

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, MARCH 13, 1995

FIRST SPECIAL SESSION OF 1995

No. 20

HOUSE OF REPRESENTATIVES

The House convened at 1:05 p.m., e.s.t.

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. EMLYN H. JONLS, pastor 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.

We have been empowered to give direction to our citizens, 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 about 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 mine our hills and valleys for the raw materials that are used to fuel the wheels of our expanding industries, and for those who give of their talent 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 ideas 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 Allegiance 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 SPEAKER. The leaves of absence granted in today's regular session will be granted in the special session.

MASTER ROLL CALL

The SPEAKER. 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 file.

(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?

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.

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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, line 6, by striking out "or ARD" 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
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
506

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 inserting
and certain ARD cases

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

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

Amend Sec. 306, page 7, line 6, by striking out the comma after "sentence" and inserting
or

Amend Sec. 306, page 7, line 7, by striking out "or grant of ARD"

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, 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"

Amend Sec. 306, page 7, by inserting between lines 28 and 29
(c) 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 Sec. 306, page 7, line 29, by striking out "(c) Court supervision" and inserting
(d) Supervision

Amend Sec. 306, page 8, line 3, by striking out "(d)" and inserting
(e)

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 "civilly liable or"

Amend Sec. 307, page 8, line 22, by striking out "reporting" and inserting
transmitting

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 "bank" 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 act, 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.

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

Amend Sec. 501, page 11, line 22, by striking out "501" and inserting
502

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 inserting
knowingly violates section 501(a)

Amend Sec. 501, page 12, lines 2 through 5, by striking out
, without" in line 2, all 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

Amend Sec. 502, page 12, line 17, by inserting after "a"
knowing

Amend Sec. 502, page 12, lines 17 through 19, by striking out "the" in line 17, all of line 18 and "promulgated under this act" in line 19 and 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
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- Amend Sec. 503, page 13, line 1, by striking out "503" and inserting 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?

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

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 Lennis from the Philadelphia district attorney's office, Capt. George Sauer from the State Police, Christine Tomsey, also of the State Police, Capt. Roger Peacock, Dick Scott from the House Democratic staff, and Larry 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	Egoli	Lucyk	Nantoni
Allen	Fairchild	Lynch	Sather
Arnsht	Fajt	Maidland	Saylor
Armstrong	Fazio	Major	Schroder
Baker	Farmer	Manderino	Schulz
Bard	Fesse	Markosek	Saionti
Barley	Fuhrer	Marsico	Senmuel
Battisto	Flegle	Masland	Serafin
Belko-Jones	Flick	Mayernik	Slosser
Belardi	Gambale	McCull	Sheehan
Belinfanti	Gannon	McClellan	Smith, B.
Birnbaum	Geist	McGill	Smith, N. H.
Bishop	George	Mello	Snyder, D. W.
Blaum	Gigliotti	Mery	Stabsak
Bossola	Giblock	Michlovic	Stairs
Boyes	Godshall	Miozzina	Steinman
Brown	Gordner	Mihalich	Stell
Browne	Gratra	Miller	Stern
Bunt	Croppa	Mundy	Stetter
Bukovitz	Habay	Naiber	Sush
Burton	Halskus	Nickel	Sherman
Callagione	Hanna	O'Brien	Sturla
Cappabianca	Harhart	Olasz	Sutra
Carr	Hassay	Oliver	Tangretti
Carone	Hennessey	Parrel	Taylor, E. Z.
Cawley	Hennan	Pesci	Taylor, J.
Chadwick	Hershey	Petrone	Thomas
Civera	Hess	Petit	Tighe
Clark	Horsey	Phillips	Trelle
Clymer	Hutchinson	Piccola	Trish
Cohen, L. I.	Irkin	Pistella	True
Cohen, M.	Jadlowiec	Pitts	Tull
Colafella	James	Platts	Vance

Colasizzo	Jacolin
Conti	Josephs
Cornell	Kaiser
Coriova	Keller
Corrigan	Kenny
Cowell	King
Curry	Kirkland
Daley	Krebs
DeLuca	Kukovich
Dempsy	LaGrotta
Dent	Laughlin
Dempsy	Lawless
DeWeese	Leahner
DiCristiano	Leh
Donatucci	Lescovitz
Drace	Lewandowski
Durham	Lloyd

Preston	Vasu Home
Ramos	Veon
Raymond	Vitali
Roadshaw	Walke
Ruber	Waugh
Reinar	Wogan
Richardson	Wozniak
Rieger	Wright, D. R.
Roberts	Wright, M. R.
Robinson	Yewic
Reebuck	Youngblood
Ruber	Zimmerman
Rooney	Zug
Stubley	
Rudy	Ryan,
Sainato	Speaker

NAYS 0

NOT VOTING—0

EXCUSED 7

Coy	Nyco	Travaglia	Williams
Evans	Petrarca	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 agree to the bill on third consideration as amended?

Ms. 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 expungement shall conform with the provisions of 18 Pa.C.S. §§ 9122 (relating to expungement) and 9123 (relating to juvenile records) and Pa.R.Crim.P. 186, 42 Pa.C.S.A. (relating to expungement upon successful completion of ARD program)."

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

AMENDMENT WITHDRAWN

The SPEAKER: On the question of the adoption of the amendment, the Chair recognizes the lady, Ms. Manderino.

Ms. MANDERINO: Thank you, Mr. Speaker.

Mr. Speaker, I apologize. I have decided to—I did not get to the clerk, but I am going to withdraw 1358. I am still going to offer 1359.

The SPEAKER: The Chair thanks the lady.

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

- Amend Sec. 503, page 13, line 1, by striking out "503" and inserting 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?

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

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.

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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	Egoli	Lucyk	Nantoni
Allen	Fairchild	Lynch	Sather
Arnsht	Fajt	Maidland	Saylor
Armstrong	Fazio	Major	Schroder
Baker	Farmer	Manderino	Schulz
Bard	Fesse	Markosek	Saionti
Barley	Fuhrer	Marsico	Senmuel
Battisto	Flegle	Masland	Serafin
Belko-Jones	Flick	Mayernik	Slosser
Belardi	Gambale	McCull	Sheehan
Belinfanti	Gannon	McClellan	Smith, B.
Birnbaum	Geist	McGill	Smith, N. H.
Bishop	George	Mello	Snyder, D. W.
Blaum	Gigliotti	Mery	Stabsak
Bossola	Giblock	Michlovic	Stairs
Boyes	Godshall	Miozzina	Steinman
Brown	Gordner	Mihalich	Stell
Browne	Gratra	Miller	Stern
Bunt	Croppa	Mundy	Stetter
Bukovitz	Habay	Naiber	Sush
Burton	Halskus	Nickel	Sherman
Callagione	Hanna	O'Brien	Sturla
Cappabianca	Harhart	Olasz	Sutra
Carr	Hassay	Oliver	Tangretti
Carone	Hennessey	Parrel	Taylor, E. Z.
Cawley	Hennan	Pesci	Taylor, J.
Chadwick	Hershey	Petrone	Thomas
Civera	Hess	Petit	Tighe
Clark	Horsey	Phillips	Trelle
Clymer	Hutchinson	Piccola	Trish
Cohen, L. I.	Irkin	Pistella	True
Cohen, M.	Jadlowiec	Pitts	Tull
Colafella	James	Platts	Vance

Colasizzo	Jacolin
Conti	Josephs
Cornell	Kaiser
Coriova	Keller
Corrigan	Kenny
Cowell	King
Curry	Kirkland
Daley	Krebs
DeLuca	Kukovich
Dempsy	LaGrotta
Dent	Laughlin
Dempsy	Lawless
DeWeese	Leahner
DiCristiano	Leh
Donatucci	Lescovitz
Drace	Lewandowski
Durham	Lloyd

Preston	Vasu Home
Ramos	Veon
Raymond	Vitali
Roadshaw	Walke
Ruber	Waugh
Reinar	Wogan
Richardson	Wozniak
Rieger	Wright, D. R.
Roberts	Wright, M. R.
Robinson	Yewic
Reebuck	Youngblood
Ruber	Zimmerman
Rooney	Zug
Stubley	
Rudy	Ryan,
Sainato	Speaker

NAYS 0

NOT VOTING—0

EXCUSED 7

Coy	Nyco	Travaglia	Williams
Evans	Petrarca	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 agree to the bill on third consideration as amended?

Ms. 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 expungement shall conform with the provisions of 18 Pa.C.S. §§ 9122 (relating to expungement) and 9123 (relating to juvenile records) and Pa.R.Crim.P. 186, 42 Pa.C.S.A. (relating to expungement upon successful completion of ARD program)."

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

AMENDMENT WITHDRAWN

The SPEAKER: On the question of the adoption of the amendment, the Chair recognizes the lady, Ms. Manderino.

Ms. MANDERINO: Thank you, Mr. Speaker.

Mr. Speaker, I apologize. I have decided to—I did not get to the clerk, but I am going to withdraw 1358. I am still going to offer 1359.

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 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.

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

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 Governor'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 having any other felony, misdemeanor, 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 gave 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 Manderino 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 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 sex crimes are serious predictors of future crimes, especially sex offenses. That same standard should apply whether the crime was committed as a juvenile or an adult, because, Mr. Speaker, the impact on the victim is exactly the same. DNA only applies if they find DNA evidence — 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 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 burglaries, car thefts, et cetera, 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 expungement 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 felony 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 expungement for DNA repository records

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 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.

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

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 Governor'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 having any other felony, misdemeanor, 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 gave 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.

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

Once again, Mr. Speaker, I would like to thank Representative Manderino 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.

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It is important for the members of this House to understand that sex crimes are serious predictors of future crimes, especially sex offenses. That same standard should apply whether the crime was committed as a juvenile or an adult, because, Mr. Speaker, the impact on the victim is exactly the same. DNA only applies if they find DNA evidence — 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 DNA provides a genetic profile. There is not a person's name attached to the sample that is included in the DNA data bank.

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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.

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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 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 want to briefly make it clear, first 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 juveniles 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 circumstances, those same rules, 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.

I would ask for support to the amendment.

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

Mr. HENNESSEY. Thank 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.

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 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 file.

If we are going to be consistent, we should do it across the board. I think the Manderino amendment gives us that consistency. Thank you.

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

The following roll call was recorded:

YEAS—48			
Hartiste	Gigliotti	Mello	Roebuck
Hobbs-Jones	Hennessey	Nichlovic	Santoni
Belardi	Horsley	Mihalich	Shaner
Bishop	Itzin	Oliver	Staback
Callagrone	James	Oliver	Stetman
Cappabianca	Jarolin	Peasi	Stetler
Carr	Josephs	Petrone	Thomas
Cohen, M.	Kirkland	Parillo	Trelio
Covell	Kukevich	Freston	Van Home
Curry	Levdansky	Ramos	Veon
DeLoia	Lucyk	Richardson	Vitali
DeWessa	Manderino	Rieger	Youngblood

NAYS—148			
Adolph	Egolf	Lewandz	Saylor
Allen	Fauchild	Lloyd	Schuster
Angill	Fajt	Lytich	Schuler
Armstrong	Fargo	Maitland	Scrimanti
Baker	Lerner	Majior	Semmel
Bard	Pease	Markosak	Serajini
Berley	Pichter	Marsico	Shoehan
Belfanti	Pleagle	Mastland	Smith, E.
Birmolin	Black	Mavernik	Smith, S. H.
Blum	Cambie	McCall	Snyder, D. W.
Boscola	Carmon	McCoshan	Starrs
Boyes	Ceist	McCall	Stell
Brown	George	Merry	Storn
Brown	Gladeck	Micozic	Strish
Bunt	Gookball	Miller	Strittmatter
Burkowitz	Gordner	Nandy	Sturla
Boston	Gutera	Nailor	Suzo
Carone	Gruppo	Nickol	Tangretti
Casaly	Itabay	O'Brien	Taylor, E. Z.
Chadwick	Itaska	Perzel	Taylor, J.
Ciolek	Itanna	Patt	Tighe
Clark	Itchert	Phillips	Trich
Clymer	Hesay	Piccola	Truc
Cohen, J. J.	Herman	Pins	Tulli
Colabella	Hoshey	Platts	Vanx
Colmers	Hoss	Raymond	Walko
Conti	Hutchinson	Reedshaw	Waugh
Cornell	Jautowicz	Rehr	Wogan
Corpora	Kaiser	Reinard	Wozniak
Cortigan	Keller	Roberts	Wright, D. R.
Daley	Konacy	Robinson	Wright, M. N.
Dempsey	King	Rohrer	Yewanc
Dent	Krebs	Roney	Zimmerman
Dermody	Lacortza	Rubley	Zug
DiGirolamo	Laughlin	Rudy	
Donatucci	Lawless	Sainato	Ryan,
Draco	Lederer	Sather	Speaker
Durham	Leh		

NOT VOTING 0

EXCUSED—7

Cov	Nvee	Travaglio	Williams
Evans	Patracia	Washington	

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

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

Mr. HENNESSEY. Thank you, Mr. Speaker.

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If we are going to be consistent, we should do it across the board. I think the Manderino amendment gives us that consistency. Thank you.

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

The following roll call was recorded:

YEAS—48			
Hartiste	Gigliotti	Mello	Roebuck
Hobbs-Jones	Hennessey	Nichlovic	Santoni
Belardi	Horsley	Mihalich	Shaner
Bishop	Itzin	Oliver	Staback
Callagrone	James	Oliver	Stetman
Cappabianca	Jarolin	Peasi	Stetler
Carr	Josephs	Petrone	Thomas
Cohen, M.	Kirkland	Parillo	Trelio
Covell	Kukevich	Freston	Van Home
Curry	Levdansky	Ramos	Veon
DeLoia	Lucyk	Richardson	Vitali
DeWessa	Manderino	Rieger	Youngblood

NAYS—148			
Adolph	Egolf	Lewandz	Saylor
Allen	Fauchild	Lloyd	Schuster
Angill	Fajt	Lytich	Schuler
Armstrong	Fargo	Maitland	Scrimanti
Baker	Lerner	Majior	Semmel
Bard	Pease	Markosak	Serajini
Berley	Pichter	Marsico	Shoehan
Belfanti	Pleagle	Mastland	Smith, E.
Birmolin	Black	Mavernik	Smith, S. H.
Blum	Cambie	McCall	Snyder, D. W.
Boscola	Carmon	McCoshan	Starrs
Boyes	Ceist	McCall	Stell
Brown	George	Merry	Storn
Brown	Gladeck	Micozic	Strish
Bunt	Gookball	Miller	Strittmatter
Burkowitz	Gordner	Nandy	Sturla
Boston	Gutera	Nailor	Suzo
Carone	Gruppo	Nickol	Tangretti
Casaly	Itabay	O'Brien	Taylor, E. Z.
Chadwick	Itaska	Perzel	Taylor, J.
Ciolek	Itanna	Patt	Tighe
Clark	Itchert	Phillips	Trich
Clymer	Hesay	Piccola	Truc
Cohen, J. J.	Herman	Pins	Tulli
Colabella	Hoshey	Platts	Vanx
Colmers	Hoss	Raymond	Walko
Conti	Hutchinson	Reedshaw	Waugh
Cornell	Jautowicz	Rehr	Wogan
Corpora	Kaiser	Reinard	Wozniak
Cortigan	Keller	Roberts	Wright, D. R.
Daley	Konacy	Robinson	Wright, M. N.
Dempsey	King	Rohrer	Yewanc
Dent	Krebs	Roney	Zimmerman
Dermody	Lacortza	Rubley	Zug
DiGirolamo	Laughlin	Rudy	
Donatucci	Lawless	Sainato	Ryan,
Draco	Lederer	Sather	Speaker
Durham	Leh		

NOT VOTING 0

EXCUSED—7

Cov	Nvee	Travaglio	Williams
Evans	Patracia	Washington	

Less 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 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, on the question of final passage.

Ms. MANDERINO. Thank 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 intent of certain sections of the bill.

The first one, as I understand HB 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 felt 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 clause 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 last week.

I will also recommend an inclusion of this language to Senator Greenleaf and his committee when they consider the bill in the Senate. However, one point must be emphasized. Even without any language regarding the exclusion of suspects in the preamble, the substantive provisions of the bill will fully achieve this purpose. The bill in its current form will enable investigators and prosecutors to quickly rule out suspects whose DNA record is in the data base under circumstances where that person's DNA sample does not match the biological evidence found at the crime scene.

Ms. MANDERINO. Thank you, Mr. Speaker.
So just to clarify, there is nothing in this bill that will prevent a defendant from obtaining access to the information in the DNA data bank to prove that he or she is innocent of the charges brought against them?

Mr. O'BRIEN. No, Mr. Speaker.
Ms. MANDERINO. Thank you.
My second question goes to section 502, particularly the subsection that discusses civil actions and limitations on damages.

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 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 limit 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 HB 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.

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

Mrs. FARMER. Thank you, Mr. Speaker.

Mr. Speaker, during caucus I had the opportunity to ask you a question regarding the affair of blood transfusions on the DNA testing. I have 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 Sauters and Chris Tomsey from the State Police crime 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 buccal sample from the inside of one's mouth, 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. Thank 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 Piccola, 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. Callaghan, Chairman Piccola 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 Commonwealth.

We were sorry and disappointed that you did not totally agree on Representative Manderino's expungement concern, but I just want to comment on the fact that I am glad that we were able to sit down and try 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 HB 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 tragic accident several months ago. I could not encourage your consideration in support of my bill without taking a moment to remember Paul.

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.
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The SPEAKER. The lady is in order and may proceed.
Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I think HB 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.

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

Mrs. FARMER. Thank you, Mr. Speaker.

Mr. Speaker, during caucus I had the opportunity to ask you a question regarding the affair of blood transfusions on the DNA testing. I have 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 Sauters and Chris Tomsey from the State Police crime 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 buccal sample from the inside of one's mouth, 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. Thank 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 Piccola, 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. Callaghan, Chairman Piccola 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 Commonwealth.

We were sorry and disappointed that you did not totally agree on Representative Manderino's expungement concern, but I just want to comment on the fact that I am glad that we were able to sit down and try 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 HB 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 tragic accident several months ago. I could not encourage your consideration in support of my bill without taking a moment to remember Paul.

This place is so fast-paced; we move at a frantic 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 gifts.

Paul was a master of compromise. He brought all parties to the table, letting 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 Paul's guidance and good judgment. I believe we all should emulate his respect for the wisdom of others and his extraordinary patience in dealing with those wise ones who were just 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 members of the committee in expressing my thanks to Paul for drafting a bill which will be an essential tool to law enforcement in solving serious crimes.

I would also like to take this time to acknowledge the special contribution of many individuals in fashioning this legislation. I would like to recognize Ed Hruska from our 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. Yes, I am getting to it. I am just acknowledging everybody that— All right. Thank you, Mr. Speaker. I will make it brief.

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 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 officials to apprehend an offender after his 1st or 2d subsequent offense rather than his 15th or 20th subsequent offense, and I ask for your support. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring.

Shall the bill pass finally?

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

YEAS—196

Table listing names of members who voted 'YEAS' (196 total). Includes Adolph, Allen, Argall, Arredondo, Baker, Bard, Barley, Bortone, Diebke Jones, Eckardt, Egolf, Fairchild, Fah, Fango, Farmer, Faska, Fichter, Flanagan, Flick, Gombala, Lamyk, Lynch, Madland, Margo, Manderino, Markosak, Marsilio, Metcalf, Moxemnik, McCall, Santoni, Sather, Saylor, Schroeder, Schuler, Scrimanti, Scornell, Serafini, Shuster, Sheshan.

Table listing names of members who voted 'NAYS' (0 total). Includes Bellanti, Birmelin, Bishop, Blaum, Boscolo, Boyes, Brown, Browne, Hunt, Burkhovitz, Hudson, Ostigronne, Cappabianca, Cain, Carone, Cavley, Chadwick, Chvera, Clynner, Cohen, L. I., Cohen, M., Colafella, Colisuzzo, Conti, Connell, Corners, Coorigan, Cowell, Curry, Dempsy, Deni, Donohody, DeWeese, DiCintilano, Donatucci, Dumas, Durham, Gauman, Geist, George, Gigliotti, Gioduck, Goddahl, Gorder, Grutza, Grappo, Hailer, Haluska, Ianna, Harbin, Oliver, Hennessy, Herman, Hurshy, Hesse, Hursey, Hutchinson, Khan, Jadlowiec, James, Jarolin, Joseph, Kaiser, Corners, Kenney, King, Kirkland, Koles, Kukovich, LaCrotta, Laughlin, Lawless, Ladner, Leh, Lescovitz, Levdansky, Lloyd, McCleshan, McGill, Melio, Merry, Michlovic, Mioszic, Mihalich, Miller, Mundy, Naylor, Nuckol, O'Brien, O'Grady, Perzel, Pessa, Petrone, Perna, Phillips, Piccola, Pistella, Pitts, Platts, Preston, Ramos, Raymond, Readshaw, Reher, Reimard, Richardson, Rieger, Roberts, Robinson, Roehbeck, Rohrer, Rooney, Rublev, Rudy, Sainato, Smith, F., Smith, S. H., Snyder, D. W., Staback, Stairs, Stegman, Mihalich, Nern, Steller, Stish, Strittmatter, Sturk, Surra, Tangrati, Taylor, E. Z., Taylor, J., Thomas, Tighe, Trello, Ulrich, True, Tullis, Vance, Van Horne, Veon, Vlah, Walko, Waugh, Wogan, Wozniak, Wright, D. R., Wright, M. N., Yewic, Youngblood, Zimmerman, Zug, Ryan, Speaker.

NAYS—0

NOT VOTING 0

EXCUSED -7

Table listing names of members who were 'EXCUSED' (7 total): Coy, Evans, Nye, Petrarca, Travaglio, Washington, Williams.

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 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 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.

This place is so fast-paced; we move at a frantic 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 gifts.

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The SPEAKER. The Chair thanks the gentleman.

On the question recurring.

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NAYS—0

NOT VOTING 0

EXCUSED -7

Table listing names of members who were 'EXCUSED' (7 total): Coy, Evans, Nye, Petrarca, Travaglio, Washington, Williams.

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

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On 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 days and agreed to and is now on final passage. The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Iltkin.

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 oaths 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 future.

I am pleased that we are on the verge of sending this important bill to the Pennsylvania voters for final approval, and I urge 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.

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?

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 accuser.

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 SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the lady from Montgomery, Mrs. Cohen.

Mrs. COHEN. 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 Senate 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 dealt with in the specific legislation and the statute that we pass later, but we cannot do that 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 cower at having to confront them. There are so many safeguards that can be made in the law. The safeguards will be there for defendants and for prosecutors, but most important of all, for the children who are affected.

I urge my fellow 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 eroding the constitutional provision to confront your witnesses face to face.

And I agree with the gentleman who said that our Founding 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 unnecessary 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 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 suggestibility.

We have heard in the media after a spate of child molestation cases that many — and especially in domestic-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 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 reasons. I think the whole demeanor of the courtroom, just as the solemnity 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 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 it is very serious business, and I think that one adage that is basic 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 going to open the floodgates to that, if you pass SB 11. Thank you.

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?

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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 HB 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, on 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 yeas and nays will be taken.

YEAS—196

Table listing names of members who voted 'YEAS' (196 total). Includes names like Adolph, Allen, Argall, Armstrong, Baker, Hard, Barley, Battuto, Hebko-Jones, Belardi, Bellanti, Birmelin, Bishop, Blum, Doscola, Boyes, Brown, Browne, Bunt, Bukovitz, Huston, Callagione, Cappabianca, Carr, Carone, Cawley, Chadwick, Civera, Clark, Clymer, Cohen, L. I., Cohen, M., Egolf, Fairchild, Fajt, Fango, Farmer, Fesse, Fichter, Fleagle, Flick, Gamble, Gannon, Geist, George, Cngloff, Gladeck, Godehall, Gardner, Gaudin, Grupp, Habay, Haska, Hanna, Harbut, Hasay, Hennessey, How, Hershey, Hess, Horsey, Hutchinson, Ikin, Jallowance, Lueyk, Lynch, Maitland, Major, Manderino, Markosek, Marisco, Masland, Mayermik, McCall, McGeehan, McGill, Mele, Merry, Michlovic, Micozzia, Mihalich, Miles, Mundy, Sailor, Sackel, O'Brien, Olasz, Oliver, Perzel, Posa, Petrone, Patti, Phillips, Pouchanson, Pistella, Pitts, Nantoni, Sather, Saylor, Schroeder, Schuler, Scrimenti, Sammel, Sarafini, Shaugh, Sheehan, Smith, E. H., Smith, S. H., Snyder, D. W., Stabuck, Stairs, Stachman, Stell, Stan, Steller, Slish, Stummatter, Sturla, Surtz, Tangretti, Taylor, E. Z., Taylor, J., Thomas, Tighe, Trillo, Trich, Trive, Tulli.

Table listing names of members who voted 'NAYS' (0 total). Includes names like Colafella, Colozza, Conti, Cornell, Corpora, Corrigan, Cowell, Curry, Daley, DeLuca, Dempsey, Dent, DiMarzio, DeWeese, DeRobertis, Domstucci, Druce, Durban, James, Jovlin, Josephs, Kauer, Keller, Kamny, King, Kirkland, Krebs, Krikovich, LaGrotta, Laughlin, Lawless, Lederer, Leh, Lescovitz, Levdansky, Lloyd, Platts, Praton, Ramos, Raymond, Reschhaw, Reber, Renard, Richardson, Rieger, Roberts, Robinson, Roebuck, Rohrer, Rooney, Rubley, Rudy, Sammito, Vance, Van Horne, Veon, Vitali, Walke, Waugh, Wogan, Wozniak, Wright, D. R., Wright, M. N., Yewen, Youngblood, Zimmerman, Zug, Ryan, Speaker.

NAYS 0

NOT VOTING—0

EXCUSED—7

Table listing names of members who were 'EXCUSED' (7 total): Coy, Everett, Nyce, Petruska, Travaglio, Washington, Williams.

The majority 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 same.

ADJOURNMENT

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

The Chair recognizes the gentleman from Allegheny, Mr. Walke. Mr. WALKO. Mr. Speaker, I move that the special session do now adjourn until Tuesday, March 14, 1995, at 11:05 a.m., e.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.

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

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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, on 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 yeas and nays will be taken.

YEAS—196

Table listing names of members who voted 'YEAS' (196 total). Includes names like Adolph, Allen, Argall, Armstrong, Baker, Hard, Barley, Battuto, Hebko-Jones, Belardi, Bellanti, Birmelin, Bishop, Blum, Doscola, Boyes, Brown, Browne, Bunt, Bukovitz, Huston, Callagione, Cappabianca, Carr, Carone, Cawley, Chadwick, Civera, Clark, Clymer, Cohen, L. I., Cohen, M., Egolf, Fairchild, Fajt, Fango, Farmer, Fesse, Fichter, Fleagle, Flick, Gamble, Gannon, Geist, George, Cngloff, Gladeck, Godehall, Gardner, Gaudin, Grupp, Habay, Haska, Hanna, Harbut, Hasay, Hennessey, How, Hershey, Hess, Horsey, Hutchinson, Ikin, Jallowance, Lueyk, Lynch, Maitland, Major, Manderino, Markosek, Marisco, Masland, Mayermik, McCall, McGeehan, McGill, Mele, Merry, Michlovic, Micozzia, Mihalich, Miles, Mundy, Sailor, Sackel, O'Brien, Olasz, Oliver, Perzel, Posa, Petrone, Patti, Phillips, Pouchanson, Pistella, Pitts, Nantoni, Sather, Saylor, Schroeder, Schuler, Scrimenti, Sammel, Sarafini, Shaugh, Sheehan, Smith, E. H., Smith, S. H., Snyder, D. W., Stabuck, Stairs, Stachman, Stell, Stan, Steller, Slish, Stummatter, Sturla, Surtz, Tangretti, Taylor, E. Z., Taylor, J., Thomas, Tighe, Trillo, Trich, Trive, Tulli.

Table listing names of members who voted 'NAYS' (0 total). Includes names like Colafella, Colozza, Conti, Cornell, Corpora, Corrigan, Cowell, Curry, Daley, DeLuca, Dempsey, Dent, DiMarzio, DeWeese, DeRobertis, Domstucci, Druce, Durban, James, Jovlin, Josephs, Kauer, Keller, Kamny, King, Kirkland, Krebs, Krikovich, LaGrotta, Laughlin, Lawless, Lederer, Leh, Lescovitz, Levdansky, Lloyd, Platts, Praton, Ramos, Raymond, Reschhaw, Reber, Renard, Richardson, Rieger, Roberts, Robinson, Roebuck, Rohrer, Rooney, Rubley, Rudy, Sammito, Vance, Van Horne, Veon, Vitali, Walke, Waugh, Wogan, Wozniak, Wright, D. R., Wright, M. N., Yewen, Youngblood, Zimmerman, Zug, Ryan, Speaker.

NAYS 0

NOT VOTING—0

EXCUSED—7

Table listing names of members who were 'EXCUSED' (7 total): Coy, Everett, Nyce, Petruska, Travaglio, Washington, Williams.

The majority 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 same.

ADJOURNMENT

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

The Chair recognizes the gentleman from Allegheny, Mr. Walke. Mr. WALKO. Mr. Speaker, I move that the special session do now adjourn until Tuesday, March 14, 1995, at 11:05 a.m., e.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.