guess, expand a statute of limitations, for lack of a better word here, what's in a personal injury case ten years if -- if this incident happened?

MR. DILAN: Potentially.

MR. GANDOLFO: Okay.

MR. DILAN: Potentially, but that is really not -- not the goal. I think we -- we don't want to penalize folks for choosing safety, because if they make the determination while -- while they're incarcerated, that is just better for me not to say anything --

MR. GANDOLFO: Right.

MR. DILAN: -- because I fear for my safety. Currently, if they make that choice, the statute of limitations is running and there -- there's nothing that they can do about it.

MR. GANDOLFO: Okay.

MR. DILAN: Under this proposal, you know, they can do that and they get three years post-release.

MR. GANDOLFO: Okay. I understand that. And it also mentions for psychological injuries. Is that a new edition or is that already the case? This is just --

MR. DILAN: No. The only thing new are the -- the extra three years post-release.

MR. GANDOLFO: Okay. Okay. And then one more question on the autopsy reporting. In the text I didn't see any mention of a toxicology report. Perhaps because that might get sent to a third-party lab after the blood is drawn. Would a toxicology report have to be included in the autopsy reporting requirement?

MR. DILAN: No.

MR. GANDOLFO: Okay. Was that an intentional choice or is there, I guess, a reason that wouldn't be included? I didn't know if it was just something that was overlooked.

MR. DILAN: So, it -- it -- it's not limiting --

MR. GANDOLFO: Okay.

MR. DILAN: -- if they -- if they chose to add it --

MR. GANDOLFO: Okay. So, there -- there's nothing prohibit --

MR. DILAN: There's nothing that prohibits them, but the items that are prescribed in the bill are things that they would be, you know, mandated to do. Toxicology would not be one of those.

MR. GANDOLFO: Okay, that's all I have. Thank you, Mr. Dilan.

Madam Speaker, on the bill, briefly.

ACTING SPEAKER HUNTER: On the bill.

MR. GANDOLFO: You know, so far throughout this debate, we kind of heard people from both sides -- approaching the bill from both sides, say that this did not go far enough. So, it probably does tell us this is right somewhere around where we need to

be, because there is some good stuff in this bill that I think are positive reforms. I do have some concerns about cost, especially when you open up -- you add on more years where someone can file a claim. I do think that might result in a situation where claims can get out of control and really run the cost up to the State. But, I -- again, I will reiterate, this is -- you can tell that the sponsor did put a lot of work into this and I would like to commend him on that, regardless of where the votes fall today.

And one more thing I wanted to address, this was a little bit of a heated debate. I did not find it appropriate to be lectured about respecting colleagues in here. There have been several times where members of our side of the aisle had to be lectured and have had horrible insinuations made about our character during resolutions, no less, which are supposed to be nice, commemorative, meaningful things and no one on our side stood up and interrupted, as to not make a spectacle of what is meant to be a very meaningful statement as a Body and oftentimes we agree with the statement being made. So, just keep in mind that respect is a two-way street and it -- it would serve everyone well to remember that.

Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Weprin.

MR. WEPRIN: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. WEPRIN: This omnibus bill contains a series of prison reforms to improve transparency and accountability in State correctional facilities following the recent death of two incarcerated men who had violent encounters with multiple correction officers and I'm referring to Robert Brooks and Messiah Nantwi. This much-needed legislation includes provisions which I sponsored since my time as Correction Chair, which I chaired for six years in this House. Specifically, Part H in this bill will amend Section 146 of the Correction Law to allow the Correctional Association of New York to provide 24 hour notice to visit a prison and have access to public records without having to submit Freedom of Information Law request. The Correctional Association of New York, or CANY as it is referred, was founded, as my colleagues have pointed out, in 1844. The Correctional Association of New York serves a unique and vital role in shedding light on conditions within New York's prisons and in advocating for reforms. This legislation will enable CANY to im -- to properly fulfill its unique role as a watchdog of the State's correctional system, thereby improving the safety, health and well-being of incarcerated individuals, as well as DOCCS staff.

I want to thank the sponsor, Mr. Dilan, for his hard work, his dedication. I also want to thank Speaker Heastie and this legislative Body for upholding our commitment to criminal justice reform. This is only a beginning, not an end what we need to build on this package.

Thank you, Madam Speaker. I -- I proudly will vote

in the affirmative.

ACTING SPEAKER HUNTER: Thank you.

Mr. Burroughs.

MR. BURROUGHS: Thank you, Madam Speaker.

On the bill

ACTING SPEAKER HUNTER: On the bill.

MR. BURROUGHS: I have a great individual that I believe raised me and that is Mrs. Burroughs and because of that, I would like to speak a quote that she often spoke to me. She says, "talk less, listen more and it'll allow you to hear the hearts of a man." Now, there's things that have been spoken here today and it allowed me to see the true heart of some of my colleagues. A lot of things that have transpired throughout today and throughout the rest of the Session, it allows me to just look at the individuals and see the true care, concern, or maybe the hate that may be in the heart. I've heard some things today that have shown that people are truly bias and uncaring of people's situations. So, many of the -- my colleagues on the -- on the other aisle have that have spoken, I've heard them speak only the concerns of the correction officers. One time I heard them speak about the incarcerated individuals. That shows bias, because if I can think -- and we all have known, we've seen what has happened with so many of the incarcerated individuals this year and let's get this right. If there are individuals that are dying, or being murdered, to who should call it, outside of our prisons, that should be addressed. We can't look at the person who is considered a victim and then ask

the person who is the accuser, well, *why did you do this? Why did you hurt that individual?* Or, *can we make it better for that person who hurt the individual?* That shows the bias and the uncaring nature within some of us.

Now, last I recall, Robert Brooks -- aside from Robert Brooks, there were 75 other deaths or murders, whatever we want to call it. And we're still defending the individuals who are perpetrating these acts. That leads me to question some of us. How were we raised? Things that I do on a daily basis, there's always two people people that I keep in mind and that is mom and my dad. I always think about the lessons that they taught me; about being a caring individual. Don't see color. Don't see race. And that's not what I'm seeing today. I'm seeing a lot of people jaded by political acumen. So, I'm going to decide to do something because this is what my party says I should do and I don't -- I don't think that's what we're here for.

Now, we're speaking of certain things that happen. What's inside the prison systems? Drugs and other things that are being loosely spread throughout the facilities. But when you are entering an incarcerated facility, you don't have the things that the incarcerated individuals may have been found to have had in their lockers, or in their bunks, or in their beds. Now, if you didn't have it when you went in, that means you didn't bring it in. So it's getting in some other way. Now, I don't know, as Legislators, if you think. Let's use common sense. If it wasn't in there in the beginning, how'd it come in from some other way? So, individuals defending, forget

about any of the incarcerated individuals, but you're only defending DOCCS employees. That says you're jaded. That says your hearts in the wrong place. And I don't think this place is a place for someone who is showing bias.

Now some of these things that do enter into systems, these things can be stopped. There's body imaging and scanners. If you look at these, the options of the staff, the staff has the option of not going through a body scanner. That will tell you where these unwanted items are coming from. And so maybe this bill is in the right direction -- is headed towards the right direction and we need to -- we need to discuss or actually pushing it forward to work harder because I don't think it does enough. But it is a step in the right direction.

Now, to take care of some of the issues that we have, we could possibly include having staff go through these body scanner -- scanning images because this way, we can prevent a lot of the -- all of the individual cases that may have being -- being brought into incarcerated individuals. We can say, *hey, well, it was -- it was shown in a body scanning image.* This way it will decrease the amount of anything that's happening with substances, illegal chemicals, fentanyl was brought up, all these things can be put to a -- a -- a stop.

Now, along with myself, I have had other colleagues that have visited our State prisons and I've spoken with both sides. I never tend to take the side or opinion of one until I get an explanation or have a discussion with both sides. And I -- and I've spoken with

both sides, but I can tell you this: There's one thing that found -- I found very, very disheartening. One hundred percent of the incarcerated individuals that I spoke with told me that the respect and the treatment that they got from the National Guard was far better than what they were getting from the Department of Correctional Facilities. One hundred percent. I've even got some of the word from the -- the people from the Department of Correctional [sic]. They say most, or majority, of the incarcerated individuals are there to serve their time and go home. That's honesty. So if you can take one and you add one, you come up with two. I just got the -- both sides of a story and it tells me that one side is being penalized because they can be. Because they don't have the -- the ability to speak out. And that was the purpose of going to visit these prisons to see what's truly going on inside. So, until we go all go and visit multiple facilities, I don't think we have the ability to speak specifically to one side, because you're doing yourself a disservice and you're doing the rest of the State a disservice.

I just know where we are currently is not where we should be. I know where we need to go is a lot further and so, with that being said, even though I think this bill needs to be stronger, I still vote in the affirmative. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Colleagues, before we move forward, I just want to remind you debate is supposed to be referencing the bills that are in front of us and we need to remain and keep our comments to debate

on the bill. We should not be referencing prior comments, or naming our colleagues, to be respectful in our conversation and reminding you to speak on the bill relating to the bills that are part of this package. Thank you.

Mr. Meeks.

MR. MEEKS: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. MEEKS: Savage: Of an animal or force of nature, fierce, violent and uncontrolled. Barbaric: Savagely cruel, exceedingly brutal. Hate: To feel intense, or passionate, dislike.

Robert Brooks should still be here. Instead his life was taken when he was brutally beaten to death by corrections officers while handcuffed inside Marcy Correctional Facility. This is yet another tragic example of the inhumanity within this system. We cannot stay silent, we must say his name. Robert Brooks. We must share his story. We must demand accountability. His memory must fuel the fight for justice. Robert Brooks was from Rochester, New York, my district. His family, his son, Robert Brooks Jr., his grandchild, his parents, Mary and Robert, still live in Rochester. And like too many families, they are living with the pain that the system keeps inflicting over and over again.

I will vote for this oversight package today, because transparency matters. But transparency alone will not stop the next death. Oversight alone will not stop the next life. And make no

mistake, lives are on the line right now. For too long our justice system has prioritized punishment over people. For too long it has torn families apart. It has devastated Black and Brown communities for generations on. But we had the chance this Session, we had the chance. The chance to do more than monitor a broken system. We had the chance to change it, to save lives and we did not. The Second Look Act, the Earned Time Act, the Marvin Mayfield Act; these are not just bills, they're life-saving legislation. They offer real chance at restoration, at transformation and at reuniting families who have suffered too long. We cannot keep clinging to outdated, failed sentencing structures that serve no one. These unjust and discriminatory practices must end. We must build real pathways to release and rehabilitation for a more equitable New York. That is why I proudly sponsor the Marvin Mayfield Act. To eliminate mandatory minimums, to restore judicial discretion and to put the focus back on the person, their story, their capacity to heal and return home. That is why I cosponsored the Earned Time Act and the Second Look Act. Because when people transform, they deserve a pathway home. Because families deserve hope. Because everyday we delay, more lives remain at risk. It is time for New York to lead with compassion, it is time for New York to lead with fairness, it is time for New York to lead with true justice. We cannot stand idly by and add more names to the list of the dead. I vow to continue to stand with the people and the fight to pass legislation that recognizes the full humanity of every single person behind those walls and beyond.

I will be voting in the affirmative. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Ms. Bailey.

MRS. BAILEY: Thank you, Madam Speaker. Will the sponsor yield for some questions?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Certainly, Madam Speaker.

ACTING SPEAKER HUNTER: The sponsor yields.

MRS. BAILEY: And this is going to be very awkward and I'm completely fine if your back is to me. I won't take it --

MR. DILAN: I -- I -- I love my mother. I think she taught me better.

MRS. BAILEY: Well, tell her thank you. So --

MR. DILAN: I wish -- I wish I could, but that -- you wouldn't know that part of my life. But, go ahead --

MRS. BAILEY: All right. I'm going to try and -- I try and have -- I have my questions, hopefully, by part in here, so, bear with me while I kind of link them together. I've tried to go back and read the original sponsor's justifications and memos, so I have an understanding as we're -- as we're kind of piecing it together.

Specifically, under Part B, I just have a couple technical questions that I'm hoping that you might be able to -- to help with. So, with the comprehensive camera coverage and the footage

would need to be retained for five years from a complaint, or legal action, I believe is -- is the wording. It's on page 4, I think we're looking at like from lines 5 to 14.

My question is, isn't a time -- it kind of ties into the -- the... um, I just lost my train of thought -- the statute of limitations. So with the cameras being set up in areas that you might not be able to see, we potentially could have some vacant buildings, so on and so forth. As individuals inside the correctional facilities are monitoring this film, it's my understanding that they're mandatory -- they have to -- if they see something that should not be occurring, they have to report that.

MR. DILAN: On the -- so, I guess there was several parts there. So, I guess the -- on the camera footage and the -- the language that you referred, yes, whether that is counter to Part J of the bill, which you referenced, I guess the -- the answer would be no, because they don't have the -- the footage now. And, you know, to the extent that the lines that you cited to the extent that there's -- there's no claims, it -- it wouldn't run counter to the provisions in Part J.

MRS. BAILEY: Okay. So the corrections officer or whoever's monitoring the -- the film, if they identified something. So say there is an altercation in a hallway and they -- and they see that, would they need to report that? Therefore, then there would be an incident lodged. I believe they currently, right now, have to technically report that; am I correct?

(Conferencing)

MR. DILAN: So, it -- it -- it kicks in when there's a reportage of staff misconduct.

MRS. BAILEY: Okay. And the only reason why I ask as far as the statute of limitation piece of it, would then that coverage need to be retained three years past that incarcerated individual's release?

MR. DILAN: No.

MRS. BAILEY: No.

MR. DILAN: No.

MRS. BAILEY: It would just be the five years?

MR. DILAN: Yes. And then that would be -- to -- to fully answer your question, I know I -- I abbreviated it for the record because I believe we both understood it. So, it -- it would stop -- it would kick in -- they would have to do five years and it would only require to be held if there is misconduct.

MRS. BAILEY: Okay. So it's the five years then?

MR. DILAN: Five years, yes.

MRS. BAILEY: Okay.

MR. DILAN: It doesn't impact Part J.

MRS. BAILEY: It doesn't effect Part J. Okay. Then my next question is going to bring us to Part C with the public notice of such deaths and that notice must be reported within 24 hours on the department's website. If a family member requested that it not be reported for whatever reason, is that a viable request that could be taken by the department?

MR. DILAN: So, I -- I think I way -- the way I understand the bill is that they're required to post on their website after 24 hours of notification of a family or next of kin. But DOCCS does have to complete those steps before it can be posted publicly.

MRS. BAILEY: Okay. So the family member or the next of kin could request that it not be posted, potentially?

MR. DILAN: I -- I'm sorry --

MRS. BAILEY: No, you're absolutely fine.

MR. DILAN: I'm going to need you to repeat that. And I guess to further, it also doesn't require that there's anything that's identifiable. So if the family chooses to remain private on the matter and not have the names in -- in the public (indiscernible).

MRS. BAILEY: Okay. Because --

MR. DILAN: If you can -- if you can repeat the question that I didn't hear again, I'd appreciate that.

MRS. BAILEY: Oh, I -- so, my question it -- it had to do with that it has to be posted on the website within 24 hours. There's no language in there of what needs to be posted, it could just be that there was, you know, there -- that someone passed away in a facility. I, you know, I don't know what that looks like.

MR. DILAN: Correct. And -- and -- and again, to be clear, 24 hours after the -- the family and next of kin has been notified.

MRS. BAILEY: Correct, within that 24 hours.

MR. DILAN: Yes.

MRS. BAILEY: Okay. And -- and the other reason

why I ask is, as we move into Part D and this is just how my brain works and I apologize for that, because I'm taking you on this merry trail with myself. When we go into the study on those deaths, is there any additional reporting that would then show up on the department's website to maybe give closure to the public as to what was identified? You know, we -- we now are going to be posting that there may be three or fourth deaths within the -- the correctional facility. Some may be of natural causes.

MR. DILAN: Yeah. So -- yeah. So, Part D is not -- not DOCCS, it would be the State Commission on Correction [sic]. The State Commission on Correction [sic], you know, does do that to -- to -- to a degree. A lot of it is -- is heavily redacted and there's reasons for that and good reasons for that that would remain, but it doesn't -- it deals with the State Comission on Correction [sic], not DOCCS itself.

MRS. BAILEY: Okay. And then Part E, where we're talking about the autopsies that are done and where the county coroner is notified and there's additional documentation that must accompany those county coroner reports now. In counties that do not have medical examiners, by statute, those coroner reports, along with any autopsy report, are filed with the county clerk. So those original X-rays, or however they're going to be relayed, would then be coming through the coroner into the clerk's office for re -- for filing. Am I correct in my understanding of that?

(Conferencing)

MR. DILAN: I think that -- I think in -- in those situations, like most counties do, but I guess in those situations, we're not sure the answer to that question. But what I -- what I would say is that to the degree that the items prescribed in the bill are included, then they're complying. It doesn't necessarily say how.

MRS. BAILEY: Okay. And -- and the only -- the only reason why I ask is everything that I could read in it stated that copies of that would then go on to the different, you know, agencies that would -- that would receive that information.

MR. DILAN: Yeah. Again, it -- it -- it's -- it's -- I see your concern how it's -- it's close, but I think all this part does is prescribe what could be -- what is, not could be -- what is mandated to be included in the autopsy reports --

MrS. BAILEY: In that report, mm-hmm.

MR. DILAN: -- and as long as they comply with what's prescribed, they're compliant.

MRS. BAILEY: Okay. I think those were my questions. I appreciate you answering them for me.

Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MRS. BAILEY: As my colleagues have indicated, you know, I -- I definitely think there are some pieces in this bill that everyone would be able to -- to find that makes it a little bit better. You know, as -- as I started the beginning of the year and we know the events that -- that happens, you know, early on, out talking to

constituents that included incarcerated individuals' family members, it included correctional officers and then it later went on to including the National Guard. And I have followed up with many of those individuals, you know, as I've read through this bill and I think all of them would say that there's definitely pieces in here that will make it, or, you know, that are -- are measures that may be moving safety in a -- in a positive direction. And I think at the end of the day, that's what we need to look at. Whether it's an incarcerated individual, whether it may be civilian staff, whether it may be a corrections off -- a correctional officer, you know, whether it is our National Guard right now. I've always lived by the motto that, you know, it's our responsibility as an employer to ensure that our employees go home either in the same condition that they walked in or a little bit better. And I don't view this any differently. Whether you're an incarcerated individual or whether you are an employee in a correctional facility.

So, I commend the Speaker. I thank him for answering my questions. I know some of them were pretty technical in nature. And to be honest with you, I'm not exactly sure how I will be voting on this bill. I believe that there are steps that we can take to move forward and do better. But, I do believe that we have taken some steps that will help everyone in our correctional facilities. Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Dais.

MR. DAIS: Will the sponsor yield?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: Absolutely.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. DAIS: Thank you. I know it's a weird angle again.

MR. DILAN: I'm -- I'm getting used to it.

MR. DAIS: Yes. First, putting together -- when you first were putting this together, it was a large amount of bills that you were sifting through and trying to figure out what was the best formula where we can make something move forward, correct?

MR. DILAN: Well, the only thing I would correct to that statement is not an "I", it's a "we", right? The -- the caucus and -- and other members that -- who are not part of the caucus, you know, really did a good job in looking at ideas that were already existing that would help the current situ -- the current situation. So, yeah, the only thing -- so, yes, it was more "we" than "I".

MR. DAIS: Agreed. I do think it's safe to say you believe this is like the first step in -- underneath your committee to help transform our -- part of our correctional facilities?

MR. DILAN: So, it's a step. I don't -- I don't think it's the first step. We've taken steps in the budget that we've already adopted into law. But, by no means do I feel this is the end and by no means do I believe anybody should take a victory lap here if we pass it out of this Body and get signed into law because, you know, folks are

dying.

MR. DAIS: Understood.

MR. DILAN: And this will, you know, begin to address the problem, but it -- it's not the end. There's clearly more that needs to be done.

MR. DAIS: Understood, and I agree. In here with the omnibus bill, we are focusing on accountability which I would argue protects not just the incarcerated individuals, but corrections officers and staff. Would you agree with that?

MR. DILAN: I agree with that and it was very important to me. So, you know, I don't want anything that we're doing here today to be communicated that we find the items that are not included in this bill to be important or worthy of consideration of this House. But I think the one thing that when we take a look as -- as a government, you know, if we have an -- a -- a --an incident that resulted in a -- in a homicide and then as a result we see the floors in our government protections, as I've said many times here today, I felt it's incumbent that we -- we -- we fix that right away.

MR. DAIS: And to that point, by creating more transparency, by having more accuracy, to ensure, for example, that when an autopsy can be expedited, that would actually give the public more faith in our system that we can get quicker responses, quicker answers when there's a cloud of suspicion under a possible homicide.

MR. DILAN: Yeah. So -- yeah, it's -- it's important because I think, you know, I appreciate the -- the previous question as

concerned about -- about how this works because every part of our State is -- is different. And what may be easy in Brooklyn may be more challenging in -- in other parts of the State. Outside of this bill there's -- while it didn't make it into this package, there is another piece of legislation that would model after what Connecticut does. What Connecticut does is they have a centralized coroner's office for DOCCS facilities. I would have loved to have gotten that today, but, you know, it -- it didn't make it in and it's outside the scope. But I think it's -- the bill is also a starting point, you know, for all of us to just ask take a look at our agencies and our systems to see how they work so that an issue that the previous questioner brought up that could be alleviated if there was something more centralized and didn't put the -- the weight on the counties.

MR. DAIS: Thank you. And in addition to the expansion of cameras -- and obviously we're protecting private areas -- but I think there's a -- a key -- that would be a key step in ensuring not just accountability, but protection of not just the incarcerated individuals, but the correction officers and staff to make sure that if there is an accusation of foul play, not only would it show one who might have done something, but it could also acquit somebody or demonstrate that they did not do something wrong in that situation, correct?

MR. DILAN: Correct.

MR. DAIS: And so, therefore, by expanding the cameras we're not just focusing on the incarcerated individuals, but

we're also focusing on the work conditions and the safety of the correction officers.

MR. DILAN: It is holistic, correct.

MR. DAIS: It's holistic. In addition, a lot of people don't talk about it to a degree from the correction officers' side, a lot of people don't talk about hazing or -- or talk about where there's pressure within your own job structure to do certain things. And this could actually protect correction officers from workplace -- workplace bullying from their -- from fellow correction officers, correct?

MR. DILAN: I would say to correction officers and DOCCS staff that is non-correction, like nurses and other people who provide programs.

MR. DAIS: Right. So, for example, so if a nurse in the situation of Robert Brooks wanted to step in, that nurse might feel a little bit more brave to step in that moment because knowing the cameras are there, they know that -- that they would be protected by additional surveillance in that situation.

MR. DILAN: Or may be more willing to come forward with things that they saw that are clearly misconduct. But because their security to -- to a large degree relies on the protection that they get from a correction officer, they may be, you know, more inclined to speak up because they know what they're saying can be backed up and corroborated by a video, they may be more likely to come forward because they feel protected.

MR. DAIS: Thank you. And my last question, I -- I

saw that we put a focus on chain of custody. I think, again, that's creating more transparency and accountability and, therefore, there will not be questions of evidence being transferred over where people say, *Oh, it was doctored*. Or, *Oh, we don't know if that's the real thing*. So do you think it was key, putting that in to ensure that by having chain of custody rules put in place that it will give more security to the -- to these matters and give people more trust and faith in our investigations?

MR. DILAN: Yes.

MR. DAIS: Thank you.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. DAIS: Obviously today has been full of emotions. But one thing that we have within this Body is diversity amongst our own occupations. We have former prosecutors. We have judges. We have defense attorneys. We have detectives. We have former correction officers. We have -- we had a person that was an incarcerated person who can give an inside vantage point of what it's like within our correction facilities. I can tell you right now, I actually owe that person an apology, because I have a slight fear of prisons. And when I was a -- first became an attorney, the first time I ever walked into a holding cell to meet one of my clients, when I heard that clank behind me, I cannot explain to you the chill that vibrated down my spine. And I owe him a visitation to one of our facilities in my district, and I've been hesitant because of this personal fear I have of

the one or two times I have been inside of one of our State and county prisons.

What we have to understand is just because someone is an incarcerated person does not mean they've lost their humanity. Yes, they might have done something wrong, but that does not mean they do not deserve a second chance. And which that means, as our colleague said, just like our correction officers have the right to go into their day of work and go home, so do the incarcerated individuals within those buildings have the right to serve their time peacefully, in a manner where they can feel safe and can be rehabilitated and then still have that option to go home. If we do not create a safe environment to allow them to go home, then we have failed as an entity and as a Legislature in doing so. They are not any less of a New Yorker. They are not any less of a human being. They are not any less of a person because they committed a crime when they might have been younger. And one example I gave -- I know I use pop culture and movies, but in *Shawshank Redemption*, Morgan Freeman's characters in his last parole and they -- and they asked him, *Are you sorry for what you did*? He says, *Son, if I could talk to the young person, he was dumb. He made a mistake. But that young man then, 40 or 50 years ago, and the young -- and the man standing in front of you now are two different people.* So we have to understand that if we create a safer environment within our judicial system, within our corrections facilities, we are not just making it safer for the correction officers, we're making it safer for the incarcerated individuals. So we

can let our emotions go to the side right now and ask -- ask ourselves the very simple question, *What is your humanity*, and your humanity should be we need these to be safer and better places.

In full reality, the more prisons that we can close means we're doing something right. That means our education system is getting better. That means our social network, our social safety nets are getting better. Because if we create more prosperity, if we create more jobs, better education, I promise you that jail population will go down. We need to approach this from both sides of the aisle, both sides of the -- of the equation. We need to make them safer. We need to make them better. We need to make sure that the correction officers are properly staffed, properly trained, properly paid. Have the proper benefits. We need to make sure that they have access to housing so we recruit qualified New Yorkers to go into these (indiscernible). I know this is a tough job. I will be the first person to tell you, I am not built for that job. And I respect what they have. But we also have to make sure there are people there that respect the men and women within those facilities. The fact that the -- I'm not surprised, as a son of a vet, that the National Guard came into these facilities and handled them with respect. Because the one thing they teach you in the military, respect in -- in your bunks. Respect for your fellow man and -- and -- and -- and within your camp. And the fact that demonstrates that with respect and with proper professionalism, that these facilities can be better ran [sic] tells us that we can do better as a Legislature, as an Executive Branch. If those National Guards,

those young men and women have demonstrated that we can run them better, then how can you say that we can't do it when they did it in a short amount of time with how much training? How much training do those National Guard people have? The only training that it seemed they did have was to treat people with human dignity.

We have further steps to go. I want to thank the sponsor for taking the -- the wishes, the 20 bills and trying to put them together to come with something that is putting us in the right direction. But just like any test, just like any -- any mission, the first steps are the hardest. But we have more to go. There's gonna be newspapers -- I'm sure the *New York Post* is gonna come out against us and say, *Oh, we're being soft on crime*. We're not being soft on crime. What we are doing is solidifying our humanity. We are making sure that we are holding ourselves accountable. We're holding ourselves transparent, and we are ensuring that those who are underneath our jurisdiction are doing their jobs. If we do not do that then we are failing as a Legislature. That means as we move forward this bill is the right step. I want to make sure that we empower the Correctional Association of New York to ensure that the correction officers are safer. That the incarcerated individuals are safer. That the staff members are safer. That their families can talk to the members in those facilities. The workers and those who are incarcerated.

Last, we have to make sure that we come up with a more humane system. So that means with this being the first step, the

next step is looking at Earned Time, Second Look and Timely Parole and Elder Parole. If we do this and work together and listen to everyone's opinion, to everyone's vantage point inside those facilities and outside, I do believe we can come together bi -- with a bipartisan approach that respects the wishes of our community and respects the wishes of our -- of our constituents, and also respects the dignity of those who work within and those who are currently incarcerated.

Thank you kindly, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Ms. Walker.

MS. WALKER: Thank you, Madam Speaker.

On the bill, please.

ACTING SPEAKER HUNTER: On the bill.

MS. WALKER: There are presently 1.5 million people incarcerated in America. And when we think about the effects of mental health, the anxiety, the post-traumatic stress that the incarceration of individuals have not just on the person who is incarcerated, but on their entire family. We think about the generational trauma that gets exasperated on an entire group of people. Because we have seen that the numbers favor some over others.

So I want to commend the Black, Puerto Rican, Hispanic and Asian Caucus, our Corrections [sic] Chair, the Speaker and the staff for recognizing that this is a critical time and it's a critical time and a time of reckoning in our New York State prisons. It is time

to stand up for people who have been forgotten about by too many people. But remember. I remember Robert Brooks. He was a 43-year-old Black man who was beaten in front of everyone for the world to be able to see. It was embarrassing not just as a New Yorker, but as I was watching as this video was being shared all around the world on that fatal day on December 9th in a Marcy Correctional Facility in Oneida County. His hands were cuffed behind his back, and he was attacked by more than a dozen corrections officers.

Yes, this bill does provide a comprehensive study. Yes, this bill does provide a collection of data. And yes, it does sure up our need for camera footage. And we all recognize that oversight helps to bring darkness to light. But guess what? In addition to the fact of him being punched, kicked, bloodied, bloody nose and face, there's so many people who may be experiencing those same experiences just today. Like, there's a ticker in Times Square that will calculate how many people are being affected by a certain situation. I wonder what would happen if we had that ticker on -- on the New York State Thruway as we were coming in here and we could all recognize just how critical and crucial this moment is. Because guess what? Right after we mourned the death of Robert Brooks, another Black man, 22-year-old Messiah, as we had heard, was killed in the nearby Mid-State Correctional Facility. In only three months. Since the time of Robert Brooks' death, 75 more people have died in New York State custody. Seventy-five more families now carry that grief. Can you imagine that?

So I'm voting for this bill, for this oversight bill because our incarcerated neighbors deserve, at a bare minimum, transparency and accountability. Far too often they are condemned in the dark. And we must fight even harder to ensure that the brutality, neglect and dehumanization does not persist. Oversight alone, as we know, will not stop the harm. It tells us what happened after the fact, but does not stop people from being trapped in conditions like this to begin with.

We have to end this culture of brutality by any means necessary. We know that the safest communities have the most resources, not the most police officers. So we -- when we invest in our communities, we begin building men while they are still boys. We recognize that we need money for education, not for mass incarceration. Since Robert Brooks was brutally murdered, we know that he was doing so many different things that was trying to better himself so that when he got back out into society he could be a better person. He earned his GED. He studied sign language, horticulture, maintenance. He completed programs, made amends, and worked every day to build a future for himself and his family. He told his father that he wanna do what dad did; mentor young people. Be credible messengers within the community to let people know what happens when a -- a quick decision gets made that will land you up in a place you may not want to be. But instead of second chance -- instead of a second chance to come home and do just that, he got a death sentence. The purpose of our criminal justice system must be to

rehabilitate rather than excessively punish. But instead, we keep trapping predominantly Black and Brown people in our carceral system. We need a new path forward, to which this bill is aligning us with.

Brutalizing prisoners is illegal, it's inhumane and it must stop now. That is why sentencing reform is urgent. Yes, it is important to oversight and document the harm. But sentencing reform prevents it from even happening. So of course some of the other bills that was [sic] introduced in this package includes the Second Look Act, which gives judges the power to review long sentences after ten years and recognize real transformation. We know that the Earned Time Act, which is also a part of the original package, allows for people to earn meaningful time off their sentence through work, education and programming.

There needs to be an opportunity for a release mechanism from this madness. Continuing to keep people behind bars in barbaric situations as we've heard on behalf of the folk who are working there each and every day, who are expecting to come home safe to their families, and the people who are incarcerated. When we keep them caged up, a lot of times people talk about the -- a crab in a barrel concept. But guess what? Yes, when crabs are in barrels they're trying to pull down other crabs. But barrels is [sic] not the natural habit for a crab. A crab in the ocean is thriving. They're doing the things that they need to be doing in order to take care of themselves. And so when you put people inside of a cage and they

began [sic] to act cage-like and we sit on the sidelines and we are watching like we are at a wrestling match, as we are at a boxing match, as we are at the Coliseum, this is the type of thing that we can expect. We know what the definition of insanity is. When we keep doing the same thing and expecting a different result, who is the problem? Who are -- who's really insane here?

So of course we have to encourage growth and increase safety for each and every person behind a prison wall. And Second Look is more than just a bill. It's a chance to honor the humanity of those who have grown, changed and served time beyond -- far beyond what the public demands.

I come from Brownsville, as everyone knows, where families live every day with the consequences of harsh, unyielding sentencing laws that tears families apart and destabilizes our communities. Why, on Pitkin Avenue we have a hard time just getting economic growth. But we will watch each and every day as the numbers of police officers who are filling the 73rd Precinct continue to double each and every day.

We need to address mental health issues and trauma that people experience at a young age in order for us to get at and lose the cycles of violence before we decide to slam those individuals behind cages. We cannot simply monitor suffering. We must prevent it. We must recognize that there are -- are -- that -- that our people are far more worse than their one-time mistake. We must recognize more often than not that people should not be defined by their one mistake.

And we must build a system that believes in second chances and believes in our people. Second Look would have created a pathway for people to demonstrate transformation and deliver justice rooted in dignity and safety. Although this may have been a missed opportunity in this present situation, it is not the end. We will continue to keep fighting because we owe that to Robert Brooks. We owe that to the 75 others who have died since his death, and we owe that to all of the individuals who are presently behind bars not just here in the State of New York, but the entire 1.5 million Americans who are incarcerated today because New York State needs to continue to lead the way on justice, on criminal justice, and we must always do what's right for fairness, justice and equity.

Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Ms. Tapia.

MS. TAPIA: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MS. TAPIA: For too long, violence, neglect and abuse in our jails and prisons have been allowed to flourish in the shadows. This package is changing that. It's -- it's about pulling back the curtain and holding out our institutions to a higher standard.

I am proud to sponsor one of the parts of this package which would mandate comprehensive camera coverage in our prison system. With better cameras and reliable recordings, we can protect

incarcerated individuals from abuse. We know that cameras coverage makes incarcerated individuals feel -- feel safer and make them safer. It will eliminate blinds spots and help to prevent abuse and misconduct. Together, these bills represent a clear demand for accountability, transparency, and humanity in our correctional system. We cannot allow more lives to be lost while we wait.

I will vote in the affirmative. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Molitor.

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

ACTING SPEAKER HUNTER: Would the sponsor yield?

MR. DILAN: Absolutely.

ACTING SPEAKER HUNTER: The sponsor yields.

MR. MOLITOR: Thank you, sir. Can you say your last name for me just so I know I have it right?

MR. DILAN: Mine?

MR. MOLITOR: Yeah.

MR. DILAN: Well, it's Dilan, but I'm not sure -- I'm not sure if it's supposed to be used. I say that comically, not offensively. Dilan.

MR. MOLITOR: No, I know. So next time I use it I'll say it right.

MR. DILAN: We could use it on a more personal level off the floor.

MR. MOLITOR: Yeah, thank you. I appreciate that.

I'd like to focus on Section F of this bill.

MR. DILAN: Certainly.

MR. MOLITOR: And if we could -- I'm looking at page 7, line 3, which -- which starts with the -- an addition to the Executive Law.

MR. DILAN: 7-3?

MR. MOLITOR: Yeah, page 7, line 3. It starts -- starts with an addition to the Executive Law.

MR. DILAN: Okay.

MR. MOLITOR: So if I understand this section correctly, this would give the Attorney General the opportunity to, let's say, prosecute a case that occurs in any one of the correct -- in any correctional facility in the State of New York where the Attorney General is already representing a, maybe a correction officer in that same correctional facility.

MR. DILAN: It gives the Attorney General and their office, I guess, the -- the authority to do that, and I think the -- the reason why this language was important, I think, is we -- we all know it's because of the re -- recusals. But in other parts of the bill it requires them to create firewalls to relieve them from (indiscernible). In this section it does. But it -- it gives them the responsibility to create conflicts to -- to eliminate conflicts within the AG's Office, and

then to the extent that they can't do that, they have other tools to have to reduce the amount of instances where the Attorney General could -- could -- would have to recuse.

MR. MOLITOR: So, the Attorney General -- let's use a specific case here. The Attorney General, let's say, is representing two or three correctional officers out of a specific facility for some sort of action that was filed against them. Don't have to specify what. But the Attorney General is representing them, defending them in that action. While that is occurring or after that -- while that criminal -- while that action is pending, there's now a criminal investigation against those same correction officers, and under this legislation the Attorney General can say -- I'm sorry, the Attorney General under this section can say, *I'm gonna hand off that action where I was defending the correction officers to a Deputy Attorney General who's screened off from my office and, I, myself, am going to prosecute the correction officers*.

MR. DILAN: So let me make sure I understand. So there's something that the AG's Office, maybe not the AG herself, they're -- they're doing that -- they're representing a correction officer on a complaint and potentially on the civil side, and now a potential criminal issue comes up with the same officer? Is that -- is that where you're going?

MR. MOLITOR: Yes.

MR. DILAN: Okay. That's -- yes, correct.

MR. MOLITOR: Okay. And then -- well, before we

move on to my next question, how do we, as the Legislature, have the authority to do this? To change the Executive Order to deal with conflicts of interest? Where does this -- where -- where is our authority coming from?

(Conferencing)

MR. DILAN: Yeah, so we're, obviously, the general lawmaking Body of the State. So that's the first place it comes from. But then within there -- within this bill we -- we, you know, give the Attorney General's Office -- we -- we're mandating that she provide rules -- or that they, I shouldn't say he or she -- that they provide rules within the AG's Office to seek what we're looking to achieve in the bill.

MR. MOLITOR: Are -- are you an attorney, Mr. Dilan?

MR. DILAN: No, sir.

MR. MOLITOR: Okay. I'm not trying to trap you here.

MR. DILAN: Yeah, that's the sense I get.

MR. MOLITOR: But as you know, I'm sure, or someone's maybe told you, an attorney gets admitted to the Appellate Division in which they wish to practice. And they're required to follow the Rules of Professional Conduct that are promulgated by the Appellate Division. And the -- it's the Appellate Division that oversees attorneys and addresses grievances and nets out discipline.

(Conferencing)

MR. DILAN: So I think the -- the answer to -- to your question, if I'm correct, lies on page 7 beginning on line -- lines 23. It says the rules and regulations establishing (indiscernible) shall be sufficient to satisfy the Rules of Professional Conduct regarding conflicts to protect the rights of State peace and police officers.

MR. MOLITOR: I -- I did see that language.

MR. DILAN: Okay. So --

MR. MOLITOR: I did see that language. The issue -- I'm sorry.

MR. DILAN: The short answer was that -- that part of the bill would establish the -- the protocols in which the Attorney General would -- would have to follow, consistent with the question that you just asked.

MR. MOLITOR: The issue I have is that the Legislature cannot tell the Judiciary what to do under the Constitution and the Judiciary Law. It's the Judiciary's power and responsibility to promulgate rules and establish attorney discipline. You can't --

MR. DILAN: So, I -- I don't --

MR. MOLITOR: -- craft -- let me finish my point.

MR. DILAN: I don't believe that's what we're doing. We are not telling them what to do, we are telling the Attorney General's Office what to do.

MR. MOLITOR: Well, it says -- it -- it lays out what the Attorney General is supposed to do, and then it says that if the Attorney General does what it says -- what it's supposed to do in this

legislation, that it will be sufficient to satisfy the Rules of Professional Conduct. But the Rules of Professional Conduct are administrated by our Appellate Divisions, and those Appellate Divisions are the ones who determine whether conduct satisfies or doesn't satisfy the Rules of Professional Conduct.

MR. DILAN: So we're not changing ethical responsibilities laid out by the Judiciary or an Appellate Division. We're saying that the rules that the Attorney General has to provide in her office have to be consistent with those.

MR. MOLITOR: But -- but there are rules and -- and a lot of opinions, I might add, about those rules that say that an attorney -- the -- the Attorney General cannot both simultaneously represent a correction officer and prosecute a correction officer at the same time. And, in fact -- and, in fact, that's exactly why the Attorney General needed to get a special prosecutor to prosecute the individuals who were charged in the Marcy Correctional Facility incident.

MR. DILAN: Certainly. So she has to use those rules to create a shield in her office that is prescribed by those -- by the Judiciary and those Appellate Divisions and the conduct. But they -- you know, the -- the Attorney General is the chief attorney of the State. I'm certain that they are far more aware of how to do that than -- than I am, which is why we give her the flexibility to do that. And then in the event that they find that they cannot satisfy that, she still has to -- has to recuse.

MR. MOLITOR: And that's what that second section

is for. I -- I respectfully disagree with you. I think you have a major constitutional problem with this particular piece of legislation. But I also think it's interesting that you have on line 31 -- 33 you have basically the alternative, which is if the Attorney General has a conflict that they can't screen out and there's just no possible way that they can take the case, they can instead apply to the -- to the county attorney where the incident occurred and -- to get a special prosecutor, which is exactly what happened recently.

MR. DILAN: Yes.

MR. MOLITOR: Okay.

Now, on -- on that section, that section is amending 701 of the County Law. And it adds a section to the County Law that does not currently exist; is that correct?

MR. DILAN: Yes.

MR. MOLITOR: Okay. And the way it stands right now, if the Attorney General takes over a case or -- or decides to prosecute a case instead of the District Attorney from that county, the Attorney General has to get a special prosecutor that either work -- like, lives in the county in which the incident occurred or a -- an adjoining county. That's what the current law is; isn't that correct?

MR. DILAN: Yeah. And that's how they're handling the current prosecutions now.

MR. MOLITOR: Right. This -- this legislation changes that a little bit. This -- in the specific scenario where the Attorney General has taken over a case from a district attorney and

has realized that there's a conflict, the Attorney General can petition the court to get a special prosecutor. It doesn't need to be somebody who's in the county or somebody who's from an adjoining county, but anywhere in the State so long as the court determines that that person is -- has the necessary experience and qualifications to handle the case; isn't that correct?

MR. DILAN: Yes.

MR. MOLITOR: Okay. And it also authorizes that special District Attorney or special prosecutor, we might say, to handle -- to have all the duties and responsibilities of the Attorney General and -- in that case, and also to then make an app -- to be permitted to make an application to the Department of Budget in order for any necessary disbursements.

MR. DILAN: Correct.

MR. MOLITOR: And that's so -- that's -- in -- in the -- the circumstance where it's a big case, there's a lot of expenses. That special District Attorney won't be burdened by those expenses; is that correct?

MR. DILAN: Correct.

MR. MOLITOR: Okay. Mr. Dilan, thank you so very much for answering my questions.

On the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. MOLITOR: So I think Part F is problematic. You know, this is, I think, maybe the issue with having an omnibus

bill. You're adding a lot of sections in there and, you know, maybe sometimes you don't catch an issue like this. But I think that there's -- I think there is a big problem. You know, under Article VI, Section 2 of the -- the New York State Constitution and under Section 90 of the Judiciary Law, it's the courts that oversee attorneys. They handle admissions. They handle re -- certifications and recertifications, continuing legal education requirements, grievances and, ultimately, any disciplinary action. So regardless of what this legislation says as to whether the Attorney General's actions will be considered a conflict or not or shall comply with the Rules of Professional Conduct or not, it's the Judiciary that's ultimately gonna decide. And the problem, right, just from a practical standpoint, is if the Attorney General decides to use that section and prosecute a case, thinking that they -- the Attorney General has the authority to do, so they put that --

ACTING SPEAKER HUNTER: Thank you, Mr. Molitor.

MR. MOLITOR: Sorry.

ACTING SPEAKER HUNTER: Mr. Gray.

MR. GRAY: Madam Speaker, will the sponsor yield?

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: This may prove to be the most difficult (indiscernible/cross-talk) --

ACTING SPEAKER HUNTER: The sponsor yields.

MR. GRAY: So, first of all, let me thank you for answering all the questions that you've been getting for hours on end. I would only say that we would be willing to take questions from the other side of the aisle any time you want to let us get a bill to the floor. So thank you very much.

So --

MR. DILAN: I'm trying to protect my appointments on a few boards that we may be adding in this bill.

MR. GRAY: Okay. You can stand on the other side of the desk if it makes you more comfortable.

So, anyhow... So there's information that's generated from DOCCS that is regarding incarcerated individual violence on staff, incarcerated individual violence on other incarcerated individuals; is that correct?

MR. DILAN: Yes.

MR. GRAY: Okay. And how is that -- how is that information gathered? How's it generated?

MR. DILAN: Largely right now it's -- it's -- it's gathered by DOCCS.

MR. GRAY: Okay. But what's the -- what's the genesis? How did they get it? Where does it comes from? Does it come from reports? Where is it coming from?

MR. DILAN: Could you repeat it? Could you repeat the question?

MR. GRAY: Yes. So where is the information

actually originated from? Right? Is it reports that facilities are filing with the central office?

MR. DILAN: I believe so, yes.

MR. GRAY: Okay. So with the -- Part B, the comprehensive coverage with the cameras. Do we expect any additional reporting or any additional information coming from these cameras in the way of reports of violence that aren't otherwise reported?

MR. DILAN: Yeah. So it -- it -- it requires the Commissioner to do an annual report.

MR. GRAY: To do an annual report on everything that's captured on these cameras in terms of violence that is not reported otherwise?

MR. DILAN: Only regard [sic] to the actions of the cameras. Actions --

MR. GRAY: Okay. Okay. So now covered -- so they're in all of this -- they're in all around in the facilities. Would this include visit rooms?

MR. DILAN: Yes.

MR. GRAY: Okay. All righty. So we'll capture all the information there. If there's contraband coming in from the visit rooms we'll be able to capture all of that information; is that correct?

MR. DILAN: Along with a lot of hugs and kisses.

MR. GRAY: Pardon?

MR. DILAN: Yes, along with a lot of hugs and

kisses.

MR. GRAY: More than that, sir. I've been in -- just so you know, I'm speaking from experience. I have been in over -- over a dozen facilities and the visit rooms, and you'll get -- you'll see more than kisses. Just trust me on that one.

So, now, do we know in these facilities where the violence and specifically what sections of these facilities the violence is occurring?

MR. DILAN: I -- DOCCS may know. I don't know that the -- the Legislature may know in terms of specifics. But --

MR. GRAY: But we know generally what areas that it happens in; the yard, where it could be -- right?

MR. DILAN: Yeah. Again, I think DOCCS -- DOCCS may know. I think -- I don't think we looked in this bill to capture that, you know, level of --

MR. GRAY: We're talking about transparency --

MR. DILAN: Of detail.

MR. GRAY: So we want transparency. We want to know everything that's going on in these facilities for the protection of the incarcerated individuals, for the protection of the uniformed staff, for the protection of the civilian staff; is that correct?

MR. DILAN: Yeah. But as to the -- the -- as it relates to your question, the specific locations of -- of where they happen, you know DOCCS will -- DOCCS will know that. They'll be able to address that. And I think in one of the initial steps that the

Governor did in result -- as a result of the -- the -- the homicide was they enacted partnerships with -- with outside firm to conduct, like, safety gap analyses -- safety gap analyses and using other data that -- that they will get from these outside providers to kind of address problematic areas. That will be a partnership that DOCCS has ongoing. It's not really captured in this bill, but it -- it has -- it -- what you're asking has been addressed by the Executive as part of their reforms that they can do at that branch but it's not in legislation.

MR. GRAY: Okay. So let me just share that a lot of the violence in these facilities happens in the shower area, right? So -- and that's one area that's not gonna be covered --

MR. DILAN: Yes.

MR. GRAY: -- under this. So we're gonna have a glaring omission of activity in these facilities, correct?

(Conferencing)

MR. DILAN: So you're -- you're -- you're right that that is a -- a problem.

MR. GRAY: Yes.

MR. DILAN: But I think you can see for humane reasons why we left that out. But what will be captured is areas of ingress -- egress will be captured by camera.

MR. GRAY: Yes. So -- and you're talking -- in that same section you're talking in Section [sic] B, line 44 it talks about fixed stationary cameras, and to capture both audio and visual footage.

MR. DILAN: Yes.

MR. GRAY: Okay. So is there any objections to capturing the audio only in those general -- those other areas where we can -- where it -- where it could be heard what's going on?

MR. DILAN: Yeah, but I -- I guess this was done this way because, you know, previously there -- there -- there were issues about privacy in bathrooms.

MR. GRAY: Visual? Well, I mean, you could say -- you could say it's audio, but it's --

MR. DILAN: Yeah.

MR. GRAY: -- mainly visual. I would say that the concerns would be probably more --

MR. DILAN: And -- and, look, I would say I see where you're getting and it's a -- it's a concern. And -- and like you said earlier, this is a first step. This is not -- this is not the end. And if it proves to be problematic, especially after the -- the work of the outside entity that the Governor's office has appointed to be the -- one of the first reforms, you know, after their work is concluded, you know, I would have to imagine -- and that's not the only aspect, I'll get into that later -- I have to imagine that would generate things that could become further legislation. But right now, you know, that's kind of where we are.

MR. GRAY: Yeah. And I would just suggest that maybe we'd love to capture some of the information in reports that are coming from all this improved transparency so we actually can tell how it's working. It's one thing to implement it; it's another thing to

know that it's actually functioning, correct?

MR. DILAN: Correct.

MR. GRAY: Okay. Just one other quick -- or a couple other quick questions. Enforcement on the -- page 4, lines 17 through 20. That -- that section there really reads that it's more penalty, it's not enforcement. So could you talk a little bit more about the enforcement of these camera operations?

MR. DILAN: You're talking about the -- the enforcement that's granted to the Inspector General?

MR. GRAY: That is correct. The way that reads, to me, it reads more penalty-driven than it is enforcement-driven.

MR. DILAN: That is how it's enforced, by -- by penalty.

MR. GRAY: It -- it doesn't say how it's enforced. That's my point.

MR. DILAN: Well, it -- it --

MR. GRAY: It talks about the penalties --

MR. DILAN: Mm-hmm.

MR. GRAY: -- but it doesn't talk about how it's enforced.

MR. DILAN: So it's -- so it -- it -- it -- the -- yeah, so the Inspector General can -- can do annual audits, and in -- in the further line, line 20, the -- the Inspector General can take corrective actions. And I guess --

(Pause/conferencing)

Okay. So I guess -- is your concern -- I guess your concern is in and around the Inspector General's authority to impose monetary penalties?

MR. GRAY: That's a penalty. I want to know the enforcement.

MR. DILAN: Gotcha.

MR. GRAY: How it's being enforced or how it's being audited. How it's gonna work, how -- how the enforcement actually looks.

MR. DILAN: Annual audits. But what I would say is that this is something that the Administration wants to -- wants to do. I would say if -- if at any point a future administration doesn't want to do it, then, you know, the powers of -- of -- of the Inspector General could -- could kick in. But it -- it's enforced here.

MR. GRAY: Well, I would say anybody that installs cameras actually wants them to all work. I happen to represent a -- a power facility that straddles -- that straddles the international border from Canada to the United States. And we had an individual that walked all the way underneath, through the bowels of the dam from Canada to the United States, and found that over two dozen cameras were not working. So my point is that there has to be -- is there going to be some enforcement versus just after-the-fact penalties? But we'll agree that that is kind of incomplete.

MR. DILAN: So the -- the Inspector General under this section is empowered to do annual audits --

MR. GRAY: Okay.

MR. DILAN: -- to ensure compliance under this section. So at that point, you know, the -- the Governor or the Legislature or the rest of government can -- can take action.

MR. GRAY: Okay. All righty. Then Part C, I just -- just briefly on Part C. It says, the department shall promptly notify the next of kin or any person designated as a representative. Can you define that second -- the latter part of that statement? Who -- what is -- who classifies as a designated representative? What are the options?

MR. DILAN: Well, that's current law. We're not -- we're not amending that.

MR. GRAY: You're not amending that.

MR. DILAN: No.

MR. GRAY: It's underlined. That's new -- that's new wording. Line 43, 44.

MR. DILAN: So if you see in -- just above in Part C on line 40, it's already written in current law and not -- not underlined.

MR. GRAY: Okay.

MR. DILAN: So we're just copying it and putting it -- and repeating it there.

MR. GRAY: Okay. All righty. And then just line 47, you refer to -- and again, one of my colleagues asked it earlier, I'm gonna re-ask it because you referred to an autopsy report -- and in this instance it just says "autopsy report." But if you go to Part E and line

33, 34 it talks about autopsy and it talks in conjunction with toxicology. So is that an omission in Part C, toxicology?

MR. DILAN: So -- and I believe this question was --

MR. GRAY: Was asked.

MR. DILAN: -- was asked of me earlier, also. I've just been informed that toxicology is already covered in current law.

MR. GRAY: Covered in -- in C?

MR. DILAN: No, no, in current law.

MR. GRAY: Oh, in current law. Got it. Got it. Okay. That's it, Mr. Dilan. I appreciate it very much. Thank you for your time --

MR. DILAN: Thank you.

MR. GRAY: -- and answering the questions.

ACTING SPEAKER HUNTER: Ms. Walsh.

MS. WALSH: Thank you, Madam Speaker. Will the sponsor yield? And recognized that once again were in an awkward position. You're not gonna hurt my feelings --

(Indiscernible/Cross-talk)

ACTING SPEAKER HUNTER: Will the sponsor yield?

MR. DILAN: I will yield. And I'd say this is probably the best position I've been in all day.

MS. WALSH: Oh, okay. All right. Well, I'm glad I could help.

ACTING SPEAKER HUNTER: The sponsor yields.

MS. WALSH: Thank you very much, Madam Speaker, and thank you to the sponsor. So we've been debating, obviously, this bill for -- for several hours. I can appreciate that you -- that some of the questions I'm asking may be redundant. I'm gonna just try to just go through them quickly. And I -- and I do apologize if you are repeating yourself. But I just want to be absolutely clear. I'm gonna -- the good news is I'll take it from Part A and work forward, so at least they'll be in some kind of order.

Okay. So Part A, the video disclosure relating to the incarcerated individual's death. Okay. So this part -- am I correct that this part has to do with not only DOCCS, but also local correctional facilities; is that correct?

MR. DILAN: Local facilities are exempt. This applies to State facilities only.

MS. WALSH: Okay. My notes had said that for this section it applied to local correctional facilities. So if I'm mistaken, I apologize.

MR. DILAN: So I have to reverse myself. You -- you are correct.

MS. WALSH: Okay. But to your knowledge is there any other part of this entire omnibus bill that relates to or impacts local correctional facilities, or is it just this Part A?

MR. DILAN: Just this Part A.

MS. WALSH: Okay. Very good. So this says that the Attorney General's Office will -- they'll be disclosure to the AG's

Office of Special Investigation any video footage the Office deems relevant to the death of an incarcerated individual within 72 hours of the incident, including cases involving correctional officers. Okay. So it said that the footage will include recordings from fixed or stationary cameras, body-worn cameras, handheld devices. And then it says or any other recording equipment used by correctional staff at the time of the incident. So I'm hoping that you can help me understand. I thought, but maybe I'm wrong, that correction officers are not allowed to have their cell phones on their person while they're doing their shift. Is that -- or are we trying to get at maybe what a staff member might be carrying, that they can carry? Like, are we talking about cell phones here that they might have?

MR. DILAN: No, this -- this --

MS. WALSH: Okay.

MR. DILAN: We don't change cell phone policy in any way --

MS. WALSH: Okay.

MR. DILAN: -- in this bill. But we do allow for, you know, the audio of -- of, you know, any other DOCCS-approved device that may pick up recordings to be used.

MS. WALSH: Okay. So when it says "any other recording equipment", then, could you just tell me what you're contemplating with that? If it's not cell phones, then what would be? Or is it just a catch-all meant to just cover anything?

MR. DILAN: So I'm -- I'm told DOCCS sometimes

use handheld video cameras and have other means so that if any other DOCCS-approved devise captures something that it can be captured this way. If they have devices that we don't know of now or that devices are invented or manufactured in the future that are DOCCS-approved that they can be captured under this section.

MS. WALSH: Very good. Okay. And when we're talking about that the Office will deem relevant to the death, did -- so, I mean, it's obvious to me that the -- an incident leading up to the death of the incarcerated individual would obviously be included in terms of video footage of that. But how far back in time may the footage go? Do you -- is there any sense of that? Like, are we looking through the entire day of the individual or the week of the individual, or it is really just the incident itself?

MR. DILAN: So it -- it gives -- it gives them discretion to deem what -- what footage is -- is relevant to turn over.

MS. WALSH: Okay.

MR. DILAN: If -- you know, if it's clearly by when they look at it not -- not relevant, they're not required to turn it over.

MS. WALSH: But it's in the sole discretion, the way that this is -- the way I'm reading it, it's in the sole discretion of this AG's Office of Special Investigation to determine what is relevant and how far back maybe they'd want to go, correct?

MR. DILAN: Yes. Correct.

MS. WALSH: Okay. All right. That's fine.

And then the footage, it says that it will be

maintained by the AG's Office confidentially, and it will determine redactions according to its published video release policy. So --

MR. DILAN: I would be a little bit more specific with that question. It's the AG's Office of Internal -- of OSI, to be more specific.

MS. WALSH: Very good. Okay, that special unit. Okay.

And so let's move on to Part B, the comprehensive camera coverage. So -- let's see -- it says -- it says that facility superintendents are responsible for regular assessments of camera placement, functionality, addressing any blind spots and non-functioning cameras. When it says "regular assessments", nothing is called out. So is that gonna be left to the DOCCS Commissioner to establish what regular assessments means?

MR. DILAN: Yes. And I have to imagine that they would do that in consultation with the partners that they are contracting with that the Executive released as part of their reforms as well.

MS. WALSH: Okay. Very good. And can you just describe or distinguish for me the difference between one year of retention of footage and the five years? What -- what is gonna trigger the longer period of time for retaining the footage?

MR. DILAN: Okay. So, ordinary is when you're then -- so line 7 where --

(Conferencing)

So the five years kicks in based on the language on page 4, line 7. It reads allegation or report of any staff or any staff misconduct or rule violation. That's where the five-year period gets kicked in.

MS. WALSH: And -- and just -- when I was reading that -- and I appreciate you pointing that out to me where it was -- it -- that seems extremely broad to me because that doesn't just include, like, written complaints, and that could mean -- that could mean a lot more than that, right? And it could be involving even something as, relatively speaking, as small as a rule violation, right?

MR. DILAN: Yes, that's what the language says. Yes.

MS. WALSH: So would it be -- would it be fair to say or fair to conclude that footage will more than -- more likely than not, if there's been any kind of a complaint, that it would be held for that longer period of time?

MR. DILAN: Yes.

MS. WALSH: Okay. All right. And, let's see. Let's move on to Part C, the notice of death in correctional facilities. So it requires DOCCS to promptly notify the next of kin. Once again, promptly. Is that something that's going to be just at the discretion of DOCCS to identify what -- I mean, I understand what the ordinary meaning of the word "promptly" is. But is there going to be a specific time frame set for that?

MR. DILAN: Yes. And the -- the current practice is

within 24 hours. And as you can see in, you know, the few words before, the -- the part that we're striking in -- in law, even though DOCCS' current practice is 24 hours, we've [sic] striking the words "be responsive for inquiries from."

MS. WALSH: Okay. Yes. Okay, thank you. I appreciate that.

I'm going to skip over Part D, the study on deaths because I think that that's been covered and I think that that's pretty self-explanatory to me.

Part E, the enhanced autopsy reporting. A question I had was must all incarcerated individual deaths be autopsied under current -- under our current law and regulations, or only suspicious ones? And does this Part E change that in any way?

MR. DILAN: So, it doesn't change current law or practices.

MS. WALSH: Okay. And what is the current practice? Is it only for suspicious -- so, for example, I -- I was thinking of somebody that is -- that has not been early released, but they have cancer. They have terminal cancer and they pass away in the -- in the correctional facility. Would that be an autopsy that would be done automatically or what -- you know, what would be the policy about that? If you know.

(Conferencing)

MR. DILAN: So we believe it's a -- it's an aut -- an autopsy under all circumstances for folks in DOCCS' custody.

MS. WALSH: Okay. All right. And last question on this section.

MR. DILAN: And I would say we believe.

MS. WALSH: Yeah, no, I understand. I appreciate that. I know -- I know that some of the questions I'm asking are -- are a little bit outside the scope of the bill because I'm asking about what the current practice is and you may not know that. I appreciate that.

MR. DILAN: Yeah.

MS. WALSH: But as far as autopsy, do you happen to know, can family or next of kin reject or say no to an autopsy, or just by the sheer fact that the individual has been incarcerated, do they -- does the family or next of kin have no say about whether the autopsy is gonna occur or not, it will occur?

MR. DILAN: Now, you're talking current law, right?

MS. WALSH: Yes.

MR. DILAN: Yes. So we -- I would say we are unsure. But there -- there were other proposals that -- that -- we -- we took a look at as we looked at autopsies to allow families who maybe were suspicious of an autopsy report to get their own independent one done, paid for by the State. That was a proposal -- one of the proposals that we looked at and didn't quite make it. But it -- it was something we considered. But in terms of their -- their current rights, I'm -- I'm unsure. We'd probably have to get back to you on that.

MS. WALSH: Okay. That's fine. I was just wondering because some -- some families for religious reasons or

other reasons would not want an autopsy, and I just -- I was just curious. That's okay, we can move on.

MR. DILAN: Certainly, if that right exists in current law this doesn't --

MS. WALSH: It doesn't change it.

MR. DILAN: -- this doesn't encroach on anyone's religious rights to do that in any way in this bill.

MS. WALSH: In this bill. Thank you very much. Okay.

So I'm gonna skip over Part F because I believe that a previous debater covered that section thoroughly. And I will even skip over Part G. And now looking at Part H. Okay. So I noticed -- and I see my time is -- is swiftly passing, so let me just ask one quick question about this one. I did a little -- a little looking up about what the State Commission of Correction does, and it -- and it defined it as an independent watchdog over State or local correctional facilities tasked with ensuring the safety, health and operational standards of facilities. So it -- it mentioned different cohorts that have to be included in the -- in the Commission's composition, but it didn't include anybody from the correctional or law enforcement community on there. Is -- it seems like that person or that individual maybe would be representation that you would want. I wanted to give you a chance to explain why they were not included in that.

MR. DILAN: In terms of what, membership?

MS. WALSH: Yeah, to be on the Commission.

MR. DILAN: So, yeah, they're -- they're not specifically lined out as mandated to be included, but they're not excluded because there's nothing that prohibits --

MS. WALSH: Oh, I see.

MR. DILAN: -- nothing that prohibits any one of the appointing authorities from placing law enforcement or corrections officers to this board as a member.

MS. WALSH: Do you know if anybody currently on there is -- is a member of law enforcement or corrections?

MR. DILAN: I believe the President is a serving sheriff, a former -- a former sheriff of one of our counties.

MS. WALSH: That -- that's great. Okay. Thank you so much. And just, let's see. Part J. I know there's been a lot of discussion about that. So my understanding is that -- that it basically -- what this part is doing is it's creating tolling, where, you know, during your period of incarceration your -- your right to bring suit is being tolled. Like it would almost, like, for infancy or for other -- you know, other issues the law would toll it so that your time to commence a lawsuit about something that occurred during your incarceration will not start to run until you leave.

MR. DILAN: Yes.

MS. WALSH: Okay. I -- I just wanted to clarify that. Thank you so much. I know I ran through a million things at once.

MR. DILAN: No, that's fine.

MS. WALSH: I just (indiscernible/cross-talk) --

MR. DILAN: It's actually the most organized approach I've had to deal with today. I appreciate it.

MS. WALSH: Well, I've had a little time to consider it here. So thank you.

MR. DILAN: Thank you.

MS. WALSH: Madam Speaker, on the bill, please.

ACTING SPEAKER HUNTER: On the bill.

MS. WALSH: Thank you. So I appreciate all these answers. I have to say that there -- there is a lot in here that I really do like. I do like it because I'm a big believer in body-worn cameras and cameras generally. I think that it tends to work to help both -- you know, both sides, all sides to issues to figure out what really happened. I think we need to work together to build a better system. I think that we -- we need to make sure that we have enough corrections officers. We need to train them properly. We need to -- ensure correction officers' safety, especially the women COs that I've met with. We need to reduce the toxic workplace environment. We need to reduce and eliminate contraband. We need to reinstitute rehabilitative programs that have been suspended because we don't have the good ratios that we need in order to run these programs. You know, I think that the problem with an omnibus bill, and I'm running into it right now, is that when you have ten different bills all lumped together and the debate time's been cut in half a couple years ago are we're getting to a point where we're maxing out, we can't give these

things the attention that they deserve. But I tried.

So, thank you.

ACTING SPEAKER HUNTER: Thank you.

Mr. Dilan.

MR. DILAN: Madam Speaker, on the bill.

ACTING SPEAKER HUNTER: On the bill.

MR. DILAN: So, I -- I just want to thank everybody in the Chamber for the discussion. As you can see, you know, the -- the -- the amount of passion and the range of emotions are -- are high. And I know there's some folks out there who are frustrated, both in the Chamber and out of the Chamber, who are frustrated that we're not going far enough. But I would say, look, this is a -- a step. I clearly don't believe that we're ending here. I think the -- the first step, you know, I was taken by -- it was taken by the Executive. It was an important step -- step. It was stuff that the Executive could do, to some degree, without legislation. I mean, the first thing they did after the incident was install a new superintendent at Marcy. You know, they -- they expanded DOCCS's whistleblower protections. You know, they -- launched partnerships with -- with private entities to do safety gap analysis, to do public health and human rights analysis of programs in -- in prisons. They've done, you know, a host of things. Including the one to me that was most important, that they created a new dedicated unit on the future of prisons within New York State at a nonprofit agency. I believe it's a nonprofit agency, I'm not sure as I look it. Those were the first steps that the Executive could do on their

own and I believe that was the -- the first step.

I think the next step that we did collaboratively was enact protections and do things in the budget like providing the funding for cameras. You know, providing expanded fund -- funding for our independent watchdogs on DOCCS like CANY and like the State Commission on Corrections. I would say, in -- in that regard, there's a lot to do. You know, prior to this year's budget, for an entity that is supposed to be the State's independent watchdog of DOCCS, maybe almost in the model of -- and I say "almost" because it's different, but almost in the model of New York City's CCRB and they received through -- consistently $3 million in -- in -- in appropriations to independently oversee an agency that has a budget of over -- over 3 billion.

Yeah, we -- we need to do more there, but it -- it -- it became, you know, clear at -- at -- at some point that at some point in our history, that this agency's powers had been gutted to be the independent check that they were supposed to be when they were founded in the 1800s after the reforms that were made by law after Attica. Which, by the way, were done by Republican administrations, across the board, which were okay under -- but even at that time, they were done in conjunction and in negotiation with incarcerated individuals. And as we all know -- all know, Attica did not turn out well for those who were under incarceration. So, to have the -- the checks -- the checks that people of this State have been attempting to correct for over 150 years in our history, clearly says that our system

of independent checks are -- are -- are broken.

So, that was an important step to take in the budget. You know, expanding DOCCS' internal OSI, because there's two different ones; one within DOCCS and then one within the Attorney General's Office. Collaboratively, we allowed DOCCS to have that expanded authority because DOCCS can also do the same thing within DOCCS. And people who are under incarceration can also make complaints to DOCCS OSI and they can have those complaints substantiated and proved by DOCCS OSI and they can do it.

What most folks -- thankfully, we didn't talk about the -- the information and reporting that OSI has to do. I think it was pretty clear and -- and -- and rather noncontroversial. That's why I say "thankfully". I think people's -- as they reviewed the bill, it was pretty clear to see what we were trying to achieve. The feeling at the time is though, if -- if we're gonna give DOCCS -- DOCCS OSI, you know, a turn -- internal members to do a reporting on these incidents, that it should not remain within DOCCS. That even the investigations that are conducted within DOCCS, also be made public. So, that was an important transparency piece.

So, today is -- is another step. And I know folks, even though, you know, they -- they -- they haven't may be said it, or some have said it and I -- whether you have said it, or -- or haven't said it, I certainly appreciate that you either said it or didn't, because for the folks that didn't say it, I know the sentiment is that this doesn't go far enough and that we do need to do -- to do more. I certainly

agree. And that's why I highlighted some of the steps that the Governor made with some of those partners, because I -- I believe when their workers concluded that it will give us the opportunity to look at potential for new reforms and -- and -- and new legislation.

I would also like to, you know, just say that the accountability, transparency and oversight is only one approach. I think when there are crisis and is clear to the public, that your government apparatus has failed, it's incumbent upon all of us to attempt to fix that. But it doesn't, in my mind and here. There's a lot of folks outside this building that are disappointed with what we are doing here today, because they don't believe it goes far enough. So, I would say that things like sentencing reform and -- and parole reform are things that -- that are important to me. A lot of that stuff did not survive it and -- survive and -- and -- and make it into this package. And some of them -- some of them, you know, did get close. And I -- I'd cite one, things like the Earned Time Act, you know, the Earned Time Act was put into the budget of -- by the Executive. You know, there -- there is a member that has -- that carries in the piece -- independent piece of legislation that we're considering. And there's -- there's been discussions on the -- the -- the mechanisms of Earned Time Act and folks have gone back and forth, but they can't agree on those mechanisms. But I would say that the fact that the Governor, not anybody in the Legislature, injected Earned Time Act into the budget, means maybe we don't yet agree on the mechanisms for folks doing well, to earn time off. At least shows that the Governor's at

least willing to aid -- engage in the discussion. So, I think while things like that didn't survive, I do -- I do think that ideas like that have taken important step forward -- important steps forward as we continue to try to solve these problems in the future.

I think on -- on sentencing reform and parole reform, there are a lot of ideas that the caucus came up with, that advocates came up with that I like. And, you know, Second Look Act specifically, which I found to be pleasantly surprising, was, you know, said to be supported on -- on record by, you know, one of the highest members of the court in this State. But that was encouraging to me, as I sat there. So, to the folks that feel like we haven't gone far enough in that regard, I would say, we're a lot closer than you'd think. And you know, they expressed frustration that they will probably never see their reforms being enacted in their lifetime.

And I -- I remember, like, one of the first bills that I had to deal with when I was here was Medical Aid in Dying. I was dead set against that when I got here. I said, *oh, that -- that's never gonna go. I'm not gonna allow that to go. It is impossible to pass that bill.* Eleven years later, this Body passed it and it passed the Senate in this -- before the Governor for her consideration. So, I would say that, you know, if you feel like that hope is gone, you know, Medical Aid in Dying is, you know, a good example of how to -- how to keep going on and keep pushing. So, I encourage you guys to do so.

I just want to take a moment to just basically thank, you know, the caucus and colleagues and you know, everybody else

that has expressed an interest in -- in getting this done. This is all of our work. This is not just my work. I think everybody has, you know, put forward their ideas and done things. And I know folks see me maybe tearing up now, but, you know, a previous speaker said that no one ever cried and I was personally happy that during the budget discussion no one saw me cry, because I did. And maybe one person saw me, but I chalked it up to allergies because I tear without, you know, I tear without hoofing. That's just the way I do it. I didn't think I would do it today because I told myself, don't. Just don't. But this is important. It's not partisan. You know, this -- this is -- it belongs to all of us, this system. The failures of it are on all of us while we're here.

I told myself I would not do this.

You know, I'm fine. My kids are home safe. That's not the case for everybody. And the amount of calls that I got and the amount of letters that I got from folks that said they're concerned about their family and their kids are struggling. And I -- I appreciate what the caucus has done, you know, in their advocacy to -- I'll take it. (Handed tissue) I'm not shy. It's already out there. Might as well just -- just deal with it. And I appreciate the passion and the emotion of -- of -- of everybody, because this is really hard to talk about this in a real way without getting emotional.

Now, I've been fortunate, right? I don't have -- I have family inside. Other people have family inside in this Chamber. Folks have talked about the experiences of their family --

(indiscernible) -- but my family's been beat up, too. And I've been holding that in. And this moment, man, it's -- it's not about me. Nobody should care about me. I'm -- I'm -- I'm fine. I'm fine. It's about all of us, right? It's about all of the people that -- that we love. You know, some members of my family -- well, members of my family that are inside did do something wrong. They did, right? They did. I want them protected just a long -- just as alongside everyone else that -- that -- as well, that -- all the people that are not members of my family. There's been stories of other folks. And, you know, I was able to absorb it. And the -- the fact that in those moments I wasn't crying, I think I surprised myself.

I'm gonna end by just saying when Speaker Heastie became Speaker, the first words he said was that reforming the Criminal Justice System will be the focus of his speakership. And that had me. I was all in. I had the opportunity to go back to the City Council, a place I love, place I started my professional career. But I realized that if I went back to the City Council, I couldn't help him carry out his mission. Now, when that happened, I had no idea I would ever become the Chair of Corrections. I just was happy to have a vote in the Legislature that impacted that. So, when all of you guys do this stuff, yeah, it matters. Yeah, I may be good at hiding emotion most times, but I'm like everybody else, I'm human, too. I'm a person, too. So to say that and I see the Leader coming over. I guess it's -- I'm not sure if it's for moral support or to say to wrap it up, but --

MRS. PEOPLES-STOKES: Moral support.

MR. DILAN: Oh. I didn't -- I thought the buzzers were -- all right. I'm done. So, thank you -- thank you --

(Applause)

-- I'm done. I don't want -- I don't -- honestly, I don't -- we shouldn't -- we shouldn't be clapping. We really shouldn't be clapping. There's people out there that are hurting. You know, there's people out there that are hurting. This is not a moment to celebrate.

Thank you. I intend to vote aye.

ACTING SPEAKER HUNTER: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER HUNTER: A Party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Madam Speaker.

Although there are definitely parts of this bill that I think we can all agree with, the Republican party will be, generally speaking, in the negative on this bill. Anybody who wishes to cast affirmative votes can certainly do so at their seats now. Thank you.

ACTING SPEAKER HUNTER: On a motion by the Senate -- oh. On a motion by Mr. Dilan, 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 HUNTER: A Party vote has been requested.

Ms. Walsh.

MS. WALSH: Sorry. I thought I was losing time there.

I was just -- I thought I just said that. Okay --

ACTING SPEAKER HUNTER: You did.

MS. WALSH: I did. I know.

The -- the Republican Conference will be in the negative. Affirmative votes can be cast at the seat now.

Thank you.

ACTING SPEAKER HUNTER: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Majority Leader [sic], the Majority Conference is going to be in the affirmative on this piece of Legislation; however, there may be a few that would need to be an exception. They should feel free to do so at their seats.

ACTING SPEAKER HUNTER: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Lucas to explain her vote.

MS. LUCAS: Thank you, Madam Speaker. I'm excited to be in support of this vote today. We all fall short of the glory of God, but the one thing that God affords us is forgiveness and we have to learn to correct without canceling. And with that

correction comes a level of dignity, humanity and respect.

In visiting prisons, I realized that some of the prisoners are afraid to even report certain things because there's retaliation of continuous violations. They are brutalized and asked to hide their bruises. When they report these things, they are violated even more. It's like the police policing the police. If they go to the commissioner, commissioner calls over to the location. If they call out and report it to OSI, OSI comes and investigates in front of the very people that are actually committing these egregious acts. So, this does not address all of the major concerns that we need to have oversight on the many egregious acts that are -- are -- are -- are implemented on those individuals, but it is a beginning, it's a start and we live to fight another day for additional things.

So, with that, again, I support this piece of legislation. I commend this Body for working on it collectively and I vote in the affirmative for this bill.

ACTING SPEAKER HUNTER: Thank you.

Ms. Lucas in the affirmative.

Ms. Romero to explain her vote.

MS. ROMERO: Thank you, Madam Speaker. Before I was elected to the New York State Assembly, I was a public defender. And myself and others involved in the criminal legal system as attorneys, advocates, or formerly incarcerated individuals, we are aware of the darkness, the sludge, the nasty, the intensity, the pain and the literal bloodshed that exists within prisons in our State.

Well, there are inevitably people like my mother and father, both lifelong DOCCS employees. Not COs, but my father retired with Parole and my mom eventually retired as a Director of Corrections with Mental Health, people that are good and loved their job. While there are people that do love their job within DOCCS, there are people that are ugly within the DOCCS system and the lynching of Robert Brooks exposed this ugliness. And it exposed this ugliness in our prison system for so many people. And -- and it is for that reason that we must identify this and eliminate it. It's my sincere hope that this omnibus bill addresses this and like I said, eliminates this ugliness within the DOCCS system.

While I join some of my colleagues in aching for other criminal justice reform in this Session, I do thank the Speaker and the sponsor for putting something forward. I do hope it inevitably will do some good for thousands of New Yorkers that need it.

I will be voting yes, but I do not forget that the fight is not over and that I look forward to working with my colleagues and the input of people that I know love the system, like my parents and my fellow attornies and currently and formally incarcerated individuals. Just like my eloquent colleague in the back row that has been breaking barriers. I vote yes and look forward to the future fight.

ACTING SPEAKER HUNTER: Ms. Romero in the affirmative.

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank you, Madam Speaker, I rise

to explain my vote. I want to thank the sponsor, I want to thank the Speaker for moving this package forward. One of the bills in this package, reporting of the death of an incarcerated person we've been working on for three years and we've talked to so many families and have been to so many facilities and, you know, families keep saying, *we don't know what's happening to our loved ones. We didn't know when they passed away, we got no information for day, after day, after day.* And part of this package is allowing families some closure. But what really this whole package is about is trying to bring transparency and accountability to our corrections system. And if we really believe in corrections, this is an opportunity we have, right now, in this moment, to do that. The -- the murder of Robert Brooks, as everyone keeps saying, really put a spotlight on what's going on in corrections. We see it everyday when we talk to people who are incarcerated. We visit prisons, we hear from them directly. We hear the fear, the anxiety and the risk. It is our responsibility to deal it with the life and health of New Yorkers whether they're behind the wall, or not. And this is our opportunity to continue to move forward. There were some things that we couldn't get in this package and I know with the work of this Body, we will get there some day soon. But this is an important first step and I'm voting in the affirmative. Thank you.

ACTING SPEAKER HUNTER: Mr. Epstein in the affirmative.

Mr. Maher to explain his vote.

MR. MAHER: Thank you, Madam Speaker, to

explain my vote. At the beginning of this year, I did not believe and understand that the majority of my time would be monopolized on this issue and with the work action that took place, having four prisons in my district and two right next to my district where a majority of the folks that work live, it was all encompassing. And I really appreciate the sponsor's emotion, I take it to heart, because I feel that same emotion. And when we advocate for correction officers, we are not advocating for the murder of Robert Brooks, murderers. We're not. I choose to see incarcerated individuals and view the majority of those folks as individuals that want to reintegrate back in to society and become productive members of society. When I look at our correction officers, I choose to view a majority of them as the folks that are helping save lives in prison. We can't simply judge either side for their worst and we need to overcome that. All of us, together.

The number one issue facing our prisons is the staffing crisis. The number one recruiter for correction officers are correction officers and they're not encouraging anyone to work. They need to have a seat at the table. We all have to acknowledge it, because what's best for our correction officers is also going to be, eventually, what's best for those that are incarcerated. We can't have the programing, we can't have the recreation, until staffing levels reach a certain level and they won't until this conversation is completed in a true, bipartisan way, with everyone at the table talking to each other and with each other and not past each other.

I am very much encouraged by the sponsor, by

several of my colleagues on the other -- other side of the aisle to hopefully continue that conversation --

ACTING SPEAKER HUNTER: Thank you, Mr. Maher. How do you vote?

MR. MAHER: -- and I vote in the negative, but with hope --

ACTING SPEAKER HUNTER: Mr. Maher in the negative.

Ms. Solages.

MS. SOLAGES: To explain my vote. Our justice system rests on the idea that even when someone is incarcerated, the State is still responsibile for upholding order and treating every person with basic human dignity. It is a serious duty. So, when a public servant, someone who took an oath to uphold the duty, takes a life, it is not a tragedy, it's a breach of trust. The death of Robert Brooks and the death of Messiah Nantwi raised serious questions about how we oversee our correctional institution and how we hold our own systems accountable. We can't stop at oversight. True public safety includes accountability, structure and the opportunity for people to change. A system that punishes endlessly without a path to redemption, is not one that reflects our values here in New York State.

I want to thank Speaker Heastie for his response -- his responsiveness. I also want to extend my gratitude to the Chair of both correctional committees, in both the Assembly and the Senate, for truly taking their passion and their persistence and getting this on

the bus together. And I especially want to thank my colleagues in the Black, Puerto Rican, Hispanic and Asian Legislative Caucus for refusing to look away. Through your strength and your unwavering focus, we are turning loss into action and outrage into accountability, but it -- but our fight isn't over. Let's carry forward the names of Robert and Messiah, not as headlines, but as a call to action. Let their memories be the reason why we refuse to accept the unacceptable.

And with that, I vote in the affirmative.

ACTING SPEAKER HUNTER: Ms. Solages in the affirmative.

Ms. Hyndman to explain her vote.

MS. HYNDMAN: Thank you, Madam Speaker, for allowing me to explain my vote. Individual -- individually in this Body, we have had to bury loved ones. Whether it be children, parents, spouses, friends, neighbors and constituents. I don't believe any of us can say we saw a loved one beaten to death on camera for the world to see as the father did, Mr. Robert Brooks, who watched his son die. His death isn't in vain, it spurred this package. And I want to thank the Speaker and the sponsor of this legislation that through these works, this bill will be signed by the Governor and be brought into law and all of the other bills that we need to get passed in this House to make sure that this -- that this doesn't happen again.

Thank you, Madam Speaker. I vote in the affirmative.

ACTING SPEAKER HUNTER: Ms. Hyndman in

the affirmative.

Mr. Burke to explain his vote.

MR. BURKE: Thank you, Madam Speaker. Listening to the debate is what I was going to make my decision on and what I realized is, we -- I've already known, but it's more clear now than it ever has been to me, we have a deeply, deeply broken system. The State is failing a lot of people and it pits people against each other. I've heard incredibly dehumanizing language and rhetoric. I've heard people refer to COs as monsters and I've heard other people refer to incarcerated individuals as animals. And when the debate goes down to monsters versus animals, everyone loses. It's going to result in violence and dehumanization all of the time. So, being thoughtful and conscious of how we speak about people and focus on fixing systems, but when -- from my point of view, I've had members of my family who are incarcerated and I have members of my family who are COs. My brother-in-law was stabbed at seven times and fortunately he had a stab vest on. He's one of the most mild-mannered people you'll ever meet, he's not a monster. So just casting all of these people in that light is dangerous. We do not need a powder keg in our -- in our prison system, we need to fix broken systems. I think that that is -- this is an honest effort towards doing that and I look forward to continuing that effort.

Thank you, Madam Speaker. I vote in the affirmative.

ACTING SPEAKER HUNTER: Mr. Burke in the

affirmative.

Ms. Levenberg to explain her vote.

MS. LEVENBERG: Thank you, Madam Speaker, to explain my vote in light of the horrific murder of Robert Brooks at the hands of correction officers, which the world witnessed, the unlawful wildcat strike and the inhumane treatment of incarcerated individuals. I want to thank the sponsor and the Speaker for putting forth this omnibus bill, which is one step in the direction of making our facilities safer. It works to ensure camera, blind spots, increases transparency, extends statutes of limitations, increases oversight and amends other laws to achieve the goal of safer spaces for all. However, I believe we need to do much more to reduce our prison population and we have solutions at our fingertips. This omnibus bill is addressing aspects of safety, but essentially aside from acting a deterrent, these actions all follow when an incident has already transpired. What it doesn't do is change the culture inside our walls. It doesn't work to change attitudes, it does not incentivize respect for human beings, whether they'd be incarcerated individuals or overworked COS. To do so we need to make a big dent in reducing the population, reinstating effective programs that significantly reduce recidivism and help individuals rehabilitate and acknowledge that 95 percent of incarcerated individuals will be released. If we truly focus on rehabilitation and on second looks and on second chances, we will see change. We need to come back to pass Second Look and Earned Time, the Marvin Mayfield Act, Elder Parole and Fair and Timely

Parole, then we will start to see significant systemic change.

Madam Speaker, I vote in the affirmative.

ACTING SPEAKER HUNTER: Ms. Levenberg in the affirmative.

Mr. Anderson to explain his vote.

MR. ANDERSON: Thank you, Madam Speaker. I'm going to take a moment to thank my colleague from the 68th Assembly District for bringing his valued experience being in New York State's carceral system. May none of my colleagues here in this Chamber have that lived experience and share it, but learn from it so we can actively work to improve our incarceration system and our correction system here in the State of New York. I thank the sponsor for his hard work and all of my colleagues who have legislation in this package. I think that it's critical that as legislators in this Chamber, that we all take time to visit a correctional facility across this State and see some of the things that I've had an opportunity to see over the last four years, five years here in this Chamber, visiting facilities. The reality of the situation is is that last year a man was lynched and his life was taken away from him due to the inadequacies of our criminal -- criminal justice system. And I think it's important that in this moment, that in this omnibus bill that we're working to pass today, that we say that his life matter. And we say that the lives of the other 46 plus individuals who were killed, or lost their lives, in our prison facilities here in the State of New York, that their lives matter.

This bill represents transparency, but it doesn't

represent the things that we completely need to reform this system, like Elder Timely Parole, (indiscernible) and a bunch of other critical legislation, but it's certainly a step in the right -- right direction.

So, Madam Speaker, I thank you for allowing me to speak on this bill and I withdraw my request and vote in the affirmative.

ACTING SPEAKER HUNTER: Mr. Anderson in the affirmative.

Mr. Otis to explain his vote.

MR. OTIS: Thank you. The murder of Robert Brooks opened the eyes to all New Yorkers and to both Houses of the Legislature about what's going on in our prison system. You know, it's too easy to say, the prison system is over there, we're forgetting about what's going on. That's sort of the tendency in society and it's a big mistake. It's a dangerous mistake.

So, Robert Brooks died, was murdered, but what we've also learned is how many other people died behind prison walls. Shocking. Terrible. As has been mentioned, most people are coming out. And so, what are we doing to improve education, improve job training, improve the safety of the institution for those that are incarcerated, for those that work there, so that this can be an experience that people can leave and not come back. That people can go on with their lives in a positive way. We have a start with this bill. This bill is really about a little more safety, a little bit more accountability; that's not enough. We really have to revisit our whole

correctional system and make the resources available for it to be a safe place. To be a place where people can benefit from the experience and get out and change their lives. We have a long way to go. This is a very good start. Congratulations to the Chair of the committee, Mr. Dilan, to the Speaker.

The last thing I'll say is, in the budget hearing, we heard from -- heard moving testimony from Robert Brooks' father and I -- I -- just to be there and to -- to sense the loss in -- in this horrible situation, we have to redouble our efforts to make sure, as has been mentioned by others, that his life is not lost in vain and that we change the direction of this prison system in this State as quickly as possible. I vote aye.

ACTING SPEAKER HUNTER: Mr. Otis in the affirmative.

Ms. Kelles to explain her vote.

MS. KELLES: Something that I -- I keep thinking about over and over and over again is the fact that we had six men that were directly involved in the brutal murder that we all saw, that the world saw, of Robert Brooks. There were 15 people who were involved in the brutal murder of Messiah Nantwi and every single one of them, except for one, is still walking free. And I think it's really important for all of us to imagine what it must be like to be the family members knowing that the world viewed those videos and all of those people are still free, because that would not be the case if they were Black or Brown people. They would be in prison. I think that's really

important because what we saw in those videos is that abuse is happening and no one can deny it at this point.

Does this package go far enough? No, absolutely. For those -- those families? No, it does not. It does address, it is a start, it does address accountability. And I want to thank the sponsor for having the courage to show humanity and show emotions, because there are very few men that are willing to do what you just did and I want to thank you and honor you for that. And you also brought up the Earned Time Act that I sponsor and I just want to thank you for acknowledging. We might not have all the details worked out, but we will get there and I will keep fighting with you to make sure that happens, because we know that it reduces violence against corrections officers. We know that it reduces violence between those incarcerated. We know that it reduces recidivism rates. We know that it builds inspiration, that it brings families back together. We know that it's good for literally everybody and there are more Republican states in this country that use it way more than we do. We're behind and we need to catch up, because it's the right thing to do. To build -- to build workforce development, education and send people back into communities knowing that we truly, truly created a correction of -- a system of corrections and not a system of punishment, which is too often what it is now. That we hear from our colleague that is formally incarcerated. We hear that too often.

ACTING SPEAKER HUNTER: Thank you, Ms. Kelles. How do you vote?

MS. KELLES: So I stand in the affirmative and I vote yes on this bill.

ACTING SPEAKER HUNTER: Ms. Kelles in the affirmative.

Mr. Gandolfo to explain his vote.

MR. GANDOLFO: Thank you, Madam Speaker. I'll be voting no on this bill, but that's not because there's nothing good in it. I won't reiterate all the reasons, some of my colleagues have laid those out pretty well. But one issue as it pertains to this bill is the expansion of the Commission on Correction, but not including someone who's truly looking out for the interest of the COs. And that doesn't have to be an ad -- in an adversarial manner, but someone who can make recommendations on how to improve safety for them because at the end of the day, the COs are also tasked with keeping the incarcerated safe and if they are overworked and understaffed, I don't think we will truly ever get to the place we want to be in terms of our prison conditions. If -- I think the Governor would be well-served to send a chapter amendment back to this House, adding a representative for the COs on the Commission on Corrections, I think that will pave the way to truly getting where we need to be and fixing the issues within our prisons. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Mr. Gandolfo in the negative.

Ms. Shimsky to explain her vote.

MS. SHIMSKY: Thank you, Madam Speaker. We

are nowhere as a society without the rule of law and the acid test of the rule of law is how we treat people when we incarcerate them. What many of us knew before the murder of Roberts Brooks and what everyone else learned thereafter, is that the failure of our State corrections system is so close to total that our facilities are really this generations Willowbrook.

This omnibus package is a great start, but what really counts is what we're going to do in the next several years. What we are going to do with all of the information we've gleaned from the reformed packages tonight. I am thankful that Mr. Dilan is going to be leading the charge on that. And in that spirit, Madam Chair, I vote in the affirmative.

ACTING SPEAKER HUNTER: Ms. Shimsky in the affirmative.

Mr. Zaccaro to explain his vote.

MR. ZACCARO: Thank you, Madam Speaker. Today we stand at a pivotal moment in pursuit of justice and reform within our correctional system. And before us is a comprehensive package that not only seeks to enhance accountability and transparency in our correctional facilities, but also addresses the urgent need for reform. Reform that has been long overdue. For too long, our prisons have been places where justice is overshadowed by neglect and systematic failures and recent tragedies that have underscored this reality, reminding us of our moral obligation to act. In the heartbreaking murder of Robert Brooks at the hands of

correctional officers is a stark reminder of that urgent need for reform. His story is not just one of loss, it is a call to action. A demand for a system that prioritizes safety, dignity and humanity, both for those who are incarcerated and for the dedicated officers who serve. Let us remind that while this package represents a critical starting point, it is not the finish line. It is where we must continue to push for additional reforms, for we owe it to those who have suffered in silence and to the families who have lost loved ones to a system that has repeatedly failed them.

And in closing, I'd like to leave you with the words of the author and activist, Audre Lorde, who said, "It is not our differences that divide us. It is our inability to recognize, accept and celebrate those differences." So, let us not allow our differences and perspective on justice and reform to divide us. Instead, let's us -- let it unite us in our commitment to address these injustices within our prisons and champion the reforms that are so desperately needed.

And with that, I proudly vote in the affirmative. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Mr. Zaccaro in the affirmative.

Mr. Gibbs to explain his vote.

MR. GIBBS: Thank you, Madam Speaker. I stand here conflicted. I'm a hard negative on the bill. I believe that it doesn't do enough and in expediency to put out a fire, we put together a package to address certain things, but not the most serious of the

correctional facilities.

I want to go on the record and say that all correctional officers aren't bad, but every correctional officer isn't Billy Jones. Just like every incarcerated individual isn't Eddie Gibbs. We have to communicate better and listen to one another and respect one another during that conversation. But, more importantly, there are people in prison who are suffering. Everyone in prison isn't a murderer, everyone in prison isn't pedophile or a rapist. Some of them have mental health issues, some have drug additions [sic] but yet, they are suffering in the walls and fences by abuse of correction officers. I shared with you guys that five of them stomped on me for 25 minutes. It was horrible. I know the fear. When I walk inside these facilities, I see these young men and these women afraid. This package has simply just put out a fire, it doesn't address that.

So, I'm a -- I'm a negative on the vote. I think we're gonna do better next year. I remain hopeful. I pray a lot. I thank my colleagues on the other side for praying with me. And we just have to do better. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Mr. Gibbs in the negative.

Mrs. Peoples-Stokes to explain her vote.

MRS. PEOPLES-STOKES: Thank you very much, Madam Speaker, for the opportunity to explain my vote. I -- I think this is a start. I have to be honest, when I first got a glimpse of the video, I couldn't even watch it. I had to go -- keep going back in order

to see the whole thing, because I don't watch scary movies either and I don't watch things when people are being hurt and bludgeoned. I just don't watch that sort of thing even on movies. So I had a hard time watching that. But I have family that work in corrections and so I called them up. And was like, *what -- what -- what is -- what is this about? What is this going on?* And yes, they acknowledge that there is -- that does happen sometimes, but it doesn't happen all the time. And so, one of my cousins, she sent me a letter from one of her colleagues who had just resigned because of the conditions that he had to work under, and in his words in the letter that he sent to me he said, "Not every correction officer is a bad person, just as not every -- just as not every officer works to their -- but every officer does not work to their limits. It is easy to generalize, but the reality is more complicated. He worked -- I worked in corrections for seven years. I witnessed the bad and I spoke up. I also saw the good and I spoke up. The truth is is that correctional systems affects everyone, including officers, the incarcerated individuals and their families." This young man decided to retire, or to resign, rather than keep working in a situation like this. That says that this is a start in this legislation, but we -- we got to fix this. We have to figure out how to fix it that engages everybody. So, I will say that the only thing that should be different in this beginning legislation is that there should be somebody who is either an -- a former correction officer, or a current correction officer who sits at the table to come up with how we fix this problem. And I vote in the affirmative.

ACTING SPEAKER HUNTER: Mrs. Peoples-Stokes in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the result.)

The bill is passed.

Page 5, Rules Report No. 656, the Clerk will read.

THE CLERK: Assembly No. A06453-B, Rules Report No. 656, Bores, Lasher, Seawright, Paulin, Tapia, Raga, Shimsky, Reyes, Epstein, Burke, Hevesi, P. Carroll, Zaccaro, Hyndman, Lupardo, Kassay, Lee, Davila, Schiavoni, Lunsford, K. Brown, Tannousis, Torres, Hooks, Gibbs, Romero, Colton, Conrad, Meeks, Glick, Cruz, Cunningham, Forrest, Chandler-Waterman, Stirpe, Wright, Simon, Dais, Jensen, Rozic, González-Rojas. An act to amend the General Business Law, in relation to the training and use of artificial intelligence frontier models.

ACTING SPEAKER HUNTER: On a motion by Mr. Bores, the Senate bill is before the House. The Senate bill is advanced.

An explanation has been requested.

Mr. Bores.

MR. BORES: This bipartisan bill, which earlier today passed the Senate with support from every Minority party member, is focused on keeping us secure from the most extreme risks from advanced AI development. AI experts in industry themselves have said that we need urgent regulation within the next ten months.

This bill, which only applies to the largest companies and developers, focuses on holding them to commitments on safety they've already made. In particular, every company that this would likely apply to today, has already committed to quote, "Give significant attention to biochemical and radiological risks, such as the ways in which systems can lower barriers to entry for weapons development and to publicly disclosing their red teaming and safety procedures in their transparency reports." As such, this bill requires that those that spend $100 million, or more, on compute costs for training models, have a safety plan and disclose critical safety incidents. And because this bill establishes light-weight guardrails that keep New Yorkers safe, it's supported by 84 percent of New Yorkers across party and hopefully all of you.

ACTING SPEAKER WOERNER: Mr. Blumencranz.

MR. BLUMENCRANZ: Thank you. Will the sponsor yield for some questions, please?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. BORES: I will.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. BLUMENCRANZ: So, we did discuss this in Committee, but it seems that the bill's changed a little bit from there, so a few of the questions might seem a little bit familiar. As far as the

changes from the A- to the B-print, many of the provisions surrounding the sections relating to employees, et cetera, have changed, correct, or have been removed altogether?

MR. BORES: Correct.

MR. BLUMENCRANZ: Also, any -- anything similar or resembling a private right to [sic] action is also removed, correct?

MR. BORES: I would argue there was none established in the original as well, but this one we explicitly put in a clause that no --

MR. BLUMENCRANZ: Yes.

MR. BORES: -- private right of action is created.

MR. BLUMENCRANZ: Nothing in this article shall be construed to establish a private right [sic] to action. So you're pretty crystal clear there, correct?

MR. BORES: I think so, yes.

MR. BLUMENCRANZ: But there is -- the Attorney General may still bring a civil action in the new version as well?

MR. BORES: Correct. Right. It is saying it is not creating a new private right of action. All of the enforcement is done by the Attorney General, and any separate question about liability is handled in common law already before or after this bill.

MR. BLUMENCRANZ: So this bill has made its rounds in a few State Legislatures, California in particular where it passed and had been vetoed. What are the most fundamental

differences between this version and the version that didn't quite make it past the Governor's desk in California?

MR. BORES: Yeah, this is a very different bill than the one in California. There are a number of things we've changed. There's obviously extraneous provisions like they were creating their own version of Empire AI, and they were also doing Know Your Customer on Cloud providers. We've taken all of that out. But on the meat of the bill, there's a number of differences. First is we put in the definition of a large developer, so it only applies once you spend 100 million or more. The California one could include people that spent only 10 million. We also apply it at the company level, not the model level, so they don't need to make 100 safety plans if they have 100 models. They can have one and update it yearly. It's much simpler for compliance purposes. There's no reference to any kill switch, which was a big fear that many people talked about. And different versions of the California one over time established a new office or did in this one, does not establish any government office to -- to any new government office. And I think the biggest difference now in the B-print is that there are no audits in this bill at all. But there was a lot more opposition earlier in Session, and most of that was focused on the audits themselves.

MR. BLUMENCRANZ: So no outside third-party audits at all.

MR. BORES: No outside third-party audits in this bill.

MR. BLUMENCRANZ: Let's go through some of the definitions, then. You just talked about the frontier model. You make specific mention also within your definition of "critical harm."

MR. BORES: Yes.

MR. BLUMENCRANZ: But there is a definition in there that I did have a question about. You talk about unreasonable risk of critical harm. How do you define "unreasonable risk"? I couldn't find it in the bill.

MR. BORES: So, a reasonableness standard is one that's been part of common law juris prudence for centuries, and is applied in a lot of cases. We do have a very specific definition of critical harm which is in the bill, as you --

MR. BLUMENCRANZ: Very specific.

MR. BORES: Yes.

MR. BLUMENCRANZ: So, I mean, almost so much so that I -- I was curious in some situations because you do include critical harm means death or serious injury of 100 or more people or at least $1 billion in damages to rights, money or property, et cetera. If a system that is -- would qualify under this as a large-scale Frontier model were to commit a horrible crime like take down a plane. There were 87 passengers. They would not -- that would not be considered a critical harm, and thus, they -- you know, how would that affect them versus maybe a plane that went down with 110 people?

MR. BORES: So -- so common law juris prudence, right, would already handle any questions on after-the-fact liability.

What this is saying is trying to be specific to the most extreme cases are those the ones that developers need to plan for, or to plan against, I should say, and develop tests in order to prevent. We had to draw the line somewhere. What we are trying to make clear is that we're really talking about the very extreme versions. We're not saying they need to plan for very potential use of their models.

MR. BLUMENCRANZ: So it's not arbitrary, but it's a little arbitrary.

MR. BORES: Well, any time you choose any number, right, you're making a choice. So yes, we've made a choice on a specific number here, but it is meant to point to the extreme cases.

MR. BLUMENCRANZ: Okay.

My next question is related to the -- the implementation of it on the knowledge distillation models, the 5 million threshold. Could you explain what sort of company would be captured in that definition? Because that seems to be pretty troublesome for the smaller businesses out there; for the start-ups out there, for those who might not be able to pay the massive penalty who might now be captured.

MR. BORES: So, the knowledge distillation clause is meant to ensure that we are covering risks from developers that do the very specific process of knowledge distillation, which I'm happy to go into if you'd like, that can create a smaller model from a bigger Frontier model that has similar capabilities. But very important in this

bill is that if you do that once, you do that for a $5 million model, you are not covered in this bill. The only time this bill applies is when you have spent an aggregate $100 million directly on computes, directly on the final training run of models. So it will not affect smaller companies.

MR. BLUMENCRANZ: Who qualifies the direct compute? I think about DEPS, right, DEPS came out with those --

MR. BORES: Yep.

MR. BLUMENCRANZ: -- amazing headline that they built it with no money at all. But the PLA, the Chinese government, private investment, all behind that. A small number was a much larger number. So because they said they did it for 10 million, would they be considered Frontier? Who makes that qualification that they are a Frontier model or not? I mean, not every company is domiciled in the U.S. Are we taking their word for it?

MR. BORES: So with DeepSeek in particular, the model that really caught fire and made news was -- cost over 5 million to train, was made from knowledge distillation, but it wasn't made from knowledge distillation of a Frontier model. It was trained on 01 from OpenAI, which would not meet the first definition of being 10^{26}. So it wouldn't apply in that case. But similar cases in the future that would be trained off of a Frontier model would be included in this bill.

MR. BLUMENCRANZ: So once -- so a start-up in New York would be captured in this regulation but Chinese, you

know, government-sanctioned models that are being used in New York would not be captured?

MR. BORES: Any Frontier model with a nexus to New York -- and it's specifically defined in the bill as being deployed wholly or partly in the State of New York -- would be covered. And so insofar as DeepSeek is on the App Store, it's available in the State of New York, would actually capture a future version of DeepSeek if it met the other criteria for being a Frontier model.

MR. BLUMENCRANZ: You say a future version. So the current model doesn't qualify, but if there's a -- there's a continuous movement of when you may qualify if you continue to spend money on the creation of a next generation or -- a next generation?

MR. BORES: There are -- there are very few models that are confirmed to have the 10^{26} FLOPs and 100 million in training. So this is -- the bill mostly focused on the models that are coming, not the ones that we're all familiar with and already working on.

MR. BLUMENCRANZ: Do you not see a world in which this facilitates, especially if this model becomes a multistate where we're moving companies or sort of maybe accidentally urging them to move into a black box and out of an open source because now they don't want to comply and then can do so without necessarily being a open source version of one of these models?

MR. BORES: I -- I don't think so. This bill is compatible with Open Source. The companies themselves have to

design their own safety plan, and they can continue to produce these open-weight models after this bill or before it. I'll note that what came in as an opposition memo said that they estimated that this would require one full-time employee to comply with. One full-time employee for Meta or for Google is not gonna cause them to move.

MR. BLUMENCRANZ: You're saying that you don't see a future in which the capture for, let's say, maybe not the Frontier model, which I'm up for debate as well, but the knowledge distillation threshold, there are only a few companies that are performing these at a -- at a basis of 5 million more than once?

MR. BORES: Well, there's only a few companies that would get up to that 100 million spent, yes.

MR. BLUMENCRANZ: Okay. And your -- it's, I guess, predictive that you'll start capturing every new Frontier model by hitting this number?

MR. BORES: I actually -- well, it's sort of circular because we're defining the Frontier model. But to take the question more expansively, I think in many ways this is underinclusive. And I've gotten that feedback from industry itself, actually as recently as a few hours ago, that they think the definition is in some case too limited in Frontier models. But I did really want to focus on the most extreme risks and -- and take a, again, light-touch approach to what we're regulating here.

MR. BLUMENCRANZ: Okay.

Let's talk about the time period of disclosure. What

made you land on the 72-hour mark for large developers and learning models or -- sorry, for incidents, rather?

MR. BORES: The 72 hours is based on other provisions in New York where we have a similar time frame, I think, around cyber disclosure, more nuclear disclosure. But we were very intentional in limiting what has to be reported within those 72 hours. It's simply that an incident occurred, which of the enumerated types it was, and we put in the bill a short description of what happened. So we do not require reams and reams of paper reporting. We just want notice that something occurred. With how powerful this technology is, something could spin out of control quickly so we think it's important to hear about it fast.

MR. BLUMENCRANZ: When we talk about the violations, the civil penalties, et cetera, you're -- you're pretty -- pretty narrow in who qualifies somewhat. But -- but the article shall only apply to Frontier models that are developed, deployed and operating in part or in whole in New York State. Is there any definition to what level of participation the New York State marketplace -- could they be selling a product if it's a product that is (indiscernible) now, but selling something later, would they qualify or just simply operating in New York? Where does that qualification level --

MR. BORES: Certainly -- certainly, operating and developed in I think are fairly clear, and deployed is defined in the bill itself as being used or being made available to a third-party for them to use.

MR. BLUMENCRANZ: When it comes to the section relating to the unredacted copy of the policy, so you had enumerated in this new iteration of the bill what can and can't be redacted as far as trade secrets, et cetera, some of the main concerns previously. In the unredacted copy, who has the access to that and where and how is it potentially secure within the publication under this piece of legislation?

MR. BORES: Yeah, this was feedback that we got from the industry quite a bit, that they didn't want to trust government agencies with an unredacted copy. Now, I think that severely underestimates the skill and professionalism of, say, the Department of -- of (indiscernible) here in New York or -- or the OAG. But we wanted to take that under advisement, so we said that all we have to do is grant access to it. So you could be viewing it virtually, right, that needs to be shared. But you never need to send the unredacted copy, it never needs to be stored on a government server.

MR. BLUMENCRANZ: What mechanisms in the bill exist to ensure that we're not locking ourselves into a static framework that becomes obsolete over time when implemented? We're often seeing legislation related to this topic come in and out of this House and other state legislatures that by the next session may not necessarily be the language you or I would have chosen. How does this bill and the language try and prevent that -- that issue here?

MR. BORES: I mean, we've had a lot of conversations with industry and -- and with activists and thinking

about how to set it up to be as future-proof as it can be. AI models will also continue to develop. Thankfully, as far as I know, the New York State Legislature does plan to be in Session in 2026, so if we need to update it I look forward to doing that.

MR. BLUMENCRANZ: So why not place maybe more of a sandboxing or a sunset provision or something that allows the Legislature to work and allow for the policy to evolve instead of being so sweeping with such punitive regulation here? Why not create -- or would you support an amendment that would maybe sunset the bill if no changes are needed or if we feel like it becomes antiquated over time?

MR. BORES: In -- in other bills, as you know, I -- I've put sunsets in, specifically when we're talking about a specific technical standard that might change over time. But this is talking about largely the company policies and processes. And, again, they're things that all of these companies have committed to already, and so I didn't see a need to have that sunset.

MR. BLUMENCRANZ: So, oftentimes when we're talking about these sort of frameworks -- and I know people, everyone from on the left to the right, Nancy Pelosi in the California argument herself said that she wasn't a fan of frameworks like this one, but are more inclined to focus on either a Federal regulation or see states take a more risk-based, use case-specific framework that targets AI applications where they find that they may be most malicious to the public. Why take this sweeping action and not the scalpel or a more

narrowed approach that makes more sense with both industry and the marketplace?

MR. BORES: I -- I'd have a few things there. One would be that I don't think this is taking a -- a wide approach. It's actually, as you've seen, very narrowly-tailored to the largest risks, the largest companies, and only a few specific actions they've already committed to. And I think the 1047 opposition, that was a very different bill that had audits in it, that had all the different things that we talked about. So I wouldn't describe those two things as similar or that anyone's thoughts on the first should -- should detail their thoughts on the latter. We were very -- we listened to all of that feedback and incorporated much of it.

MR. BLUMENCRANZ: But I'd like to say that I appreciate the fact that unlike Connecticut, say, which didn't necessarily listen a lot on feedback and faced the same adversity that California did, there have been some significant changes here which I do want to say I appreciate.

Would it make -- if we're not -- if we're serious about AI safety, then how does this bill protect against the foreign adversaries that are becoming, you know, a bigger factor in this conversation? We're -- we kind of transcend State lines with an issue this big with so many national security implications. Do you think that this hinders innovation in New York if there's a framework here that's exclusive to here, that these companies may just go overseas? And if they don't like many crypto and financial assets that just simply

aren't available in New York, they would just leave themselves out of the New York market until they figure out how to correctly regulate those?

MR. BORES: I -- I do not think that these American companies that you're talking about or even foreign companies will want to leave the New York market and all of our consumers here. Every time we do any type of regulation, people threaten to leave the State. Again, even the opposition is saying this would require one full-time employee to comply with. So I don't think that's causing anyone to leave. But I would add to that that China actually regulates their AI far more than we do here in the United States and far more than anything that has been proposed. I mean, the CCP has really tight screws on what any model can say and really digs into how all of it is developed. So regulation is not gonna be the reason there's a difference between -- between our countries in development. But the threats from foreign -- foreign threats is actually one of the motivating factors of a specific clause in this bill of 12(b), where we ask for reasonable administrative, technical and physical cybersecurity protections for Frontier models within the large developer's control that if successfully implemented appropriately reduced the risk of unauthorized access to or misuse of the Frontier model, including by sophisticated actors. We are specifically saying one of the biggest threats to American innovation and development of AI is the model weights being stolen or the details of models being stolen by foreign adversaries, and this is requiring our companies to take that threat

seriously.

MR. BLUMENCRANZ: How do you speak to many of the questions we've seen from individuals in the industry and the non-profit AI space, do still have serious concerns about the downstream liability that exists, specifically relating to the knowledge distillation models, the student-teacher models, et cetera, and that -- that threshold of 5 million does make many feel like they may be captured even though they are not a Frontier model and they're not spending 100 million at the moment. Would they be captured in any way, shape or form? Do you see not -- non-profits having to deal with this regulation, not necessarily just the Metas of the world?

MR. BORES: No. Because -- well, first of all, academic research is completely exempt --

MR. BLUMENCRANZ: Yes. I appreciate that removal, too.

MR. BORES: And -- and -- but specifically, this only applies if you become a large developer. And a large developer, there's a hard requirement that you have spent $100 million in compute costs in training models. It's very specifically designed to ensure that no smaller player, no small non-profit, no start-up, no even medium or pretty large start-up is being captured by this.

MR. BLUMENCRANZ: I just have trouble under -- I -- yes, I understand we can't be a capture-all while at the same time trying to be hyper-focused on some. This is a tricky topic to try and target and pinpoint who we may regulate because the target is

constantly moving and the bar is also constantly moving. But don't you think that this leaves clear and present danger? And as -- as governors in the past that have vetoed this have said, have created a false sense of security or any false sense that we're actually helping to move the needle in security in AI by only specifically targeting these, where a smaller model that is built to be more harmful can fly under the radar, a black box under the radar? And yet these individuals who are building these models on a large scale in a open source manner will now be punished for doing so by having to create these guardrails and publish this information?

MR. BORES: Well, I -- I don't know about what you said at the end there about -- no one's being punished and no one -- there's no -- this is just --

MR. BLUMENCRANZ: Well, they're -- they're facing specific regulations hyper-targeted to them versus other companies that are operating privately that just won't have to regulate (indiscernible/cross-talk).

MR. BORES: Well, but it's not hyper-targeted at open source or closed source. It's hyper-targeted at large developers, right? That's -- that's who it's targeted at. I agree with you that there are additional risks out there, and I --

MR. BLUMENCRANZ: Are there -- sorry. Are there large developers who are not disclosing how much they're spending on their model?

MR. BORES: Are there large develop -- yes, now at

-- at the current point there are. But --

MR. BLUMENCRANZ: And they would not be captured?

MR. BORES: No, they would -- if you don't disclose the money it's still about having spent the money, right? And so if you were spending the money, you are covered. If you tried to hide that and tried to not report, then you would be subject to the penalties in this bill.

MR. BLUMENCRANZ: So -- I'm just trying to understand, a foreign company who doesn't necessarily have to abide by the reporting standards here necessarily in the same way, they would still be regulated in the same fashion even if we don't necessarily know for a fact how much they're spending on --

MR. BORES: If they are making their products available to New Yorkers, yes.

MR. BLUMENCRANZ: Okay. I believe that is the end of my questioning for you on this one. Thank you so much.

MR. BORES: Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Blumencranz.

Mr. Maher.

MR. MAHER: Thank you, Madam Speaker. Will the sponsor yield for some questions?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. BORES: Of course.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. MAHER: All right. So I appreciate you being available to answer some of these questions. For me, when I think about this conversation and AI in general, it's a learning experience. I am completely open to an education, whether it's from you or anyone else that comes my way. So I'm hoping this could be a conversational and a learning experience.

So the more that I learn about AI, the more that we look into what other states are doing. Some folks that have enacted different laws in their states that they're kind of backtracking now and trying to change and encourage others to be careful, which hopefully we're all learning from. And they basically talked about a couple questions to ask when putting legislation together. So I'll ask them to you.

MR. BORES: Great.

MR. MAHER: The first one is, has AI been sufficiently defined? So I would ask you, how would you define AI?

MR. BORES: Well, there is -- there's a definition in the bill, if you're asking the legal definition, and it's the same definition that we passed earlier in the budget. So we're making sure there aren't duplicate definitions of artificial intelligence out there. And I could give you a more generic one if you'd like, but I would -- I would probably refer to the bill to the specific definition that's there.

MR. MAHER: So, specifically, I would ask, I believe it's not in the bill, the specific language. But when we talk about AI specifically, generative AI is something that we probably could capture and talk about more specifically than something more in general. So when we talk about your bill and how it's written, I guess my concern is is it too general?

MR. BORES: So, generative AI I believe we also defined in the budget separately earlier, and so that part I think is taken care of. The definition in the bill, which I'm happy to read because it -- it is quite specific, is artificial intelligence means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments, and that uses machine and human-based inputs to perceive real and virtual environments, abstract such perceptions into models through analysis in an automated manner, and use model inference to formulate options for information or action.

MR. MAHER: Okay. A couple things. Let's start with machine learning -- machine system analysis. So just to give you a hypothetical -- and I -- I know you talked about a couple of different larger businesses and only certain companies being subject to this bill. But when we talk about things like algorithms and, you know, general machine learning, I think of just regular computer software. Like, let's say an Excel spreadsheet. So I know you have liabilities in here and penalties in here. So let's say I'm using an Excel spreadsheet and I ask

it to compute, in alphabetical order, a list of 500 companies, and by name -- let's say it's by last name. It goes from X to Z. Well, theoretically, you could be discriminating against an Asian population or a certain type of population that has those letters that start with that alphabet. Would they have punitive liability?

MR. BORES: No. First of all, it's -- there's -- again, there's no new PRA as part of this. Second of all, Excel wouldn't meet the general definition of artificial intelligence to sort algorithms. It's not something that would meet that. Third of all, it's certainly not a Frontier model. It's not 10^{26} FLOPs and spending 100 million all on its training. And fourth, there's no bias or discrimination clauses anywhere in this bill. This is just focused -- the reason it's focused on the largest models and the reason it's focused on the largest companies is that we are really pinpointing the extreme potentially bad outcomes from artificial intelligence development. That is all this bill is focused on. Not bias or discrimination or any of those other problems which are real problems and we should tackle, but are the subject of other legislation.

MR. MAHER: Thank you, I appreciate that.

The next one I want to get into is, has the proposed legislation adequately identified specific harm? So when putting this legislation together, can you speak to some specific harms and examples of that and why this leg -- legislation is necessary?

MR. BORES: Yeah. So -- so this legislation is focused on what we defined as critical harm, which is the AI model

either materially aiding and creating a chemical, biological, radiological or nuclear weapon --

MR. MAHER: Okay.

MR. BORES: -- or committing what would be a crime under the Penal Code with no meaningful human action. So you give it a quick, short command and it goes off and does a crime. That's not something you're, like, telling it do to. And in committing either of those actions, materially enabling that -- so if it's just -- matches what you could find on a search engine, it doesn't count. And has to result in 100 deaths or $1 billion in damages. It is a really sort of specific set of harms that it's focused on.

MR. MAHER: Okay. Thank you for that.

And then my next follow-up to that would be, have current legal and regulatory powers failed to address these specific harms? Are there any sort of guidelines out there? Are there any Federal agencies out there that are already around to make sure that these things do not happen?

MR. BORES: Yeah, there's a lot of voluntary conversations and voluntary commitments. And what we are seeing is companies that have made those commitments now are not necessarily living up to them. Through this process I've talked to all of the large developers, probably many, many times, and I've asked most of them, *Do you stand by the commitments you made to the White House in 2023? Do you stand by the sole commitments? Do you stand by the commitments that you made at each of these conferences?* And they

all say, *Yes. We have not rescinded any of our commitments,* and yet they're not living up to them. So we have started to -- they have acknowledged they need to do it and that they can do it and that they will do it, but they're still not doing it. So that's why we need some binding legislation.

MR. MAHER: Who's "they"?

MR. BORES: I don't know that I wanna be picking on any of the specific ones, but you -- you know the large AI developers.

MR. MAHER: Okay. Appreciate that. All right.

I know there were some edits to this bill. Was audits edited out?

MR. BORES: Correct.

MR. MAHER: Okay. What -- what was the specific change on that from the original bill?

MR. BORES: It was completely eliminated.

MR. MAHER: Okay, great. Thank you. I had a couple of questions related to audits.

Okay. Litigation, we hit on that. All right. I have another question for you. It look like this goes specific to, like, Frontier models. Have you been, you know, speaking about that? Can you better explain to -- to myself and others?

MR. BORES: Yeah. The Frontier model is -- is a name to describe something that is on the frontier of the current research that is happening. It is the most powerful, the most -- the

largest models in general, right? Those that have the most capabilities. And that is really when we're getting into an area that we're not sure we know how to control or we certainly -- that we don't want to fall necessarily into the wrong hands. So some of the -- this bill in particular has been supported by -- we -- we have a letter that I think I've sent around that was signed by two of the "Godfathers of AI" they're called.

MR. MAHER: Okay.

MR. BORES: Yoshua Bengio and Geoffrey Hinton, that won the Turing Award, which is like the Nobel Prize for Computer Science for inventing deep learning. And Geoffrey Hinton also separately won the Nobel Prize. He's a very impressive man. But -- but they have said they've invented this technology, they see where it's going, and they think based on that Frontier we need urgent action in order to keep people safe. And so that's -- we're focusing on those risks specifically from the Frontier models.

MR. MAHER: I appreciate that. Thank you.

I know you made some comments about some of the smaller companies not being impacted by this, just the larger companies. Would that be kind of a disincentive for some of the smaller companies that might want to be bigger when they grow up and be more successful and become a larger company, or do you see this being completely different in scale?

MR. BORES: Again, the -- the opposition memo that said it will cost one full-time employee to comply with, I don't think

that one person is gonna dissuade companies from wanting to grow.

MR. MAHER: Okay. I appreciate the answers to all my questions.

Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. MAHER: All right. So, I am still learning. I wanted to take this opportunity and the platform we have to educate myself and others more. I know that I join most New Yorkers and most Americans, I believe, when I can say we -- we don't quite know enough about AI. But it is not just our future, it's our right now. It's gonna impact us in big ways moving forward. And one thing that I've been learning and I've been asking is, you know, when we talk about State laws that are getting enacted, is that going to hurt the technology and its advance -- advancement. And on the folks that we're trying to help and our society that we're trying to help, rather than hurt it. And one of the things that I wanted to read was a joint statement, this is from 2023 and it's, to my knowledge, still being practiced today. A joint statement from the Director of the Consumer Financial Protection Bureau, the Assistant Attorney General for the Justice Department's Civil Rights Division, the Chair of the Equal Employment Opportunity Commission, the Chair of the Federal Trade Commission. And this is a statement from all of them that speaks to Federal involvement and enforcement of AI and technology in general. "America's commitment to the core principles of fairness, equality and justice is deeply embedded in the Federal laws that our

agencies enforce to protect civil rights, fair competition, consumer protection and equal opportunity. These established laws have long served to protect individuals, even as our society has navigated emerging technology. Responsible innovation is not incompatible with these laws, indeed benefits to people in a fair and competitive manner such as increased access to opportunities, as well as better products and services at lower costs. Today, the use of automatic systems including those sometimes marketed as artificial intelligence, or AI, is becoming increasingly common in our daily lives. We use the term "automated systems" broadly to mean software and algorithmic processes, including AI, that are used to automate work flows and help people complete tasks or make decisions. Private and public entities use these systems to make critical decisions, housing -- that impact individuals' rights and opportunities, including fair and equal access to a job, housing, credit opportunities and other goods and services. These automated systems and cost savings and modernizing existing practices, although many of these tools offer the promise of advancement, they're used also as a potential to perpetuate unlawful bias, automate unlawful discrimination and produce other harmful outcomes."

These are just a couple examples of some of our law enforcement agencies that are guarding us from AI and other technologies. I want to make sure that we're all mindful of the current laws that are on the books and the agencies that are out there trying to help with some of these protections as we continue to develop AI laws

in our own State and all over.

Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Maher.

Mr. Norber.

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

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. BORES: Yes.

MR. NORBER: Thank you very much.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. NORBER: It's kind of weird to speak to you like this over here, but I'll manage it somehow.

So I just want to understand a little bit more the genesis of this, where it came from, where it started. You said earlier when you were speaking to my colleague Maher, that you spoke to some of these companies. Are -- do they share with you the idea that there might be some type of critical harm that they might, even by themselves, create accidentally?

MR. BORES: I think their lawyers are quite careful in editing some of those statements, but in essence, yes. As I -- as I said in my opening explanation, they have all signed those commitments that, as I read off, I won't repeat, but say they should be

focused on these large harms, they should be disclosing their safety plans. Those are all things that they have signed. And then separately, most of them already have safety plans that talk about addressing these very real harms.

MR. NORBER: So did we initiate this, or did they want to come to us and say, *Look, we need better regulation. In some way, we would like you to help us do a better job at making sure that critical harm doesn't occur?* Because I'm trying to understand where this all comes from.

MR. BORES: A meeting of the minds.

MR. NORBER: (Indiscernible/cross-talk)

MR. BORES: And I will say that, you know, as -- as an example, but Anthropic, one of the large companies, published a blog post on Halloween last year -- I didn't choose the date, but -- and they said that the industry desperately needs regulation. That they would prefer it at the Federal level, but they don't think the Feds will act fast enough so they'll take it at the State level, and that it needs to happen in the next 18 months. Now, that was seven months ago, so that puts us at April of 2026. Now, I'm not saying that they have endorsed this specific language or any word of that, right? I don't mean to imply that. But, yes, people in industry, not just the inventors of AI and the academics behind it that I cited before, but some of the companies themselves are calling for it.

MR. NORBER: Because we know since the infancy of AI that there's been a lot of debate about what will be the final

outcome of this. Will this be a Terminator 2 scenario or will this be the best thing that ever happened to humanity? So I know that we should take into concern that we don't wanna scare anybody with this bill. We're saying here, now we have New York State admitting that we need to protect ourselves from biological warfare or whatnot. So are there other states that are agreeing to this type of regulation or legislation?

MR. BORES: I -- I think I count eight other states that had or have a bill live in their legislature this year, trying to get at this question. So, yes, other states are looking at this as well.

MR. NORBER. Right. So California opted out of it. They had legislation that they put in and the Governor vetoed it, correct?

MR. BORES: Yes. Although, if I may, the "it" there when you say opt out of it is really important, right? The Governor vetoed a specific bill, but he then created a commission to study what should be done at the State level --

MR. NORBER: Right.

MR. BORES: -- and he put on that commission one person that really opposed that bill, one person that really supported it, and one person who was kind of neutral. That commission is coming out with its final report any day now. But they did a preliminary report two months ago, and what that sort of commission that was from people who supported and opposed the bill, came out as the consensus recommendation about what should be done at the State

level. First of all, it emphasized that things need to be done fast, that the window is closing. And second of all, largely called for just the provisions that are in the RAISE Act. So I don't want it to be said that California rejected this. They rejected another model and what they're putting out is largely in line of this.

MR. NORBER: Yeah, I would assume that California would be against it since they have Silicon Valley and they just wanna make sure that companies continue to grow and to move to Silicon Valley in order to expand AI, specifically AI. And you're saying that on the Federal level it's been too slow to put in regulations such as these protocols?

MR. BORES: Yup.

MR. NORBER: Okay.

MR. BORES: Well, they don't exist.

MR. NORBER: They just don't exist.

MR. BORES: So that's sort of a sign that it's too slow.

MR. NORBER: Okay. On the intern -- let's say internet. Let's take that for an example right now. Who's right now regulating the internet, the FCC?

MR. BORES: Oh, yeah. Well, the FCC plays a large role. I think a number of different Federal regulators would be involved in aspects of the internet, yes.

MR. NORBER: So why wouldn't they just take this type of reg -- resolutions or legislation that they have there and just

implement that on the same level as AI?

MR. BORES: Great question for whichever party is currently controlling these agencies.

MR. NORBER: Okay. Okay. Can you please just explain a little bit about the compute cost? What does mean exactly? Is that $100 million that they're spending?

MR. BORES: Yeah, no, it's a great question because -- because it's not a phrase that exists often or is used in -- in -- on this floor often. But that's specifically, like, the -- the actual calculations that these supercomputers are doing to generate the model, right? That is the compute. In your computer it'd be a CPU, right, and then if you buy a computer with an enhanced one -- and these are usually GPUs. That -- that detail isn't as important as -- it's the actual calculations that are occurring. And it's specifically money that is being spent doing those calculations on the final training run. So it's not any of the tests that you do. It's not -- sometimes you build one, you see how it works, you do another. It's the final thing that goes out; whatever money was spent specifically on calculating that. That has to equal $100 million. So anyone that's spending $100 million on the final training run of compute, has probably spent $1 billion at least on that model, right?

MR. NORBER: As to a lot of us, AI is very new. So I'm just trying to consider that what you're explaining to be operating costs as a business.

MR. BORES: Yes, but it's --

MR. NORBER: (Indiscernible/cross-talk)

MR. BORES: -- a specific line item of the operating costs, not broad operating costs.

MR. NORBER: So if they're that big and they're big enough to spend $100 million on their models, then, in my opinion -- just tell me, right? How did you get to $30 million as a -- as a penalty, which is a third of their operating costs. Does that sound (indiscernible/cross-talk) --

MR. BORES: Well, yeah. It's not their operating costs broadly, right? It's a very specific piece of it. And actually now we're getting a new accounting. I'm not sure, there might be capital costs because it's training intellectual property. But -- but in either case, you know, the -- they -- the penalties are set up to be up to that amount, right? And so -- and it takes into account the severity of the violation. So if a company were to say, *We don't care. We're not following all of this and we're releasing the most dangerous model we can find*, right, that's when you start getting into that large territory. If it's a small thing, it would be a small one.

MR. NORBER: Now, isn't AI and the machine learning, isn't that something they share amongst all these organizations? Does Meta and Google and everybody all together, do they go and they share together all the information and that's how we saw four months ago pictures of AI which were -- looked -- looked nothing like they do today. Like today they're so much more advanced. It seems like the machine learning constantly learns, and

within hours or days we have a whole totally new advanced system.

MR. BORES: Well, I -- I think you have a lot of advanced actors pursuing similar things, and also just robust communication between different researchers. So I don't know that there's the direct sharing in the way you're implying, other than publishing papers in that aspect. But certainly they're sharing of --

MR. NORBER: But They're sharing.

MR. BORES: Yeah.

MR. NORBER: So let's say one bad actor, he is developing something that could be -- create ultimately critical harm, and another company gets that information somehow. I mean, who would be to blame in that situation?

MR. BORES: So --

MR. NORBER: I'm trying to give you a very crazy hypothetical.

MR. BORES: No, it's -- listen, we're talking about bioweapons.

MR. NORBER: Exactly.

(Indiscernible/cross-talk)

MR. BORES: We can discuss everything here. The responsibility lies with the original developer in this bill.

MR. NORBER: Right.

MR. BORES: And so whoever developed that model, that's the person who we would be looking at their safety plan, we'd be looking at their -- their aspect. Again, anything that happens

after it's deployed is already existing common law, and liability would of course deal with that. But this -- we'd be analyzing the safety plan of the initial developer.

MR. NORBER: Okay. And if they see all of a sudden that they're going in that direction which has to do with biological weapons or with taking down airplanes or whatnot, then all of a sudden they have to give you a call -- we have to put these safety protocols in place because now we're becoming dangerous? Because at what point do they understand --

MR. BORES: Yeah.

MR. NORBER: -- because it's so going fast. I'm just trying to understand how quickly so they know what type of safety protocols they need to develop.

MR. BORES: Well, almost every large developer -- I think every large developer, but I don't want to say that definitively -- already has a safety plan. And the way that most of them are structured -- and most of them are released publicly -- and the way most of them are structured say, *These are the kinds of tests we will do to determine the capabilities of the model, and then we'll take certain actions based on the capabilities*. So whether that action is releasing it or not or whether that reaction is, *We're gonna limit access to it and monitor it much more closely or we'll put additional* (indiscernible), they get to design the test. They get to design the mitigations for the harms. They just need to have some plan to do that. This isn't exact, but it's somewhat analogous to saying the tobacco companies knew

cigarettes caused cancer but released -- denied it publicly and released it anyway. Or the oil companies knew --

MR. NORBER: Right.

MR. BORES: -- they were causing climate change but denied it and released it anyway. This is saying if you're failing your own tests and your own tests are saying, *Hey, there's a risk here*, you probably shouldn't release it.

MR. NORBER: It's a good example you give right now because if we think about the internet or social media, which we just created a few years ago in 2007, and right now we understand the harms of it. Especially the mental harms that we have in this. So maybe we should do safety protocols for that, also.

MR. BORES: We'd love to have that conversation. Yesterday we had a bunch of youth advocates up to talk about how we missed the boat with social media --

MR. NORBER: Right.

MR. BORES: -- and we've had all these harms and let's not miss it again with AI.

MR. NORBER: No problem. Thank you very much.

MR. BORES: Thank you.

MR. NORBER: On the bill, Speaker.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. NORBER: It's just -- it's a very interesting and fascinating subject, and I thank the sponsor for putting this forward. There's a lot of things that we have to understand and what we're --

understand what we're getting into in terms of AI. At the same time, I believe that we also protect businesses who want to move to this State and to grow. Especially in this field where there's so much competition between states, between countries; China, Iran, whatnot. So we need to make sure that we still allow them and pushed them to come to New York State to do business, and -- and expand AI capabilities in our State.

So thank you very much.

ACTING SPEAKER WOERNER: Thank you, sir.

We have Mr. Otis.

MR. OTIS: Thank you, Madam Speaker. And I thank the sponsor. And people should be aware, the sponsor's worked very hard on this bill, worked very closely with our Science and Technology Committee staff --

ACTING SPEAKER WOERNER: Are you on the bill, sir?

MR. OTIS: Pardon me?

ACTING SPEAKER WOERNER: Are you on the bill?

MR. OTIS: I'm on the bill. I want -- I want to give Mr. Bores time to relax. So worked very closely with the Science and Technology Committee staff on amendments to the bill. Worked with outside groups that had critiques about the original language, and modifications were made. This was a B-print on this bill. And so -- to be commended for that.

Mr. Blumencranz mentioned the California bill. Even from the beginning of the introduction of this bill here, Mr. Bores' bill is much narrower than the bill that was vetoed in California. Really a different bill focused on high-risk situations and -- and curated that way to -- to harms.

What I'd say more generally is bills like this are highly technical. They take a lot of time. They take a lot of rigor. They are subject to change. So the issue was -- was well, what are we gonna do a year from now or six months from now. The reality is, legislation like this is gonna have to be monitored every session and updated as the technology changes, and that's very important. That is expected. This is -- these topics are very challenging for lawmakers in the United States and around the world because they -- they move most quickly. But I think one cautionary note, I would say, most of the people that write on these issues, indicate that the one thing that we cannot do is let these technologies go unregulated without guidelines. The -- the disaster situation is -- is that this -- this area just takes us over without the kind of legislative action that we're doing here. This will be a leading act around the country. Thank you for doing that. Who knows what Washington is gonna come up with. We have to protect ourselves, protect our people, and hopefully be a guide to industry around the world by laying down a good framework here.

This is a good bill. I'll be voting yes. I recommended a yes -- recommend a yes vote for everybody. I'll tell you, carefully crafted, narrow to the need. This is a good bill. We should adopt it

tonight. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Otis.

Next up, Ms. Walsh.

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

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. BORES: Yes.

ACTING SPEAKER WOERNER: The sponsor yields.

MS. WALSH: Thank you very much. And full disclosure, you know, as I believe you know from our previous conversations kind of offline, this is not something that I know a lot about, and I'm not really comfortable with it. So just -- if you could possibly just dumb it down, you're not gonna offend me at all because that's really what I'm gonna need to get through this.

MR. BORES: I would disagree of your characterization that you've given of your own knowledge, based on earlier conversations.

MS. WALSH: No, it's really pretty low. But let -- let's go anyway. Let's go. All right.

So, one of the things -- just -- I -- I guess as an attorney thinking about this, and you and I had discussed that the -- the gold standard solution here would be a solution at the -- at the

Federal level, right? I mean, that's what we want to see.

MR. BORES: Yes.

MS. WALSH: But we haven't seen it yet.

MR. BORES: Yep.

MS. WALSH: Is there anything in draft yet that you know of? Isn't it part of the Big Beautiful Bill or am I wrong?

MR. BORES: No. In fact, the Big -- I'll use the word -- Beautiful Bill --

MS. WALSH: Well, we all know what that means.

MR. BORES: Yes, yes, yes. I will use its formal name -- is, in fact, taking a step to try to ban states from taking any regulation in this space. So I actually think it's going the other way. There are drafts -- there are bipartisan drafts at the Federal level to do some pieces of -- of AI regulation, which I think is encouraging. As -- as we've discussed and as the Senate showed earlier today, this is a really a bipartisan issue. But given the speed of AI and the risk that industry and experts are saying could come this year or next year --

MS. WALSH: Yeah.

MR. BORES: -- it's really something we can't afford to wait on.

MS. WALSH: No, I know. And that's what's terrifying to me, because -- and I've said it before, I just think that this -- it's not just us here in the Assembly, it's really any government. You know, it's a deliberative, kind of slow-moving process, generally speaking, and sometimes it takes a couple of sessions to get bills done.

We've all had that experience. So it -- it's terrifying to me to think that the pace of technology in this area could so quickly outpace our ability to keep up with it. So I'm mindful of that as I ask these questions. But -- so, I believe that we had spoken before that there was almost like a consortium of states that was trying to work on this issue together. So what happened with that?

MR. BORES: It depends exactly what you're referring to, because there have been a few attempts at this. But -- so maybe if you clarify I -- I could answer the question.

MS. WALSH: Yeah. So, I mean, like, we -- I believe it was already mentioned about the California --

MR. BORES: Yes.

MS. WALSH: -- the situation in California, and then there's Colorado, right?

MR. BORES: Yes.

MS. WALSH: So, but this bill that we're taking up tonight, that doesn't match Colorado's bill, right?

MR. BORES: Correct. It does not. And -- and I would say, so I -- I would never -- using the word consortium would be far too grandiose for what I'm about to describe, but I am on a text thread with legislators in six states that are working on this and we --

MS. WALSH: Like a multistate group --

MR. BORES: Yeah, yeah.

MS. WALSH: -- of interested legislators; is that fair? Okay. So but why doesn't this bill then align with, say, Colorado's,

which passed, if the stated goal of the multistate group of legislators working on these bills was to avoid a patchwork of obligations for companies that are building AI tools?

MR. BORES: So -- so I think what you're referring to was -- was there was this multistate working group that the Future of Privacy Forum was involved in and Connecticut was involved in. And Colorado passed a consumer protection bill that became a model bill that could be used elsewhere, and I actually currently carry a bill with Senator Gonzalez that is based on that model bill. Colorado did not do a Frontier AI bill that we're focusing on here. The only thing that I think that came close in previous Sessions was California; we've already discussed the differences quite a bit.

MS. WALSH: Right.

MR. BORES: There have been, as I said, I think about eight states that had some version of a Frontier model bill this year.

MS. WALSH: So it's kind of -- it's kind of like apples and oranges then. That -- that Colorado bill was just a different bill.

MR. BORES: Correct.

MS. WALSH: It -- it's not like it was a -- a different approach to the same problem, it's just a different bill.

MR. BORES: Absolutely.

MS. WALSH: Okay. All right, I understand that.

So could you help me to understand -- I understand

the concept of, believe it or not, of the Frontier model, and I understand the concept of, like, how much of an investment the company would have had to put into development in order to qualify. But are we only talking about -- we're not just talking about New York State companies that are doing this work, are we or are we?

MR. BORES: No.

MS. WALSH: Okay. All right.

MR. BORES: Any company that is deploying its product in New York.

MS. WALSH: Okay. It could be --

MR. BORES: So they don't to be headquartered here. Yeah, it would apply to everyone.

MS. WALSH: Would they be U.S. companies or could they be from anywhere?

MR. BORES: If they are deploying their product in New York, they can be from anywhere.

MS. WALSH: Okay. And could you kind of -- could you give me a sense of -- in this field of companies that would meet this criteria, what are we talking about U.S. companies versus foreign companies, like, percentage-wise? Are there more foreign ones? Are there -- is it about even?

MR. BORES: No, I -- I think it's mostly American companies --

MS. WALSH: Okay.

MR. BORES: -- that are really at the forefront of

this. Yeah.

MS. WALSH: Okay. All right.

So, how -- so I noted that Governor Hochul, when she gave her State of the State Message, I think, or maybe it was like a subsequent press conference, made a really big deal about saying that New York is gonna lead, you know, in AI.

MR. BORES: Absolutely.

MS. WALSH: So does this bill help further that goal or not?

MR. BORES: I -- I would argue that it does. And I -- I think the Governor has been fantastic in that regard of setting up New York in that way. I think Empire AI was quite visionary, and we designed this bill to make sure it in no way interfered with that. We exempted academic research, and I spoke with Empire AI and had spoken in favor of it quite a bit. So I think New York is leading and will continue to lead. This is a very light-touch bill. I think the thing that would most set back AI innovation or AI research would be one of these catastrophic incidents happening. And so I view it as very pro-innovation to make sure we don't have the extreme worst case occur.

MS. WALSH: Okay. So when you say "light touch", I mean, did the B-print, though, still contain the penalties? Fines and penalties?

MR. BORES: Yes.

MS. WALSH: That doesn't seem super light touch to

me. I mean, that --

MR. BORES: Well, I think Amazon's quarterly profit was, like, $30 billion. Microsoft, like, $100 billion.

MS. WALSH: Well, they could probably afford it. I'm just saying.

MR. BORES: And you're saying and up to 10 million or up to 30 million for the most extreme violations of maybe helping to increase the risk of 100 deaths or a billion in damage?

MS. WALSH: Well, we could talk about cost-benefit. You know, that's a different discussion. But I'm just -- I was just thinking about, like, some of the opposition to the bill talks about how by tying fines to a company's total compute spend and personnel head count, this bill penalizes the very resources that drive AI research and development. So would your response to that be the fines are so miniscule compared to the total value of these companies that it's a blip and it's not gonna really affect innovation?

MR. BORES: Compared to the value, also compared to the potential harms. But I -- I don't know when that specific opposition was released. The first version of this bill, the penalties were a percentage of the spend, so it might have been referencing that.

MS. WALSH: It was on the original print. (Indiscernible/cross-talk).

MR. BORES: Right. So we -- we've edited --

MS. WALSH: Okay.

MR. BORES: -- it to make it fix to address that

directly.

MS. WALSH: Okay. Got it. Well, I appreciate your willingness to continue to amend the bill to address, you know, concerns that are being raised as they're being raised. That's a -- that's a good thing.

MR. BORES: Thank you.

MS. WALSH: All right. I -- I mean, I think that -- I think that you've answered the questions that I had, and so I appreciate your time. Thank you.

MR. BORES: Thank you.

ACTING SPEAKER WOERNER: Thank you, Ms. Walsh.

Mr. Chang.

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

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. BORES: Yes.

MR. CHANG: Well, thank you. Thank you. And it's been a couple years since I retired in -- in the Navy, but for over 20 years in the Navy I worked in intelligence, cybersecurity, cyberwarfare. In intelligence field, especially information warfare for over 20 years. And AI has been around for about 30 years. Actually more than that. But other forms of programming.

MR. BORES: Yes.

MR. CHANG: But this RAISE Act, how do you see the parameters to safeguard this once it's been implemented? What kind of parameters you -- you envision with this -- with this bill?

MR. BORES: Which parameters are we providing --

MR. CHANG: Safety itself, for example. You mentioned about safety.

MR. BORES: Yeah. So what it asks the developers to do is to have a safety plan, and we have some standards for what that plan needs to contain; cybersecurity, testing on critical harms, et cetera, to -- again, if their own tests are showing that it has a reasonable risk of a critical harm to amend their procedures and to disclose critical safety incidents quickly so that we know about them and can prepare.

MR. CHANG: Because from my training from what -- what I understand in AI and cyber, because critical infrastructure is based on information. And as is AI machine-learning itself and Frontier is the most advanced model currently right now, unless they change another -- another -- another label. But all I can see from large institution doing -- probably not doing anything nefarious, they want to sell to consumers or to businesses to hopefully to enhance their -- their profit. I mean, I can see AI into market. I can see into a fashion industry. I can see into audio-visual because they can manipulate animation. Okay? But I don't see deaths.

MR. BORES: I -- I would agree with you. I'm not saying that any developer is trying to cause deaths, certainly, and I

think most have acted responsibility and probably will continue. But when you're talking about risks of this scale that all of the companies acknowledge are real concerns with their products and that largely they already test for, it really just takes one person not being intentionally bad, but being unintentionally sloppy or not up to the standards that need to be. And it's easy to talk about safety and design a safety plan when you're not held to it. But what I want to make sure is that when you're chasing your next quarterly profit or when the race for the next big advanced AI is there and there's an extreme economic incentive to take a shortcut on your safety plan, that we make sure that incentive is eliminated.

MR. CHANG: AI is basically programming. And -- and until -- unless they -- I will be more cautious on smaller company and -- and other State actors, other countries writing programming and trying to scam or steal money or -- or secrets or trade secrets. (Indiscernible) will see probably more realistic.

MR. BORES: I -- I think you're right. Cybersecurity is a big risk with these. We've seen many of these models already used to create cyber attacks. So, yes, that -- that is a real threat in the wild for sure.

MR. CHANG: Because, like you mentioned in China, Iran or -- or even North Korea, why they can do successfully and I don't think we can because they control the internet. They control the information flow. They control the IPs. They can turn on and off from your -- from your desk. We don't do that. So it's -- I

mean, what you're trying do is bold and noble, but I -- I can't even see that our government would try to turn on and off our IPs, unlike China or Iran.

MR. BORES: Well, I don't know if this is what you're getting at, but there is no kill switch in the bill like there was in -- in the California version. This isn't about turning on or off anything. It doesn't really give the government any direct control of models or model releases. It's simply setting up the standards. The companies design their own SSP within some basic -- I'm sorry, safety and security plan, within some basic parameters that are defined in the bill and then we make sure they follow it.

MR. CHANG: We have a lot of programmers in the United States, but not many programmers understand policies and write policies. They're very, very few, even in AI.

So you have a working group that talks about this? Because that's the only way I can see to craft this bill, because you just can't bring this thing out of -- out of thin air without precedence. And we don't have precedence right now.

MR. BORES: Well, as I mentioned, I've spoken with a lot of legislators in a lot of states. I've spoken with many large developers that would be covered by this extensively over the past year. I've spoken with experts that invented AI and have built AI. This has been a very collaborative process. We've taken a lot of input into designing it.

MR. CHANG: Have anything from -- from the DOD

gets involved with that? Because they have deep money, they have large -- they employ large hundred-pound brains to figure a lot of things out. And they always collaborative with -- with the industry. Have you ever consult with the DOD?

MR. BORES: I have not had direct conversations with DOD about this. I would welcome those conversations. You mentioned at the start also, obviously your -- your long career in the Navy, which -- which I thank you for your service there. And as you know, the Navy was actually pretty instrumental in a lot of early computer science development as well. Rear Admiral Grace Hopper --

MR. CHANG: That's correct.

MR. BORES: -- for the longest time the highest-ranking woman ever in the military service, also helped to invent the first compiler and -- and invent. And so in a comment I don't know why I'm saying on the floor and probably won't live down, but my wife and I, two computer scientists, named our cat Grace Hopper. So it's a long history that we're proud to support.

MR. CHANG: It's a long history. She -- she invented FORTRAN. Yes, I read about their history and -- and, you know, I was in Washington and I worked in that field directly in Washington for -- for a number of years. So I seen her biography, I seen her -- we celebrated her in the Navy. So...

MR. BORES: A remarkable innovator.

MR. CHANG: Very, very remarkable. And I'm just

-- you know, with just -- you know, I -- I worked in those -- I worked with those guys, the analysts who -- who does this. Because I'm -- Im not a programmer. But I appreciate those guys. They can pick up a program and -- program code and identify there's a problem here. There's a leak here. Those guys are so smart. And -- and I wish you have -- I don't know we have anything -- conversation with DARPA and -- and DOD, because they are leading on this on this because -- to help us craft the bill. In -- in the Federal Government it's based on policies. Policies are easily written. They don't need to have Congress to -- to pass a bill. So that was very easy for them. And even though we pass this bill, what agency in the State envision to able enforce this? Because I don't have faith in our -- our agency, both City and State, to have those guys smart enough to -- to enforce this.

MR. BORES: I have a different view of our agencies, but -- but you'll be happy to know that there's no rulemaking or regulation as part of this. We specifically lay out what should be happening and not. And there's also no private right of action, no new private right of action created here. The only enforcement is through the Office of the Attorney General.

MR. CHANG: I hope to have some expertise in there because it's -- it's really technical, it's really very specific. The only thing I can see as endanger us is -- is scamming and stealing our secrets and money. But also, enforcement. If we do just like Bernie Madoff and his Ponzi, it took years just to find that. And -- and it

takes professional investment house to understand how he able to craft this. So I don't know we have somebody to detect this unless somebody start to complain.

MR. BORES: I -- I've actually spoken to many of the experts in the Office of the Attorney General. I'm quite confident in their grasp of these issues. But I think you're right. I -- I think a lot of these scams are happening. I think this is complicated. One of the things I'm most excited about with AI is some of the cybersecurity defense that it'll help to enable. I mean, this -- this is a tool that's quite powerful. And to your comment earlier about coders and AI, I would welcome that conversation at any point. I'd also point out, as mentioned in the sponsor's memo, that one of the things AI is best at is coding. And all of these companies are saying that they -- more and more of the code that goes into production was written by AI itself. So the speed at which this this is acceler -- is -- is happening, that is itself accelerated.

MR. CHANG: I mean, I was almost close to going to going to coding school myself when I retired, right before I had this new government job. Seriously, I was about to go into Wall Street and -- and enroll in the coding school myself.

MR. BORES: This -- this sounds like a joke, but I mean it sincerely, in the off-session let's do a hackathon.

MR. CHANG: Yes. So -- and you mentioned about training. Okay? What level of training we're talking about about this AI? I can only envision is three areas, is in the industry, perhaps

schools, and programmers who have self control, they're doing the right thing. But what kind of training do you think that would apply that could prevent this safe -- I guess safety itself?

MR. BORES: Do -- do you mean training of the model or training of, like, human beings that are interacting with this?

MR. CHANG: Well, of course you have to have a human being to start off with with programming.

MR. BORES: Yup.

MR. CHANG: So you -- you know, part of your bill is training. So where -- where the training would be at and would we be funding this training or it would be industry funding themselves?

MR. BORES: The industry is funding it themselves, although I think there were -- not germane to this bill, but there were some provisions in the budget that we're helping to encourage more start-ups in New York and more AI work and retraining in this field. So I think that is a good use of government dollars, but that is not something that's covered here.

MR. CHANG: Maybe you should add in there in the bill later on is a code of conduct in the industry, create a code of conduct. Okay? Because --

MR. BORES: That's an interesting suggestion. We should talk about it.

MR. CHANG: I mean, just like the Ten Commandments. You've got -- you have the Ten Commandments, you're supposed to do things, not supposed to. So we -- if you codify

this code of conduct, force the industry to do that, and if there is an investigation you've got a code of conduct already listed out what you're supposed to do, and that's one basis that help out the law enforcement itself.

MR. BORES: I'd love to talk to you more about that.

MR. CHANG: Okay. Certainly will. And that's all I have. Thank you.

MR. BORES: Thank you.

MR. CHANG: And on the bill.

ACTING SPEAKER WOERNER: On the bill, Mr. Chang.

MR. CHANG: Thank you. It's a very refreshing piece of legislation, it is very cutting-edge because there is nothing in comparison. I searched around. So we may be the precedence of -- of AI industry. And AI is evolving. Even for me it's hard to catch up. So it's a good start. I'm sure there'll be many amendments along the way because as -- as there's a lot of nefarious actors overseas that might come up with something trying to steal trades, steals money. So we have to be vigilant on that good. But it's a good start and I commend the sponsor.

Thank you very much, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Chang.

Mr. Novakhov.

MR. NOVAKHOV: Thank you, Madam Speaker.

Would the sponsor answer a few questions?

ACTING SPEAKER WOERNER: The sponsor, will you yield?

MR. BORES: Yes, I will.

ACTING SPEAKER WOERNER: He'd be happy to.

MR. NOVAKHOV: Thank you. Thank you, Alex. So first of all, I think that a lot of people in this room need some crash course on AI, on Bitcoin and et cetera. So I would recommend doing a crash course for Assemblymembers like a technology crash course --

MR. BORES: I'd love that.

MR. NOVAKHOV: That would be great, right?

MR. BORES: Yes.

MR. NOVAKHOV: Okay. So you mentioned a particular date; before that date we need to do something which was April 2026?

MR. BORES: Correct.

MR. NOVAKHOV: Can you be more specific why this date? What's -- what's --

MR. BORES: I don't think know that there's, like, a that's the month and there's nothing before and nothing after. But -- but I was getting that from a blog post that the CEO of Anthropic put out in, again, on Halloween this past year where he said we need regulation in the next 18 months if we are gonna be able to do this. So 18 months from October is April 2026.

MR. NOVAKHOV: So nothing -- no apocalypsis is

-- is planned --

MR. BORES: No, I'm not -- this isn't a spoiler of some unexpected event. No, I mean, to be -- to be serious about it, something could happen at any point, right, and that's you have some experts that are saying -- I think a former security researcher at OpenAI said he expects potential harms this year. I mean, this is -- we're really playing with fire which is why it's so urgent to put some guardrails there.

MR. NOVAKHOV: So it is very hard to find a balance between a necessary regulation and the power that drives AI research and development; would you agree on that?

MR. BORES: Yeah. Given the amount of work I've put into this bill, yes, I would say so.

MR. NOVAKHOV: And how this bill balances it. Like, are you sure we're not overregulating the growing and extremely important industry?

MR. BORES: Yes. I think both from the opposition memos that have said it's one full-time employee, from the conversations I've had with industry where they said, *You're actually being underinclusive in the potential risks*. From the fact that the biggest opposition we're getting were on the audits, and we've taken the audits out. So I think the clear signs are probably maybe we're even doing enough to keep us safe, but I think we, as -- as the Minority Floor Leader said, we have to start somewhere and I think this bill is that start.

MR. NOVAKHOV: And I'm -- I'm not criticizing, I'm just trying to learn.

MR. BORES: No, no, no. That's a valid question.

MR. NOVAKHOV: Okay. And, again, because a lot of people do not understand, can you give us a very, very simple down-to-earth example of what's going to happen if this bill is not passed or -- or if those regulations are not implemented?

MR. BORES: Yeah. And I -- and I want to be clear; I'm not saying anything is this deterministic, right?

MR. NOVAKHOV: Mm-hmm.

MR. BORES: But an example of the kind of thing that could occur is a number of the recent labs have put out models where they said, or -- or outside researchers have tested and they've said this model could teach a novice how to build a bioweapon, could give more accurate descriptions than a PhD virologist. Right? And so if you're putting that power out there when you also have a bunch of unregulated gene synthesizers, that becomes a dangerous combination. A more recent example was -- and this was caught in testing, it's exactly the kind of testing this bill is meant to -- to encourage -- they set up their system and said they were gonna run a few tests and then shut it down. And in one case they explicitly told the AI, *Let yourself be shut down*, and in a few instances it didn't. It actually changed the code and kept itself alive. In another instance a different model was again told it was gonna to be shut down and it planted fake e-mails that implied that the engineer conducting the test was having an affair

--

MR. NOVAKHOV: Wow.

MR. BORES: -- and the model responded by telling the engineer, *Don't shut me down or I'm sending these e-mails to your wife.*

MR. NOVAKHOV: Unbelievable. All right.

MR. BORES: You asked for a practical example. Those are, you know --

MR. NOVAKHOV: That's an interesting example.

MR. BORES: Yeah, it's terrifying.

MR. NOVAKHOV: It is. It is. Thank you so much. Thank you for answering my questions.

MR. BORES: Thank you.

MR. NOVAKHOV: Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Novakhov.

Read -- read the last section.

THE CLERK: This bill [sic] take effect on the 90th day.

ACTING SPEAKER WOERNER: A Party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Madam Speaker. The Republican Conference will, generally speaking, be in the negative, I think, on this bill. But I think that there -- I would expect a mix of

votes, and anyone wishes to vote in the affirmative, now would be the time to do so at your desk. Thank you.

ACTING SPEAKER WOERNER: Thank you, Ms. Walsh.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, the Majority Conference is gonna be in support of this cutting-edge piece of legislation; however, there may be a few that would decide to be an exception. They should feel free to do so at their seats.

ACTING SPEAKER WOERNER: Thank you.

The -- the Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Bores to explain his vote.

MR. BORES: I don't want to belabor the conversation; we've had a long debate and a number of long debates. But I do want to thank many, many people. This bill has been the work of a better part of a year. We've had industry experts. We've had academics. We've had advocates, some of whom are in the Chamber here. And my colleagues on both sides of the aisle in the committee process and through even this debate on the floor, we've had wonderful debates that have strengthened this bill, that have made sure this bill is narrowly-tailored, and really sets up New York to be a leader not only in the AI innovation, but also in AI safety. I think this will end up protecting New Yorkers, but it will protect a much larger segment of the country and actually the world itself. So this is proof

that we can do hard things, that we can actually move at a speed that's appropriate to protect people, and I want to thank everyone for that wholehearted effort to get there.

I proudly vote yes.

ACTING SPEAKER WOERNER: Mr. Bores in the affirmative.

Mr. Dais to explain his vote.

MR. DAIS: I'll be brief. I want to congratulate my colleague on this legislation. We worked together on it. And specifically what I wanted to say thank you was that he was listening to the young people within our State who had concerns; the generation that saw social media not have guardrails and how it negatively impacted them, and now how AI is gonna have a direct impact, right? For the younger generation, AI is gonna replace a lot of jobs. There's a lot of things that's gonna change for that next generation and we need to prepare them. So by creating these guardrails, I think it's gonna make sure that New York is actually on the forefront of innovation when it comes to AI. And I might be telling my age, when I was a kid there was something called the Jolly Roger Cookbook. And there was this bad thing where it taught you how to make some things that you should not know how to make. Now imagine AI times 1,000 where someone could have a bad intention, could literally take and make something negative that could hurt our great State or our great country. So making sure we put these guardrails and these safety -- safety protocols in place I think is a commonsense measure

while we can still be innovative and make sure that New York is a leader in AI.

I'll be voting in the affirmative. Thank you.

ACTING SPEAKER WOERNER: Mr. Dais in the affirmative.

Mr. Maher to explain his vote.

MR. MAHER: Thank you, Madam Speaker. I rise to explain my vote. And I want to explain it because although I will be in the negative, I do wanna just commend the sponsor. He absolutely has been listening to both sides of the argument, been willing to edit the bills. I look forward to working with you in the future. And I think this is no vote is more about me continuing to educate myself on its impact, so hopefully in the future we can -- we can get through this, develop other laws that make sense, working with other states. But I just wanted to explain that and again commend the sponsor for excellent back-and-forth and for being receptive to change.

ACTING SPEAKER WOERNER: Mr. Maher in the negative.

Mr. Gandolfo to explain his vote.

MR. GANDOLFO: Thank you, Madam Speaker. I, too, would like to commend the sponsor. He's obviously very knowledgeable on the subject, and a lot of the points raised during the conversation here were very valid. And I think I can speak for a number of my colleagues when I say the need to regulate the -- the rapid deployment of AI and these advancements is recognized;

however, I would rather see a -- a Federal approach so there's not a patchwork of potentially 50 different regulations that technology companies are trying to comply with that might potentially stymie development in this field.

So for that reason I will be in the negative. But I do recognize the need for -- for regulation on this. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Mr. Gandolfo in the negative.

Mr. Burdick to explain his vote.

MR. BURDICK: Thank you, Madam Speaker, for the opportunity to explain my vote. I want to commend the sponsor of this legislation for going into an area that's highly complex, but one which is extremely important for the New York economy and for the national economy. And, you know, I shared the view that a national approach would be preferable to state-by-state, but that hasn't been happening. And unfortunately, time is not on our side. It's really important that we get ahead of this and we act sensibly in a balanced way, which I believe this bill does. And as the sponsor has said, the -- the point of this and the hope is that New York can help lead the nation in this. There's a lot more work to be done, but I think this is a terrific start.

Thank you, and I vote in the affirmative.

ACTING SPEAKER WOERNER: Mr. Burdick in the affirmative.

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, if we can now go to our A-Calendar and take up Rules Report No. 703. It's on page 16.

ACTING SPEAKER HUNTER: Page 16, Rules Report No. 703. Governor's message is at the desk.

The Clerk will read.

THE CLERK: Assembly No. A08896, Rules Report No. 703, Budget Bill. An act to amend Chapter 53 of the Laws of 2025, enacting the Aid to Localities Budget, in relation to making technical changes thereto.

ACTING SPEAKER HUNTER: Read the last section.

(Pause)

Governor's message is at the desk.

The Clerk will read.

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

ACTING SPEAKER HUNTER: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER HUNTER: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Ra to explain his vote.

MR. RA: Thank you, Madam Speaker. Colleagues, no, you're not seeing things. You're not confused. This is a -- a Budget Bill at the request of the Division of Budget. It makes technical changes to the Aid to Localities budget bill. They're technically -- technical in nature. But, most notably, this bill formally authorizes the State to spend the $8 billion from the Enterprise Fund to pay off the outstanding debt owed to the Federal Unemployment Insurance Trust Fund by adding a specific appropriation line for -- for that dollar amount. So, it is to clean up and make -- make very clear that the Appropriation Authority is there to pay off the UI debt as -- was -- was accounted for at the time of the enacted budget. This is -- was obviously a major priority I think on both sides of the aisle and particular for our business community in -- in this year's budget. And I'm happy to cast my vote in the affirmative. Thank you.

ACTING SPEAKER HUNTER: Mr. Ra in the affirmative.

Mr. Smullen to explain his vote.

MR. SMULLEN: Thank you, Madam Speaker. I rise to explain my vote. It's not often in the New York State Assembly that I vote in favor of a Budget Bill, and it's interesting that it's coming here at the end of Session on a Message of Necessity. But this is,

indeed, a necessity for New York State. To liquidate the debt that New York's businesses, including the 50 percent of -- of people that work in small businesses all around New York State, that have been paying unnecessarily for over the last four years for the obligations of the State because of the COVID-19 pandemic and the debt we incurred from the Federal Government to be able to pay those -- those claims as they went along.

During the pandemic, unemployment insurance was the number one issue facing the people in my district. It was -- it was a necessary fact that we had to borrow this money, but I think it's a bit of a shame that it took us over four years to pay it back, when we had surpluses and we had other money that had been obligated to us from the Federal Government to do so.

So, I -- I'm glad that this is being done. It's about time and I'm glad to vote in the affirmative for this bill. Thank you, Madam Speaker.

ACTING SPEAKER HUNTER: Thank you.

Mr. Smullen in the affirmative.

(Pause)

Are there any other votes? Announce the results.

(The Clerk announced the result.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, if we can now go to resolutions on page 3.

ACTING SPEAKER HUNTER: Resolutions page 3, the Clerk will read.

THE CLERK: Assembly No. 778, Ms. González-Rojas.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 15, 2025, as Paraguayan Heritage Day in the State of New York.

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

THE CLERK: Assembly No. 779, Ms. Hunter.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 2025, as Building Safety Month in the State of New York.

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

THE CLERK: Assembly No. 780, Ms. Solages.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 7, 2025, as Belmont Stakes Day in the State of New York and commending the New York Racing Association upon the occasion of the 157th running of the Belmont Stakes.

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

adopted.

THE CLERK: Assembly No. 782, Ms. Woerner.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 27, 2025, as National Bingo Day in the State of New York.

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

THE CLERK: Assembly No. 783, Ms. Seawright.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 2025, as Internet Safety Month in the State of New York.

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

THE CLERK: Assembly No. 784, Mrs. Peoples-Stokes.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim July 11, 2025, as Canada Day in the State of New York, in celebration of this great Empire State's long-standing economic and cultural relationship with Canada.

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

THE CLERK: Assembly No. 785 Ms. Kay.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim August 7, 2025, as Purple Heart Day in the State of New York.

ACTING SPEAKER HUNTER: Ms. Kay on the resolution.

MS. KAY: Thank you, Madam Speaker and if my colleagues will just indulge me for a minute. I'm proud to sponsor this resolution proclaiming August 7th of this year as Purple Heart Day in New York. The Purple Heart medal carries a special gravitas, because it is a badge of distinction reserved for Military personnel who are wounded, or killed in action. Not only does it represent bravery and sacrifice, it is also special because of its long and proud tradition. In fact, the Purple Heart is the oldest Military decoration in the world that is still awarded today. The Purple Heart can be awarded to any active Military member. How powerful is it that here in the United States, our longstanding practice is to honor every person who sacrifices for our freedoms. Not based on their rank, but on their bravery and dedication. In honor of every recipient of the Purple Heart, past and present, I ask my colleagues to please join me in passing this resolution to celebrate Purple Heart Day in New York this year on August 7th. Thank you.

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

THE CLERK: Assembly No. 786, Mr. Stern.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 22, 2025, as Veterans Suicide Awareness and Remembrance Day in the State of New York.

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

THE CLERK: Assembly No. 787, Ms. Griffin.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 26, 2025, as Law Enforcement Suicide Awareness Day in the State of New York.

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

THE CLERK: Assembly No. 788, Mr. Smullen.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 27, 2025 as National Hunting and Fishing Day in the State of New York.

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

THE CLERK: Assembly No. 789, Ms. Hooks.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 28, 2025, as Good Neighbor Day in the State of New York, in conjunction with the observance of National Good Neighbor Day.

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

THE CLERK: Assembly No. 790, Ms. Bichotte Hermelyn.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 2025, as Prostate Cancer Awareness Month in the State of New York.

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

THE CLERK: Assembly No. 791, Ms. Buttenschon.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 26, 2025, as Day of the Deployed in the State of New York.

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

THE CLERK: Assembly No. 792, Mr. McDonald.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim November 2025, as Epilepsy Awareness Month in the State of New York.

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

THE CLERK: Assembly No. 793, Ms. Griffin.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 10, 2025, as Golf Day in the State of New York, in conjunction with National Golf Day.

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

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, I now move that the -- I'm sorry. Do you have any housekeeping or resolutions?

ACTING SPEAKER HUNTER: We have no housekeeping. We have a number of resolutions before the House. Without objection, these resolutions will be taken up together.

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

(Whereupon, Assembly Resolution Nos. 794-808 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned and that we reconvene at 9:30 a.m., Friday, June the 13th, tomorrow being a Session day.

ACTING SPEAKER HUNTER: On Mrs. Peoples-Stokes' motion, the House stands adjourned.

(Whereupon, at 10:28 p.m., the House stood

adjourned until Friday, June 13th at 9:30 a.m., that being a Session day.)