LEGISLATIVE JOURNAL

MONDAY, MARCH 13, 1995

FIRST SPECIAL SESSION OF 1995

No. 20

HOUSE OF REPRESENTATIVES

The House convened at 1:05 p.m., o

THE SPEAKER (MATTHEW J. RYAN) PRESIDING

The SPEAKER. Without objection, the prayer from today's regular session will be printed in today's special session Journal.

REV. DR. EMLYN H. JONES, paster of Stoverdale United Methodist Church, Hummelstown, Pennsylvania, offered the following prayer

Almighty and Eternal God, we, Your people, pause at the initial moment of our session today to ask for Your presence and Your guidance in all the business before this grand House. We are truly grateful for Your historic involvement in the ongoing affairs of our Commonwealth, from the days of our Founding Fathers to this very present moment.

grateful for Your historie involvement in the ongoing affairs of our Commonwealth, from the days of our Founding Fathers to this very present moment.

We have been empowered to give direction to our outzens, to uncover and suggest solutions for all our social and economic problems, and to give answers to historic issues. Help us, O God, for we are in need of Your guidance and Thy direction and the courage to implement Your counsel.

We are grateful for the wonderful people called Peopsylvanians, who go shout their daily activities as law-abiding and productive directs. Bless, we ask, those who till the earth and give us food and drink, those who name our hills and valleys for the trow materials that are used to tael the wheels of our expanding industries, and for those who give of their blach and energy to provide to all of us the rewards and comforts of hard work. Keep us mindful that every citizen has a dream for the future, and may this grand House offer direction and leadership for the building of a productive and caring society.

Grant that we may be newly energized to promote the liberty of deas and the capability of successful implementation.

Hear our prayer, Great God, for we seek only Your continued good pleasure. Amen

PLEDGE OF ALLEGIANCE DISPENSED WITH

The SPEAKER, Without objection, the Pledge of Allogiance will be dispersed with

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, March 8, 1995, will be postponed until printed. The Chair hears no objection

LEAVES OF ABSENCE

The SPEAKER. The leaves of absence granted in today's regular session will be granted in the special session.

MASTER ROLL CALL

The SPHAKER. The master roll call taken in today's regular session will be the master roll call for the special session.

ADDITIONS AND DELETIONS OF SPONSORS

The SPEAKER. The Chair acknowledges receipt of additions and deletions for sponsorships of bills, which the clerk will fife.

(Copy of list is on file with the Journal clerk.)

RECESS

The SPEAKER, Does the majority leader or minority leader have any further business in the special session at this time? Are there any announcements or reports of committee in special session at this time? Does anyone seek recognition in the special session at this time? Citylli

Hearing none, the special session is in recess to the call of the Chair

AFTER RECESS

The time of recess having expired, the House was called to order.

CALENDAR

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of HB 3, PN 109, entitled

An Act providing for DNA testing of certain offenders; establishing the State DNA Data Base and the State DNA Data Bank; further providing for duties of the Pennsylvania State Police, imposing costs on certain offenders; and establishing the DNA Detection Fund

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, MARCH 13, 1995

FIRST SPECIAL SESSION OF 1995

No. 20

HOUSE OF REPRESENTATIVES

THE SPEAKER (MATTHEW J. RYAN) PRESIDING

PRAYER

The SPEAKER. Without objection, the prayer from today's regular session will be printed in today's special session Journal.

REV. DR. EMILYN H. JONES, paster of Stoverdale United Methodist Church, Hummelstown, Pennsylvania, offered the following prayer

Almighty and Eternal God, we, Your people, pause at the initial moment of our session today to ask for Your presence and Your guidance in all the business before this grand House. We are truly grateful for Your historic involvement in the ongoing affairs of our Commonwealth, from the days of our Founding Fathers to this very present moment.

grateful for Your historie involvement in the ongoing affairs of our Commonwealth, from the days of our Founding Fathers to this very present moment.

We have been empowered to give direction to our officers, to uncover and suggest solutions for all our social and economic problems, and to give answers to historic issues. Help us, O God, for we are in need of Your guidance and Thy direction and the courage to implement Your counsel.

We are grateful for the wonderful people called Pennsylvanians, who go shout their daily activities as law-abiding and productive citizens. Bless, we ask, those who till the earth and give us food and drink, those who mane our hills and valleys for the raw materials that are used to their their day and expanding industries, and for those who give of flies bluch and energy to provide to all of us the rewards and comforts of hard work. Keep us mindful that every citizen has a dream for the future, and may this great House offer direction and leadership for the building of a productive and caring society.

Grant that we may be newly energized to promote the liberty of deas and the capability of successful implementation.

Hear our prayer, Great God, for we seek only Your continued good pleasure. Amen

PLEDGE OF ALLEGIANCE DISPENSED WITH

The SPEAKER, Without objection, the Pledge of Allogiance will be dispensed with

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, March 8, 1995, will be postponed until printed. The Chair hears no objection

LEAVES OF ABSENCE

The SPEAKEER. The leaves of absence granted in today's regular session will be granted in the special session.

MASTER ROLL CALL

The SPHAKER. The master roll call taken in today's regular session will be the master roll call for the special session.

ADDITIONS AND DELETIONS OF SPONSORS

The SPEAKER. The Chair acknowledges receipt of additions and deletions for sponsorships of bills, which the clerk will fife.

(Copy of list is on file with the Journal clerk.)

RECESS

The SPEAKER, Does the majority leader or minority leader have any further business in the special session at this time? Are there any announcements or reports of committee in special session at this time? Does anyone seek recognition in the special session at this time? tirriu:

Hearing none, the special session is in recess to the call of the Chan

AFTER RECESS

The time of recess having expired, the House was called to order.

CALENDAR

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of ${\bf HB}$ 3, ${\bf PN}$ 109, entitled

An Act providing for DNA testing of certain offenders; establishing the State DNA Data Base and the State DNA Data Bank; further providing for duties of the Pennsylvania State Police, imposing costs on certain offenders; and establishing the DNA Detection Fund

On the question,
Will the House agree to the bill on third consideration?

Mr. O'BRIEN offered the following amendment No. A1366:

Amend Table of Contents, page 2, linc 6, by striking out "for ARD" and inserting

and inserting

and certain ARD cases

Amend Table of Contents, page 2, by inserting between lines 16 and 17

Section 501 Prohibition on disclosure.

Amend Table of Contents, page 2, line 17, by striking out "501" and inserting.

inserting

502
Amend Table of Contents, page 2, line 18, by striking out "502" and inserting

503
Amend Table of Contents, page 2, line 19, by striking out "503" and inserting

504
Amend Table of Contents, page 2, line 20, by striking out "504" and inserting

505
Amend Table of Contents, page 2, line 21, by striking out "505" and inserting

Amend Sec. 103, page 3, lines 22 through 25, by striking out "or a" in Amend Sec. 305, page 6, line 21, by striking out "or ARD" and meeting

and certain ARD cases
Amend Sec. 306, page 6, line 23, by staking out the comma after
"convicted" and inserting

Amend Sec. 306, page 6, line 23, by striking out "or granted ARD"
Amend Sec. 306, page 7, line 4, by striking out the comma after
"convicted" and inserting

OT
Amend Sec. 306, page 7, lines 4 and 5, by striking out "or granted ARD"

Amend Sec. 306, page 7, line 6, by striking out the comms after intence" and inscring of

Amend Sec. 306, page 7, line 7, by striking out "or great of ARD" Amend Sec. 306, page 7, line 11, by striking out the comma after "convicted" and inserting

"convicted" and inserting

Or

Amend Sec. 306, page 7, line 11, by striking out "or granted ARD"
Amend Sec. 306, page 7, line 15, by striking out "is" and inserting
has been
Amend Sec. 306, page 7, line 16, by striking out the comma after
"convicted" and inserting

Amend Sec. 306, page 7, line 16, by striking out "or granted ARD"
Amend Sec. 306, page 7, lines 18 through 25, by striking out "shall
have a DNA sample drawn as follows:" in line 18 and all of lines 19
through 25 and inserting
and who is still serving a term of confinement in
connection therewith on the effective date of this
section shall

Amend Sec. 306, page 7, line 26, by striking out "after such
disposition"

Arrend Sec. 306, page 7, by inserting between lines 28 and 29
(Certain ARD cases. Acceptance into ARD as a result of a criminal
charge for a felony sex oftense or other specified offense filed on or after the

effective date of this section may be conditioned upon the giving of a DNA sample.

Amend Soc. 306, page 7, line 29, by striking out "(c). Court

Amend Sec. 306, page 7, line 29, by striking out "(e) Court supervision" and inserting (d) Supervision

Amend Sec. 306, page 8, line 3, by striking out "(d)" and inserting for the sec. 307, page 8, line 20, by striking out "No" and inserting Limitation on Amend Sec. 307, page 8, line 21, by striking out "eivilly liable or" Amend Sec. 307, page 8, line 22, by striking out "reporting" and inserting

inserting

Amend Sec. 307, page 8, line 24, by inserting after "faith" and shall not be civilly liable for such activities when the person acted in a reasonable manner according to generally accepted medical and other professional practices

Amend Sec. 307, page 8, line 25, by striking out "Use" and inserting Reasonable use

Amend Sec. 307, page 8, line 28, by striking out "and" where it appears the second time and inserting

appears the second time and inserting

or

Amend Sec. 311, page 11, line 5, by inserting after "conviction" or delinquency adjudication

Amend Sec. 311, page 11, line 8, by striking out "benk" and inserting base

Amend Sec. 312, page 11, line 14, by striking out "A" and inserting base

Amend Sec. 312, page 11, line 14, by striking out "A" and inserting Unless the court finds that undue hardship would result, a

Amend Bill, page 11, by inserting between lines 21 and 22

Section 501. Prohibition on disclosure.

(a) Disclosure.—Any person who, by virtue of employment or official position, or any person contracting to carry out any functions under this sai, including any officers, employees and agents of such continuous, who has possessium of or access to individually identifiable DNA information contained in the State DNA Data Base or in the State DNA Data Bank shall not disclose it in any manner to any person or agency not authorized to receive it. (b) Obtaining information. No person shall obtain individually identifiable DNA information from the State DNA Data Base or the State DNA Da

Amend Sec. 501, page 11, lines 29 and 30; page 12, line 1, by striking dillfully" in line 29, alt of line 30, page 11 and "to receive it" in line 1,

503
Amend Sec. 502: page 12: line 17, by inserting after "a" knowing
Amend Sec. 502: page 12: lines 17 through 19, by striking our "the" in line 17, all of line 18 and "promulgated under this set" in line 19 and inserting

inserting

Section 501

Amend Sec. 502, page 12, line 23, by inserting after "a"

knowing

Amend Sec. 502, page 12, lines 23 and 24, by striking out "this act or
the rules or regulations promulgated under this act" and inserting

section 501

Amend Sec. 502, page 12, lines 28 through 30, by striking out "this act
or the" in line 28, all of line 29 and "willful" in line 30 and inserting

section 501

208

LEGISLATIVE JOURNAL — HOUSE

MARCH 13

On the question, Will the House agree to the bill on third consideration?

Mr. O'BRIEN offered the following amendment No. A1366:

Amend Table of Contents, page 2, line 6, by striking out for ARD and inserting

and inserting

and certain ARD cases

Amend Table of Contents, page 2, by macrting between lines 16 and 17

Section 501 Prohibition on disclosure.

Amend Table of Contents, page 2, line 17, by striking out "501" and inserting. inserting

502
Amend Table of Contents, page 2, line 18, by striking out "502" and inserting

503
Amend Table of Contents, page 2, line 19, by striking out "503" and inserting

504 Amend Table of Contents, page 2, line 20, by striking our "504" and

505
Amend Table of Contents, page 2, line 21, by striking out "505" and inserting

Amend Sec. 103, page 3, lines 22 through 25, by striking out "or a" in line 22 and all of lines 23 through 25

Amend Sec. 306, page 6, line 21, by striking out "or ARD" and msecting

and certain ARD cases

Amend Sec. 306, page 6, line 23, by staking out the comma after
"convicted" and inserting

Amend Sec. 306, page 6, line 23, by striking out "or granted ARD"
Amend Sec. 306, page 7, line 4, by striking out the comma after
"convicted" and inserting

or Amend Sec. 305, page 7, lines 4 and 5, by striking out "or granted ARD"

ARD"

Amend Sec. 306, page 7, line 6, by striking out the comms after
sentence" and inserting of
out
Amend Sec. 306, page 7, line 7, by striking out "or great of ARD"
Amend Sec. 306, page 7, line 11, by striking out the comma after
'convicted" and inserting

"convicted" and inserting

Amend Sec. 306, page 7, line 11, by striking out "or granted ARD"
Amend Sec. 306, page 7, line 15, by striking out "is" and inserting
has been
Amend Sec. 306, page 7, line 16, by striking out the comma after
"convicted" and inserting
or
Amend Sec. 306, page 7, line 16, by striking out "or granted ARD"
Amend Sec. 306, page 7, line 18 through 25, by striking out "shall
have a DNA sample drawn as follows:" in line 18 and all of lines 19
through 25 and inserting
and who is still serving a term of confinement in
connection therewith on the effective date of this
section shall
Amend Sec. 306, page 7, line 26, by striking out "after such
disposition"
Amend Sec. 306, page 7, by inserting between lines 28 and 29
(e) Certain ARD cases. Acceptance into ARD as a result of a criminal
charge for a felony sex offense or other specified offense filed on or after the

effective date of this section may be conditioned upon the giving of a DNA sample. Amend Soc. 306, page 7, line 29, by striking out "(c). Court

Amend Sec. 306, page 7, line 29, by striking out "(e) Court supervision" and inserting (d) Supervision

Amend Sec. 306, page 8, line 3, by striking out "(d)" and inserting (d) Amend Sec. 307, page 8, line 20, by striking out "No" and inserting Limitation on Amend Sec. 307, page 8, line 21, by striking out "eivilly liable or" Amend Sec. 307, page 8, line 22, by striking out "reporting" and inserting

inserting

Amend Sec. 307, page 8, line 24, by inserting after "faith"
and shall not be civilly liable for such activities when the person acted in a
reasonable manner according to generally accepted medical and other
professional practices

Amend Sec. 307, page 8, line 25, by striking out "Use" and inserting
Reasonable use

Amend Sec. 307, page 8, line 28, by striking out "and" where it
appears the second time and inserting

or
Amend Sec. 311, page 11, line 5, by inserting after "conviction" or delinquency adjudication
Amend Sec. 311, page 11, line 8, by striking out "benk" and inserting base
Amend Sec. 312, page 11, line 14, by striking out "A" and inserting Unless the court finds that undue hardship would usult a

Amend Sec. 312, page 11, line 14, by striking out "A" and inserting Unless the court finds that undue hardship would result, a Amend Bill, page 11, by inserting between lines 21 and 22.

Section 501. Prohibition on disclosure.

(a) Disclosure.—Any person who, by virtue of employment or official position, or any person contracting to carry out any functions under this set, including any officers, employees and agents of such contractor, who has possession of or access to individually identifiable DNA information contained in the State DNA Data Base or in the State DNA Data Bank shall not disclose it in any manner to any person or agency not authorized to receive it knowing that such person or agency is not authorized to receive it knowing that such person or agency is not authorized to receive it.

(b) Obtaining information. No person shall obtain individually identifiable DNA information from the State DNA Data Base or the State DNA Data Base without authorization to do so.

Amend Sec. 301, page 11, line 22, by striking out "501" and inserting the strike of the strike of the strike of the strike DNA Data Base of the State DNA Data Base DNA Data Ba

Amend Sec. 501, page 11, lines 29 and 30; page 12, line 1, by striking out "willfully" in line 29, all of line 30, page 11 and "to receive it" in line 1, page 12 and anserting

knowingly violates section 501(a)

Amend Sec. 501, page 12, lines 2 through 5, by striking out ", without" in line 2, sil of lines 3 and 4 and "Bank" in line 5 and inserting knowingly violates section 501(b)

Amend Sec. 502, page 12, line 6, by striking out "502" and inserting 503.

503
Amend Sec. 502: page 12: line 17, by inserting after "a" knowing
Amend Sec. 502: page 12: lines 17 through 19, by striking our "the" in line 17, all of line 18 and "promulgated under this set" in line 19 and inserting

inserting

Section 501

Amend Sec. 502, page 12, line 23, by inserting after "a"

knowing

Amend Sec. 502, page 12, lines 23 and 24, by striking out "this act or
the rules or regulations promulgated under this act" and inserting

section 501

Amend Sec. 502, page 12, lines 28 through 30, by striking out "this act
or the" in line 28, all of line 29 and "willful" in line 30 and inserting

section 501

Amend Sec. 503, page 13, line 1, by striking out "503" and macring 504. Amend Sec. 504, page 13, line 5, by striking out "504" and inserting 505.

Amend Sec 505, page 13, line 13, by striking out "505" and inserting 506

On the question, Will the House agree to the amendment?

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Briten.

Mr. O'BRIEN Thank you, Mr. Speaker.

Mr. Speaker, this is an amendment that came about through the efforts of Representative Jeffrey Piccola, who, at the conclusion of the Judiciary Committee meeting last Tuesday, suggested that I get together with various members of the committee and resolve some questions and propose an amendment if we could agree upon it.

I would like to thank Representative Kathy Manderino; Representative Harold James; Representative Tim Hennessey, Ed Hussie, chief counsel to the House majority leader: Gary Temis from the Philadelphia district attorney's office; Capt. Gorge Sauer from the State Police; Chistine Tomsey, also of the State Police; Capt. Roger Peacock; Dick Scott from the House Democratic staff, and Lary Frankel from the ACLU (American Civil Liberties Union).

I believe this is an agreed-to amendment, and I would ask for your support.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded:

YEAS 196

Actolph	Egoti'	Lucyk	Santoni
Allen	Pairchild	Lyneb	Sather
Aresil	Fait	Maitland	Saylor
Arnistrong	Fargo	Major	Schroder
Baker	Farmer	Manderino	Schuler
Bard	Frese	Markosek	Senimenti
Harley	Fighter	Marsien	Senimel
Battisto	Fleagle	Maaland	Seratini
Bebko-Jones	Flick	Mayemik	Shaner
Belardi	Clarmbite	McCall	Sheehan
Belfanti	Ciannon	Meticchan	Smith, B
Birmeto	Ceist	McCilli	Smath, 8 11.
Hishop	George	Melio	Snyder, D. W.
Blaum	Ciigliotti	Merry	Staback
Boscola	Cladesch	Michlovic	Stairs
Boves	Ciodeball	Nicozzie	Steelman
Brown	Gordner	Mihalich	Streit
Browne	(insultae	Niller	Stern
Hearth	Cropper	Mundy	Staffer
Butkovitz	Habay	Marites	Stish
Buston	Haluska	Nickol	Striffmatter
Caltagirone	Hanna	() (H ₁) an	Sturla
Cappabianca	Harbart	(b) asz	Sugge
Cam	HASAS:	Oliver	Tangretti
Carone	Hennessey	Porzel	Taylor, E. Z.
Casyley	Henrian	Pesci	Traylor, J.
Chadwick	Hershey:	Posturation	Thomas
Cirvera	Hiess	Pettit	Търше
Clark	Horsey:	l*tuillip»	Trello
Citymer	Hutchneson	Piccola	Trueb
Cohen, L. I.	t+letin	Lagrant collision	True
Cohan, M.	Jadlowice	Fritzs	Tolli
Colafelia	Jaumes	Platts	Vance

Van Home Veon Visali Walko Waugh Wogan Wogank Wright, D. R. Wright, M. N. Yewcie Younghlood Zimmerman Zing Preston Ramos Jacolin Josepha Colaizzo Conti Josephs
Raiser
Keller
Kenney
King
Kirkland
Kreba
Kukovich
LaGrotta Raymond Readshaw Reber Reinard Richardson ornell Richards Rieger Roborts Roborts Roborer Roborer Roborer Rubley Rudy Sainato Laughin Lawless Loderer Leh Lescovitz Dentionly DeWesse DiChrolanio Donatucci Ryan, Speaker Durham

NAYS 0

NOT VOTING-0

EXCUSED 7

Travaglio Washington Williams

The majority having voted in the affirmative, the question was determined in the attirmative and the amendment was agreed to

On the question, Will the House agree to the bill on third consideration as amended?

MANDERINO offered the following amendment No. A1358:

Amend Sec. 311, page 11, lines 3 through 7, by striking out all of lines 3 through 6 and "case dismissed." in line 7 and inserting Proceedings for expangement shall conform with the provisions of 1x Pa.C.S. §§ 9122 (relating to expangement) and 9123 (relating to juvenile records) and Pa.R. Crim.P. 186, 42 Pa.C.S.A. (relating to expangement upon successful completion of ARD program).

On the question, Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair thanks the lady

On the question recurring, Will the House agree to the bill on third consideration as amended?

1995

LEGISLATIVE JOURNAL — HOUSE

Amend Sec. 503, page 13, line 1, by striking out "503" and inserting 504 504 Amend Sec. 504, page 13, line 5, by striking out "504" and insenting 505

505 Amend Sec 505, page 13, line 13, by striking out "505" and inserting 506

On the question, Will the House agree to the amendment?

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Brien.

Mr. O'BRIEN. Thouk you, Mr. Speaker.

Mr. Speaker, this is an amendment that came about through the efforts of Representative Jeffrey Pickada, who, at the conclusion of the Judiciary Committee meeting last Tuesday, suggested that I get together with various members of the committee and resolve some questions and propose an amendment if we could agree upon it.

I would like to thank Representative Kathy Manderino; Representative Harold James, Representative Tim Hennessey, Ed Hussie, chief counsel to the House majority leader: Gary Temis from the Philadelphia district attorney's office; Capt. Goorge Sauer from the State Police; Christine Tomsey, also of the State Police; Capt. Roger Peacock; Dick Scott from the House Democratic staff, and Lary Frankel from the ACLU (American Civil Liberties Union). I believe this is an agreed-to amendment, and I would ask for your support.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded:

YEAS 196

Adolph
Allen
Argall
Arg Egolf Fairchild Fajt Fargo Farmer Fesse Fichica Fleagle Flick Osmble Gambo Geist Georga Glighetti Glistosh Godshalf Gordner Nantoni Sather Saylor Schroder Schuler No tmenti Senumei Seratini Shoner Nheshan Smith, B Smith, B Smith, B Singler, D, W. Staback Nalis Lucyk Lwieb
Maitland
Majter
Manderine
Markesek
Marseen
Maahand
Mayernik
McCiechan
McCilli
Melio
Melio
Melio
Melio
Michlovic
Michlovi States Steelman Steel Stern Stern Sterler Stish Nurtunatter Godshall
Gordner
Grutza
Groppe
Habay
Haluska
Hanna
Harnay
Hennessey
Hennessey
Hennessey
Hershey
Hess Bulkovitz Buston Caltagirone Cappablanca Carn Carone Cawley Chadwick Civera Clark Clyma Cohen, L. I. Cohen, M. Colafella Stortmatter Storta Storta Tangretti Taylor, E. Z. Taylor, E. Z. Thomas Trigos Triello Taylor Hershey
Hose
Horsey
Hutchnoon
thein
Jadlowice
James

Van Horne Veon Vradi Walko Walko Wagan Wogan Wright, D. R. Wright, M. N. Yewcic Younghlood Zimmerman Preston Ramos Jacolin Josepha Colaizzo Conti Contil Comell Compora Corrigan Cowell Curry Del aica Dempsey Dentionly Dentionly Declaration Declaration Declaration Declaration Raymond Readshaw Reber Reinard Richardson King Kirkland Kreba Kukovich LaGrotta Richards Rieger Roborts Roborts Roborer Roborer Roborer Rubley Rudy Sainato Laughin Lawless Loderer Leh Lescovitz Loodansky Lloyd Durham

NAYS 0

NOT VOTING-0

EXCUSED 7

Williams Travaglio Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question, Will the House amended? House agree to the bill on third consideration as

MANDERINO offered the following amendment No. A 1358:

Amend Sec. 311, page 11, lines 3 through 7, by striking out all of lines 3 through 6 and "case dismissed." in line 7 and inserting Proceedings for expangement shall conform with the provisions of 1x Pa.C.S. §§ 9122 (relating to expangement) and 9123 (relating to juvenile records) and Pa.R. Crim.P. 186, 42 Pa.C.S.A. (relating to expangement upon successful completion of ARD program).

On the question, Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair thanks the lady

On the question recurring, Will the House agree to the bill on third consideration as amended?

Ms. MANDERINO offered the following amendment No. A1359:

Amend Sec. 311, page 11, line 3, by inserting before "A"

(a) General rule.

Amend Sec. 311, page 11, by inserting between lines 12 and 13

(b) Juveniles. Proceedings for expangement of juvenile records shall be performed in accordance with the provisions of 18 Pa.C.S. § 9123 (relating to juvenile records).

On the question, Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the lady on amendment

1359. Ms. MANDERINO. Thank you, Mr. Speaker Mr. Speaker, amendment 1359 deals specifically with the issue of expungement in the case of juveniles. Mr. Speaker, just about a week or two ago we passed SB 20 dealing with the expungement of juvenile records, and that is now sitting on the Governor's desk awaiting signature. What I am attempting to do here with amendment 1359 is to conform it with the provisions under the Juvenile Act that we passed in SB 20.

What I am attempting to do here with amendment 1359 is to conform it with the provisions under the Juvenile Act that we passed in SB 20.

As the House bill before us, special session HB 3, is written right now, if you are a juvenile and you meet the cheinmatances for allowing your record to be expunged, it would not include the expungement of the DNA (densyribonucleic acid) evidence.

Mr. Speaker, the reason I feel very strongly about this is during the hearings on SB 20, we heard from a lot of practitioners in the field of criminal justice when it deals with juveniles, that there are a lot of reasons why a juvenile, upon the recommendation of his family, has or her family and his or her counsel, may decide to plead guilty and take an adjudication of delinquency in order to get some social support services and other services that everyone agrees that the juvenile needs, and we were cautioned when we were moving in the area of juveniles not, for example, to make a juvenile conviction a first strike in any three-strike bill because there was concern that it would have a chilling effect on getting juveniles in the system to the proper social service agency. I have the same concern with regard to this.

would have a chilling effect on getting juveniles. Proper social service agency. I have the same concern with regard to this.

It is my feeling that if the circomstances are such that they warrant expungement of the complete record of the juvenile or of the record and fingerprints of a juvenile, that it should apply to the DNA evidence. For those of you who wonder what specifically those requirements are – and I am working from SB 20 that is on the Covernor's dosk because I assume that that is what is going to be law in Pennsylvania very soon – but one of the conditions under there is in addition to, you know, keeping your record clean for 5 years and not having any other folony, misdementor, adjudication of delinquent, or even other penalty or other proceeding pending against you, it also says that in the case of younger children—who we changed that age requirement from 21 down to 18 – there is a condition not only that the district attorney give his approval, the prosecutor give his approval, but one of the conditions that needs to be met is whether retention of the record is required for the purposes and protections of public safety. So I think this is a good protection in the area of juveniles where we think it is necessary to keep on file, but we do not want to reach too far. I think, and make a different exception for a DNA fingerprint than we would for a regular fingerprint.

So with that, Mr. Speaker, I would strongly encourage members to support amendment 1359.

The SPEAKER. The Chair thanks the lady.
On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. O'Brien.
Mr. O'BRIEN. Thank you, Mr. Speaker.
Once again, Mr. Speaker, I would like to thank Representative Monderino for her cooperation on the formulation of the comprehensive amendment that we just adopted. However, in that discussion, we respectively agreed to disagree on this issue, and I object very stremiously to the adoption of this particular amendment before us.

The Janguage in the bill speaker that the particular amendment

before us.

The language in the bill specifies that records can be expunged in cases where an adjudication of delinquency is reversed in the same way that expungement could occur under the bill when criminal convictions are reversed.

It is important for the members of this House to understand that

It is important for the members of this House to understand that sex orimes are serious predictors of future crimes, especially sex offenses. That same standard should apply whether the crime was committed as a juvenifie or an adult, because, Mr. Speuker, the impact on the victim is exactly the same. DNA only applies if they find DNA evidence – blood, semen, fissue – at the orime scene; then when the procedures are followed, a DNA match is achieved through the data bank. An important aspect in the apprehension of offenders is saving victims, Mr. Speuker, after the 1st or 2d subsequent offense rather than the 15th or 30th offense.

It is important for the members of the House to also realize that

It is important for the members of the House to also realize that

It is important for the members of the House to also realize that DNA provides a genetic profile. There is not a person's name attached to the sample that is included in the DNA data bank. If the maker of the amendment's intention is to provide juvenile offenders with the opportunity that is provided when they expunge a record and your fingerprints are removed for the purposes of getting into the service or getting a job or having a background check for being a counselor or a schoolteacher, then there is no problem with that expungement procedure. What we are talking about here is a procedure that is only enacted if an offender's DNA evidence is left at the scene of the crime and there is an absolute match. Then, Mr. Speaker, that suspect is required to give another DNA sample, and then that second DNA sample is matched against the evidence at the crime scene.

The maker of the amendment wants serious sex offenses to be treated in the same manner as burglanes, car thefts, et cetter, and I task you, Mr. Speaker, to join me in saying "no" to this amendment. Thank you.

Thank you.

thank you.

The SPEAKER. On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. Piccola.

Mr. Piccol. A. Thank you, Mr. Speaker.

I would share the remarks of the gentleman, Mr. O'Brien, and agree with his remarks.

agree with his remarks.

To put the argument very simply, the lady, Ms. Manderino, is attempting to apply the same expangement records for DNA for juveniles as we would apply to juveniles who are adjudicated delinquent of all other offenses.

As Mr. O'Brien pointed out, the DNA repository is reserved for those most serious offenses, and specifically they are reserved for those individuals who commit or who are convicted of or adjudicated delinquent of fellows sex offenses. Those offenses are enumerated on pages 4 and 5 of the bill.

There is a very good public policy reason why we should make a different procedure for expangement for DNA repository records

210

LEGISLATIVE JOURNAL — HOUSE

MARCH 13

MANDERINO offered the following amendment No. **A 1359**

Amend Sec. 311, page 11, line 3, by inserting before "A"

(a) General rule.

Amend Sec. 311, page 11, by inserting between lines 12 and 13

(b) Juveniles. Proceedings for expungement of juvenile records shall be performed in accordance with the provisions of 18 Pa.C.S. § 9123 (relating to juvenile records).

On the question, Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the lady on amendment

1359. Ms. MANDERINO. Thank you, Mr. Speaker Mr. Speaker, amendment 1359 deals specifically with the issue of expungement in the case of juveniles. Mr. Speaker, just about a week or two ago we passed SB 20 dealing with the expungement of juvenile records, and that is now sitting on the Governor's desk awaiting signature. What I am attempting to do here with amendment 1359 is to conform it with the provisions under the Juvenile Act that we passed in SB 20.

What I am attempting to do here with amendment 1359 is to conform it with the provisions under the Juvenile Act that we passed in SB 20.

As the House bill before us, special session HB 3, is written right now, if you are a juvenile and you meet the cheimstances for allowing your record to be expunged, it would not include the expungement of the DNA (densyribonucleic acid) evidence.

Mr. Speaker, the reason I feel very strongly about this is during the hearings on SB 20, we heard from a lot of practitioners in the field of criminal justice when it deals with juveniles, that there are a lot of reasons why a juvenile, upon the recommendation of his family, has or her family and his or her counsel, may decide to plead guilty and take an adjudication of delinquency in order to get some social support services and other services that everyone agrees that the juvenile needs, and we were continued when we were moving in the area of juveniles not, for example, to make a juvenile conviction a first strike in any three-strike bill because there was concern that it would have a chilling effect on getting juveniles in the system to the proper social service agency. I have the same concern with regard to this.

proper social service agency. I have the same concern with regard to this.

It is my feeling that if the circumstances are such that they warrant expungement of the complete record of the juvenile or of the record and fingerprints of a juvenile, that it should apply to the DNA evidence. For those of you who wonder what specifically those requirements are — and I am working from SB 20 that is on the Covernor's desk because I assume that that is what is going to be law in Pennsylvania very soon — but one of the conditions under there is in addition to, you know, keeping your record clean for 5 years and not laving any other folony, misclemeaner, adjudication of definquent, or even other penalty or other proceeding pending against you, it also says that in the case of younger children. Who we changed that age requirement from 21 down to 18 — there is a condition not only that the district atterney give his approval, the prosecutor give his approval, but one of the conditions that needs to be mer is whether retention of the record is required for the purposes and protections of public safety. So I think this is a good protection in the area of inventies where we think it is necessary to keep on file, but we do not want to reach too far. I think, and make a different exception for a DNA fingerprint than we would for a regular fingerprint.

So with that, Mr. Speaker, I would strongly encourage members to support amendment 1359.

The SPEAKER. The Chair thanks the lady.
On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. O'Brien.
Mr. O'BRIEN. Thank you, Mr. Speaker.
Once again, Mr. Speaker, I would like to thank Representative Menderino for her cooperation on the formulation of the comprehensive amendment that we just adopted. However, in that discussion, we respectively agreed to disagree on this issue, and I object very strenuously to the adoption of this particular amendment before us.

The language in the bill speculies that records can be expunyed.

before us.

The language in the bill specifies that records can be expunged in cases where an adjudication of delinquency is reversed in the same way that expungement could occur under the bill when criminal convictions are reversed.

It is important for the members of this House to understand that sox crimes are serious predictors of fitture crimes, especially sox offenses. That same standard should apply whether the crime was committed as a juvenite or an adult, because, Mr. Speaker, the impact on the victim is exactly the same. DNA only applies if they find DNA ovidence – blood, semen, tissue – at the crime scene; then when the procedures are followed, a DNA match is achieved through the data bank. An important aspect in the apprehension of offenders is saving victims, Mr. Speaker, after the 1st or 2d subsequent offense rather than the 15th or 30th offense.

It is important for the members of the House to also realize that

withms, Mr. Speaker, after the 1st or 2d subsequent offense (albeithan the 15th or 30th offense). It is important for the members of the House to also realize that INA provides a genetic profile. There is not a person's name attached to the sample that is included in the DNA data bank. If the maker of the amendment's intention is to provide Juvenile offenders with the opportunity that is provided when they expunge a record and your fingerprints are removed for the purposes of getting into the service or getting a job or having a background check for being a counselor or a schoolteacher, then there is no problem with that expungement procedure. What we are talking about here is a procedure that is only enacted if an offender's DNA evidence is left at the scene of the crime and there is an absolute match. Then, Mr. Speaker, that suspect is required to give another DNA sample, and then that second DNA sample is matched against the evidence at the crime scene.

The maker of the amendment wants serious sex offenses to be treated in the same manner as burglaries, car thefts, et cettera, and I

The maker of the amendment watts scrious sex offenses to be treated in the same manner as burglanes, car thefts, et exters, and I ask you, Mr. Speaker, to join me in saying "no" to this amendment.

Thank you.

The SPEAKER. On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would share the remarks of the gentleman, Mr. O'Brien, and agree with his remarks.

To put the argument very simply, the lady, Ms. Manderino, is attempting to apply the same expangement records for DNA for juveniles as we would apply to juveniles who are adjudicated delinquent of all other offenses.

As Mr. O'Brien pointed out, the DNA repository is reserved for those most serious offenses, and specifically they are reserved for those individuals who commit or who are convicted of or adjudicated delinquent of fellows sex offenses. Those offenses are enumerated on pages 4 and 5 of the bill.

There is a very good public policy reason why we should make a different procedure for expangement for DNA repository records

211

than for ordinary juvenile records and in fact ordinary adult records. We have a separate section of Title 42 that deals with expungement of adult criminal records, and it too, is different than what Mr. O'Brien is suggesting we have for the expungement of DNA

mas. These offenses are different, they are significantly different with

These oftenses are different, they are significantly different with respect to the people that commit them, because the recidivism rate is higher and there is more tendency to commit these offenses over and over again.

I think that the gentleman has suggested a very rational approach to expungement in his bill and that we should vote against the Manderino amendment. The Chair recognizes the lady from Philadelphia, Ms. Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

I just wint to briefly make it clear, lirst of all, that this amendment is not and it is not intended to let sex offenders off the hook, so to speak, or out of the system But the reality of it is we have made a public policy decision about how we deal with the area of juventles and adjudications of delinquency, and we have made a procedure called expungement that is allowed to be considered in special circumstances, those same index, all of those same factors, must be factored in here, but if it is determined that expungement is appropriate in the circumstances, then expungement should apply to everything across the board.

appropriate in the circumstances, then expungement should apply to everything across the board.

I would ask for support to the amendment.

The SPEAKER, On the question of the adoption of the amendment, the Chair recognizes the sentleman, Mr. Hennessey, Mr. HENNIESSEY. Thenk you, Mr. Speaker.

Mr. Speaker, I think that to some extent we are losing sight of what is being sought by this amendment and also by the bill.

What the amendment would seek to do is to equate the DNA fingerprint or the DNA information, which becomes a fingerprint, with the normal type of fingerprint evidence that people are much more familiar with.

with the normal type of fingerprint evidence that people are much more familiar with.

If we were being consistent, we would say that juvenife fingerprints, the normal type of fingerprints, along with DNA fingerprints, should not be expunged when there are serious offenses to which the adjudication has applied. That is not the state of the law. The law says that fingerprints are removed under the pivenile proceedings in the normal course.

What we are trying to do here is to say that fingerprints, whether they be natural fingerprints or DNA fingerprints, we should have a consistent policy, and I suggest to you that when we passed SB 20 2 weeks ago, we set a standard for policy that applied to any evidence in juvenile cases. It makes sense to have a consistent policy and not to let the tail wag the dog, not to let us decide that because of the nature of this particular sex offense classification, we should keep this particular information, this DNA fingerprint, on the If we me going to be consistent, we should do it across the board. I think the Manderino amendment gives us that consistency. Thank you.

l think th Thank you.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded:

YEAS-48

Gigliotti Hennessey Horacy Itkin James James Jarolin Josephs Kirkland Kukovich Levdansky Lacyk Plattisto
Beliko-Jones
Belardi
Bishop
Caltagirone
Cappabianca
Carn
Cohen, M.
Cowell
Corre Melio Michlovic Mihalich Olasz Oliver Peaci Petrono Pistella Presion Roebuck Roebuck Samoiri Shaner Staback Stedman Steller Thomas Trello Van Home Veon Visili Youngblood Freston Ramos Richardson Rieger DoLors DoWeese Lucyk Manderino

NAY5-148

Saylor Schwister Schuler Schuler Strintenti Nommel Seralimi Shechan Smith, B. Smyder, D. Stoyder, D. Stown Steil Storn Strittmetter Adulph
Allen
Algell
Annatrong
Baked
Barkey
Belfanti
Birmelin
Boscola
Brown
Browne
Browne
Browne
Browne
Browne
Carley
Chadwick
Clymer
Cohen, L. I.
Colalebla
Compora
Co Egolf
Fanchild
Faith
Faith
Fast po
Fas Leagnony Lloyd Lynch Maidand Maidand Maidand Major Markosek Marsisu Masland Mavernik McCellan McCellan McCellan McCellan Merry Miller Nicozzu Miller Nailor Nickol O'Bergri Perzel Petti Stern
Strikh
Strikhmetter
Strurla
Sturla
Storie
Tangertti
Taylor, F. Z.
Tigue
Trich
True
Trich
Vance
Walko
Waugh
Wogan
Wognisk
Wright, D. R.
Yewere
Zimnerman
Zug Perzel Pettit Phillips Piccola Pitts Platts e ener Reinard Roberts Robinson Robinso Robies Rooney Rubley Laughlin Lawless Lederer Leh Rudy Sainato Sather Ryarı, Speaker

NOT VOTING 0

EXCUSED-7

Williams Coy Exame Nivee Petrarca Travagho Washington

Loss than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

LEGISLATIVE JOURNAL --- HOUSE

than for ordinary juvenile records and in fact ordinary adult records. We have a separate section of Title 42 that deals with expungement of adult criminal records, and it too, is different than what Mr. O'Brien is suggesting we have for the expungement of DNA

Mr. O'Brien is suggesting we have for the expungement of DNA records.

These offenses are different; they are significantly different with respect to the people that commit them, because the recidivism rate is higher and there is more tendency to commit these offenses over and over again.

I think that the gentleman has suggested a very rational approach to expungement in his bill and that we should vote against the Manderino amendment.

The SPEAKER. The Chair recognizes the lady from Philadelphia, Ms. Manderino.

Ms. MANDERINO, Thank you, Mr. Speaker.

I just worn to briefly make it clear, first of all, that this amendment is not and it is not intended to let sex offenders off the book, so to speak, or out of the system. But the reality of it is we have made a public policy decision about how we deal with the area of juventles and adjudications of delinquency, and we have made a procedure called expungement that is allowed to be considered in special circumstances, and all I am saying is that those same special errounstances, those same miles, all of those same factors, must be factored in here, but if it is determined that expungement is appropriate in the circumstances, then expungement should apply to everything across the locard.

appropriate in the circumstances, then expungement should apply to everything across the board.

I would ask for support to the amendment.

The SPEAKER, On the question of the adoption of the amendment, the Chair recognizes the sentleman, Mr. Hennessey, Mr. HENNIESSEY. Thenk you, Mr. Speaker.

Mr. Speaker, I think that to some extent we are losing sight of what is being sought by this amendment and also by the bill.

What the amendment would seek to do is to equate the DNA fingerprint or the DNA information, which becomes a fingerprint, with the normal type of fingerprint evidence that people are much more familiar with.

mith the normal type of fingerprint evidence that people are much more familiar with.

If we were being consistent, we would say that juvenile fingerprints, the normal type of fingerprints, along with DNA fingerprints, should not be expunged when there are serious offenses to which the adjudication has applied. That is not the state of the law. The law says that fingerprints are removed under the juvenile proceedings in the normal course.

What we are trying to do have is to say that fingerprints, whether they be natural fingerprints or DNA fingerprints, we should have a consistent policy, and I suggest to you that when we passed SB 20.2 weeks ago, we set a standard for policy that applied to any evidence in juvenile cases. It makes sense to have a consistent policy and not to let the tail wag the dog, not to let us deade that because of the nature of this particular sex offense classification, we should keep this particular information, this DNA fingerprint, on file.

If we me going to be consistent, we should do it across the board. I think the Munderino amendment gives us that consistency.

On the question recurring, Will the House agree to the amendment?

The following roll call was recorded

YEAS-48

	* *		
uttisto	Gigliotti	Melio	Roebuck
alak medanasa	l (ennessey	Michlovie	Samoni
rlandi	Horsey	Mihalich	Sharer
shop	Itkin	CHART	Staback
dtagirons	James	Oliver	Steelman
appahianca	Jarolin	Pesci	Stetler
9 E-11	Josephs	Petrono	Thomas
ohen, M.	Kirkland	Pistolla	Trello
overH	Kukovich	Preston	Van Home
AFFV	Levdansky	Hamos	Veon
oLoca	Lucyk	Richardson	Vitali
eW-cese	Manderino	Rieger	Youngblood

NAY5-148					
Adalph	Egolf	Longitority	Savior		
Allen	Fanchild	Lloyd	Seiterenter		
Augusti	Fait	Lyrish	Schuler		
Annstrong	Гагдо	Maitland	Scrimenti		
Baker	Lammer	Major	Semmel		
Ttard	Poese	Markosek	Seralini		
Bartey	1- ichter	Marsico	Sheehan		
Helfanti	Fleagle	Masland	Smith, B.		
Birmelin	Hick	Mavernik	Smith, S. H.		
Blaum	Gamble	Macall	Snyder, D. W.		
Boscola	Creating	McGeehan	STAIR		
H ory cos	Cieist	McChill	Steil		
Drown	George	Merry	Storn		
Browns	Ciladeck	Micozzie	Stish		
Faunt	Codshall	Miller	Strittmetter		
Halkovitz	Gordner	Mariety	Sturia		
Buston	(Houston	Nailor	Sura		
Carone	Gruppu	Niekol	Tangretti		
Classing	Habay	O'Beren	Taylor, E. Z.		
Chadwick	Haluska	Perzel	Taylor, J.		
Chours	Ilanna	Pettit	Tigue		
Clark	limrhart	Phillips	Trich		
Clymor	Hasay	Piccola	Trucks		
Cohen, L. I.	Herman	Pitts	Tulli		
Colafella	Hersbey	Platts	Vance		
Colmoso	Hess	Raymond	Walko		
Conti	Hutchinson	Readshaw	Waugh		
Cornell	Jadlowice	Reher	Wogan		
Corpora	Finisce	Reinard	Wozniak.		
Corrigan	Keller	Roberts	Wright, D. R.		
Daley	Econocy	Robinson	Wright, M. N.		
Demosev	King	Rohrer	Yeware		
Dent	Krebs	Rooney	Z.immerman		
Dormody	1 or Circuita	Rubley	Zug		
DiGirolamo	Laughlin	Rudy			
Donatucci	Laviesa	Sainato	Ryan,		
Druce	Lederer	Sather	Speaker		
Durham	I.eh		**		

NOT VOTING 0

EXCUSED-7

Cov	Nivee	Travagho	Williams
Example	Petrarca	Washington	

Loss than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring, Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to:

The SPEAKLER This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?

The Chair recognizes the lady from Philadelphia, Ms. Manderino, the question of final passage.

Ms. MANDERINO Thank you, Mr. Speaker.

Will the maker of the bill agree to stand for a brief stronging.

on the question of final passage.

Ms. MANDERINO Think you, Mr. Speaker.

Will the maker of the bill agree to stand for a brief interrogation?

Mr. O'BRIEN, Yes. Mr. Speaker.

The SPEAKER. The lady may proceed.

Ms. MANDERINO Thank you, Mr. Speaker.

Mr. Speaker, I just want to clarify a few things that go strictly to the intern of certain sections of the bill.

The first one, as I understand HIB 3, DNA analysis is used not only as stated in the preamble – to detect and investigate crimes—but may also, at times, be used to exclude possible suspects in cases involving the enumerated offenses.

My question is, is there any reason in section 102 of this bill, where we state what our policy about the DNA data banks is, that we do not mention the use of DNA analysis to exclude individuals who otherwise might be subject to criminal investigations?

Mr. O'BRIEN. Thank you, Mr. Speaker.

We replaced the preamble, which was based on a North Carolina law, with a public policy statement based upon the more recent New Jersey law.

Overall, I fell the New Jersey law made a clearer and more effective articulation of the bill's public purpose. I did not make this change for the specific intention of removing the exculpatory clauses but rather to simply replace one public policy statement with another.

Someone may have raised the question about this matter sometime after the revised draft was prepared, and our initial reaction was that it was not necessary to revise the bill to deal with this issue. Upon further reflection, I have reconsidered my view on this matter and would have supported an inclusion of this language had the issue crossed my mind during the course of our negotiations less week.

I will also recommend an inclusion of this language to Senator Greenloar and his committee when they consider the bill in the Senate. However, one point must be emphasized. Even without any language regarding the evolusion of this language to the premise. The bill in its current form will enable investigators and prosecutors to qui

Am I correct in my understanding that this section only addressess civil actions based on the improper disclosure of information contained in the data bank and the data base and does not attempt to limit other civil actions related to the use of the DNA data bank?

Mr. O'BRIEN. Mr. Speaker, there is no attempt to abrogate or brut any common law tort liability under existing law.

Ms. MANDERINO. Thank you, Mr. Speaker.

I have concluded my interrogation and would like to speak briefly on the bill.

The SPEAKER. The lady is in order and may proceed.

Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I think ITB 3 is a very effective law enforcement tool. I think it is moving Pennsylvania into the 21st century.

I would ask the support of members on both sides of the aisle on final passage.

I would lisk the support of members on both sides of the aisse on final passage

The SPEAKER. The Chair recognizes the lady from Allogheny, Mrs. Farmer.

Mrs. FARMER. Thank you, Mr. Speaker.

Mr. Speaker, during caucus I had the opportunity to ask you a question regarding the efficient of blood transfusions on the DNA testing. Have you had an opportunity to find the results, sir, in answer to my question?

Mr. O'ERIEN, Yes, Mr. Speaker.

I have been informed by Captain Sauers and Chris Tomsey from the State Police trime lab that if has been their experience that as much as 10 pints of blood has been transfused and it does not change the DNA sample. In fact, one's entire blood after a period of 4 months is transformed back into its original state. But if this question is raised as a point of law, it is important for all the members to realize that you can take a binckle sample from the inside of one's mooth, you can take seminal fluid, vaginal fluids, hair samples, there are a number of other ways to extract a DNA sample, and they are all identical.

Mrs. FARMER. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. James.

Mr. JAMES. Thunk you, Mr. Speaker.

Mr. Speaker, I would just like to comment on the process.

Last week at the Judiciary Committee meeting, and I would like to commend Chairman Piecola, because some of the Democratic members, we had a concern about the speed in which this bill was being presented and we had some concern. As a result of a request from our chairman, Mr. Caldaginone, Chairman Piecola then directed Representative O'Brien to bring us together to try to work out an agreement, and I just say that we did come together, and we hope that that will continue in that kind of spirit as we work to develop legislation that is going to benefit the people of the Commonweith.

We were sory and disappointed that you did not totally agree on Representative Mainderino's expungement concern, but I just want to comment on the fact that I am glad that we wer

and my to work it out.

The SPEAKER The Chair recognizes the gentleman,
Mr. O'Brien, on final passage.

Mr. O'BRIEN. Thank you, Mr. Speaker

Before we conclude the discussion on LHS 3, I would like to let all
of you know that I am grateful to Paul Dunkelberger, who was taken
from us as the result of a pagic accident several months ago. I could not encourage your consideration in support of my bill without taking a moment to remember Paul.

212

LEGISLATIVE JOURNAL — HOUSE

On the question recurring, Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the lady from Philadelphia, Ms. Manderino, the question of final passage.

Ms. MANDERINO Thank you, Mr. Speaker.

Will the maker of the bill agree to stand for a brief strongition?

on the question of final passage.

Ms. MANDERINO Think you, Mr. Speaker.

Will the maker of the bill agree to stand for a brief interrogation?

Mr. O'BRIEN, Yes. Mr. Speaker.

The SPEAKER. The lady may proceed.

Ms. MANDERINO Thank you, Mr. Speaker.

Mr. Speaker, I just want to clarify a few things that go strictly to the intern of certain sections of the bill.

The first one, as I understand HIB 3, DNA analysis is used not only as stated in the preamble – to detect and investigate crimes—but may also, at times, be used to exclude possible suspects in cases involving the enumerated offenses.

My question is, is there any reason in section 102 of this bill, where we state what our policy about the DNA data banks is, that we do not mention the use of DNA analysis to exclude individuals who otherwise might be subject to criminal investigations?

Mr. O'BRIEN. Thank you, Mr. Speaker.

We replaced the preamble, which was based on a North Carolina law, with a public policy statement based upon the more recent New Jersey law.

Overall, I fell the New Jersey law made a clearer and more effective articulation of the bill's public purpose. I did not make this change for the specific intention of removing the exculpatory clauses but rather to simply replace one public policy statement with another.

Someone may have raised the question about this matter sometime after the revised draft was prepared, and our initial reaction was that it was not necessary to revise the bill to deal with this issue. Upon further reflection, I have reconsidered my view on this matter and would have supported an inclusion of this language had the issue crossed my mind during the course of our negotiations less week.

I will also recommend an inclusion of this language to Senator Greenloar and his committee when they consider the bill in the Senate. However, one point must be emphasized. Even without any language regarding the evolusion of this language to the premise. The bill in its current form will enable investigators and prosecutors to qui

Am I correct in my understanding that this section only addresses civil actions based on the improper disclosure of information contained in the data bank and the data base and does not attempt to timit other civil actions related to the use of the DNA data bank?

Mr. O'BRIEN, Mr. Speaker, there is no attempt to abrogate or bind any common law tort liability under existing law.

Ms. MANDERINO, Thank you, Mr. Speaker.

I have concluded my interrogation and would like to speak briefly on the bill.

I have concluded my interrogation and would like to speak briefly the bill.

The SPEAKER. The lady is in order and may proceed.
Ms. MANDERINO. Thank you, Mr. Speaker.
Mr. Speaker. I think I IB 3 is a very effective law enforcement. I think it is moving Pennsylvania into the 21st century. I would ask the support of members on both sides of the aisle on

The SPEAKER. The Chair recognizes the lady from Allegheny,

The SPEARLER. Thank you, Mr. Speaker.
Mrs. FARMER. Thank you, Mr. Speaker.
Mr. Speaker, during caucus I had the opportunity to ask you a acetion regarding the effect of blood transfusions on the DNA sting. Have you had an opportunity to find the results, sir, in answer only question?

Mr. Speaker, during caucus I had the opportunity to ask you a question regarding the efficient of blood fransfosions on the DNA testing. Hove you had an opportunity to find the results, sir, in answer to my question?

Mr. O'BRIEN. Yes, Mr. Speaker
I have been informed by Captain Sovers and Chris Tomsey from the State Police orime lab that it has been their experience that as much as 10 pints of blood has been transfused and it does not change the DNA sample. In fact, one's entire blood after a period of 4 months is transformed back into its original state. But if this question is raised as a point of law, it is important for all the members to realize that you can take a brickle sample from the inside of one's mooth, you can take seminal fluid, vaginal fluids, hair samples, there are a number of other ways to extract a DNA sample, and they are all identical.

Mrs. FARMER Thank you, Mr. Speaker

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. James

Mr. Speaker, I would just like to comment on the process.

Last week at the Judiciary Committee meeting, and I would like to commend Chairman Piecola, because some of the Democratic members, we had a concern about the speed in which this bill was being presented and we had some concern. As a result of a request four our chairman, Mr. Caltagirone, Chairman Piecola then directed Representative O'Brien to bring us together to try to work out an agreement, and I just say that we did come together, and we hope that that will continue in that kind of spirit as we work to develop legislation that is going to benefit the people of the Commonweith. We were sorry and disappointed that you did not totally agree on Representative Maindenino's expungement concern, but I just want to comment on the fact that I am glad that we were able to sit down and my to work it out.

The SPEAKER. The Chair recognizes the gentleman, Mr. O'Brien, on final passage.

Mr. O'Brien, on final passage.

Mr. O'Brien on final passage.

Mr. O'Brien on final passage.

Mr. O'Brien on

213

Williams

This place is so fast-paced: we move at a france pace. Unfortunately, it is common for us to let pass those things that are most important. Paul's memory is one of those things. I encourage all of you, those who knew Paul and those of you who are learning of him for the first time, to be mindful of his wonderful girls.

Paul was a master of compromise He brought all parties to the table, lotting each know that they had significant value and would be heard. He accepted assignments without hesitation, no matter how difficult. In fact, because of his wonderful skills, the most difficult tasks were always reserved for Paul.

My bill could not have been developed and written without has respect for the wisdom of others and his extraordinary patience in dealing with those wise ones who were jost a tad full of themselves.

Paul was a gift to us. I know I speak on behalf of the chairmen of the Republican and Democrat mambers of the committee in expressing my thanks to Paul for crafting a bill which will be an essential and to law enforcement in solving serious crimes.

I would also like to take flus time to acknowledge the special contribution of many individuals in fashioning this legislation. I would like to recognize Ed Hussie from on legal staff, Gary Tennis from the Philadelphia district attorney's office.

The SPEAKER, The gentleman will yield.

Mr. O'Brien, we are on final passage.

Mr. O'Brien, we are on final passage.

The purpose of this law is threefold: detection, which will give us

everybody that— All right. Think you, Mr. Speaker, I will make it brief.

The purpose of this law is threefold: detection, which will give us the opportunity to match indenoval suspect cases against known convicted offenders: identifying missing persons who were victims of natural disasters and unidentifiable bodies. There is the deterrent factor that is also inherent in this legislation, because the convicted offender will know that every time a sexual offense is committed, his DNA sample will be run through the data bank.

There is also an importuni exclusion in effect in the bill that we alluded to earlier. A suspect will either be included or excluded by his checking with the statewide data bank.

The scope and the category of offenders are only the most serious offenders—sex offenders, murderers, and felony stalkers.

It is important also to reemphasize that this legislation, hopefully, will enable law enforcement offense; and follows and offender after his 1st or 2d subsequent offense; and a supprehend an offender after his 1st or 2d subsequent offense; and a support. Thank you The SPEAKER. The Chair thanks the pentleman.

On the question recurring.

Shall the bill pass finally?
The SPHAKER, Agreeable to the provisions of the Constitution, the yeas and mays will now be taken.

dolph	Emoli	Laurenk	Samilares
. Halari	Fairchild	Lanch	Sather
rgall	I'mit	Maitland	Saytor
UTF15-11 COTF15	Homa gg/5	Major	Schroder
aker	Farmer	Manderino	Scholer
ian d	Hoosa	Markeack	Sarimenti
arley	Fichter	Niarsico	Second
SHITLMEN	H1charto	Mastand	berafini
iebko Jones	Photo	Massernik	Shoner
elandi	Cimeralsto	Machill	Sheehan

Smith, Ft.
Smith, S. H.
Smyder, D. W.
Stiebuck,
Stairs
Steelin
Steelin McGiB McGiB Melio Bellantı Bi⊏nelin Céannion Geist George Gigliotti Gladeck Merry Michlovic Chistocki Clodshall Codshall Cruites Gruites Gruites Gruites Gruites Habay Halloska Hama Harban Hasay Herman Herman Herman Hersey Hursey Hurse Braum
Boscola
Dayes
Dayes
Dayes
Dayes
Browne
Bluth
Browne
Bluth
Buthcostz
Huxdon
Cathogrona
Cappabianca
Carn
Carona
Carona
Chack
Clark
Clymar
Cohen, L. I.
Cohen, M.
Colafella
Colasizzo
Conti
Connail
Connail
Connail Michlevie Micozzie Mihalich Miller Mundy Nailor Nick of O'Brien Olasz Olasz
Oliver
Perzel
Pesca
Petrone
Pena
Phillips
Procola Proceda Pistella Pistella Pitts Platts Preston Ramos Reymond Readshaw Relier Reinard Richardson Rieger Robinson Robinson Roahuck Rohrer Robret Robret Robret Robret Robret Tuili
Vance
Van Horne
Vand
Veon
Visali
Walko
Waugh
Wogan
Wogink
Wright, D. R.
Wright, M. N.
Yeweie
Youngbloed
Zimmerman
Zug Jarolin
Josephs
Kaiser
Kailer
Keller
Kennev
King
Kirkland
Krebs
Kukovich
Lacirotta
Laughlm
Lawless
Laderer 'ornell 'orpora 'orrigan 'owell 'urry lates Curry Dalay Defluca Defluca Dempsey Dent Dermody DeWeese Difficultured Donatucci Rubley Lederer Leh Ryan, Speaker Durbarn

NAYS-0

NOT VOTING 0

EXCUSED -7

Travaglio Washington Cloy Evans Nyoe Petranca

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Schate for

concurrence.

The House proceeded to third consideration of SB 11, PN 65, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for rights of accused in criminal prosecutions

On the question, Will the House agree to the bill on third consideration? Bill was agreed to.

1995

LEGISLATIVE JOURNAL — HOUSE

Cloy Evans

This place is so fast-paced: we move at a france pace. Unfortunately, it is common for us to let pass those things that are most important. Paul's memory is one of those things. I encourage all of you, those who knew Paul and those of you who are learning of him for the first time, to be mindful of his wonderful girls.

Paul was a master of compromise He brought all parties to the table, lotting each know that they had significant value and would be heard. He accepted assignments without hesitation, no matter how difficult. In fact, because of his wonderful skills, the most difficult tasks were always reserved for Paul.

My bill could not have been developed and written without has respect for the wisdom of others and his extraordinary patience in dealing with those wise ones who were jost a tad full of themselves.

Paul was a gift to us. I know I speak on behalf of the chairmen of the Republican and Democrat mambers of the committee in expressing my thanks to Paul for crafting a bill which will be an essential and to law enforcement in solving serious crimes.

I would also like to take flus time to acknowledge the special contribution of many individuals in fashioning this legislation. I would like to recognize Ed Hussie from on legal staff, Gary Tennis from the Philadelphia district attorney's office.

The SPEAKER, The gentleman will yield.

Mr. O'Brien, we are on final passage.

Mr. O'Brien, we are on final passage.

The purpose of this law is threefold: detection, which will give us

brief.

The purpose of this law is threefold: detection, which will give us The purpose of this law is threefold: detection, which will give us the opportunity to match unknown suspect cases against known convicted offenders; identifying missing persons who were victims of natural disasters and unidentifiable bodies. There is the deterrent factor that is also inherent in this legislation, because the convicted offender will know that every time a sexual offense is committed, his DNA sample will be run through the data bank.

There is also an important exclusion in effect in the bill that we altuded to earlier. A suspect will either be included or excluded by his checking with the statewide data bank.

The scope and the category of offenders are only the most serious offenders—sex offenders, murderers, and felony stalkers.

It is important also to reemphasize that this legislation, hopefully, will enable law enforcement offense; rather than his 15th or 20th subsequent offense, and I ask for your support. Thank you The SPEAKER. The Chair thanks the pentleman.

On the question recurring,

Shall the bill pass finally?
The SPHAKER, Agreeable to the provisions of the Constitution, the yeas and mays will now be taken.

Adolph	Egoli	Laurenk	Samoni
Aller	Fairchuld	Lynch	Sather
Argall	I'mit	Maitland	Saylor
Autrialication	Homa gg/s	Major	Schröder
Baker	Farmer	Manderino	Scholer
Band	Hoose	Markeack	Scriment
Barley	Fichter	Niarsico	Second
Hattisto	Hidagila	Mastand	herafini
Debko Jones	Plick	Massernik	Shener
Belandi	Cimeralska	N14K (All	Sheehan

Selfanti	Chargenon	McCicchan	Smith, Ft.
Birmelin	Geist	McGiB	Smith, S. H.
3ishop	C ferengages	Melio	Snyder, D. W.
slaum	Cliglioni	Merry	Staback
Soscola	Cilindeck	Michiovic	Stairs
Boyes	Godshail	Micoszeic	Steelman
an nown	Ciondeser	Mihalich	Steil
3rowne	Gruitza	Maller	Ntern
-Staint	Ciruppo	Mundy	Stetler
Butkovitz	History	Sailor	Stish
Junction	Haluska	Nisokod	Stritunatter
'a Bagarana	flanna	O'Brien	Sturla
Cappabianca	Harlina1	Olasz	Surra
liann -	Hasay	Oliver	Langretti
Carone	Hennessey	Perzel	Taylor, E. Z.
Carrier	Herman	Passari	Taylor, J.
Chadwick	Hershey	Petrone	Thomas
Civera	Iless	Pettet	ligue
Clark.	Horsey	Phillips	Trello
Okymnen	Hutchinson	Presents	Trich
Cohen. L. I.	Distri	Pistella	True
Certificate, N.1	Jadlovviec	Pitts	Builli
Colafella	Justine	Platts	Vance
Colerazo	Jarolin	Preston	Van Horne
Canti	Josephs	Ramos	Veon
Permatt	Kaiser	Raymond	Vitali
Согрога	Keller	Readshaw	Walko
Corrigan	Henney	₩ cal sear	Waugh
Cowell	King	Reinard	Wogan
Curry	Kirkland	Richardson	Wozniak
Dates	Krebs	Rieger	Wright, D. R.
Def.uca	Kukovich	Roberts	Wright, M. N.
Demograpy	LaCirotta	Robinson	Yeweie
Deni	Languaghilan	Hochack	Youngblood
Decimody	I.awless	Robert	Zimmermen
DeWeese	Lacdonar	Roomey	Zug
LDrC in redar no	t.eh	Rubley	
Donatucci	Lescoetta	Rudy	Ryan,
Drivace	Levdansky	Sainato	Speaker
Durham	Lioyd		

NAYS-0

NOT VOTING 0

EXCUSED -7

Nyoe Petranca

Travaglio Washington

The	majority	required	$\mathbf{b}\mathbf{y}$	the	Constitution	having	voted	ın	цh

affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for

concurrence.

The House proceeded to third consideration of SB 11, PN 65, entitled

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Bennsylvania, further providing for rights of accused in criminal prosecutions.

the question, Will the House agree to the bill on third consideration? Bill was agreed to. The SPEAKER This bill has been considered on three different s and agreed to and is now on final passage. The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Ilkin.
Mr. ITKIN. Thank you, Mr. Speaker
Passage of SB 11 today will make it clear once and for all that the
legislature wants to take advantage of existing technology and allow
children to testify through videotape or closed-circuit television. But
the bill's language leaves a few questions unanswered, so I would
like to get the legislature's intent on the record
SB 11 does not define the word "child," which, as we all know,
is a slippery term. Should a 13-year-old be shielded from an abuser
in court the same as a 5-year-old? The Constitution and this
proposed amendment do not say. This means that the legislature has
a responsibility to define the term.
We do not have to adopt any existing statute, retrofitting it to
accommodate the constitutional language. Instead, we must adopt age
parameters which best meet the purposes of the constitutional
amendment.

Also this proposed amendment does not address the question of

Also, this proposed amendment does not address the question of oath-taking. Current practice allows children who do not understand the concept of eaths to at least demonstrate an understanding of the difference between truth and falsehood.

I have been told that under SB 11, this practice can continue However, if a stronger definition is needed to bolster the constitutional amendment, then the General Assembly can do that in the forms.

the future. I am pleased that we are on the verge of sending this important bill to the Pennsylvania voters for final approval, and I ingo my colleagues to vote in its favor.

I just felt that these few points needed to be made so that the people of Pennsylvania understand that ultimately we will address, the legislature will address, these two matters that I mentioned today, and consequently, I would like to reiterate my strong support for the bill and hope that we will have this passed by the people of Pennsylvania. Pennsylvania

Pennsylvania.

The SPEAKER. The Chair thanks the gentleman.
The Chair recognizes the gentleman from Borks, Mr. Leh.
Mr. LEH. Thank you, Mr. Speaker.
May I comment?
The SPEAKER. The gentleman is in order and may proceed.
Mr. LEH. Thank you, Mr. Speaker.
And I ask the House's indulgence just a little bit. I apologize. I have a lousy head cold. I am filled up with chemicals, and maybe that is why this does not nutre make sense to me today.

is why this does not quite make sense to me today.

Last session I did support this bill. However, it was not without its reservation. And I am just going to state, because the bill is simply enabling legislation. I only want to state that I am opposing it on principle only. Our Constitution, Article I, section 9, states very plainly, for good reason, that the accused must be faced by the accuser.

accesser.

I think our forefathers were far wiser in wisdom and understanding than we are and there was a reason for that, and therefore, today I am going to vote in the negative on SB 11. Thank you, Mr. Speaker.

The SPLAKER. The Chair thanks the gentleman.

The Chair recognizes the lady from Montgomery, Mrs. Cohen. Mrs. COLEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise today to speak in favor of this matter.

We did vote in favor of it last year, the House did, and the Scoate has done so last year and again this year. In order to have a constitutional amendment, we have to pass it in two separate

sessions.

The importance of this matter is that the objections that were raised by the previous speakers can be deaft with in the specific legislation and the statute that we pass later, but we cannot do that until we have the constitutional amendment.

until we have the constitutional amendment.

There have been instances where murders have been committed, where children love been abused, but because they are frightened and intimidated and are afraid to confront the people who have committed acts of violence against them, cases have been lost. Murderers have been walking the streets because child witnesses cover at having to confront them. There are so many safeguards that can be made in the law. The saleguards will be there for defendants and for prosecutors, but most important of all, for the children who are affected. are affected.

Lurge my follow Representatives to vote in favor of this. Thank

You, Mr. Speaker
The SPEAKER. The Chair recognizes the gentleman from Delaware. Mr. Vitali.
Mr. VITALI. Thank you. Mr. Speaker
I rise in opposition to SB 11. I think that the reasons against this bill need to be discussed, because what we are doing is taking a very serious step in creding the constitutional provision to confront your witnessers from to those.

serious step in croding the constitutional provision to confront your witnesses face to face.

And I agree with the gentlemm who said that our Founding Fathers in 1790 pur those provisions in for very good reasons. Sure, it is important not to subject a child victim or a rape victim to immecessary trauma, but I would submit to you that it is even more important that we insure that an innocent person is not wrongly convicted. I think that has to be paramount in our criminal justice system. I think we forget when we deal with these Crimes Code bills that last word, "justice." That is the key word here. The reasons for this right to confront witnesses are numerous, but basically it is simply more difficult to lie when you are meeting the person about whem you are lying face to face. Additionally, when you are dealing with child witnesses, and I have dealt with them in my courteoom work, children are very suggestible, and many times it is only skillful cross-examination that reveals that suggestibility.

We have heard in the media after a spate of child molestation cases that many and especially in demestre-relations-type cases have turned out to be unfounded. I would submit to you that this right to cross-examine face to face is a fool in preventing any of us here from being subject to wrong accusations, and believe me, in this day and age, any of us can be subject to those type accusations.

I do not think that simply videotaping and broadcasting in the courtroom is adequate, and for a number of reasons. I think the whole demeanor of the courtroom, just as the solemmy and the ornamentation and the other procedures of this room keep us serious, impresses upon the witnesses who are new to this that this is a situation, especially entities.

ornamentation and the other procedures of this room keep us serious, impresses upon the witnesses who are new to this that this is a situation, especially children, where it is important to tell the truth.

I think, Mr. Speaker, that we are really going beyond the day-to-day bills that we pass when we make the Crimes Code tougher, when we are talking about changing the Constitution. I think its very serious business, and I think that one adapt that is besse to our legal system applies here, and that is, it is better to let 10 guilty people go free than to convict one innocent man, and I think that is what we will do you are goine to meet the flooding to the I if you what we will do, you are going to open the floodgates to that, if you pass SB-11. Thank you,

LEGISLATIVE JOURNAL — HOUSE

The SPEAKER. This bill has been considered on three different is and agreed to and is now on final passag. The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Ilkin.
Mr. ITKIN. Thank you, Mr. Speaker
Passage of SB 11 today will make it clear once and for all that the
legislature wants to take advantage of existing technology and allow
children to testify through videotape or closed-circuit television. But
the bill's language leaves a few questions unanswered, so I would
like to get the legislature's intent on the record
SB 11 does not define the word "child," which, as we all know,
is a slippery term. Should a 13-year-old be shielded from an abuser
in court the same as a 5-year-old? The Constitution and this
proposed amendment do not say. This means that the legislature has
a responsibility to define the term.
We do not have to adopt any existing statute, retrofitting it to
accommodate the constitutional language. Instead, we must adopt age
parameters which best meet the purposes of the constitutional

amendment

Also, this proposed amendment does not address the question of oath-taking. Current practice allows children who do not understand the concept of eaths to at least demonstrate an understanding of the difference between truth and falsehood.

I have been told that under SB 11, this practice can continue However, if a stronger definition is needed to bolster the constitutional amendment, then the General Assembly can do that in the forms.

the future. I am pleased that we are on the verge of sending this important bill to the Pennsylvania voters for final approval, and I arge my colleagues to vote in its favor.

I just felt that these few points needed to be made so that the people of Pennsylvania understand that ultimately we will address, the legislature will address, these two matters that I mentioned today, and consequently, I would like to reiterate my strong support for the bill and hope that we will have this passed by the people of Pennsylvania. Pennsylvania

The SPEAKER. The Chair thanks the gentleman.
The Chair recognizes the gentleman from Berks, Mr. Leh.
Mr. LEH. Thank you, Mr. Speaker.
May I comment?

Mar. Eleft. I flamk you, in appearer.

May I comment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. LEH. Thank you, Mr. Speaker.

And I ask the House's indulgence just a little bit. I apologize. I have a lousy head cold. I am filled up with chemicals, and maybe that

is why this does not quite make sense to me today.

Last session I did support this bill. However, it was not without its reservation. And I am just going to state, because the bill is simply enabling legislation. I only want to state that I am opposing it on principle only. Our Constitution, Article I, section 9, states very plainly, for good reason, that the accused must be faced by the

accesser.

I think our forefathers were far wiser in wisdom and understanding than we are and there was a reason for that, and therefore, today I am going to vote in the negative on SB 11. Thank you, Mr. Speaker.

The SPLAKER. The Chair thanks the gentleman.

The Chair recognizes the lady from Montgomery, Mrs. Cohen. Mrs. COLEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise today to speak in favor of this matter.

We did vote in layor of it last year, the House did, and the Scoate has done so last year and again this year. In order to have a constitutional amendment, we have to pass it in two separate

The importance of this matter is that the objections that were raised by the previous speakers can be dealt with in the specific legislation and the statute that we pass later, but we cannot do that until we have the constitutional amendment.

until we have the constitutional amendment.

There have been instances where murders have been committed, where children have been abused, but because they are frightened and intimidated and are afraid to confront the people who have committed acts of violence against them, cases have been lost. Murderers have been walking the streets because child witnesses cover at having to confron them. There are so many safeguards that can be made in the law. The saleguards will be there for defendants and for prosecutors, but most important of all, for the children who are affected. are affected.

Lurge my follow Representatives to vote in favor of this. Thank

you, Mr. Speaker
The SPEAKER. The Chair recognizes the gendeman from

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Thank you. Mr. Speaker

I rise in opposition to SB 11. I think that the reasons against this bill need to be discussed, because what we are doing is taking a very serious step in creding the constitutional provision to confront your

bill need to be discussed, because what we are doing is taking a very serious step in croding the constitutional provision to confront your witnesses face to face.

And I agree with the gentlemm who said that our Pounding Fathers in 1790 put those provisions in for very good reasons. Sure, it is important not to subject a child victim or a rape victim to unuscessary trauma, but I would submit to you that it is even more important that we insure that an innocent person is not wrongly convicted. I think that has to be paramount in our criminal justice system. I think we forget when we deal with these Crimes Code bills that lost word, "justice." That is the key word here. The reasons for this right to confront witnesses are numerous, but basically it is simply more difficult to lie when you are meeting the person about whom you are lying face to face. Additionally, when you are dealing with child witnesses, and I have dealt with them in my courtroom work, children are very suggestible, and many times it is only skillful cross-examination that reveals that anggestibility.

We have heard in the media after a spate of child molestation cases that many and especially in domestico-relations-type cases have curned out to be unfounded. I would submit to you that this right to cross-examine face to face is a tool in preventing any of us here from being subject to wrong accusations, and believe me, in this day and age, any of us can be subject to those type accusations.

I do not think that simply videotaping and broadcasting in the courtroom is adequate, and for a number of reusons. I think the whole demeanor of the courtroom, just as the solenmity and the ornamentation and the other procedures of this room keep us serious, impresses upon the witnesses who are new to this that has in a situation, especially children, where it is important to tell the truth.

I think, Mr. Speaker, that we are really going beyond the duy-to-day bills that we pass when we make the Crimes Code tougher, when we are talking about changing the C

what we will do, you are going to open the floodgates to that, if you pass SB-11. Thank you,

The SPEAKER The Chair recognizes the lady from Montgornery, Mrs Cohen Mrs. COHEN. Thank you, Mr Speaker.

Mrs. COHEN. Thank you, Mr Speaker.

Mrs. Speaker, I can assure the hast speaker, I think that all 203 of us have been sworm and do swear to uphold the Constitution of the Commonwealth of Pennsylvania as well as the United States, and because we do that this bill in no way would affect our upholding those two Constitutions.

What we are anning to do is to bring Pennsylvania into at least the 20th century. The Commonwealth of Pennsylvania is only one of very few States which disallows child videotaping. The important thing is that the law that will be drafted after we have approved the enabling legislation will indeed provide for all of the safeguards that our Constitutions worry about that is, a judge will make an independent determination that the child will simply be too traumatized if he had to actually confront the defendant.

The defense counsel will be present. There will be opportunity to cross-examine the child. All of the safeguards will be there. The defendant will be able to watch the testimony and be in constant electronic commonication with his atterney. All of the safeguards that our laws provide now will be present when the videotaping is allowed so that there need not be any worry on behalf of defendants. All of their rights will be pretected.

I targe my fellow members to vote in favor of SB 11. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

Does the gendeman, Mr. Vitali, desire recognition for the second time on the subject?

Mr. VITALL Just very briefly.

Two points, Mr. Speaker, one which I neglected to cover last time, and the second in response to Representative Cohen.

I think that is pure speculation as to what may or may not, what safeguards may or may not, be in that legislation.

The political reality is that on this floor, we do not vote against Crimes Code bills no matter how ridiculous they might be. I do not subscribe to the theory that those bills in fact wi

is rights. I think the second point that I neglected to make and the reason we need that face-to-face viewing, it goes to the essence of our jury system. The jury's prime function is to assess credibility. It has to look at a witness to assess whether that witness is telling the truth or

Note where the district when you do it through the lens of a carnera, you are losing something essential. You are taking power away from the jury to see that person sitting just a few feet away from them, and you are preventing the jury from making that crucial assessment as to credibility. I think you lose that with this video presentation.

So as difficult as it may be upon victims of crimes, I think it is something that simply needs to be done in order to protect the other 60,000 people in your district whem you represent I think you have to think of them. You have to think of people who potentially in your district can be falsely accused, and SB 11 takes something away from the rights of everyone in your district.

I therefore eige a 'no" vote. Thank you.

On the question recurring, Shall the bill pass finally?

The SPEAKER Agreeable to the provisions of the Constitution, the years and nays will now be taken.

YEAS-187

Lloyd Lucyk Lynch Maitland Major Manderino Markosek Magaco Masland Mayernik Adolph Dinne Durham Egolf Fairchild Sainato Adolph Allen Argall Armetred Baker Hand Barlev Bathsto Bellandi Birmelin Bishopi Bishopi Bishopi Bishopi Bishopi Brown Brown Brown Brown Brown Brown Bruth Sainato
Sautori
Sautori
Sautori
Sautori
Sautori
Sautori
Sautori
Scrimenti
Sensini
Shaner
Shinehan
Smith, S. II
Smyder, D. Staback
Shane
Steelman
St ane Mayernik McCall McCieehan McCieehan Medio Mario Menry Michlovic Michlovic Michozzie Michozzie Miller Mindy Nailor Nakoi O'Thrien O'Ilver Herzel Possi Hetrone Pottii Phillips Pietells Pie Bunt
Butkovitz
Buston
Caltagirone
Cappathanca
Carn
Cambe
Clark
Clark
Clark
Clark
Clark
Clonen, M.
Cottefath
Colon, M.
Cottefath
Colon
Comit
Comple
Comit
Comple
Com Hambar Harbart Hasay Hermessey Herman Hershey Hers Hutchinson Itkin Jadiowiec James Surra
Tangretti
Taylor, E. Z.
Taylor, J.
Tigue
Tretto
Trich
true
Tolli
Vance true
Tolli
Vance
Van Horne
Walke
Wogan
Wozniak
Wright, D. R.
Wright, M. N.
Yeweit
Youngblood
Zinnmerman
Zon Jadlowise
Jarnes
Jarolin
Kaiser
Keller
Kenney
King
Kirkland
Krebs
Kukovich
LaCrotta
Lawloss
Laderer
Lescovitz Zog Ryan, Speaker Loscovitz Lovdansky Rudy

NAYS-9

Hensey Josephs Laughlin Robinst Veon Vitali Leh Mihahch

NOT VOTING-0

EXCUSED-7

Williams Travaglio Washington Nacc Perrates Croy Evans

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

1995

LEGISLATIVE JOURNAL — HOUSE

215

The SPEAKER The Chair recognizes the lady from Montgornery, Mrs Cohen Mrs. COHEN. Thank you, Mr Speaker.

Mrs. COHEN. Thank you, Mr Speaker.

Mrs. Speaker, I can assure the hast speaker, I think that all 203 of us have been sworm and do swear to uphold the Constitution of the Commonwealth of Pennsylvania as well as the United States, and because we do that this bill in no way would affect our upholding those two Constitutions.

What we are anning to do is to bring Pennsylvania into at least the 20th century. The Commonwealth of Pennsylvania is only one of very few States which disallows child videotaping. The important thing is that the law that will be drafted after we have approved the enabling legislation will indeed provide for all of the safeguards that our Constitutions worry about that is, a judge will make an independent determination that the child will simply be too traumatized if he had to actually confront the defendant.

The defense counsel will be present. There will be opportunity to cross-examine the child. All of the safeguards will be there. The defendant will be able to watch the testimony and be in constant electronic commonication with his atterney. All of the safeguards that our laws provide now will be present when the videotaping is allowed so that there need not be any worry on behalf of defendants. All of their rights will be pretected.

I targe my fellow members to vote in favor of SB 11. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

Does the gendeman, Mr. Vitali, desire recognition for the second time on the subject?

Mr. VITALL Just very briefly.

Two points, Mr. Speaker, one which I neglected to cover last time, and the second in response to Representative Cohen.

I think that is pure speculation as to what may or may not, what safeguards may or may not, be in that legislation.

The political reality is that on this floor, we do not vote against Crimes Code bills no matter how ridiculous they might be. I do not subscribe to the theory that those bills in fact wi

those rights

I think the second point that I neglected to make and the reason we need that face-to-face victoring, it goes to the essence of our jury system. The jury's prime function is to assess credibility. It has to look at a witness to assess whether that witness is telling the truth or

When you do that via videotape, when you do it through the lens When you do that via videotape, when you do it through the lens of a camera, you are losing something essential. You are taking power away from the jury to see that person sitting just a few feet away from them, and you are preventing the jury from making that crucial assessment as to encidibility. I think you lose that with this video presentation.

So as difficult as it may be upon victims of crimes, I think it is something that sumply needs to be done in order to protect the other 60,000 people in your district whom you represent. I think you have to think of them. You have to think of people who potentially in your district can be falsely accessed, and SB 11 takes something away from the rights of everyone in your district.

Therefore in ge a 'no" vote. Thank you.

On the question recurring, Shall the bill pass finally?

The SPEAKER Agreeable to the provisions of the Constitution, the years and nays will now be taken.

YEAS-187

Lloyd Lucyk Lynch Maitland Major Manderino Markosek Majonso Masland Mayernik McCall McCiechan Mc Drong Durham Egolf Fairchild Adolph Sainato Sainato
Sautori
Sautori
Sautori
Sautori
Sautori
Sautori
Sautori
Scrimenti
Sensini
Shaner
Shinehan
Smith, S. II
Smyder, D. Staback
Shane
Steelman
St Allen
Argall
Arredong
Baker
Hand
Baker
Hande
Baker
Barley
Barley
Baker
Belardi
Belbrati
Belbrati
Belbrati
Belbrati
Belbrati
Belbrati
Brown
Brown
Brown
Brown
Brown
Brown
Brown
Brown
Brown
Caltagirone
Carne
Carne Fairchild Fail Fail Fargo Farms Fesse Hollter Fleagle Flick Oamble Gannon George Gigletti Gladeet Gordner Gordner Gruppe Halbay Halbay Harma Harma Menry Michlovic Michlovic Michlovic Michozzie Michozzie Miller Mundy Nailor Nakoi O'Thrien O'Thrien O'Ilver Perzel Possi Petrone Pattin Phillips Pietells Pi Sturia Sturia Sturia, Tanjar, E. Z. Taylor, I. Z. Taylor, I. Tigue I Tirich I true Tolli Vance Van Home Walko Wauth Wogan Wozniak Wright, I. P. R. Wright, M. N. Yeweie Youngblood Zimmerman Zon Hambar Harbart Hasay Hermessey Herman Hershey Hers Hutchinson Itkin Jadiowiec James James Jarolin Jarolin Kaiser Keller Keller Kenney King Kirkland Krebs Kukovich LaCrotta Lawloss Laderer Lescovitz Lavdansky Roomey Rubley Rudy Ryan, Speaker

Horsey Josephs Laughlin i .eh Mihahoh Robber Thomas Veon Vitali

NOT VOTING-0

EXCUSED-7

Williams Travaglio Washington Nivoe Perratea Croy Evans

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

BILL ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **f1B 14, PN 112**, entitled:

An Act creating the Office of Victim Advocate.

On the question, Will the House conour in Senate amendments?

The SPEAKER. The Chair has been requested to ask the gentleman, Mr. Piccola, to briefly explain the amendments inserted by the Senate

Mr. PICCOLA. Thank you, Mr. Speaker.

The Senate made some very minor changes to the bill.

First, it moved the definition of "family" from page 4 to the definition section on page 2. It made some editorial changes with respect to gender references. It also made a change on page 2, changing "advice and consent" to simply the consent of the Senate.

And finally, or page 3, it again made an editorial change referencing the board, and when the advocate would continue to remain on the board, they would remain "in office" rather than on the board.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Will the House concur in Senate amendments?
The SPEAKER, Agreeable to the provisions of the Constitution,
the year and nays will now be taken.

Adolph
Adlen
Argali
Argali
Argali
Baker
Baray
Batteto
Hobko-Jones
Belanti
Birnelin
Bishop
Bisum
Boscols
Boyes
Brown
Brown
Brown
Brown
Butteto
Butteto Egolf Fairchild Fajt Fargo Farmor Foese Fichter Fleagle Fliok Gamble Gamble George George George Gladeck Gordenal Lucyk
Lynch
Maidand
Major
Narrino
Markosek
Markosek
Markosek
Mexico
Maseland
McCall
McGoeban
McGill
Melio
Many
Michlovic
Micozzie
Mibalich Nantoni Sather Saylor Schnoder Schnider Scrimenti Seramol Serafini Netechan Stretch B. Smith, S. H. Smith, S. H. Smyder, D. W. Nishnak Steins Crosterall
Crosterall
Crosterall
Cruster
Cruster
Cruster
Cruster
Cruster
Cruster
Halles
Halles
Harma
H Mihalich Milles Mundy Steller Stetler Stieff Stieff Storfa Storfa Storfa Taylor, E. Z. Taylor, E. Z. Taylor, E. Z. Thomas Tigue Troth Trich Trich Truck Truta Tulli Nation Nickel O'Brien Bulkovite
Huxton
Callagirone
Cappabiance
Carn
Carone
Cawley
Chadwick
Civera
Citark
Clymer
Cohen, L. 1.
Cohen, M O'Brien
Olas2
Oliver
Perzel
Pesci
Petrone
Petrol
Phillips
Piccola
Pistella
Puts

Platts
Preston
Ratmes
Raymond
Readshaw
Reber
Reinard
Richardson
Ricger
Roberts
Roberts
Roberts Vance Van Horne Veen Vitali Walko Waugh Wogan Wozniak Wight, D. R. Wright, M. N. Yewene Colafelia Jarries Jarolin Josephs Colanza Conti Cornell Corpora Corrigan Cowell Curry Daley Del. Luca Dempsey Dent Destroolly DeWeese DicGrober Domstucci Druce Josephs
Kaoner
Kaoner
Koller
Kormey
King
Kokland
Krebs
Knkovich
LaGrotta
Lamphlio
Lawless
Lederer
Lah Rocbuck Rohrer Rooney Rubley Rudy Samato Youngblood Zimmerman Zug Lah Lescovitz Levdansk Lloyd Ryan. Speaker

NAYS 0

NOT VOTING--0

EXCUSED-7

Williams Travaglio Washington Соу Емац≈ Nyce Petransa

The uniquity required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

An Act creating the Office of Victim Advocate.

Whereupon, the Speaker, in the presence of the House, signed the same

ADJOURNMENT

The SPEAKER. Does the majority leader or minority leader have any further business in special session? And there any further reports of committee in special session? Announcements or corrections of the record in special session? The Chair bears none.

The Chair recognizes the gentleman from Allegheny, Mr. Walko, Mr. WALKO, Mr. Speaker, I move that the special session do now adjourn until Tuesday, March 14, 1995, at 11:05 a.m., c.s.t., unless sooner recalled by the Speaker.

On the question, Will the House agree to the motion? Motion was agreed to, and at 4:15 p.m., e.s.t., the House adjourned.

- HOUSE LEGISLATIVE JOURNAL -

MARCH 13

Ordered. That the clock return the same to the Senate with the information that the House has passed the same without amendment.

BILL ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **FIB 14, PN 112,** entitled:

An Act creating the Office of Victim Advocate.

On the question, Will the House concur in Senate amendments?

The SPEAKER. The Chair has been requested to ask the gentleman, Mr. Piccola, to briefly explain the amendments inserted by the Senate

Mr. PICCOLA. Thank you, Mr. Speaker.

The Senate made some very minor changes to the bill.

First, it moved the definition of "family" from page 4 to the definition section on page 2. It made some editorial changes with respect to gender references. It also made a change on page 2, changing "advice and consent" to simply the consent of the Senate.

And finally, or page 3, it again made an editorial change referencing the board, and when the advocate would continue to remain on the board, they would remain "in office" rather than on the board.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Will the House concur in Senate amendments?
The SPEAKER, Agreeable to the provisions of the Constitution,
the year and nays will now be taken.

YEAS-196

Adolph	Egolf	Lucyk	Nantoni
Allen	Fairchild	Lynch	Sather
Argall	Fʻajt	Maitland	Saytor
Armstrong	Fargo	Major	Schroder
Baker	Farmer	Alanderino	Schuler
Hard	Feese	Markosek	Scrimenti
Barley	Fichter	Marsico	Senanci
Battisto	Fleagle	Masjand	Serafini
Hebko-Jones	Flick	Mayernik	Shaner
Belardi	Gamble	McCall	Sheehan
Bellanti	Gargion	McGeeban	Smith, B.
Birmelin	Cicist	MeCiti	Smith S H
Frishon	George	Melio	Snyder, D. W.
Blaum	Cinglicatio	Merry	Stational
Boscola	Gladeck	Michlovic	Stairs
Boyes	Cindshall	Micozzie	Stechmen
Brown	Gordner	Mihalich	Steil
Browne	Chades	Miller	Stanto
Bunt	Стирро	Mundy	Steller
Butkovitz	Habay	Nation	Stish
Huxton	Haluska	Nickol	Strittmatter
Caltagirone	Harma	O'Brien	Sturla
Cappabianca	Harbart	Olasz	Store
Clarit	Наяву	Oliver	Tengratti
Carone	Hennessey	Perzel	Taylor, E. Z.
Classics	Henricker	Peser	Taylor, J
Chadwick	Hershey	Petrone	Thomas
Civera	Hess	Petrif	Tigue
<:tark	Horsey	Phillips	Trallo
Clymer	Hotchinson	Piccola	Trich
Cohen, L. 1.	Itkin	Pistella	True
Cohen, M	Japanjana	P111×	Tulli

Colafelia

Jarries Jarolin Josephs Colanzar
Comti
Cormell
Corpora
Corrigan
Cowell
Curry
Dalev
Del non
Dempsey
Dent
Districtly
DeWeese
Dr Groben
Domstrace Josephs
Kaoner
Kaoner
Koller
Kormey
King
Kokland
Krebs
Knkovich
LaGrotta
Lamphlio
Lawless
Lederer
Lah

Leh Lescovitz Levdansky Lloyd

Platts
Preston
Ramos
Raymond
Roschine
Reber
Reinard
Richardso
Ricger
Roberts
Robinson Rocbuck Rohrer Rooney Rubley Rudy Samato

Vance Van Horrie Veen Vitali Walke Waugh Wozniak Wight, D. R. Wright, M. N. Yewere Vannsplood Youngblood Zimmerman Zug Ryan. Speaker

Williams

NAYS 0

NOT VOTING--0

EXCUSED-7

Travaglio Washington Coy Evan∗ Nyce Potrarca

The uniquity required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

HB 14, PN 112

An Act creating the Office of Victim Advocate.

Whereupon, the Speaker, in the presence of the House, signed the

ADJOURNMENT

The SPEAKER. Does the majority leader or minority leader have any further business in special session? And there any further reports of committee in special session? Announcements or corrections of the record in special session? The Chair bears none.

The Chair recognizes the gentleman from Allegheny, Mr. Walko, Mr. WALKO, Mr. Speaker, I move that the special session do now adjourn until Tuesday, March 14, 1995, at 11:05 a.m., c.s.t., unless sooner recalled by the Speaker.

On the question, Will the House agree to the motion? Motion was agreed to, and at 4:15 p.m., e.s.t., the House adjourned.